

**SOUTH BROWARD DRAINAGE DISTRICT
GOVERNING BOARD MEETING MINUTES
DECEMBER 20, 2012**

Present:

Scott Hodges, Chairperson
James Ryan, Vice Chairperson
Vicki Minnaugh, Treasurer
Robert E. Goggin, IV, Secretary
Alanna Mersinger, Commissioner
Mercedes Santana-Woodall, Commissioner
Thomas Good, Commissioner

Kevin M. Hart, District Director
Douglas R. Bell, Legal Counsel
Reina Muniz, Recording Secretary
General Public: See Attached List

Absent:

01. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Meeting called to order at 8:12 A.M. followed by the Pledge of Allegiance.

02. PUBLIC COMMENT

None.

03. APPROVAL OF MINUTES

Commissioner Minnaugh moved for approval of the minutes of the November 15, 2012, South Broward Drainage District Board meeting. Motion was seconded by Commissioner Mersinger and was carried unanimously.

04. DISTRICT DIRECTOR'S REPORT

A. AWARD CONTRACTS

1. TREE REMOVAL & TRIMMING IN PEMBROKE PINES, FL

SBDD advertised for bids for Tree Removal & Trimming in the City of Pembroke Pines. They received a total of three (3) bids. The bid amounts ranged in price from \$14,970 to \$21,540; each bidder was required to visit each job site location with an SBDD representative as a prerequisite to submitting a bid. The lowest bid received was submitted by EDJ Service, Inc. (EDJ) in the amount of \$14,970.00. SBDD has reviewed the bid submitted by EDJ and has determined that the Contractor is qualified to perform the work and that the bid meets all requirements. SBDD is familiar with this Contractor and has been satisfied with their past work on similar type projects. This project will be funded out of the General Operating account and the work covered under this project is included as part of the District's 2012-2013 budget.

District Director Hart requested Board approval to award the contract for Tree Removal and Trimming in the City of Pembroke Pines to EDJ Service, Inc. in the amount of \$14,970.00 as the lowest responsive, responsible bidder.

Commissioner Minnaugh moved for approval to award the contract for Tree Removal & Trimming in the City of Pembroke Pines to EDJ Service, Inc. for a not-to-exceed amount of \$14,970.00. Motion was seconded by Commissioner Santana-Woodall.

Commissioner Mersinger asked if the home owners in the communities where the tree removal/trimming will be taking place have been notified. District Director Hart replied yes. He said that the District has met with each individual property owner that will be affected; and in addition, the District will pull a permit with the city to remove and trim the trees.

The question was called and carried unanimously.

2. *CONVERSION & REPAIR OF TWO 42" STORMWATER PUMPS IN MIRAMAR, FL*

SBDD advertised for bids for the Conversion of Stormwater Pumps from Oil to Water Lubrication at the S-1 & S-3 Pump Stations in Miramar. One pump is located at the S-1 Pump Station (#2 Pump) and the second pump is located at the S-3 Pump Station (#3 Pump). SBDD received a total of two (2) bids. The bid included a base bid and three alternate bid items. The base bids ranged in price from \$26,296.00 to \$27,768.00. Each bidder was required to visit the two site locations with a SBDD representative as a prerequisite to submitting a bid.

The lowest base bid received was submitted by FPI Pumps, Inc. (FPI) in the amount of \$26,296.00. SBDD has reviewed the bid submitted by FPI and has determined that the Contractor is qualified to perform the work and that the bid meets all requirements. FPI has performed work for the District in the past and the District has been satisfied with their work.

District Director Hart requested Board approval for the contract award of the SBDD Conversion of Stormwater Pumps from Oil to Water Lubrication at the S-1 & S-3 Pump Stations in Miramar to FPI Pumps, Inc. in the amount of \$26,296.00 as the lowest responsive, responsible bidder. In addition, District Director Hart requested the award of bid alternates 1, 2 and 3 for a total, not-to-exceed amount of \$6,296.00 to FPI Pumps, Inc. as the lowest responsive, responsible bidder. The total not-to-exceed amount of the contract will be \$32,592.00.

The work covered under this project is included as part of the District's 2012-2013 Capital Improvement Plan (CIP); and funding for the project will come from the SBDD Capital Improvement Committed Account.

Commissioner Minnaugh moved for approval to award the contract of the SBDD Conversion of Stormwater Pumps from Oil to Water Lubrication at the S-1 & S-3 Pump Stations in Miramar to FPI Pumps, Inc. for a not-to-exceed amount of \$32,592.00. Motion was seconded by Commissioner Santana-Woodall.

Vice Chair Ryan asked how many more pumps are to be converted? District Director Hart replied that there are four more pumps to follow.

The question was called and it was carried unanimously.

3. *FABRIC-FORMED ENDWALL CONSTRUCTION PROJECT AT THREE LOCATIONS IN PEMBROKE PINES AND MIRAMAR, FL*

District Director Hart said that an advertisement for bids was placed for the Fabric-Formed Endwall Construction project at three (3) locations. The bid included a Base Bid amount for two (2) locations and an Alternate Bid amount for a third location. Each bidder was required to visit each job site location with a SBDD representative as a pre-requisite to submitting a bid. SBDD received a total of three (3) bids. The Base Bid amounts ranged in price from \$31,300 to \$48,107; and the Alternate Bid amounts ranged in price from 14,000 to 24,755. The bid documents allow the District the option of awarding the contract on a split basis.

The lowest base bid and alternate bid was submitted by LCCI Construction LLC in the amounts of \$31,300.00 and \$14,000.00 respectively. SBDD has reviewed the bid submitted by LCCI Construction LLC and has determined that the Contractor is qualified to perform the work and that the bid meets all requirements. SBDD is familiar with this Contractor and has been satisfied with their past work on similar type projects. This project will be funded out of the General Operating account and the work covered under this project is included as part of the District's 2012-2013 budget.

District Director Hart requested Board approval to award the contract for the Base Bid and Alternate Bid for the Fabric Formed Endwall Construction Project to LCCI Construction LLC in the amount of \$45,300.00 as the lowest responsive, responsible bidder.

Commissioner Minnaugh moved for approval to award the contract for the Fabric-Formed Endwall Construction Project to LCCI Construction LLC in the amount of \$45,300.00. Motion was seconded by Commissioner Goggin.

In discussion, Commissioner Mersinger asked if the contractors justify the way that they itemize their bids. District Director Hart explained that contractors have their own reasons for how and why they price each individual bid item. He said that as a requirement of the bidding process, the contractor performs a site visit where they examine and evaluate each site. Chair Hodges added that as contractors visit the sites, they may realize that one site is more difficult than the other, etc. and they will actually bid it more carefully, and that is why there may be differences in the pricing. Commissioner Goggin also added that in his experience as a hardware store owner, he has seen where contractors purchase supplies ahead of time and in some cases, they are sitting on product that can be utilized on future jobs; and this could explain some of the differences as well.

Vice Chair Ryan asked if these contracts can be reassigned to another contractor. Attorney Bell answered that as long as the District Director approves it, it should be

acceptable. Vice Chair Ryan stated that the assigned company or subcontractor would need to be held to the same standards as the original bid holder. District Director Hart agreed.

The question was called and it was carried unanimously.

B. REQUEST TO TRANSFER FUNDS FROM CAPITAL IMPROVEMENTS COMMITTED ACCOUNT TO GENERAL OPERATING ACCOUNT FOR SBDD PUMP STATION CONTROL PANEL UPGRADE

SBDD recently completed the CIP project to upgrade the system control panels at the S-3 and S-8 pump stations. This project included the installation of new control panels and Programmable Logic Controllers (PLCs) at the S-3 and S-8 pump station and was previously approved by the Board with funding through the Capital Improvement Committed Account. The project has been completed and has been paid in full through the General Operating Account. District Director Hart requested Board approval to transfer \$115,986.00 from the SBDD Capital Improvement Committed Account to the SBDD General Operating Account as reimbursement for the project.

Commissioner Minnaugh moved for approval to transfer funds from the Capital Improvements Committed Account to the General Operating Account for the SBDD pump station control panel upgrade. Motion was seconded by Commissioner Goggin.

Commissioner Good had a question on the reasoning behind having the Board approve a fund transfer for capital projects that have already been approved and funded. In this case, the Board first approved the project as part of the District's CIP Plan and then approved the individual contract for the project. He questioned the need for an additional approval to transfer the funds after completion of the project.

Further discussion ensued regarding the need for Board approval to transfer funds for CIP projects that have been previously approved.

Commissioner Good suggested that when the District goes through the budget process, a separate account could be set up in the General Operating budget for CIP projects; and that those funds could be approved at that time (as part of the budget) so that future reimbursements would not have to be made. This would give the District the ability to have total access to the funds that have already been approved, without having to bring this up to the Board a second time for approval.

District Director Hart said that he would go with whatever the Board decides.

Chair Hodges expressed his agreement with Commissioner Good and said that if the project has already been approved generally in the budget and then specifically, when the contract has been awarded, he does not see any reason for it to come forth for a third time; unless the project went over budget and District Director Hart needed to explain what happened.

Commissioner Minnaugh said she can go either way, but likes the idea of tracking the CIP account. She said that from the public's standpoint, it is good for them to see the 5-year plan and the cost of each individual project.

Commissioner Mersinger commented that for public perception, she believes this is a

third level of transparency and is a good thing. Vice Chair Ryan agreed with Commissioner Mersinger on the level of transparency for the public and that he likes the idea of taking a look at it twice.

After the discussion by the Board, the question was called and it was carried unanimously.

C. RESOLUTION 2012-15 - APPROVAL OF SBDD STANDARD DEVELOPMENT AGREEMENTS

District Director Hart presented Proposed Resolution 2012-15. He said that this would allow SBDD to enter in a Maintenance and Indemnification Agreement with property owners who obtain a Paving & Drainage Permit from the District for residential, commercial or industrial development or re-development projects without additional approval from the SBDD Board of Commissioners. The purpose of the Maintenance and Indemnification Agreement is to set forth the maintenance responsibilities of the property owners in regards to the drainage system serving the development and to indemnify the District from any and all liability, claims, loss, damage and expenses arising out of construction and/or maintenance of the drainage system. The Agreement also includes language regarding easements, off-site drainage (if applicable), wetland mitigation areas (if applicable) and the District's ability to provide maintenance in the event the property owners fail to meet their responsibilities and obligations.

The proposed Resolution includes four (4) standard Agreements as follows:

1. An Agreement for a development with a drainage system for on-site drainage only (no off-site drainage and no wetlands), attached as Exhibit "1" to the Resolution.
2. An Agreement for a development with a drainage system for on-site drainage and off-site drainage (no wetlands), attached as Exhibit "2" to the Resolution.
3. An Agreement for a development with a drainage system for on-site drainage and wetlands (no off-site drainage), attached as Exhibit "3" to the Resolution.
4. An Agreement for a development with a drainage system for on-site drainage, off-site drainage and wetlands, attached as Exhibit "4" to the Resolution.

All four Agreements have been reviewed by the District Attorney. Any substantive changes to the standard agreements would require Board approval.

Approval of this Resolution will eliminate the need for the SBDD attorney to prepare separate Agreements between the property owners and SBDD which then requires Board approval by separate Resolution. This will save the property owners the expense of attorney's fees and costs for preparing a separate agreement and Resolution. There are no financial impacts involved, other than SBDD administrative costs; all other costs will be incurred by the individual property owners. SBDD legal costs to individual property owners should be reduced.

Commissioner Minnaugh moved for approval of Resolution 2012-15 – Approval of

SBDD Standard Development Agreements. Motion was seconded by Vice Chair Ryan.

Discussion ensued. Chair Hodges asked if this is for a one-year maintenance period, after the work is done. District Director Hart replied no. He explained that this would be a standard Agreement that outlines the property owner's responsibilities for maintenance. He stated that the property owner is responsible to maintain the drainage system within their property; and that there are clauses in the Agreement that allow SBDD to access the property and do the maintenance, if it is not done; provisions of how the District would notify them, and that the District is not responsible for the cost; and that easements would be free and clear; and protection of wetlands, etc. He gave some examples of when and how this agreement would be used.

District Director Hart stated that this Agreement would: 1) specify the maintenance responsibilities for the property owner; 2) indemnify the District from any liability if SBDD were to go in and perform maintenance of the drainage system; 3) allow for offsite drainage through the property, if appropriate; and 4) on wetlands, protect the District of any damages or problems associated with the wetlands. In summary, Attorney Bell said that this would eliminate the number of Resolutions coming before the Board for approval.

Commissioner Minnaugh asked, "When the District begins work on a property can the District get the property owner to sign one of the Agreements at that point?" District Director Hart replied yes, that could be done, but that the better opportunity would be when the property owner is requesting something from the District.

Commissioner Good commented that although he is not opposed, he is unable to make a decision at this time. He wanted to determine whether this Resolution would be applicable for brand new property developments or retroactive. District Director Hart said that it would be for brand new property developments and redevelopments. He stated that this would streamline the approval process and document the maintenance responsibilities for those projects. It would also save property owners money by having standard agreements.

Commissioner Good had concerns regarding Resolution 2012-15 and gave several scenarios to District Director Hart on some of the pros and cons that might arise. Commissioner Good also expressed concerns that this is being done with the developers, and in the end, it is the HOAs that are responsible, and that they may not be aware of it. District Director Hart said that SBDD would not turn their back on any community, but the District would make the HOA aware of their responsibilities by explaining the Agreement. Several examples were given on current projects and developments. District Director Hart explained that you cannot eliminate the possibility of someone disputing this item, but at least the District would have something in writing that states that they are responsible for maintaining those major facilities.

Chair Hodges asked why the District feels the need to get into an agreement with a privately owned property; if the District is asking them to maintain something that they don't feel is important to them. District Director Hart replied that this is intended to document and put in writing that they are responsible to do the maintenance, and not the District. SBDD involvement would be limited to maintenance work that was not being done. The intention is to have another layer of documentation and/or protection regarding the responsibilities for the drainage system within the property.

Vice Chair Ryan moved to defer item #4C, Resolution 2012-15 - Approval of SBDD Standard Development Agreements. Motion was seconded by Commissioner Good.

For clarification purposes, Commissioner Minnaugh explained the process where a Resolution is needed. She said that currently for this type of an agreement, Attorney Bell prepares a Resolution that is brought forth to the Board for approval. The Board then reviews it, approves it and the property owner pays the legal fees. That process will continue until the Board rejects this item or approves it. District Director Hart agreed. Commissioner Minnaugh had concerns that if this item is deferred or totally rejected, that Attorney Bell will continue processing any project that comes in and requires a permit in the same manner. She said that the reason for the standardization is to eliminate the need for the District Attorney to prepare separate agreements, which then require Board approval under a separate Resolution, which will save the property owners the expense of attorney fees and costs.

District Director Hart said that he will wait on any future agreements until the Board takes action on this item. He would not have Attorney Bell move forward on any individual agreement until the Board has taken action.

Commissioner Mersinger commented that the maintenance responsibility would be removed from SBDD. She said that as she understands it, the developer cannot legally turn over the responsibility to the HOA. Attorney Bell read a paragraph within the Agreement that addressed Commissioner Mersinger's comment.

Commissioner Goggin asked if this form would apply to a redevelopment of a commercial property, where there are several businesses, and where those businesses may be in a crisis situation because the drainage is failing. District Director Hart replied yes, he believes this would apply.

Vice Chair Ryan suggested that each individual board member contact District Director Hart with any comments or concerns that they have on the agreements. Vice Chair Ryan then reintroduced the motion to defer item #4C, Resolution 2012-15 - Approval of SBDD Standard Development Agreements, to the next Board meeting of January 31, 2013. Motion was seconded by Commissioner Good and it was carried unanimously.

D. REINVESTMENT OF DISTRICT FUNDS

On January 10, 2013 the following investment fund is scheduled to mature:

1. Regent Bank CD - \$238,000 Maturity Date - 1/10/2013

Upon maturity of this investment, the District will have approximately \$240,023 of cash-on-hand.

On December 11, 2012, the Finance and Investment Committee met to discuss the District options for re-investing the cash-on-hand that will be available after 1/10/12. The recommendation from the Finance and Investment Committee is to roll this CD over for another 12-month period at the same rate (0.85%), or to purchase a new CD at the best interest rate available. There are no financial impacts on this item; other than the interest generated by the new 12-month CD. A cash flow analysis by SBDD staff

indicates that the District will have adequate cash-on-hand during the 12-month period of the new CD.

This is to request approval to re-invest the monies that will become available in January 2013 from a maturing CD investment fund by rolling over the funds into a new 12-month CD at the same rate, or to purchase a new 12-month CD at the best rate available. The approximate amount of the new CD will be \$240,023 at an approximate interest rate of 0.85%.

Commissioner Minnaugh moved for approval to re-invest District funds as requested by the District Director. Motion was seconded by Commissioner Goggin.

Vice Chair Ryan commented that if the economy gets better next year, the District should consider investing up to 15% of the District funds in a different manner.

The question was called and it was carried unanimously.

E. OTHER

1. Numeric Nutrient Criteria – District Director Hart updated the Board on the Numeric Nutrient Criteria and commented that the EPA has accepted that the state's proposal to take over Numerics, but because the state rules did not have Numeric Nutrient Criteria for South Florida's canals, EPA was obligated to prepare/present Numeric Nutrient Criteria for those waterways. He said there are four types of water bodies throughout the state that the state rules did not cover, and EPA has issued draft rules for those water bodies. EPA is determined to stick to the schedule put in place by the consent order and November 30th was the deadline to have Numeric Nutrient Criteria in place, and they have accepted the state's proposal for almost all the water bodies in the state.

District Director Hart believes this was a positive decision. He said that they have taken into account the unique circumstances of South Florida and how the canal systems work and operate, and what the intentions are. He will research further on the specifics of the draft rule, as it applies to South Florida and will keep the Board apprised.

2. Update on Grand Palms – The bid plans have been finalized and distributed. They have been approved by the 15500 Pines Boulevard property. Permits have been submitted and an e-mail was sent requesting any final comments be forwarded back by next Monday, December 24th, 2012 in order to hold the schedule. The bid will be advertised on January 3rd, 2013. District Director Hart should have an update on the cost of the project by the February 28, 2013 Board meeting.
3. Update on the CIP Projects – The B-3 project is 90% complete. District Director Hart commented that the only thing left on that project is the placement of the revetment around the headwalls. The District is also moving forward with other CIP projects as well. He will have additional information in the upcoming months.

05. ATTORNEY'S REPORT:

Attorney Bell said that there were some rumblings that there may be some things coming

down the pike regarding legislation on Special Districts. Commissioner Mersinger said that she attended the workshop for Broward Days and that some fascinating things were discussed. There was no discussion regarding upcoming Special District legislation, but she did hear that over the past 3 - 4 years the state has been setting aside money in order to fund and award local projects.

06. APPROVAL OF LEGAL FEES

Commissioner Minnaugh moved for approval of the legal bills. Motion was seconded by Commissioner Goggin.

Vice Chair Ryan had a question on item # 6 of the legal bills. Attorney Bell explained that this item was for his involvement in a series of depositions by SBDD staff for a case regarding a Non-Compete Agreement between SBDD's new mechanic and his former employer Pantropic Power, Inc. There was also a court hearing that Attorney Bell did not attend. District Director Hart explained further. He said that SBDD had hired a mechanic who had signed a non-compete agreement with his former employer and that the language in the agreement was very restrictive. It included restrictions against working for customers and prospective customers of Pantropic. He said that in 2006/2007 (approximate) the state legislature enacted a law that reinforced these non-compete agreements between business owners and employees. Pantropic sued the District's new mechanic for violating their agreement. SBDD was not a party to the lawsuit, but several employees were subpoenaed to give depositions. A hearing took place between Pantropic and the SBDD employee and the judge said that although he does not agree with the statute, he was obligated to enforce the statute, and ruled in favor of Pantropic; and he issued a permanent injunction (2 year term) against the employee from working for SBDD. Needless to say, it was very disappointing because he was an excellent mechanic.

The question was called and it was carried unanimously.

07. BOARD MEMBER'S QUESTIONS/COMMENTS

None.

08. MEETING DATE

A. The Next Regular Board Meeting will be held on **Thursday, January 31st at 8:00 a.m.**

Adjournment at 10:05 A.M.

Respectfully submitted,

Robert E. Goggin IV, Secretary
South Broward Drainage District

/rim

****MEMORANDUM****

DATE: January 24, 2013

TO: South Broward Drainage District Commissioners

FROM: Kevin M. Hart, P.E.
District Director

Subject: Variance Request for Property Owned by Carlos Montesino and Keila Núñez

Comments:

The owner of the property located at 1431 NW 87th Way, Pembroke Pines, FL 33024 is requesting a variance from SBDD for a dock located within a private lake in SBDD Basin S-1. The property is located within the Boulevard Heights subdivision. The dock was constructed in 2008 by the Seminole Tribe of Florida in conjunction with a tiki hut. At that time, the property owner was told that the work was exempt from the Florida Building Code under Section 101.4.2 of the Florida Administrative code. However, the elevation of the dock does not meet SBDD criteria.

The property owners met with the Variance Review Committee (VRC) on January 18, 2012 and as a follow-up to that meeting the variance request is being presented to the SBDD Board for consideration.

The details of the variance as discussed at the VRC are as follows:

1. The size of the dock meets SBDD Criteria.
2. The elevation of the dock is approximately one foot (1') lower than permitted under the Criteria, which states that "the lowest member of fixed docks shall be a minimum of 2 feet above the basin control elevation".
3. An engineer's certificate on the structural integrity of the dock has been provided.
4. There is no Homeowners Association (HOA) for this community.
5. All electrical elements have been removed from the dock (and the tiki hut).
6. The tiki hut is located within a 35' maintenance area, but not a dedicated SBDD easement.
7. The property owners are agreeable to entering into an Indemnification and Hold Harmless Agreement with SBDD.

SBDD staff has no objection to this variance request.

The requested variance is to allow a dock at 1431 NW 87th Way, Pembroke Pines, FL 33024 to be constructed approximately one foot (1') above the basin control elevation. If the variance is approved, the property owners will be required to enter into an Indemnification and Hold Harmless Agreement with SBDD and pay for all associated legal fees.

KH
Attachments

****MEMORANDUM****

DATE: January 24, 2013
TO: South Broward Drainage District Commissioners
FROM: Kevin M. Hart, P.E.
District Director
Subject: SBDD Annual Financial Statements – Draft Copy

Comments:

A draft report of the SBDD Financial Statement for the Fiscal Year Ending September 30, 2012 has been prepared by the District's accounting firm, Margolies, Fink and Wichrowski, Certified Public Accounts (MFW). Barry Fink, CPA, a partner with MFW will be in attendance at the January Board meeting to present an overview of the draft report and to answer any questions.

A copy of the draft report is attached.

KH
Attachment

SOUTH BROWARD DRAINAGE DISTRICT

ANNUAL FINANCIAL STATEMENTS

September 30, 2012

DRAFT

1/22/13

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INTRODUCTORY SECTION

SOUTH BROWARD DRAINAGE DISTRICT

Board of Commissioners

September 30, 2012

Scott Hodges	Chairperson
James Ryan	Vice - Chairperson
Robert E. Goggin	Secretary
Vicki Minnaugh	Treasurer
Tom Good	Commissioner
Mercedes B. Santana-Woodall	Commissioner
Alanna Mersinger	Commissioner

Counsel to the District

Douglas R. Bell
Bell & Bell
Ft. Lauderdale, Florida

District Director

Kevin M. Hart, P.E.

FINANCIAL SECTION

INDEPENDENT AUDITORS' REPORT

To the Honorable Board of Commissioners,
South Broward Drainage District:

We have audited the accompanying financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of South Broward Drainage District ("the District") as of and for the year ended September 30, 2012, which collectively comprise the District's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the District's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of South Broward Drainage District as of September 30, 2012, and the respective changes in financial position, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated December 27, 2012, on our consideration of the District's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations and contracts and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis and budgetary comparison information on pages 4 through 8 and 30 through 32 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the South Broward Drainage District's financial statements as a whole. The introductory section and individual nonmajor fund financial statements are presented for purposes of additional analysis and are not a required part of the financial statements. The individual nonmajor fund financial statements are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole. The introductory section has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on it.

Margolies, Fink & Wichrowski
Certified Public Accountants

December 27, 2012
Pompano Beach, Florida

MANAGEMENT'S DISCUSSION AND ANALYSIS

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)

The management of South Broward Drainage District ("District") would like to provide readers of the District's financial statements this narrative overview and analysis of the financial activities for the fiscal year ended September 30, 2012. Readers are encouraged to consider the information presented in this discussion and analysis in conjunction with the District's basic financial statements, which are contained herein and commence on page 9.

Prior to discussing the financial position of the District, the following information is offered to the readers. The South Broward Drainage District exists pursuant to the provisions of Ch. 98-524, a special act of the Florida legislature. The District was originally created in 1927; and today, the single purpose District manages approximately 46,400 acres (72.5 square miles) in southwest Broward County, Florida and serves a population of approximately 240,000 residents. The District, a special taxing district, has powers primarily in the areas of stormwater management and flood control. Their powers include rights to borrow money and issue bonds or other evidences of indebtedness, assess and impose upon all the lands in the District annual drainage, administrative, operation and maintenance taxes, and the District has the ability to install and foreclose special assessment liens.

FINANCIAL HIGHLIGHTS

- The assets of the District exceeded its liabilities at the end of the fiscal year by \$21,259,835. Pursuant to the GASB Statement No. 54 presentation requirements, \$1,909,331 of this amount may be used to meet the government's ongoing operations and \$5,021,213 has been committed for specific purposes.
- The District's total net assets increased by \$417,320 or 2.0% in 2012, partially as a result of the funds received on the Basin 3 drainage improvements.
- The total assets of the District amounted to \$21,941,001 as of September 30, 2012. Of this amount, \$14,279,928 represented the net capital assets. The total liabilities amounted to \$681,166.
- The District's total general revenues (on an accrual basis) were \$3,618,286 for the year ended September 30, 2012.
- The total expenses for all of the District's activities were \$3,200,966 for the year end September 30, 2012.

DISTRICT HIGHLIGHTS

- Completed the following capital improvement projects during the 2012 fiscal year:
 - Converted two drainage pumps from oil cooled to water cooled pumps; one at the S-1 pump station and the second at the S-7 pump station.
 - Rebuilt two water lubrication pumps; one at the S-8 pump station and the second at the S-2 pump station.
 - Upgraded the system control panels at the S-3 and S-8 pump stations, thereby completing control panel upgrades at all of the District's pump stations.
 - Took delivery of a new, customized grapple truck and incorporated it into the District's day-to-day operations.
 - Participated in a cost sharing project with the Town of Southwest Ranches to install a positive drainage system on SW 210th Terrace.
 - Purchased a new, replacement mechanic's truck.
 - Purchased a new fiberglass boat, boat trailer, and two outboard boat motors.
 - Removed the B-3 secondary pump station and installed new, twin 48" culverts to improve the flowage capacity in the area.
 - Installed new lighting at the District headquarters property.

- Converted the overhead electric service at the District headquarters property to underground.
 - Installed security cameras in the maintenance garage area.
 - Upgraded and improved the indoor lighting in the maintenance garage area/bays.
 - Installed FabricForm stabilization material around headwalls at three (3) lake inter-connect locations.
 - Installed fencing and guardrails at miscellaneous locations.
 - Miscellaneous tree trimming.
 - Miscellaneous culvert inspections, culvert cleaning, and swale improvements.
- Received the Annual Safety Award from the Florida Association of Special Districts (FASD).
 - Entered into an Agreement with Duke Realty Corp. for Basin 3 drainage improvements.
 - Updated the District's Employee Policy Handbook.
 - Established new District Election Zone Boundaries based on the 2010 Census population.
 - Participated in miscellaneous outreach efforts.

USING THE ANNUAL REPORT

This discussion and analysis are intended to serve as an introduction to South Broward Drainage District's basic financial statements. The District's annual report consists of four sections: 1) Introductory Section, 2) Financial Section, 3) Other Reports Section, 4) Management Letter Section. The basic financial statements themselves consist of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-wide financial statements

The government-wide statements report information as a whole using accounting methods similar to those used by private sector business. One very important question asked about the District's finances is "Is the District as a whole better off or worse off as a result of the year's activities?" The Statement of Net Assets and the Statement of Activities report information about the District as a whole and about its activities in a way that helps answer this question.

The statement of net assets presents information on all of the District's assets and liabilities, with the difference between the two reported as net assets. Over time, an increase or decrease in net assets may serve as a useful indicator of whether the financial position of the District is improving or deteriorating. However, other factors should be considered, such as the physical condition of the District's capital assets (buildings, stormwater pump stations, canals, etc.) to assess the overall well being of the District.

The statement of activities presents information showing how the government's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Therefore, revenues and expenses are reported in this statement for particular items that will only result in cash flows in future fiscal periods. The government-wide financial statements can be found on pages 9 and 10.

Fund financial statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The District, like other state and local governments, uses fund accounting to ensure and demonstrate legal compliance with finance-related legal requirements. The District's funds can be divided into two categories: governmental funds and fiduciary funds. The two kinds of funds use different accounting approaches.

The District's basic services are reported in governmental funds, which focus on how money flows into and out of those funds and the balances left at year-end that are available for spending. These funds are reported using an accounting method called *modified accrual* accounting, which measures cash and all other financial assets that can readily be converted to cash. The governmental fund statements provide a short-term view of the District's operations and the basic services it provides. Governmental fund information helps the reader determine whether there are more or fewer financial resources that can be spent in the near future to finance the District's programs.

The District outlines the relationship (or differences) between governmental activities (reported in the Statement of Net Assets and the Statement of Activities) and the basic governmental fund statements in a reconciliation schedule supporting the Fund Financial Statements.

At September 30, 2012, the District maintained two individual governmental funds: one General and one Capital project fund. Some funds are required by State law. However, the District establishes other funds to help it control and manage money for particular purposes or to show that it is meeting its legal and fiduciary responsibilities. The fund financial statements provide detailed information about the most significant funds – not the District as a whole. Accordingly, two major funds are reported individually in the governmental funds balance sheet and statement of revenues, expenditures and changes in fund balances.

Notes to the financial statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found beginning on page 15 of this report.

Other information

In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information. The District also references the employment contract with the District Director who serves at the pleasure of the Board of Commissioners.

THE DISTRICT AS A WHOLE

As noted earlier, net assets may serve over time as a useful indicator of a government's financial position. In the case of South Broward Drainage District, assets exceeded liabilities by \$21,259,835 at the close of the most recent year. The largest portion of the District's net assets (67%) reflects its investments in capital assets (land, buildings, canals, machinery and equipment). The District uses capital assets to provide services to citizens; accordingly, these assets are not available for future spending.

An additional portion of the District's net assets (24%) represents resources that have been committed as to how they may be used. These resources can be used only for their intended designation. The remaining unrestricted net assets (\$1,909,331) may be used to meet ongoing operations.

The District adopted the fiscal year 2011-2012 Budget on September 22, 2011. On August 30, 2012 the Board approved certain line-item reclassifications to the original budget. Total general fund expenditures budgeted for the fiscal year ended September 30, 2012 were \$3,281,559. Total actual general fund expenditures were \$2,983,679, and the District achieved a favorable budget variance for the year ended September 30, 2012 of \$763,340, as reflected on page 32 of the financial statements.

Contacting the District's financial management

This financial report is designed to provide a general overview of the District's finances and to show the District's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the District Director, Kevin Hart, at 6591 Southwest 160 Avenue, Southwest Ranches, Florida 33331.

COMPARATIVE FINANCIAL INFORMATION

District's Net Assets As of September 30,

	<u>2012</u>	<u>2011</u>
Current and other assets	\$ 7,661,073	\$ 7,525,747
Capital assets	<u>14,279,928</u>	<u>14,138,498</u>
Total assets	<u>\$ 21,941,001</u>	<u>\$ 21,664,245</u>
Current and other liabilities	\$ 681,166	\$ 821,730
Total liabilities	<u>\$ 681,166</u>	<u>\$ 821,730</u>
Net Assets:		
Invested in capital assets	\$ 14,279,928	\$ 14,138,498
Restricted	49,363	46,072
Unrestricted	<u>6,930,544</u>	<u>6,657,945</u>
Total net assets	<u>\$ 21,259,835</u>	<u>\$ 20,842,515</u>

District's Changes in Net Assets Fiscal Years Ended September 30,

	<u>2012</u>	<u>2011</u>
General revenues:		
Maintenance taxes	\$ 3,054,760	\$ 3,063,942
Permits and other income	525,554	218,977
Investment earnings	<u>37,972</u>	<u>71,682</u>
Total revenues	<u>3,618,286</u>	<u>3,354,601</u>
Expenses:		
Operation and maintenance	2,798,748	3,258,287
Depreciation	<u>402,218</u>	<u>367,957</u>
Total expenses	<u>3,200,966</u>	<u>3,626,244</u>
Increase (decrease) in net assets	417,320	(271,643)
Net assets – beginning	<u>20,842,515</u>	<u>21,114,158</u>
Net assets – ending	<u>\$ 21,259,835</u>	<u>\$ 20,842,515</u>

**BASIC FINANCIAL STATEMENTS –
GOVERNMENT-WIDE**

SOUTH BROWARD DRAINAGE DISTRICT

Statement of Net Assets

September 30, 2012

ASSETS

Cash and investments – unrestricted	\$ 1,432,336
Cash and investments – temporarily restricted	6,070,947
Receivables, including interest	4,810
Inventory	135,657
Other assets	17,323
Capital assets:	
Land	349,616
Other capital assets, net of depreciation	<u>13,930,312</u>
Total assets	<u>21,941,001</u>

LIABILITIES

Accounts payable and accrued expenses	203,067
Refundable deposits	<u>478,099</u>
Total liabilities	<u>681,166</u>
Total net assets	<u>\$ 21,259,835</u>

NET ASSETS

Invested in capital assets	\$ 14,279,928
Restricted for Capital project fund	49,363
Unrestricted	<u>6,930,544</u>
Total net assets	<u>\$ 21,259,835</u>

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Statement of Activities
For the fiscal year ended September 30, 2012

Expenses:	
Personal services	\$ 1,141,441
Materials and services	1,547,541
Depreciation expense	402,218
Collection discounts	<u>109,766</u>
Total expenses	<u>3,200,966</u>
General revenues:	
Maintenance taxes	3,054,760
Permits and other income	525,554
Investment earnings	<u>37,972</u>
Total general revenues	<u>3,618,286</u>
Changes in net assets	417,320
Net assets, beginning of year	<u>20,842,515</u>
Net assets, end of year	<u>\$ 21,259,835</u>

See accompanying notes to the financial statements.

BASIC FINANCIAL STATEMENTS –

FUND

SOUTH BROWARD DRAINAGE DISTRICT
Balance Sheet – Governmental Funds
September 30, 2012

ASSETS	<u>General</u>	<u>Capital Projects \$ – 9/10</u>	<u>Total Governmental Funds</u>
Cash	\$ 5,596,347	\$ -	\$ 5,596,347
Investments	1,857,573	49,363	1,906,936
Receivables:			
Delinquent taxes and assessments, including interest	703	-	703
Other	4,107	-	4,107
Inventory	135,657	-	135,657
Other assets	<u>17,323</u>	<u>-</u>	<u>17,323</u>
Total assets	<u>\$ 7,611,710</u>	<u>\$ 49,363</u>	<u>\$ 7,661,073</u>
LIABILITIES AND FUND EQUITY			
Liabilities:			
Accounts payable and accrued expenses	\$ 203,067	\$ -	\$ 203,067
Refundable deposits and deferred income	<u>478,099</u>	<u>-</u>	<u>478,099</u>
Total liabilities	<u>681,166</u>	<u>-</u>	<u>681,166</u>
Fund balances:			
Restricted	-	49,363	49,363
Committed	5,021,213	-	5,021,213
Assigned	390,207	-	390,207
Unassigned	<u>1,519,124</u>	<u>-</u>	<u>1,519,124</u>
Total fund equity	<u>6,930,544</u>	<u>49,363</u>	<u>6,979,907</u>
Total liabilities and fund equity	<u>\$ 7,611,710</u>	<u>\$ 49,363</u>	<u>\$ 7,661,073</u>

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Reconciliation of Balance Sheet - Governmental Funds
to the Statement of Net Assets
September 30, 2012

Total governmental fund balances \$ 6,979,907

Amounts reported in the statement of net assets are different because:

Capital assets used in governmental activities are not
financial resources and therefore are not reported in funds:

Capital assets	\$ 21,032,009	
Less accumulated depreciation	<u>(6,752,081)</u>	<u>14,279,928</u>

Total net assets \$ 21,259,835

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Statement of Revenues, Expenditures and Changes in Fund Balances -
Governmental Funds
For the fiscal year ended September 30, 2012

	<u>General</u>	<u>Capital Projects S - 9/10</u>	<u>Total Governmental Funds</u>
Revenues:			
Maintenance taxes	\$ 3,054,760	\$ -	\$ 3,054,760
Permits and other income	522,304	3,250	525,554
Interest	<u>37,931</u>	<u>41</u>	<u>37,972</u>
Total revenues	<u>3,614,995</u>	<u>3,291</u>	<u>3,618,286</u>
Expenditures:			
Capital outlay	543,648	-	543,648
Engineering fees	22,222	-	22,222
Operating	2,380,730	-	2,380,730
Administrative	286,030	-	286,030
Discounts	<u>109,766</u>	<u>-</u>	<u>109,766</u>
Total expenditures	<u>3,342,396</u>	<u>-</u>	<u>3,342,396</u>
Excess of revenues over expenditures	<u>272,599</u>	<u>3,291</u>	<u>275,890</u>
Fund balances at beginning of year	<u>6,657,945</u>	<u>46,072</u>	<u>6,704,017</u>
Fund balances at end of year	<u>\$ 6,930,544</u>	<u>\$ 49,363</u>	<u>\$ 6,979,907</u>

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Reconciliation of Statement of Revenues, Expenditures, and Changes in Fund Balances -
Governmental Funds to the Statement of Activities
For the year ended September 30, 2012

Net change in fund balances – total governmental funds \$ 275,890

Amounts reported in the statement of activities are different because:

Governmental funds report capital outlays as expenditures.
 However, in the statement of activities, the cost of capital assets
 is allocated over their estimated useful lives and reported as
 depreciation expense:

Expenditures for capital assets	\$ 543,648	
Less current year depreciation	<u>(402,218)</u>	<u>141,430</u>

Changes in net assets \$ 417,320

See accompanying notes to the financial statements.

NOTES TO FINANCIAL STATEMENTS

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements

(1) DESCRIPTION OF THE SOUTH BROWARD DRAINAGE DISTRICT

The South Broward Drainage District ("District") exists pursuant to the provisions of Chapter 98-524, a Special Act of the Florida Legislature. The District was originally formed in 1927 and includes approximately 46,400 acres in southwest Broward County, Florida. The governing body of the District is the Board of Commissioners ("Board"), comprised of seven elected members.

The District is a special taxing district with powers primarily in the areas of stormwater management and flood control. Such powers include rights to borrow money and issue bonds or other evidences of indebtedness, assess and impose upon all the lands in the District annual drainage, administrative, operation and maintenance taxes, and impose and foreclose special assessment liens.

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the District have been prepared in conformity with generally accepted accounting principles ("GAAP") as applied to government units. The Government Accounting Standards Board ("GASB") is the standard-setting body for establishing government accounting and financial reporting principles. The more significant of the District's accounting policies are described below.

(a) Reporting Entity

The District follows the standards promulgated by GASB Statement No. 14, *The Financial Reporting Entity*, to define the reporting entity. The District's financial statements include operations for which the District exercises oversight responsibility. Oversight responsibility is demonstrated by financial interdependency, selection of governing authority, designation of management, ability to significantly influence operations and accountability for fiscal matters. The District has not identified any component units and is not a participant in any joint venture; accordingly, operations of no other entities have been included in the financial statements.

The District implemented the requirements of GASB 54 ("Fund Balance Reporting and Governmental Fund Type Definitions") during the year ending September 30, 2011.

(b) Government-wide and Fund Financial Statements

The basic financial statements include both government-wide and fund financial statements. The government-wide statements focus on the District as a whole, while the fund financial statements focus on major individual funds.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The government-wide financial statements include a statement of net assets and a statement of activities. These statements report information on all activities of the District. Interfund activity has been eliminated from these statements. The statement of activities demonstrates the extent to which the expenses of the District are offset by the revenues collected by the District. Revenues collected include the investment income earned during the year. The District's policy is to apply restricted resources before unrestricted resources when an expense is incurred for the purposes for which both restricted and unrestricted assets are available.

Separate financial statements are provided by governmental funds. Major governmental funds are reported as separate columns in the fund financial statements. The governmental funds' statements reflect amounts due from/to other funds. These amounts represent transfers that were made during the year between funds that will be repaid in the future period.

(c) Measurement Focus and Basis of Accounting

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned; and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows. Maintenance taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements have been met.

Governmental fund financial statements are reported using the current financial resources measurement and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the District considers maintenance taxes to be available if they are collected within sixty days of the end of the current fiscal period. A one-year availability period is used for all other revenues.

Revenues susceptible to accrual are maintenance taxes and interest on investments. Maintenance taxes are recorded as revenues in the fiscal year they are levied, provided they are collected in the current period or within sixty days thereafter. Interest on invested funds is recognized when earned.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, expenditures related to compensated absences, claims and judgments, are recorded only when payment is earned.

(d) Major Funds

Governmental Fund Types

Government funds are used to account for the District's expendable financial resources and related liabilities. The following are the District's governmental fund types:

General Fund - The General Fund is the general operating fund of the District. It is used to account for all financial resources except those required to be accounted for in another fund.

Capital Projects Fund - The Capital Projects Fund is used to account for financial resources to be used for the acquisition or construction of major capital facilities with resources contributed by the property owners receiving such benefits.

Fiduciary Fund Types

Agency Funds - Agency funds are used to account for special assessment assets and liabilities to reflect the fact that the District's duties are limited to acting as an agent for the assessed property owners and the certificate of indebtedness holders. This fund was closed as of September 30, 2012.

(e) Budgetary Procedures and Accounting

An annual budget is adopted for the General Fund on a basis consistent with GAAP, except the budgets include encumbrances as the equivalent of expenditures, and do not include revenues and expenditures related to certain special projects. As of September 30, 2012, there were \$114,908 of outstanding encumbrances; accordingly, for the year ended September 30, 2012, the "actual budgetary basis" is presented on a basis which is not consistent with GAAP.

Prior to the end of the fiscal year, the District Director is required to submit to the Board of Commissioners the proposed budget for the fiscal year commencing October 1. The District holds workshops as required and public hearings on the proposed budget. Prior to the end of each fiscal year, the budget is formally adopted for the ensuing year.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The legal level of control, the level at which expenditures may not exceed the budget, is at the total expenditure level. Appropriations lapse at year-end. Should additional expenditures be necessary during the year, the District has the authority to modify the budget by a vote of its Board.

In connection with the forthcoming fiscal year 2013 budget, the District appropriated unassigned fund balance in the amount of \$390,207 for General Fund operations.

(f) Encumbrances

For governments that use encumbrance accounting, significant encumbrances should be disclosed in the notes to the financial statements by major funds and nonmajor funds in the aggregate in conjunction with required disclosures about other significant commitments. Encumbered amounts for specific purposes for which resources already have been restricted, committed, or assigned should not result in separate display of the encumbered amounts within those classifications. Encumbered amounts for specific purposes for which amounts have not been previously restricted, committed, or assigned should not be classified as unassigned but, rather, should be included within committed, or assigned fund balance. The District includes encumbrances in the committed fund balance.

(g) Inventory

Inventory consists of chemicals and fuel and is valued at cost (first-in, first-out). The cost of inventory is accounted for under the consumption method. Under the consumption method of inventory accounting, inventories are recorded as expenditures when used and, therefore, reported inventories are not equally offset by a non-spendable fund balance account.

(h) Compensated Absences

The full-time employees of the District can carryover to the following fiscal year up to one year of their sick leave and vacation benefits. Vacation time is earned based upon length of service, up to a maximum amount of four weeks per year, once the employee has been with the District for fourteen years, with the exception of employees that are covered by employment agreements. At September 30, 2012, the liability for accrued compensated absences, to be paid within one year, was \$103,870.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(i) Cash and investments

Cash includes cash-on-hand and demand deposits. Interest earned from investments is recorded in each of the respective funds based on the actual amount earned.

In accordance with provisions of GASB Statement No. 31, Accounting and Financial Reporting for Certain Investments and for External Investment Pools, the District reports investments at their fair market value, with unrealized gains and losses credited to or charged against investment income.

Non-participating investments, such as non-negotiable certificates of deposit with redemption values that do not consider market rates, are reported as amortized costs. The District has investments in the Local Government Surplus Funds Trust Fund, which has been divided by the State Board of Administration into two investment pools: Pool A and Pool B. Under the guidelines of GASB Statement No. 31, Pool A is a "2a-7 like" pool. Accordingly, investments in Pool A are reported at amortized cost. Pool B is accounted for as a fluctuating net asset value (NAV) pool. Investments in Pool B have been valued at their fair value factor as of the balance sheet date.

During the year, the District did not directly invest any resources in derivatives. Investments made through state-administered trust funds may include derivatives. These investments are made on a pooled basis and the individual risk to the District is unknown.

(j) Capital Assets and Depreciation

Capital assets, which include land, buildings, equipment, vehicles and infrastructure assets (water control structures, canals and lakes), are reported in the government-wide financial statements. Capital assets are recorded at historical cost or estimated historical cost. Contributed assets are recorded at fair market value as of the date received.

Maintenance, repairs and minor renovations are not capitalized. Expenditures that materially increase values or extend useful lives are capitalized. There are no idle or impaired capital assets as of September 30, 2012.

Capital assets are depreciated using the straight-line method over the following estimated useful lives:

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

<u>Asset</u>	<u>Years</u>
Buildings	40
Equipment	5
Vehicles	5
Water Control Structures (Including stormwater pump stations)	15-50

Canals and lakes are considered to be land improvements and; therefore, are not depreciated. Depreciation expense is reflected in the financial statements in accordance with GASB Statement No. 34 requirements for capital assets greater than \$5,000. Per Florida State Statute as well as internal control purposes, assets with a historical cost greater than \$750 are tagged and recorded in the fixed asset system.

(k) Fund Balance

The Governmental Accounting Standards Board (GASB) released GASB Statement No. 54 - "Fund Balance Reporting and Governmental Fund Type Definitions" ("GASB 54") on March 11, 2009, which is effective for fiscal years beginning after June 15, 2010. This Statement is intended to improve the usefulness of the amount reported in fund balance by providing more structured classification. This Statement applies to fund balance reported in the General Fund, Special Revenue Fund, Debt Service Fund, Capital Projects Fund and Permanent Fund. This Statement does not apply to Enterprise Funds, Internal Service Funds, and extremely restricted reserves.

Previously, fund balance was classified as "reserved" or "unreserved." Unreserved fund balance was further allocated into designated and undesignated. GASB 54 now changes how fund balance will be reported. The hierarchy of the GASB 54 classifications is as follows:

- **Non-spendable Fund balance** includes amounts not in spendable form, such as inventory, or amounts required to be maintained intact legally or contractually. The District uses the consumption method of reporting inventory; therefore, it is not reported as a non-spendable fund balance.
- **Restricted Fund Balance** includes amounts constrained for a specific purpose by external parties. The District's Capital Project fund qualifies as a restricted fund.
- **Committed Fund Balance** includes amounts constrained for a specific purpose by a government using its highest level of decision making authority. The District's capital improvements, emergency, and separation funds, along with the outstanding encumbrances, are included in the committed fund balance.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

- **Assigned Fund Balance** includes general fund amounts constrained for a specific purpose by the District's board.
- **Unassigned Fund Balance** is the residual classification for the general fund.

The District's board approves all transactions that occur with respect to the restricted and committed fund balances. These were formally adopted by the Board on May 26, 2011, when the Board formally adopted the reporting requirements outlined by GASB 54.

In circumstances where an expenditure is to be made for a purpose for which amounts are available in multiple fund balance classifications, the order in which resources will be expended is as follows: restricted fund balance, followed by committed fund balance, assigned fund balance, and lastly, unassigned fund balance.

There was no restatement required to the opening fund balances as a result of the GASB 54 implementation.

(1) Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses/expenditures during the reporting period. Actual results could differ from those estimates.

(3) CASH AND INVESTMENTS

Statement of Policy

The purpose of the District's investment policy is to set forth the investment objectives and parameters for the management of public funds of the District. The policy is designed to ensure the prudent management of public funds, the availability of operating and capital funds when needed, and an investment return competitive with comparable funds and financial market indices.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(3) CASH AND INVESTMENTS (Continued)

The District's policy is written in accordance with Section 218.415, Florida Statutes, which applies to funds under the control of local governments and special districts. The policy and any subsequent revisions are adopted by the District's Governing Board and apply to funds in excess of those required to meet current expenditures. The most recent revisions to the investment policy were approved by the Board of Commissioners in March 2009.

The District's investment policy authorizes investments in the following:

1. The Florida Local Government Surplus Funds Trust Fund
2. United States government securities unconditionally guaranteed by the full faith and credit of the United States government
3. United States government agencies backed by the full faith and credit of the United States government
4. United States government sponsored agencies
5. Interest bearing time deposit or savings accounts of Florida Banks and Savings and Loan Associations approved under Chapter 280, Florida Statutes as qualified public depositories
6. Commercial paper rated "Prime 1" by Moody's, "A1" by Standard and Poor's or "F-1" by Fitch
7. Corporate notes rated at a minimum "Aa" by Moody's, "AA" by Standard and Poor's or "AA" by Fitch
8. Repurchase agreements that are fully collateralized are permissible investments provided that the following conditions are met:
 - a. The District has executed a Master Repurchase Agreement similar to the PSA's "Master Repurchase Agreement" with either a primary dealer as defined by the Federal Reserve or a bank or savings and loan domiciled in this State and certified as a qualified depository as defined in Florida Statutes Section 280.02.
 - b. The agreement has a defined termination date and is secured by obligations described in this investment policy.
 - c. Requires that the securities being purchased by the District to be pledged to the District, held in the District's name and deposited at the time the investment is made with the District or with a third party selected and approved by the District.
9. Other security or other interests in any open-end or closed-end management-type investment company or investment trust registered under the Investment Company Act of 1940 provided the portfolio meets the District's policy.

As of September 30, 2012, the District had placed approximately 1.1% in the Florida Local Government Surplus Funds Trust Fund (also known as the "Local Government Investment Pool" or "LGIP"), 17.6% in Certificate of Deposits, 55.5% in interest bearing money market accounts and 6.7% in State of Israel Bonds.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(3) CASH AND INVESTMENTS (Continued)

The Local Government Investment Pool is an investment pool available for investing temporarily idle cash by Florida governments and is managed by the State Board of Administration (the SBA). On November 29, 2007, the SBA implemented a temporary freeze on the assets in the LGIP due to an unprecedented amount of withdrawals from the LGIP coupled with the absence of market liquidity for certain securities within the Pool. On December 4, 2007, based on recommendations from an outside financial advisor, the SBA restructured the LGIP into two (2) separate pools. Pool A ("Florida PRIME") consisted of all money market appropriate assets, which was approximately 86% of LGIP assets. Pool B consisted of assets that defaulted on a payment, paid more slowly than expected, and/or had any significant credit and liquidity risk, which was approximately 14% of LGIP assets. At that time, all current pool participants had their existing balances proportionately allocated into Pool A and Pool B.

The SBA systematically allows access to funds in Pool A. Participants in Pool B receive periodic distributions to the extent that Pool B receives proceeds from: 1) maturities of securities, coupon interest collections or collateral interest and principal pay downs, or 2) the sale of securities, collateral liquidation or other restructure or workout activities. At such time, the Investment Manager transfers cash or securities to Pool A for the benefit of Pool B shareholders. Such transfers are consistent with the pro rata allocation of Pool B shareholders of record as of the initial segregation of assets in the LGIP. Effective March 2008, the SBA contracted with Federated Investors, Inc. to provide investment advisory services to the investment pool. The SBA has since put into place processes that allow for improved reporting full transparency, conservative investment practices, improved portfolio guidelines and stricter internal controls. According to the SBA, Pool A meets the criteria to be considered as "2a-7 like", as defined by GASB Statement No. 31. Accordingly, it has been reported at the same value as the pool shares allocated to the District. Pool A maintains an AAAM rating by Standard and Poor's Ratings Services.

Pool B is accounted for as a fluctuating net asset value (NAV) pool. The pool is currently not rated by any nationally recognized statistical rating agency. Fund B's primary objective is to maximize the present value of distributions from Fund B. Fund B principally consists of Segregated Securities, which are securities originally purchased for Florida PRIME that (1) defaulted in the payment of principal and interest; (2) were extended; (3) were restructured or otherwise subject to workout; (4) experienced elevated market illiquidity; or (5) did not meet the criteria of the nationally recognized statistical rating organization ("NRSRO") that provides Florida PRIME's AAAM rating. In pursuing Fund B's investment objective, the Investment Manager may, in its sole discretion, sell, exchange, or otherwise dispose of, or agree to the extension, workout or restructuring of, Segregated Securities; provided that the Investment Manager determines, in its sole discretion, that such sale, exchange, disposition, extension, workout or restructuring is in the best interest of participants.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(3) CASH AND INVESTMENTS (Continued)

The Investment Manager may invest proceeds received from any sale, exchange or other disposition of Segregated Securities in securities that are eligible under this Policy for Florida PRIME. The Investment Manager, as part of a restructuring, workout, or exchange, also may accept securities that are not eligible under the Policy for Florida PRIME, in its sole discretion. Past performance is no guarantee of future performance. An investment in the Fund B is not a bank deposit and is not insured or guaranteed by the FDIC or any other government entity. Investors may lose money investing in Fund B, and returns may not keep pace with inflation.

Participants in Fund B will receive periodic distributions to the extent that Fund B receives proceeds deemed material by the SBA from (1) the natural maturities of securities, coupon interest collections, or collateral interest and principal paydowns; or (2) the sale of securities, collateral liquidation, or other restructure and workout activities undertaken. To effect the distribution, the Investment Manager will transfer cash or securities to Florida PRIME for the benefit of Fund B shareholders. Such transfers will be consistent with the pro rata allocation of Fund B shareholders of record as of the initial partition of Segregated Securities within Florida PRIME.

The Local Government Investment Pool is governed by the rules of Chapter 19-7 of the Florida Administrative Code. These rules provide guidance and establish the general operating procedures for the Administration of the Pool. Additionally, the Office of the Auditor General performs the operational audit of the activities and investments of the SBA.

Interest Rate and Credit Risk

The District's investment portfolio shall be actively managed in an effort to attain the highest available market rate of return while still operating within this Investment Policy. Securities may be traded for other similar securities to improve interest income, maturity or credit risk. A loss may be incurred for accounting purposes provided any of the following occurs with respect to the replacement security:(1) The interest income has been increased; (2) The time to maturity has been reduced; or (3) The credit quality has been improved.

Permitted investments of bond proceeds are usually set forth in the bond documents. Investment strategies or vehicles commonly utilized for the investment of bond proceeds may differ from those of other District funds.

The District will to the extent practicable make every attempt to match its investments in a manner as to provide sufficient liquidity to pay obligations of the District as they become due with anticipated cash-flow requirements. In order to meet projected cash requirements, the District will invest all surplus District checking account balances into the State of Florida Investment Pool (SBA), and/or

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(3) CASH AND INVESTMENTS (Continued)

other longer-term investments. Unless matched to a specific cash flow requirement, the District will generally not directly invest in securities maturing more than five (5) years from the date of purchase. Pool A is rated AAAM by Standard & Poor's, and investment into the fund by local governments is consistent with SEC rule 2a-7. Pool B is currently not rated by any nationally recognized statistical rating agency.

All of the District's investments in agency securities for fiscal year 2012 were rated at least AA+ by Standard and Poor's and Fitch ratings, and at least A1 by Moody's Investor Services.

Custodial Credit Risk - Deposits

All of the District's cash deposits are held in accounts at depository institutions which are recognized as State of Florida Qualified Public Depositories in accordance with state statutes and the District's investment policy.

The most significant cash deposit of the District at September 30, 2012 is the balance of approximately \$3,241,000 in the general fund emergency accounts.

Custodial Credit Risk - Investments

The District's investment policy requires that all securities be held with a third-party custodian in a separate account which is designated as an asset of the District. The custodian acts as the safekeeper of the District's investment securities. No withdrawal of securities, in whole or in part, is made from safekeeping without written authorization of designated District staff.

Concentration of Credit Risk

The District's policy authorizes investment allocation limits on security types, issuers, and maturity limitations. However, the District Director has the option to modify investment percentages from time-to-time based on market conditions, risk and diversification investment strategies after review and discussion with the District Treasurer and members of the investment committee.

The District believes it is not exposed to any foreign currency risk as a result of their investment in the State of Israel Bonds.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(3) CASH AND INVESTMENTS (Continued)

Percentage Allocation by Issuer as of September 30, 2012

<u>Issuer</u>	<u>Percentage of Total</u>
Local Government Surplus Trust Fund – Pool A	.49%
Local Government Surplus Trust Fund – Pool B	.63%
State of Israel Bonds	6.67%
SunTrust Bank	74.58%
Regent Bank CD	3.17%
Bank United CD	1.33%
TD Bank CD	3.30%
Stonegate Bank CD	3.30%
Bank of America CD	3.30%
Landmark Bank CD	3.24%

Cash and investments as of September 30, 2012 are comprised of the following:

Cash deposits:	
Money market accounts	\$ 4,164,011
Demand deposits	1,431,536
Petty cash	<u>800</u>
Total cash deposits	<u>\$ 5,596,347</u>
Investments:	
Local Government Surplus Trust Fund – Pool A	\$ 36,974
Local Government Surplus Trust Fund – Pool B	46,962
Certificates of deposit	1,323,000
State of Israel Bonds	<u>500,000</u>
Total investments	<u>\$ 1,906,936</u>
Total cash and investments	<u>\$ 7,503,283</u>

(4) MAINTENANCE TAXES AND SPECIAL ASSESSMENTS

Maintenance taxes and special assessments attach as an enforceable lien on the owners' properties as of January 1. The taxes are levied on November 1 and are payable, without penalty, from November 1 to the following March 31. Broward County bills and collects these taxes and assessments and remits these proceeds to the District.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(5) OTHER ASSETS

Other assets as of September 30, 2012 consisted of the following:

Prepaid expenses	<u>\$ 17,323</u>
	<u>\$ 17,323</u>

(6) CAPITAL ASSETS

The following summarizes changes in the capital assets:

	Balance <u>9/30/11</u>	Additions	Deletions	Balance <u>9/30/12</u>
Capital Assets Not Being Depreciated:				
Land	\$ 349,616	\$ -	\$ -	\$ 349,616
Canal Improvements and Lakes	<u>9,757,642</u>	<u>236,218</u>	<u>-</u>	<u>9,993,860</u>
Total Capital Assets Not Being Depreciated	<u>10,107,258</u>	<u>236,218</u>	<u>-</u>	<u>10,343,476</u>
Capital Assets Being Depreciated:				
Water Control Structures	8,758,161	71,332	-	8,829,493
Buildings - District Headquarters	802,551	-	-	802,551
Vehicles	420,673	228,373	-	649,046
Equipment	<u>399,718</u>	<u>7,725</u>	<u>-</u>	<u>407,443</u>
Total Capital Assets Being Depreciated	<u>10,381,103</u>	<u>307,430</u>	<u>-</u>	<u>10,688,533</u>
Less Accumulated Depreciation				
Water Control Structures	4,967,067	238,357	-	5,205,424
Buildings	443,489	20,064	-	463,553
Vehicles	467,185	65,626	-	532,811
Equipment	<u>472,122</u>	<u>78,171</u>	<u>-</u>	<u>550,293</u>
Total Accumulated Depreciation	<u>6,349,863</u>	<u>402,218</u>	<u>-</u>	<u>6,752,081</u>
Capital Assets, Net	<u>\$ 14,138,498</u>	<u>\$ 141,430</u>	<u>\$ -</u>	<u>\$ 14,279,928</u>

(7) RETIREMENT PLAN

Plan Description -

The District participates in the Florida Retirement System ("FRS"), a cost-sharing multiple-employer Public Employee Retirement System (PERS), which covers all District employees. The FRS offers a defined benefit plan and an investment plan, and each employee has an option to elect the plan in which they wish to participate. The FRS is non-contributory by the employee and is totally administered by

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(7) RETIREMENT PLAN (Continued)

the State of Florida, Department of Management Services - Division of Retirement and they provide an annual report which is available to the public every year. Each year FRS issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to the Division of Retirement, PO Box 9000, Tallahassee, Florida 32315-9000.

Funding Policy -

The system is non-contributory for employees; and the District's actuarially determined required contribution rate, as established by State statute, was 5.18% for covered regular payroll, and 6.30% for senior management payroll (District Director). All employees of the District contribute 3% of their salary to the program. The combined pension contributions approximated \$85,501 for the year ended September 30, 2012, which amounts to 8.34% of current-year covered payrolls. The District's total and current-year covered payroll was approximately \$1,025,657.

(8) PERMITS AND OTHER INCOME

Other income for the year ended September 30, 2012 consisted of the following:

Rental income	\$ 18,016
Permit fees	48,032
Basin S-3 cost contribution	269,931
Recertification program	44,419
Forgiveness of interfund debt – general fund	141,906
Forgiveness of interfund debt – S 9/10	<u>3,250</u>
	<u>\$ 525,554</u>

On February 23, 2012 the District entered into a construction agreement with a developer to design and construct the necessary Basin S-3 drainage improvements. The District had previously collected \$89,000 towards the S-3 improvements and the developer has agreed to fund the additional costs of \$269,931. As the permits for this project have been issued by the South Florida Water Management District during December 2012, according to the agreement the developer shall no longer have any recourse for or entitlement to reimbursement of the \$269,931 contribution to the District.

(Continued)

SOUTH BROWARD DRAINAGE DISTRICT

Notes to Financial Statements (Continued)

(9) LEASE AGREEMENT

On June 28, 2004 the District entered into a lease agreement with the Town of Southwest Ranches to lease space on the District's property to maintain seven modular facilities for use as a temporary Town Hall. Effective June 28, 2010 the District agreed with the Town on a five year extension until June 27, 2014. Southwest Ranches notified the District of their intent to move, and pursuant to the lease agreement with the District, on March 30, 2012 their security deposit was returned, as Southwest Ranches had completed returning the space back to its original condition, and the lease agreement had been formally terminated by the Board.

(10) COMMITMENT

The District entered into a contract with the new District Director effective May 17, 2010. The Board shall employ the director as the Chief Administrator/Director of the District for a term of four (4) years commencing June 1, 2011 and terminating on May 31, 2014. This Contract shall automatically renew for term of four (4) years unless otherwise terminated in accordance with the provisions contained herein. The contract provides for an annual base salary with annual increases linked to the cost of living index, however not less than 3%. The contract also provides for benefits, including but not limited to life insurance, vacation time and sick leave.

The District also entered into contracts with the Assistant District Director and the Project Manager effective April 22, 2010. These contracts are for a term of four years commencing on the effective date of April 22, 2010 and terminating on September 30, 2014. These Contracts shall automatically renew for term of four (4) years unless otherwise terminated in accordance with the provisions contained herein. The contracts provide for an annual base salary with annual increases linked to the cost of living index, however not less than 3%. The contracts also provides for benefits, including but not limited to life insurance, vacation time and sick leave.

(11) RISK MANAGEMENT

The District is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; and natural disasters for which the District carries commercial insurance. Settlements have not exceeded insurance coverage for any of the past three fiscal years.

(12) SUBSEQUENT EVENTS

Subsequent events have been evaluated through January 15, 2013, which is the date the financial statements were available to be issued to the District.

**REQUIRED SUPPLEMENTARY
INFORMATION OTHER THAN M,D & A
(unaudited)**

SOUTH BROWARD DRAINAGE DISTRICT
Statement of Revenues, Expenditures and Changes
in Fund Balance – Budget and Actual – General Fund
(Budgetary Basis)
For the fiscal year ended September 30, 2012

	<u>Final Budget **</u>	<u>Actual - Budgetary Basis</u>	<u>Variance – Favorable (Unfavorable)</u>
Revenues:			
Maintenance taxes	\$ 3,053,734	\$ 3,054,760	\$ 1,026
Basin S-3 Drainage improvements	-	269,931	269,931
Permit fees and other income	53,000	257,072	204,072
Interest	<u>47,500</u>	<u>37,931</u>	<u>(9,569)</u>
	<u>3,154,234</u>	<u>3,619,694</u>	<u>465,460</u>
Expenditures:			
Administrative salaries	298,422	300,353	(1,931)
Board of Commissioners' salaries	37,800	37,800	-
Field operations' salaries	464,607	448,081	16,526
Inspectors' salaries	222,503	231,964	(9,461)
Payroll taxes	85,340	77,984	7,356
Pension costs	53,789	51,564	2,225
Other salaries and costs	75,000	45,261	29,739
Accounting fees	26,000	24,750	1,250
Engineering/consulting/special projects	45,000	37,095	7,905
Legal fees	70,200	78,564	(8,364)
Legal fees – special projects	60,000	59,316	684
Other professional fees	1,000	-	1,000
Commercial property package	36,500	33,749	2,751
General liability	42,000	40,744	1,256
Group health and life insurance	384,260	303,810	80,450
Workers compensation	21,275	18,832	2,443
Advertising	8,000	7,849	151
Computer supplies and upgrades	8,400	8,310	90
Dues and subscriptions	5,400	4,642	758
Flight service	2,500	-	2,500
Electric costs	16,456	13,048	3,408
Gas(LP) auxiliary power	5,000	136	4,864
Janitorial services	2,200	1,788	412
Licenses and fees	900	893	7

(Continued)

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Statement of Revenues, Expenditures and Changes
in Fund Balance - Budget and Actual - General Fund
(Budgetary Basis) - Continued
For the fiscal year ended September 30, 2012

	<u>Final</u> <u>Budget **</u>	<u>Actual -</u> <u>Budgetary</u> <u>Basis</u>	<u>Variance -</u> <u>Favorable</u> <u>(Unfavorable)</u>
Maintenance contracts	\$ 9,200	\$ 5,111	\$ 4,089
Miscellaneous/uniforms	4,500	3,646	854
Office supplies and postage	4,300	3,963	337
Payroll service	2,400	2,807	(407)
Printing and stationary	2,328	1,032	1,296
Public records, storage and filing	6,050	6,118	(68)
Telephone and miscellaneous communications	15,000	13,066	1,934
Water and sewer costs	3,000	1,947	1,053
Buildings and grounds maintenance	53,723	30,979	22,744
Equipment rental	10,000	1,238	8,762
Equipment and vehicles maintenance	23,100	21,431	1,669
Fuel, oil and lubricants -			
Pump stations	82,000	83,871	(1,871)
Vehicles and equipment	45,000	36,923	8,077
Hazardous materials	7,500	-	7,500
Janitorial supplies	1,000	618	382
Hurricane preparedness supplies	1,500	1,322	178
Landscaping and mowing	19,750	17,709	2,041
Photography and VCR equipment	350	216	134
Pump station and flood gates maintenance	48,800	45,101	3,699
Safety and SCUBA equipment	2,500	2,469	31
Sanitation and exterminating services	500	182	318
Small tools and shop supplies	9,000	8,746	254
Water recorder/elevation gauge/telemetry	20,000	20,342	(342)
Canal and swale renovations	30,000	17,804	12,196
Culvert cleaning	70,000	59,273	10,727
Culvert and flapper gate repairs	25,000	-	25,000
Endwall repairs and replacements	1,000	550	450
Erosion control	62,000	61,800	200
Gates, fences and ramp upgrades	5,000	1,369	3,631
Outfall structures	2,000	-	2,000
Trash rack, piling and tank upgrades	20,000	15,484	4,516
Tree removal	56,700	40,561	16,139

(Continued)

See accompanying notes to the financial statements.

SOUTH BROWARD DRAINAGE DISTRICT
Statement of Revenues, Expenditures and Changes
In Fund Balance - Budget and Actual - General Fund
(Budgetary Basis) - Continued
For the fiscal year ended September 30, 2012

	<u>Final Budget **</u>	<u>Actual - Budgetary Basis</u>	<u>Variance - Favorable (Unfavorable)</u>
Herbicides	\$ 384,000	\$ 325,910	\$ 58,090
Triploid carp	40,000	38,500	1,500
Water testing	8,000	8,097	(97)
Seminars, meetings and conferences	13,350	7,844	5,506
Bank charges	-	370	(370)
Equipment and vehicles purchases	42,500	32,311	10,189
Pump station and drainage improvements	-	66,907	(66,907)
Contingency	10,000	2,500	7,500
Billing and collection costs	61,075	59,263	1,812
Discounts and commissions	<u>106,881</u>	<u>109,766</u>	<u>(2,885)</u>
 Total expenditures	 <u>3,281,559</u>	 <u>2,983,679</u>	 <u>297,880</u>
Excess (deficiency) of revenues over expenditures	<u>\$ (127,325)*</u>	<u>636,015</u>	<u>\$ 763,340</u>
 Fund balance at beginning of year		 6,657,945	
Adjustment ***		<u>(363,416)</u>	
 Fund balance at end of year		 <u>\$ 6,930,544</u>	

* Appropriation of Fund Balance

** The District amended certain line items of the original budget on August 30, 2012. The changes were immaterial and only the final budget has been presented for purposes of this statement.

*** In order to reconcile the excess of revenues over expenditures for budgetary purposes to GAAP, the adjusted difference between the 2012 and 2011 reserve for encumbrances and reserve fund adjustments, which amount to a total of (\$363,416), would be included as the reconciling item. (See Note 2)

See accompanying notes to the financial statements.

OTHER REPORTS SECTION

SOUTH BROWARD DRAINAGE DISTRICT

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE
WITH *GOVERNMENT AUDITING STANDARDS*
For the fiscal year ended September 30, 2012**

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE
WITH *GOVERNMENT AUDITING STANDARDS***

To the Honorable Board of Commissioners,
South Broward Drainage District:

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of South Broward Drainage District ("the District"), as of and for the year ended September 30, 2012, which collectively comprise the District's basic financial statements and have issued our report thereon dated December 27, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the District is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the District's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

To the Honorable Board of Commissioners,
South Broward Drainage District
Page two

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain other matters that we reported to management of the District in a separate letter dated December 27, 2012.

This report is intended solely for the information and use of the District's management, the Board of Commissioners, others within the entity, the Auditor General of the State of Florida, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Margolies Fink & Wichrowski
Certified Public Accountants

December 27, 2012
Pompano Beach, Florida

SOUTH BROWARD DRAINAGE DISTRICT

**INDEPENDENT AUDITORS' MANAGEMENT LETTER REQUIRED BY
CHAPTER 10.550, RULES OF THE STATE OF FLORIDA OFFICE
OF THE AUDITOR GENERAL
For the fiscal year ended September 30, 2012**

**INDEPENDENT AUDITORS' MANAGEMENT LETTER REQUIRED BY
CHAPTER 10.550, RULES OF THE STATE OF FLORIDA OFFICE
OF THE AUDITOR GENERAL**

December 27, 2012

To the Honorable Board of Commissioners,
South Broward Drainage District:

We have audited the financial statements of the South Broward Drainage District, whose headquarters is located in Southwest Ranches, Florida, as of and for the fiscal year ended September 30, 2012, and have issued our report thereon dated December 27, 2012.

We have issued our Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, and Chapter 10.550, Rules of the State of Florida Office of the Auditor General, dated December 27, 2012. Disclosures in those reports, if any, should be considered in conjunction with this management letter.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Additionally, our audit was conducted in accordance with Chapter 10.550, Rules of the Auditor General, which governs the conduct of local governmental entity audits performed in the State of Florida. This letter includes the following information, which is not included in the aforementioned auditor's reports or schedule:

- Section 10.554(1)(i)1., Rules of the Auditor General, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report. Corrective actions have been taken to address findings and recommendations made in the preceding annual financial report.
- Section 10.554(1)(i)2., Rules of the Auditor General, requires our audit to include a review of the provisions of Section 218.415, Florida Statutes, regarding the investment of public funds. In connection with our audit, we determined that the South Broward Drainage District complied with Section 218.415, Florida Statutes.
- Section 10.554(1)(i)3., Rules of the Auditor General, requires that we address in the management letter any recommendations to improve financial management. In connection with our audit, we did not have any such recommendations.
- Section 10.554(1)(i)4., Rules of the Auditor General, requires that we address violations of laws, regulations, contracts or grant agreements, or abuse that have occurred, or are likely to have occurred, that have an effect on the determination of financial statement amounts that is less than material but more than inconsequential. In connection with our audit, we did not have any such findings.
- Section 10.554(1)(i)5., Rules of the Auditor General, provides that the auditor may, based on professional judgment, report the following matters that are inconsequential to the determination of financial statement amounts, considering both quantitative and qualitative factors: (1) violations of contracts or grant agreements, fraud, illegal acts, or abuse that have occurred, or are likely to have occurred, and (2) control deficiencies that are not significant deficiencies, including, but not limited to: (a) improper or inadequate accounting procedures (e.g., the omission of required disclosures from the annual financial statements); (b) failures to properly record financial transactions; and (c) inaccuracies, shortages, defalcations, and instances of fraud discovered by, or that come to the attention of, the auditor. In connection with our audit, we did not have any such findings.
- Section 10.554(1)(i)6., Rules of the Auditor General, requires that the name or official title and legal authority for the primary government and each component unit of the reporting entity be disclosed in this management letter, unless disclosed in the notes to the financial statements. The South Broward Drainage District was originally established pursuant to the provisions of Chapter 12049, a Special Act of the Florida Legislature in 1927. Since the initial charter was created several revisions have been made by the Florida Legislature, the latest having been completed in 2011. There are no component units of the South Broward Drainage District to be disclosed as required by accounting principles generally accepted in the United States of America.

- Section 10.554(1)(i)7.a., Rules of the Auditor General, requires a statement be included as to whether or not the local governmental entity has met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition(s) met. In connection with our audit, we determined that the South Broward Drainage District did not meet any of the conditions described in Section 218.503(1), Florida Statutes.
- Section 10.554(1)(i)7.b., Rules of the Auditor General, requires that we determine whether the annual financial report for the South Broward Drainage District for the fiscal year ended September 30, 2011, filed with the Florida Department of Financial Services pursuant to Section 218.32(1)(a), Florida Statutes, is in agreement with the annual financial audit report for the fiscal year ended September 30, 2011. In connection with our audit, we determined that these two reports were in agreement.
- Pursuant to Sections 10.554(1)(i)7.c, and 10.556(7), Rules of the Auditor General, we applied financial condition assessment procedures. It is management's responsibility to monitor the South Broward Drainage District's financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same as of September 30, 2012, and through the date of our audit report, December 27, 2012.
- Section 10.554(1)(i)9, Rules of the Auditor General, requires a statement to be included as to whether or not the local government provides monthly financial statements to its governing board and has made these financial statements available for public access on the District's website. The District is complying with this requirement.

Pursuant to Chapter 119, Florida Statutes, this management letter is a public record and its distribution is not limited. Auditing standards generally accepted in the United States of America require us to indicate that this letter is intended solely for the information and use of the Board of Commissioners of South Broward Drainage District, management, and the Florida Auditor General, and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

Margolies, Fink & Wichrowski
Certified Public Accountants
Pompano Beach, Florida

PART I - CURRENT YEAR COMMENTS AND RECOMMENDATIONS

No comments were noted for the fiscal year ended September 30, 2012.

PART II - STATUS OF PRIOR YEAR COMMENTS AND RECOMMENDATIONS

Not applicable as there were no comments or recommendations in the prior fiscal year.

SOUTH BROWARD DRAINAGE DISTRICT

**STATEMENT OF EXPLANATION OR REBUTTAL TO
MANAGEMENT LETTER COMMENTS AND RECOMMENDATIONS
For the fiscal year ended September 30, 2012**

There is no response required for the current year.

MEMORANDUM

DATE: January 24, 2013
TO: South Broward Drainage District Commissioners
FROM: Kevin M. Hart, P.E.
District Director
Subject: Proposed Resolution No. 2013-01

Comments:

This agenda item was tabled at the previous Board meeting to allow Board members an opportunity to discuss proposed Resolution 2013-01 with the District Director in more detail.

Proposed Resolution 2013-01 allows SBDD to enter in a Maintenance and Indemnification Agreement (Agreement) with property owners who obtain a Paving & Drainage Permit from the District for residential, commercial or industrial development or re-development projects without additional approval from the SBDD Board of Commissioners (Board). The purpose of the Maintenance and Indemnification Agreement is to set forth the maintenance responsibilities of the property owners in regards to the drainage system serving the development and to indemnify the District from any and all liability, claims, loss, damage and expenses arising out of construction and/or maintenance of the drainage system. The Agreement also includes language regarding easements, off-site drainage (if applicable), wetland mitigation areas (if applicable) and the District's ability to provide maintenance in the event the property owners fail to meet their responsibilities and obligations.

The proposed Resolution includes four (4) standard Agreements as follows:

1. An Agreement for a development with a drainage system for on-site drainage only (no off-site drainage and no wetlands), attached as Exhibit "1" to the Resolution.
2. An Agreement for a development with a drainage system for on-site drainage and off-site drainage (no wetlands), attached as Exhibit "2" to the Resolution.
3. An Agreement for a development with a drainage system for on-site drainage and wetlands (no off-site drainage), attached as Exhibit "3" to the Resolution.
4. An Agreement for a development with a drainage system for on-site drainage, off-site drainage and wetlands, attached as Exhibit "4" to the Resolution.

All four Agreements have been reviewed by the District Attorney. Any substantive changes to the standard agreements will require Board approval.

Approval of this Resolution will eliminate the need for the SBDD attorney to prepare separate Agreements between the property owners and SBDD which then requires Board approval by separate resolution. This will save the property owners the expense of attorney's fees and costs for preparing a separate agreement and resolution.

Financial impacts to this Agenda Item: none, other than SBDD administrative costs; all other costs will be incurred by the individual property owners. SBDD legal costs to individual property owners should be reduced.

KH

Attachments

SOUTH BROWARD DRAINAGE DISTRICT RESOLUTION N° 2013-01

RESOLUTION OF THE SOUTH BROWARD DRAINAGE DISTRICT AUTHORIZING THE DISTRICT TO ENTER INTO MAINTENANCE AND INDEMNIFICATION AGREEMENTS WITH PROPERTY OWNERS WHO ARE DEVELOPING OR REDEVELOPING PROPERTY WITHIN THE DISTRICT STIPULATING THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNERS WITH RESPECT TO THE DRAINAGE SYSTEM AND STORMWATER MANAGEMENT SYSTEM SERVING THE PROPERTY AND INDEMNIFYING THE DISTRICT FROM ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE AND EXPENSES DISTRICT MAY INCUR AS THE RESULT OF THE CONSTRUCTION AND/OR MAINTENANCE OF SAID DRAINAGE SYSTEM AND STORMWATER MANAGEMENT SYSTEM; AUTHORIZING THE DISTRICT TO ENTER INTO SAID AGREEMENTS WITHOUT FURTHER BOARD APPROVAL; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the South Broward Drainage District, hereinafter referred to as "District", is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries; and

WHEREAS, the District has previously established and approved a Regulations, Standards, Procedures and Design Criteria Manual, hereinafter referred to as "Criteria Manual" which established regulations, standards, procedures and design criteria for constructing improvements within the District; and

WHEREAS, property owners are required to obtain a Paving and Drainage Permit, (hereinafter referred to as "Permit") from the District in order to construct a drainage system and a stormwater management system within the District to serve residential, commercial or industrial development or redevelopment projects (hereinafter referred to as "Development"); and

WHEREAS, the purpose of the District issuing a Permit is to insure that the applicant's drainage system and surface water management system will not be harmful to the water resources and overall drainage of the District and is consistent with the public interest; and

WHEREAS, the drainage system and surface water management system for a Development may include provisions for flowage of stormwater drainage from neighboring properties to store, flow and drain in and through the Development property; and

WHEREAS, the drainage system and surface water management system for a Development project may include wetland areas and/or wetland mitigation areas; and

WHEREAS, collectively, the Development's drainage system, surface water management system, wetland areas and/or wetland mitigation areas shall hereinafter be referred to as "Drainage System"; and

WHEREAS, as a condition of issuing a Permit, the District may require the property owners to enter into a Maintenance and Indemnification Agreement; and

WHEREAS, the purpose of the Maintenance and Indemnification Agreement is to stipulate the maintenance responsibilities of the property owners for the Drainage System, and to indemnify the District from any and all liability, claims, loss, damage and expenses arising out of construction and/or maintenance of the Drainage System; and

WHEREAS, the District has previously authorized the District to enter into agreements with property owners without further Board approval; and

WHEREAS, the District Attorney has prepared standard Agreements to be entered into between the District and property owners for the purpose of stipulating the maintenance responsibilities of the property owners for a Development's Drainage System and indemnifying the District from any and all liability, loss, damage and expense the District may suffer as the result of the construction and/or maintenance of a Development's Drainage System. A true and correct copy of said Agreements are attached to this Resolution as Exhibit "1", Exhibit "2", Exhibit "3" and Exhibit "4"; and

WHEREAS, Exhibit "1" is for a Development with a Drainage System for on-site drainage only (no off-site drainage and no wetland mitigation); and Exhibit "2" is for a Development with a Drainage System for on-site drainage and off-site drainage (no wetland mitigation); Exhibit "3" is for a Development with a Drainage System for on-site

drainage and wetland mitigation (no off-site drainage); and Exhibit "4" is for a Development with a Drainage System for on-site drainage, off-site drainage and wetland mitigation; and

WHEREAS, a public hearing was held at 8:00 A.M. on Thursday, January 31, 2013 at the offices of the South Broward Drainage District located at 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331 for the purpose of approving the proposed Agreements, attached hereto as Exhibit "1", Exhibit "2", Exhibit "3" and Exhibit "4" and authorizing the District to enter into the proposed Agreements with property owners upon certain conditions;

NOW, THEREFORE, be it resolved by the Board of Commissioners of the South Broward Drainage District in meeting assembled that:

1. The foregoing statements are incorporated herein in their entirety as if fully stated herein.
2. That upon recommendation of the District Director, a Permit may be issued to property owners for construction of Drainage Improvements within a Development so long as the property owners have provided all documents required by the District in the form acceptable to the District and said Drainage Improvements are in accordance with the District's Criteria Manual.
3. That the District is authorized to enter into one the Agreements which are attached to this Resolution as Exhibit "1", Exhibit "2", Exhibit "3" and Exhibit "4" with property owners whose Permit require such an Agreement to be executed so long as the property owners have provided all documents required by the District in the form acceptable to the District, have executed the Agreement and have paid the District's required fees and expenses associated with the approval and recording of the Agreement.
4. That so long as property owners provide all information required by District, the Agreement is executed by the property owner, filled out in its entirety by the property owners and all fees have been paid, and following approval by the District Director and

without further action by the District Board of Commissioners, the Agreement shall be executed in the name of the District by the Chairperson and countersigned and attested by the Secretary of the District and its corporate seal or facsimile thereof shall be affixed or reproduced thereof.

5. After the Agreement has been fully executed, the District Director is authorized and directed to have the original signed Agreement recorded in the Broward County Public Records.

6. If one or more of the covenants, agreements or provisions of this Resolution, or the Exhibits hereto, or the procedures contained herein, shall be determined to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be separate from the remaining covenants, agreements or provisions and shall in no way affect the validity of all other provisions of this Resolution, the Exhibits attached hereto, or the procedures contained herein.

3. This Resolution shall take effect immediately upon its adoption.

THE FOREGOING RESOLUTION ALLOWS THE DISTRICT TO ENTER INTO A MAINTENANCE AND INDEMNIFICATION AGREEMENT WITH PROPERTY OWNERS WHO ARE DEVELOPING OR REDEVELOPING PROPERTY WITHIN THE DISTRICT STIPULATING THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNERS WITH RESPECT TO DRAINAGE SYSTEM AND STORMWATER MANAGEMENT SYSTEM SERVING THE PROPERTY AND INDEMNIFYING DISTRICT FROM ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE AND EXPENSES DISTRICT MAY SUFFER AS THE RESULT OF THE CONSTRUCTION AND/OR MAINTENANCE OF SAID DRAINAGE SYSTEM AND STORMWATER MANAGEMENT SYSTEM; AND AUTHORIZING DISTRICT TO ENTER INTO SAID AGREEMENTS WITHOUT FURTHER BOARD APPROVAL WERE APPROVED AND ADOPTED BY SOUTH BROWARD DRAINAGE DISTRICT RESOLUTION NO. 2013-01 ON THE 31ST DAY OF JANUARY, 2013.

EXHIBIT #1

Prepared by: South Broward Drainage District
RETURN TO: 6591 S.W. 160 Avenue
Southwest Ranches, FL 33331

MAINTENANCE AND INDEMNIFICATION AGREEMENT
(PROJECT NAME)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, whose address is 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "District", and **NAME OF PROPERTY OWNER**, a _____, whose address is _____, hereinafter collectively referred to as "Owner".

WITNESSETH:

WHEREAS, District is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries and approving all subdivision plats and development plans affecting lands within its geographical boundaries; and

WHEREAS, Owner is the Property Owner of a real estate development known as "NAME OF PROJECT" which is located within the boundaries of the District and Owner is or will be responsible for maintenance of all common areas within said property. The NAME OF PROJECT development is hereinafter referred to as "Subject Property" and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

WHEREAS, Owner acknowledges that Owner has the primary responsibility to maintain at its expense the surface water management and drainage system for the Subject Property and the drainage, flowage and storage of stormwater on and across the Subject Property (hereinafter, collectively referred to as the "Drainage System"); and

WHEREAS, as a condition of allowing the development of Subject Property, the District requires LIST EASEMENTS, AS APPLICABLE (hereinafter referred to as "Easements") for stormwater drainage, flowage and storage through and for the Subject Property; and

WHEREAS, the aforescribed Easements have been dedicated to the District and are recorded

in the Public Records of Broward County, Florida in OR Book _____, Pages _____
_____. The Owner acknowledges the dedication of these Easements and that the District has on a non-exclusive basis access to and the right to utilize the areas dedicated by said Easements (hereinafter collectively referred to as "Easement Areas") for the purpose of constructing, maintaining and repairing the Drainage System and appurtenances contained therein; and

WHEREAS, the Owner acknowledges that Owner has the primary responsibility to maintain drainage, flowage and storage of stormwater from Subject Property; and

WHEREAS, as a condition of allowing the development of Subject Property, the District requires Owner to enter into this Agreement, and as a condition of having issued a permit or permits for development of Subject Property to do the following:

- (a) To indemnify and hold harmless the District from any and all liability as the result of the construction of the Drainage System; and
- (b) To maintain the Drainage System for the Subject Property; and
- (c) To keep the Easement Areas free and clear of all permanent obstructions, including, but not limited to, landscaping; and

WHEREAS, the Owner is agreeable to entering into this Agreement and to be responsible for any and all expenses incurred by the District as a result of the District agreeing to the issuance of a permit for construction of the Drainage System, and all other matters stated in this Agreement including, but not limited to, the provisions (a) through (c) of the preceding paragraph; and

WHEREAS, as part of the development of Subject Property, Owner will be constructing access roads and adjacent roadside swales, all of which shall be maintained by the Owner and subject to the Indemnification and Maintenance Obligations stated herein; and IF APPLICABLE

WHEREAS, District requires the Owner to assign lien rights, if any, to District in the event the Owner fails and/or refuses to collect the monies which may be due the District as a result of expenses incurred by District arising out of this Agreement; and

WHEREAS, Owner shall pay to District those monies which may be due the District as the result of expenses incurred by District arising out of this Agreement; and

WHEREAS, District and Owner are desirous of entering into an agreement to provide for construction and maintenance of the Drainage System [and for maintenance of access roads and roadside swales adjacent to said access roads IF APPLICABLE];

WHEREAS, notwithstanding anything stated herein, the District has the right, but not the obligation to maintain the Drainage System; and

NOW, THEREFORE, in consideration of the premises and Ten and No/100 (\$10.00) Dollars and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by District and Owner, each intending to be legally bound, do hereby represent, warrant, covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference as though set forth verbatim.

2. The Owner agrees that Owner shall be responsible for such work as may be necessary to maintain the Drainage System in a condition required by the District and other governmental agencies other than District which have jurisdiction over Subject Property.

3. The Owner acknowledges that if it fails to maintain the Drainage System, the District may perform the required maintenance work in accordance with the terms of this Agreement.

4. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Drainage System, and should the work of District's employees and/or agents cause any harm whatsoever to any improvements on the Subject Property, that the Owner shall be responsible for any work which may be necessary in order to return the improvements back to their original condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and its assigns, unless such harm or damage to the improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the improvements and District agrees to give Owner reasonable notice prior to entering the Subject Property unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances.

5. During the period of time beginning with commencement of construction of the Drainage System, the Owner agrees that, for and in consideration of an additional \$10.00 and other good and valuable consideration, the receipt of which is acknowledged by the Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which the District may sustain or incur by reason of or in consequence of the Owner's negligence in the construction and completion of the

Drainage System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by Owner under this Agreement. This indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or Owner's employees' or agents' negligence in the construction of the Drainage System. The Owner agrees to take over and defend such claims or actions filed against District with respect to the indemnity contained in this paragraph 5. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

6. After completion of construction by Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which the District may sustain or incur by reason of or in consequence of the Owner's negligence in the maintenance of the Drainage System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. The indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or its employees' or agents' negligence in the maintenance of the Drainage System. The Owner agrees to take over and defend such claims or actions filed against District with respect to the indemnity contained in this paragraph 6. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

7. Owner acknowledges that the District has no obligations or responsibility regarding any portion of the Drainage System, that any damage which may be caused to the Drainage System shall be repaired by the Owner, and the District shall have no obligation to repair or be responsible for any damage which may be caused to the Drainage System as a result of either activities of the District or by third parties unless caused by willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Drainage System, and District agrees to give Owner reasonable notice

prior to entering the Easement Areas, except in the event of an emergency as solely determined by the District. In this event, the District will make a reasonable attempt to notify Owner as soon as reasonably practical under the circumstances. This Paragraph does not and is not intended to release third parties from any damage that the third parties may cause to the Drainage System.

8. The Owner shall be responsible for restoring in kind any fences, berms, side ditches, culverts, landscaping or any other structures and appurtenances which are required to be restored as a result of construction and maintenance of the Drainage System and shall provide for and coordinate any necessary utility relocations. In addition, the Owner shall take all necessary precautions to confine construction and maintenance of the Drainage System and all associated tasks to within the Easement Areas.

9. The Owner agrees that during construction and maintenance of the Drainage System, Owner shall proceed in such a manner that the drainage of the Subject property will be maintained at all times and the Owner shall take all reasonable and necessary steps to prevent pollution of the Subject Property and Drainage System during the construction and maintenance of the Drainage System.

10. The Owner during construction and maintenance of the Drainage System shall be responsible to repair any damage which Owner's contractors cause to the District's existing drainage systems including appurtenances thereto. The Owner agrees to reimburse District for all costs incurred by District to repair any damage to the District's existing drainage system which occur as a result of the aforementioned obligations to be performed by the Owner pursuant to this Agreement. The Owner does not waive any defenses or admit any liability by such agreement, nor is this Agreement meant to absolve the contractors, subcontractors or third parties from liability for their own actions.

11. In the event that the Drainage System is not being constructed or maintained pursuant to the plans approved by the District and/or requirements of the District, the Owner agrees that within twenty (20) consecutive calendar days after written notice by District, the Owner will commence to repair and correct any deviations from the approved plans and District requirements, said repairs and/or corrections to be completed within sixty (60) days of said notice. If this is not done, the Owner shall, as directed by the District, remove that portion of the ^{Drainage} ~~Surface Water Management~~ System which District requires to be removed. If any part of the Drainage System is removed pursuant to this Paragraph, any other portion of the District's drainage system which has been removed or altered shall be restored to its original condition or District criteria as of the date of this Agreement. In the alternative, the Drainage System shall be

completed.

12. The Owner agrees that if construction, maintenance or lack of maintenance of the Drainage System causes or is causing damage to District's drainage systems (including appurtenances thereto) or if the Drainage System is not constructed or maintained in accordance with the original approved plans or District requirements, that within twenty (20) consecutive calendar days after written notice by District to Owner and the contractor, which notice shall specifically describe the nature and extent of the damage or improper construction or maintenance, that the District may order and direct that all or a portion of the Drainage System being constructed or worked on by the Owner shall cease. If District gives notice as provided herein, Owner and contractor shall cease work and not begin again for that portion which is stopped until damage or threat of damage has been repaired or removed or correction of the improper construction or maintenance has commenced, and the District authorizes resumption of said work in writing. The Owner agrees to notify contractor constructing or maintaining the work described in this Agreement of the District's right to stop the contractor's work upon said notice and to provide contractor with such notice if notice is given to Owner.

13. After completion of the Drainage System, and prior to final acceptance by District, the Owner shall provide to District as-built drawings of the Drainage System, including invert elevations and locations of culverts and appurtenances associated therewith, and all other drainage improvements constructed as part of the Drainage System and as required under the permit issued by the District.

14. After completion of the Drainage System to the satisfaction of the District, the District shall issue written approval of the Drainage System following which the Owner shall assume responsibility for maintenance of the Drainage System.

15. The Owner acknowledges and agrees that the Drainage System shall be re-certified by a Florida Registered Professional Engineer every 5 years in accordance with the District's Charter and Criteria Manual.

16. At all times following the execution of this Agreement, Owner agrees to allow the District, its successors and assigns access to and across all Easement Areas.

17. The Owner's obligations under this Agreement are assignable in whole or in part by Owner to a successor owner or to a property owners association. Such assignment to a successor owner or property owners association may be made by Owner only with the consent of District in writing of the document effecting said assignment, and upon acknowledgment in writing that the assignee has read and

understands the assignment which must provide that the assignee agrees to perform Owner's obligations hereunder and to be bound by the terms of this Agreement. Upon the delivery of said document to District, acceptance of said document in writing by District and upon recording in the Broward County Public Records of said document, all with respect to an assignment to a successor owner, and upon written approval of the Drainage System by the District, Owner shall have no responsibility to perform pursuant to the terms of this Agreement. Upon delivery of said acceptance to the Owner or its successors, the Owner and successor owner(s) shall have no responsibility to perform pursuant to the terms of this Agreement. Notwithstanding anything to the contrary herein contained, Owner and any subsequent assignor will continue to be liable for any damage arising out of events which occurred prior to the assignment of such party's obligations as stated herein. District's approval as stated herein will not be unreasonably withheld. To be effective, the assignment to a successor owner or property owners association, signed by the successor owner or property owners association and written consent of the District, must be recorded in the Broward County Public Records.

18. Nothing contained in this Agreement shall create any obligation of District to maintain any drainage structures or culverts within Subject Property and maintenance of all internal drainage structures, culverts and outfalls into the Subject Property Drainage System shall be the responsibility of the Owner.

19. In addition to its obligations stated herein, Owner shall maintain the internal access roadways within Subject Property, the access road drainage swales and all drainage structures within Subject Property, which maintenance obligation shall be subject to the Owner's Maintenance and Indemnification obligations stated in this Agreement. IF APPLICABLE

21. If exercised by District, the District's responsibility for maintaining the Drainage System shall consist primarily of maintaining flowage through the Drainage System.

22. In the event District is required to perform maintenance as stated herein, District shall do so to the best of its ability without unreasonable interference with Owners business operations on Subject Property.

23. Any expenses or costs, including reasonable attorney's fees incurred by the District with respect to the matters for which the District has been indemnified under this Agreement, or as a result of any work performed by the District as provided for in this Agreement, or for damages incurred by the District for which the Owner has indemnified the District, shall be paid to District by Owner, its successors

or assigns, as applicable, within thirty (30) days after receiving a statement for same with support documentation (invoices and the like) for all charges shown.

24. In the event payment is not received within thirty (30) days from the billing for such charges, the District shall be entitled to file a lien in the Broward County Public Records upon all non-governmental owned property within Subject Property, which lien shall be inferior to any existing mortgage then encumbering the property, ad valorem taxes, and any such other liens, impositions and assessments as may be given priority by applicable statutes. This lien shall be effective upon the recording of a claim of lien in the public records of Broward County, Florida, and will be for the unpaid sums due the District, including reasonable attorney's fees, together with interest thereon at eighteen percent (18%) per year or the highest non-usurious rate allowable by law, whichever is less. The District agrees to grant partial releases of any lien in its favor upon payment of a proportionate share of the lien amount based upon and for the real property sought to be released. In the alternative, the District shall be entitled to include said unpaid expenses or costs on the annual tax bill for Subject Property issued by the Broward County Property Appraiser or Revenue Collector.

25. Owner shall at all times provide the District with the name and phone number of an individual or individuals who shall be available to answer questions and complaints regarding the responsibility of maintenance of the Drainage System and adjacent drainage facilities.

26. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to District:

South Broward Drainage District
Attn: District Director
6591 S.W. 160th Avenue
Southwest Ranches, Florida 33331

with a copy to:

Douglas R. Bell, Esquire
Cumberland Building, Suite 505
800 East Broward Boulevard
Fort Lauderdale, Florida 33301

As to Owner:

NAME AND ADDRESS

unless the address is changed by a party by notice given to the other parties. Notice shall be in writing,

mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by facsimile, electronic mail, telegraph or private courier, but shall be deemed to have been given when received.

27. In the event of any litigation under this Agreement or litigation with respect to the enforcement of any liens of the District, the prevailing party shall be entitled to an award of its court costs and reasonable attorney's fees at trial and all appellate levels of judicial proceedings.

28. To the extent permitted by law, the indemnifications and hold harmless, as applicable, set forth in this Agreement shall survive the execution of this Agreement and the completion of all activities and/or construction to be completed by the Owner or its contractors, subcontractors, designees, or agents, and its successors or assigns in or on the Drainage System.

29. In addition to this Agreement, the Owner is subject to all rules and regulations of the District regarding construction of the Drainage System.

30. The District agrees to issue its permit to the Owner for construction of the Drainage System contemplated herein in accordance with the terms and conditions of this Agreement.

31. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

32. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which will constitute one and the same Agreement.

33. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, assigns, grantees and to those persons who are specifically assigned in writing any rights or obligations hereunder. Further, this Agreement shall be a covenant running with the land described as Subject Property and binding upon all owners of such land. The Owner shall disclose this Agreement in writing to all persons acquiring any portion of Subject Property subsequent to the date of this Agreement and any declaration of covenants, conditions or restrictions recorded with respect to Subject Property subsequent to the date of this Agreement shall specially refer to this Agreement.

34. The Exhibit hereto contains additional terms of This Agreement shall be construed and interpreted according to the laws of the State of Florida and the venue with respect to any litigation with respect to this Agreement shall be Broward County, Florida.

35. All terms and words used in this Agreement, regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

36. This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

37. The exhibit hereto contains additional terms of this Agreement. Typewritten or handwritten provisions inserted in this Agreement or exhibit (and initialed by the parties) shall control all printed provisions in conflict therewith.

38. Whenever approvals of any nature are required by any party to this Agreement, it is agreed that same shall not be unreasonably withheld.

39. This Agreement shall be severable and if any part or portion of this Agreement shall be found to be invalid or unenforceable, such findings shall not affect the remainder of this Agreement.

40. This Agreement merges and supersedes any and all previous agreements on the subject matter between the parties, whether oral or written, and constitutes the entire agreement between the parties.

41. The District and Owner agree that notwithstanding anything in this Agreement or elsewhere to the contrary, Owner shall have the right to establish and record in the Public Records of Broward County, Florida, such use restrictions and covenants as the Owner shall determine with respect to the Drainage System and adjacent drainage facilities. Further, the Owner shall have the unconditional right to enforce said restrictions and covenants by all means allowable by law or such other means as may be contained in any instrument of record pertaining to such restrictions and covenants. The use restrictions and covenants established with respect to the Drainage System and adjacent drainage facilities and other property as established by the Owner shall be deemed covenants running with the land. Notwithstanding the foregoing, in no event shall any of Owner's use restrictions or covenants interfere with the rights of the District pursuant to this Agreement and if a use or covenant is restricted or

prohibited by the District, the Owner cannot override or exclude said restricted or prohibited use or covenant. The terms and provisions of this Paragraph shall survive the execution and delivery of this Agreement.

42. The Owner agrees to reimburse District and pay for all reasonable attorneys fees and costs incurred by District in negotiating this Agreement and the cost of recording this Agreement in the Public Records of Broward County, Florida.

43. This Agreement shall be recorded in the public records of Broward County, Florida.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:

"District"
(SOUTH BROWARD DRAINAGE DISTRICT)

Witness Signature

Witness Printed Name

By: Scott Hodges, Chairperson

Attest:

Witness Signature

Witness Printed Name

Robert E. Goggin IV, Secretary

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20__ by SCOTT HODGES and ROBERT E. GOGGIN, IV as Chairperson and Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, on behalf of SOUTH BROWARD DRAINAGE DISTRICT. They are personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

"Owner"

NAME, a _____

Witness Signature

Witness Printed Name

Witness Signature

Witness Printed Name

By:

NAME, TITLE

STATE OF FLORIDA)
)
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____ by NAME, as TITLE of COMPANY NAME, a _____, as Owner, who (is personally known to me) or (has produced _____ as identification).

Witness my hand and official seal in the county and state last aforesaid this _____ day of _____, 20____.

[NOTARY SEAL, STAMP, COMMISSION AND EXPIRATION]

NOTARY PUBLIC:

EXHIBIT # 2

Prepared by: South Broward Drainage District
RETURN TO: 6591 SW 160 Avenue
Southwest Ranches, FL 33331

MAINTENANCE AND INDEMNIFICATION AGREEMENT
(PROJECT NAME)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, whose address is 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "District", and **NAME OF PROPERTY OWNER**, a _____, whose address is _____, hereinafter collectively referred to as "Owner".

WITNESSETH:

WHEREAS, District is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries and approving all subdivision plats and development plans affecting lands within its geographical boundaries; and

WHEREAS, Owner is the Property Owner of a real estate development known as "NAME OF PROJECT" which is located within the boundaries of the District and Owner is or will be responsible for maintenance of all common areas within said property. The NAME OF PROJECT development is hereinafter referred to as "Subject Property" and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

WHEREAS, Owner acknowledges that Owner has the primary responsibility to maintain at its expense the surface water management and drainage system for the Subject Property and the drainage, flowage and storage of stormwater on and across the Subject Property (hereinafter, collectively referred to as the "Drainage System"); and

WHEREAS, as a condition of allowing the development of Subject Property, the District requires LIST EASEMENTS, AS APPLICABLE (hereinafter referred to as "Easements") for stormwater drainage, flowage and storage through and for the Subject Property, and for flowage of stormwater drainage from

WHEREAS, the aforescribed Easements have been dedicated to the District and are recorded in the Public Records of Broward County, Florida in OR Book _____, Pages _____
_____. The Owner acknowledges the dedication of these Easements and that the District has on a non-exclusive basis, access to and the right to utilize the areas dedicated by said Easements (hereinafter collectively referred to as "Easement Areas") for the purpose of constructing, maintaining and repairing the Drainage System and appurtenances contained therein; and

WHEREAS, Owner acknowledges and agrees that the District shall have the authority to issue permits in the future that will allow and permit the use of the Drainage System and the construction and installation of new drainage improvements over, under and across the aforescribed Easement Areas for off-site properties to connect to the proposed lake system for the Subject Property and to flow through the Drainage System; and

WHEREAS, the future connections to the Drainage System by off-site properties have been taken into account by the Owner's Engineer in the design of the Drainage System; and

WHEREAS, the Owner acknowledges that Owner has the primary responsibility to maintain drainage, flowage and storage of stormwater from Subject Property; and

WHEREAS, as a condition of allowing the development of Subject Property, the District requires Owner to enter into this Agreement, and as a condition of having issued a permit or permits for development of Subject Property to do the following:

- (a) To indemnify and hold harmless the District from any and all liability as the result of the construction of the Drainage System; and
- (b) To maintain the Drainage System for the Subject Property; and
- (c) To keep the Easements Areas free and clear of all permanent obstructions, including, but not limited to, landscaping; and

WHEREAS, the Owner is agreeable to entering into this Agreement and to be responsible for any and all expenses incurred by the District as a result of the District agreeing to the issuance of a permit for construction of the Drainage System, and all other matters stated in this Agreement including, but not limited to, the provisions (a) through (c) of the preceding paragraph; and

WHEREAS, as part of the development of Subject Property, Owner will be constructing access, roads and adjacent roadside swales, all of which shall be maintained by the Owner and subject to the Indemnification and Maintenance Obligations stated herein; and IF APPLICABLE

WHEREAS, District requires the Owner to assign lien rights, if any, to District in the event the Owner fails and/or refuses to collect the monies which may be due the District as a result of expenses incurred by District arising out of this Agreement; and

WHEREAS, Owner shall pay to District those monies which may be due the District as the result of expenses incurred by District arising out of this Agreement; and

WHEREAS, District and Owner are desirous of entering into an agreement to provide for construction and maintenance of the Drainage System [and for maintenance of access roads and roadside swales adjacent to said access roads IF APPLICABLE];

WHEREAS, notwithstanding anything stated herein, the District has the right, but not the obligation to maintain the Drainage System; and

NOW, THEREFORE, in consideration of the premises and Ten and No/100 (\$10.00) Dollars and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by District and Owner, each intending to be legally bound, do hereby represent, warrant, covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference as though set forth verbatim.
2. The Owner agrees that Owner shall be responsible for such work as may be necessary to maintain the Drainage System in a condition required by the District and other governmental agencies other than District which have jurisdiction over Subject Property.
3. The Owner acknowledges that if it fails to maintain the Drainage System, the District may perform the required maintenance work in accordance with the terms of this Agreement.
4. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Drainage System, and should the work of District's employees and/or agents cause any harm whatsoever to any improvements on the Subject Property, that the Owner shall be responsible for any work which may be necessary in order to return the improvements back to their original condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and its assigns, unless such harm or damage to the improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the improvements and

District agrees to give Owner reasonable notice prior to entering the Subject Property unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances.

5. During the period of time beginning with commencement of construction of the Drainage System, the Owner agrees that, for and in consideration of an additional \$10.00 and other good and valuable consideration, the receipt of which is acknowledged by the Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which the District may sustain or incur by reason of or in consequence of the Owner's negligence in the construction and completion of the Drainage System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by Owner under this Agreement. This indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or Owner's employees' or agents' negligence in the construction of the Drainage System. The Owner agrees to take over and defend such claims or actions filed against District with respect to the indemnity contained in this paragraph 5. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

6. After completion of construction by Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which the District may sustain or incur by reason of or in consequence of the Owner's negligence in the maintenance of the Drainage System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. The indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or its employees' or agents' negligence in the maintenance of the Drainage System. The Owner agrees to take over and defend such claims or actions filed against District with respect to the indemnity contained in this paragraph 6. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may

have against claims from such persons.

7. Owner acknowledges that the District has no obligations or responsibility regarding any portion of the Drainage System, that any damage which may be caused to the Drainage System shall be repaired by the Owner, and the District shall have no obligation to repair or be responsible for any damage which may be caused to the Drainage System as a result of either activities of the District or by third parties unless caused by willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Drainage System, and District agrees to give Owner reasonable notice prior to entering the Easement Areas, except in the event of an emergency as solely determined by the District. In this event, the District will make a reasonable attempt to notify Owner as soon as reasonably practical under the circumstances. This Paragraph does not and is not intended to release third parties from any damage that the third parties may cause to the Drainage System.

8. The Owner shall be responsible for restoring in kind any fences, berms, side ditches, culverts, landscaping or any other structures and appurtenances which are required to be restored as a result of construction and maintenance of the Drainage System and shall provide for and coordinate any necessary utility relocations. In addition, the Owner shall take all necessary precautions to confine construction and maintenance of the Drainage System and all associated tasks to within the Easement Areas.

9. The Owner agrees that during construction and maintenance of the Drainage System they shall proceed in such a manner that the drainage of the Subject property and areas adjacent to the Subject Property which drain into and through the Drainage System will be maintained at all times and the Owner shall take all reasonable and necessary steps to prevent pollution of the Subject Property and Drainage System during the construction and maintenance of the Drainage System.

10. The Owner during construction and maintenance of the Drainage System shall be responsible to repair any damage which Owner's contractors cause to the District's existing drainage systems including appurtenances thereto. The Owner agrees to reimburse District for all costs incurred by District to repair any damage to the District's existing drainage system which occur as a result of the aforementioned obligations to be performed by the Owner pursuant to this Agreement. The Owner does not waive any defenses or admit any liability by such agreement, nor is this Agreement meant to absolve the contractors, subcontractors or third parties from liability for their own actions.

11. In the event that the Drainage System is not being constructed or maintained pursuant to the plans approved by the District and/or requirements of the District, the Owner agrees that within twenty (20) consecutive calendar days after written notice by District, the Owner will commence to repair and correct any deviations from the approved plans and District requirements, said repairs and/or corrections to be completed within sixty (60) days of said notice. If this is not done, the Owner shall, as directed by the District, remove that portion of the Drainage System which District requires to be removed. If any part of the Drainage System is removed pursuant to this Paragraph, any other portion of the District's drainage system which has been removed or altered shall be restored to its original condition or District criteria as of the date of this Agreement. In the alternative, the Drainage System shall be completed.

12. The Owner agrees that if construction, maintenance or lack of maintenance of the Drainage System causes or is causing damage to District's drainage systems (including appurtenances thereto) or if the Drainage System is not constructed or maintained in accordance with the original approved plans or District requirements, that within twenty (20) consecutive calendar days after written notice by District to Owner and the contractor, which notice shall specifically describe the nature and extent of the damage or improper construction or maintenance, that the District may order and direct that all or a portion of the Drainage System being constructed or worked on by the Owner shall cease. If District gives notice as provided herein, Owner and contractor shall cease work and not begin again for that portion which is stopped until damage or threat of damage has been repaired or removed or correction of the improper construction or maintenance has commenced, and the District authorizes resumption of said work in writing. The Owner agrees to notify contractor constructing or maintaining the work described in this Agreement of the District's right to stop the contractor's work upon said notice and to provide contractor with such notice if notice is given to Owner.

13. After completion of the Drainage System, and prior to final acceptance by District, the Owner shall provide to District as-built drawings of the Drainage System and adjacent drainage facilities, including invert elevations and locations of culverts and appurtenances associated therewith, and all other drainage improvements constructed as part of the Drainage System and as required under the permit issued by the District.

14. After completion of the Drainage System to the satisfaction of the District, the District shall issue written approval of the Drainage System following which the Owner shall assume responsibility for maintenance of the Drainage System.

15. The Owner acknowledges and agrees that the Drainage System shall be re-certified by a Florida Registered Professional Engineer every 5 years in accordance with the District's Charter and Criteria Manual.

16. At all times following the execution of this Agreement, Owner agrees to allow the District, its successors and assigns access to and across all Easement Areas

17. The Owner's obligations under this Agreement are assignable in whole or in part by Owner to a successor owner or to a property owners association. Such assignment to a successor owner or property owners association may be made by Owner only with the consent of District in writing of the document effecting said assignment, and upon acknowledgment in writing that the assignee has read and understands the assignment which must provide that the assignee agrees to perform Owner's obligations hereunder and to be bound by the terms of this Agreement. Upon the delivery of said document to District, acceptance of said document in writing by District and upon recording in the Broward County Public Records of said document, all with respect to an assignment to a successor owner, and upon written approval of the Drainage System by the District, Owner shall have no responsibility to perform pursuant to the terms of this Agreement. Upon delivery of said acceptance to the Owner or its successors, the Owner and successor owner(s) shall have no responsibility to perform pursuant to the terms of this Agreement. Notwithstanding anything to the contrary herein contained, Owner and any subsequent assignor will continue to be liable for any damage arising out of events which occurred prior to the assignment of such party's obligations as stated herein. District's approval as stated herein will not be unreasonably withheld. To be effective, the assignment to a successor owner or property owners association, signed by the successor owner or property owners association and written consent of the District, must be recorded in the Broward County Public Records.

18. Nothing contained in this Agreement shall create any obligation of District to maintain any drainage structures or culverts within Subject Property and maintenance of all internal drainage structures, culverts and outfalls into the Subject Property Drainage System shall be the responsibility of the Owner.

19. In addition to its obligations stated herein, Owner shall maintain the internal access roadways within Subject Property, the access road drainage swales and all drainage structures within Subject Property, which maintenance obligation shall be subject to the Owner's Maintenance and Indemnification obligations stated in this Agreement. IF APPLICABLE

20. If exercised by District, the District's responsibility for maintaining the Drainage System shall consist primarily of maintaining flowage through the Drainage System.

21. In the event District is required to perform maintenance as stated herein, District shall do so to the best of its ability without unreasonable interference with Owners business operations on Subject Property.

22. Any expenses or costs, including reasonable attorney's fees incurred by the District with respect to the matters for which the District has been indemnified under this Agreement, or as a result of any work performed by the District as provided for in this Agreement, or for damages incurred by the District for which the Owner has indemnified the District, shall be paid to District by Owner, its successors or assigns, as applicable, within thirty (30) days after receiving a statement for same with support documentation (invoices and the like) for all charges shown.

23. In the event payment is not received within thirty (30) days from the billing for such charges, the District shall be entitled to file a lien in the Broward County Public Records upon all non-governmental owned property within Subject Property, which lien shall be inferior to any existing mortgage then encumbering the property, ad valorem taxes, and any such other liens, impositions and assessments as may be given priority by applicable statutes. This lien shall be effective upon the recording of a claim of lien in the public records of Broward County, Florida, and will be for the unpaid sums due the District, including reasonable attorney's fees, together with interest thereon at eighteen percent (18%) per year or the highest non-usurious rate allowable by law, whichever is less. The District agrees to grant partial releases of any lien in its favor upon payment of a proportionate share of the lien amount based upon and for the real property sought to be released. In the alternative, the District shall be entitled to include said unpaid expenses or costs on the annual tax bill for Subject Property issued by the Broward County Property Appraiser or Revenue Collector.

24. Owner shall at all times provide the District with the name and phone number of an individual or individuals who shall be available to answer questions and complaints regarding the responsibility of maintenance of the Drainage System and adjacent drainage facilities.

25. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to District:

South Broward Drainage District
Attn: District Director
6591 S.W. 160th Avenue
Southwest Ranches, Florida 33331

with a copy to:

Douglas R. Bell, Esquire
Cumberland Building, Suite 505
800 East Broward Boulevard
Fort Lauderdale, Florida 33301

As to Owner:

NAME AND ADDRESS

unless the address is changed by a party by notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by facsimile, electronic mail, telegraph or private courier, but shall be deemed to have been given when received.

26. In the event of any litigation under this Agreement or litigation with respect to the enforcement of any liens of the District, the prevailing party shall be entitled to an award of its court costs and reasonable attorney's fees at trial and all appellate levels of judicial proceedings.

27. To the extent permitted by law, the indemnifications and hold harmless, as applicable, set forth in this Agreement shall survive the execution of this Agreement and the completion of all activities and/or construction to be completed by the Owner or its contractors, subcontractors, designees, or agents, and its successors or assigns in or on the Drainage System.

28. In addition to this Agreement, the Owner is subject to all rules and regulations of the District regarding construction of the Drainage System.

29. The District agrees to issue its permit to the Owner for construction of the Drainage System contemplated herein in accordance with the terms and conditions of this Agreement.

30. No waiver of any provision of this Agreement shall be effective unless it is in writing,

signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

31. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which will constitute one and the same Agreement.

32. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, assigns, grantees and to those persons who are specifically assigned in writing any rights or obligations hereunder. Further, this Agreement shall be a covenant running with the land described as Subject Property and binding upon all owners of such land. The Owner shall disclose this Agreement in writing to all persons acquiring any portion of Subject Property subsequent to the date of this Agreement and any declaration of covenants, conditions or restrictions recorded with respect to Subject Property subsequent to the date of this Agreement shall specially refer to this Agreement.

33. This Agreement shall be construed and interpreted according to the laws of the State of Florida and the venue with respect to any litigation with respect to this Agreement shall be Broward County, Florida.

34. All terms and words used in this Agreement, regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

35. This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

36. The exhibit hereto contains additional terms of this Agreement. Typewritten or handwritten provisions inserted in this Agreement or exhibit (and initialed by the parties) shall control all printed provisions in conflict therewith.

37. Whenever approvals of any nature are required by any party to this Agreement, it is agreed that same shall not be unreasonably withheld.

38. This Agreement shall be severable and if any part or portion of this Agreement shall be found to be invalid or unenforceable, such findings shall not affect the remainder of this Agreement.

39. This Agreement merges and supersedes any and all previous agreements on the subject

matter between the parties, whether oral or written, and constitutes the entire agreement between the parties.

40. The District and Owner agree that notwithstanding anything in this Agreement or elsewhere to the contrary, Owner shall have the right to establish and record in the Public Records of Broward County, Florida, such use restrictions and covenants as the Owner shall determine with respect to the Drainage System and adjacent drainage facilities. Further, the Owner shall have the unconditional right to enforce said restrictions and covenants by all means allowable by law or such other means as may be contained in any instrument of record pertaining to such restrictions and covenants. The use restrictions and covenants established with respect to the Drainage System, adjacent drainage facilities and other property as established by the Owner shall be deemed covenants running with the land. Notwithstanding the foregoing, in no event shall any of Owner's use restrictions or covenants interfere with the rights of the District pursuant to this Agreement and if a use or covenant is restricted or prohibited by the District, the Owner cannot override or exclude said restricted or prohibited use or covenant. The terms and provisions of this Paragraph shall survive the execution and delivery of this Agreement.

41. The Owner agrees to reimburse District and pay for all reasonable attorneys fees and costs incurred by District in negotiating this Agreement and the cost of recording this Agreement in the Public Records of Broward County, Florida.

42. This Agreement shall be recorded in the public records of Broward County, Florida.

{The remainder of this page left intentionally blank}

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:

"District"
(SOUTH BROWARD DRAINAGE DISTRICT)

Witness Signature

Witness Printed Name

By: Scott Hodges, Chairperson

Attest:

Witness Signature

Witness Printed Name

Robert E. Goggin IV, Secretary

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20__ by SCOTT HODGES and ROBERT E. GOGGIN, IV as Chairperson and Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, on behalf of SOUTH BROWARD DRAINAGE DISTRICT. They are personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

 "Owner"
 NAME, a _____

 Witness Signature

 Witness Printed Name

 Witness Signature

 Witness Printed Name

 By:

 NAME, TITLE

STATE OF FLORIDA)
)
 COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____ by NAME, as TITLE of COMPANY NAME, a _____, as Owner, who (is personally known to me) or (has produced _____ as identification).

Witness my hand and official seal in the county and state last aforesaid this _____ day of _____, 20____.
 [NOTARY SEAL, STAMP, COMMISSION AND EXPIRATION]

 NOTARY PUBLIC:

EXHIBIT #3

Prepared by: South Broward Drainage District
RETURN TO: 6591 S.W. 160 Avenue
Southwest Ranches, FL 33331

MAINTENANCE AND INDEMNIFICATION AGREEMENT

(Project Name)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **SOUTH BROWARD DRAINAGE DISTRICT**, a political subdivision of the State of Florida, whose address is 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "District", and **Name of Property Owner, a _____** whose address is _____, hereinafter referred to as "Owner".

WITNESSETH:

WHEREAS, District is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries and approving all subdivision plats and development plans affecting lands within its geographical boundaries; and

WHEREAS, Owner is the Property Owner of a real estate development known as **NAME OF PROJECT** which is located within the boundaries of the District and Owner is or will be responsible for maintenance of all common areas within said property. The **NAME OF PROJECT** is hereinafter referred to as "Subject Property" and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

WHEREAS, Owner acknowledges that Owner has the primary responsibility to maintain at its expense the surface water management and drainage system for the Subject Property and the drainage, flowage and storage of stormwater on and across the Subject Property (hereinafter, collectively referred to as the "Drainage System"); and

WHEREAS, a portion of the Subject Property will be used as a Wetland Mitigation and Conservation Area and over which a Conservation Easement has been dedicated to Broward County, a political subdivision of the State of Florida and South Florida Water Management District, a political subdivision of the State of Florida; and

WHEREAS, the property which the Wetland Mitigation and Conservation Area and Conservation Easement is over is described on Exhibit "B" attached hereto is hereinafter referred to as "Mitigation Area";

and

WHEREAS, the Conservation Easement has been recorded in Broward County, Florida Public Records at Official Records Book _____, Page _____; and

WHEREAS, as a condition of allowing the development of Subject Property and the Mitigation Area, the District requires LIST EASEMENTS, AS APPLICABLE (hereinafter referred to as "Easements") for stormwater drainage, flowage and storage through and for the Subject Property; and

WHEREAS, the aforescribed Easements have been dedicated to the District and are recorded in the Public Records of Broward County, Florida in OR Book _____, Pages _____
_____. The Owner acknowledges the dedication of these Easements and that the District has on a non-exclusive basis, access to and the right to utilize the area dedicated by said Easements (hereinafter referred to as "Easement Areas") for the purpose of constructing, maintaining and repairing the Drainage System, together with any necessary appurtenances incidental and necessary thereto. Notwithstanding anything to the contrary contained herein, in performing such work to maintain the Easements, the District shall use its best efforts to not degrade the quality of any wetlands enhanced or created within the Mitigation Area. If such degradation occurs, the Owner or Licensee of Broward County Environmental Protection and Growth Management Department (EP&GMD) License No. _____ referred to in said License shall be responsible for rectifying such degradation; and

WHEREAS, the Owner acknowledges that Owner has the primary responsibility to maintain drainage, flowage and storage of stormwater from Subject Property and through and over the Mitigation Area; and

WHEREAS, District requires the unrestricted right to maintain stormwater flowage across, over and through the Mitigation Area and requires that the Mitigation Area remain open, clear and free of obstructions which would restrict said stormwater flowage; and

WHEREAS, collectively, the Mitigation Area, Drainage System and all related easements, will hereinafter be referred to as the "Surface Water Management System"; and

WHEREAS, as a condition of allowing the development of Subject Property and of allowing the Mitigation Area to be located across the Drainage/Flowage/Storage Easement, the District requires Owner to enter into this Agreement and as a condition of issuing a permit or permits for development of Subject Property and the Mitigation Area to do the following:

- (a) to indemnify and hold harmless the District from any and all liability as the result of the

construction of the Drainage System; and

(b) to indemnify and hold harmless the District from any and all liability as a result of the construction and placement of the Mitigation Area over the Drainage Easements and Drainage, Flowage and Storage Easement; and

(c) to maintain stormwater drainage, flowage and storage into and through the Mitigation Area; and

(d) to maintain the Mitigation Area in accordance with the requirements of the District and other applicable governmental requirements; and

(e) to maintain the Surface Water Management System for the Subject Property; and

(f) to remove trees, landscaping and other debris which falls into or blows onto any portion of the Mitigation Area; and

(g) to keep the Easement Areas, free and clear of all permanent obstructions, including but not limited to, landscaping; and

WHEREAS, the Owner is agreeable to entering into this Agreement and to be responsible for any and all damages and expenses incurred by the District as a result of the District agreeing to the issuance of a permit for construction of the Surface Water Management System constructed thereon, and other improvements described herein and all other matters stated in this Agreement including, but not limited to, the provisions (a) through (g) of the preceding paragraph; and

WHEREAS, the Owner acknowledges that the Owner has the primary responsibility to maintain at its expense, the Surface Water Management System and related Easement Areas; and

WHEREAS, as part of the development of Subject Property, Owner will be constructing adjacent roads and adjacent roadside swales, all of which shall be maintained by the Owner and subject to the Indemnification and Maintenance Obligations stated herein; and ~~IF APPLICABLE~~

WHEREAS, District requires the Owner to assign its lien rights, if any, to District in the event the Owner fails and/or refuses to collect the monies which may be due the District as a result of expenses incurred by District to enforce this Agreement or arising out of this Agreement; and

WHEREAS, Owner shall pay to District those monies which may be due the District as the result of expenses incurred by District arising out of this Agreement; and

WHEREAS, District and Owner are desirous of entering into an agreement to provide for construction and maintenance of the Surface Water Management System [and for maintenance of access

roads and roadside swales adjacent to said access roads, IF APPLICABLE.

WHEREAS, notwithstanding anything stated herein, the District has the right, but not the obligation to maintain the Surface Water Management System; and

NOW, THEREFORE, in consideration of the premises and Ten and No/100 (\$10.00) Dollars and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by District and Owner, each intending to be legally bound, do hereby represent, warrant, covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference as though set forth verbatim.

2. The Owner agrees that Owner shall be responsible for such work as may be necessary to maintain the Surface Water Management System in the condition required by the District, and other governmental agencies other than the District which have jurisdiction over Subject Property and the Mitigation Area.

3. The Owner acknowledges that if it fails to maintain the Surface Water Management System, the District will perform the required maintenance work in accordance with the terms of this Agreement.

4. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Mitigation Area and should the work of District's employees and/or agents cause any harm whatsoever to the Mitigation Area improvements that the Owner shall be responsible for replanting or other work which may be necessary in order to return the Mitigation Area improvements back to their condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and its assigns, unless such harm or damage to the Mitigation Area improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Mitigation Area improvements and District agrees to give Owner reasonable notice prior to entering the Mitigation Area unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances

5. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Surface Water Management System, and should the work of

District's employees and/or agents cause any harm whatsoever to any improvements on the Subject Property, that the Owner shall be responsible for any work which may be necessary in order to return the improvements back to their original condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and Owners assigns, unless such harm or damage to the improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the improvements and District agrees to give Owner reasonable notice prior to entering the Subject Property unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances.

6. During the period of time beginning with commencement of construction of the Surface Water Management System the Owner agrees that, for and in consideration of an additional \$10.00 and other good and valuable consideration, the receipt of which is acknowledged by the Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which District may sustain or incur by reason of or in consequence of the Owner's negligence in the construction and completion of the Surface Water Management System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. This indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or Owners employees' or agents' negligence in the construction of the Surface Water Management System. The Owner agrees to take over and defend such claims or actions filed against District with respect to the indemnity contained in this Paragraph 6. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

7. After completion of construction by Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which District may sustain or incur by reason of or in consequence of the Owner's negligence in the maintenance of the Surface Water Management System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. This indemnification includes, but is not limited to, any and

all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or its employees' or agents' negligence in the maintenance of the Surface Water Management System. The Owner shall take over and defend such claims or actions filed against District with respect to the indemnity contained in this Paragraph 7. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

8. Owner acknowledges that the District has no obligation or responsibility regarding any portion of the Surface Water Management System, that any damage which may be caused to Surface Water Management System shall be repaired by the Owner, and the District shall have no obligation to repair or be responsible for any damage which may be caused to the Surface Water Management System as a result of either activities of the District or by third parties unless caused by willful or wanton acts or gross negligence of District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Surface Water Management System and District agrees to give Owner reasonable notice prior to entering the Conservation Easement Area, except in the event of an emergency as solely determined by the District. In this event, the District will make a reasonable attempt to notify Owner as soon as reasonably practical under the circumstances. This Paragraph does not and is not intended to release third parties from any damage that the third parties may cause to the Surface Water Management System.

9. The Owner shall be responsible for restoring in kind any fences, berms, side ditches, culverts, or any other structures and appurtenances which are required to be restored as a result of construction and maintenance of the Surface Water Management System and shall provide for and coordinate any necessary utility relocations. In addition, the Owner shall take all necessary precautions to confine construction and maintenance of the Surface Water Management System and all associated tasks to within the Easement Areas.

10. The Owner agrees that during construction and maintenance of the Surface Water Management System, Owner shall proceed in such a manner that the drainage of Subject Property and areas adjacent to Subject Property which drain into and through the Surface Water Management System will be maintained at all times and that the Owner shall take all reasonable and necessary steps to prevent

pollution of the Subject Property and the Surface Water Management System during the construction and maintenance of the Surface Water Management System.

11. The Owner during construction and maintenance of the Surface Water Management System shall be responsible to repair any damage which Owner and Owner's Contractors cause to the District's existing drainage systems including appurtenances thereto. The Owner agrees to reimburse District for all costs incurred by District to repair any damage to the District's existing drainage system which occur as a result of the aforementioned obligations to be performed by the Owner pursuant to this Agreement. The Owner does not waive any defenses or admit any liability by such agreement, nor is this Agreement meant to absolve the contractors, subcontractors or third parties from liability for their own actions.

12. In the event the Surface Water Management System is not being constructed or maintained pursuant to the plans approved by the District and/or requirements of the District, the Owner agrees that within twenty (20) consecutive calendar days after written notice by District, the Owner will commence to repair and correct any deviations from the approved plans and District requirements, said repairs and/or corrections to be completed within sixty (60) working days of said notice. If this is not done, the Owner shall, as directed by the District, remove that portion of the Surface Water Management System which District requires to be removed. If any part of the Surface Water Management System is removed pursuant to this Paragraph, any other portion of the District's drainage system which has been removed or altered shall be restored to its original condition or District criteria as of the date of this Agreement. In the alternative, the Surface Water Management System shall be completed.

13. The Owner agrees that if construction, maintenance or lack of maintenance of the Surface Water Management System causes or is causing damage to District's drainage systems (including appurtenances thereto) or the Surface Water Management System is not being constructed or maintained in accordance with the original approved plans or District requirements, that within twenty (20) consecutive calendar days after receipt of written notice by District to Owner and the contractor, which notice shall specifically describe the nature and extent of the damage or improper construction or maintenance, that the District may order and direct that all or a portion of the Surface Water Management System being constructed or worked on by the Owner shall cease. If District gives notice as provided herein, Owner and contractor shall cease work and the work shall not begin again for that portion which is stopped until damage or threat of damage has been repaired or removed or correction of the improper construction or

maintenance has commenced, and the District authorizes resumption of said work in writing. The Owner agrees to notify the contractor constructing the work described in this Agreement of the District's right to stop the contractor's work upon said notice and to provide the contractor with such notice if notice is given to Owner.

14 After completion of the Surface Water Management System and prior to final acceptance by the District, the Owner shall provide to District as-built drawings of the Surface Water Management System and adjacent drainage facilities, including inverts, elevations and locations of culverts and appurtenances associated therewith, and all other drainage improvements constructed as part of the Surface Water Management System and as required by the permit issued by the District.

15 After completion of the Surface Water Management System to the satisfaction of the District, the District shall issue written approval of the Surface Water Management System following which the Owner shall assume responsibility for maintenance of the Surface Water Management System.

16 The Owner acknowledges and agrees that the Drainage System shall be re-certified by a Florida Registered Professional Engineer every 5 years in accordance with the District's Charter and Criteria Manual.

17 In the event the District is required to maintain any portion of the Surface Water Management System, the District's right to maintain will not include any portion of the Mitigation Area improvements. Also, District agrees not to treat the Mitigation Area plant or aquatic growth or that portion of the Surface Water Management System which lies adjacent to the Mitigation Area by spraying herbicides, unless no other reasonable means of treatment are available. In addition, the District will make a reasonable effort to give Owner, seven (7) days notice of District's intent to spray herbicides and the areas to be sprayed. The Owner acknowledges and agree that any damages to the Mitigation Area improvements or the Surface Water Management System or appurtenances thereto, caused by spraying or the lack of spraying and/or maintenance as contemplated by this Agreement, is not the responsibility of the District and the District has no obligation to repair said damages, unless caused by the willful or wanton acts of the District or its agents or employees.

18 The Mitigation Area shall be located with markers as required and approved by the District to designate its actual location. These markers shall be maintained and replaced by the Owner if removed or damaged.

19 At all times following the execution of this Agreement, the District agrees to allow the

Owner and its successors and assigns, access to the Conservation Easement across the Mitigation Area and the Owner agrees to allow the District, its successors and assigns access to and across the Mitigation Area.

20. The Owner's obligations under this Agreement are assignable in whole or in part by Owner to a successor owner or to a property owners association. Such assignment to a successor owner or property owners association may be made by Owner only with the consent of District in writing of the document effecting said assignment, and upon acknowledgment in writing that the assignee has read and understands the assignment which must provide that the assignee agrees to perform Owner's obligations hereunder and to be bound by the terms of this Agreement. Upon the delivery of said document to District, acceptance of said document in writing by District, recording in the Broward County Public Records of said document, all with respect to an assignment to a successor owner, subject to written approval of the Surface Water Management System by the District, Owner shall have no responsibility to perform pursuant to the terms of this Agreement. Notwithstanding anything to the contrary herein contained, Owner and any subsequent assignor will continue to be liable for any damage arising out of events which occurred prior to the assignment of such party's obligations as stated herein. District's approval as stated herein will not be unreasonably withheld. To be effective, the assignment to a successor owner or property owners association, signed by the successor owner or property owners association and written consent of the District, must be recorded in the Broward County Public Records.

21. If exercised by District, the District's responsibility for maintaining the Surface Water Management System shall consist primarily of maintaining flowage through the Surface Water Management System, including the Mitigation Area.

22. Nothing contained in this Agreement shall create any obligation of District to maintain any drainage structures or culverts within Subject Property and maintenance of all internal drainage structures, culverts and outfalls into the Subject Property Surface Water Management System shall be the responsibility of the Owner.

23. In addition to its obligations stated herein, Owner shall maintain the internal access roadways within Subject Property, the access road drainage swales and all drainage structures within Subject Property, which maintenance obligation shall be subject to the Owner's Maintenance and Indemnification obligations stated in this Agreement. IF APPLICABLE

24. In the event District is required to perform maintenance as stated herein, District shall do so to the best of its ability without unreasonable interference with Owners business operations on Subject Property.

25. Any expenses or costs, including reasonable attorney's fees incurred by the District with respect to the matters for which the District has been indemnified under this Agreement or as a result of any work performed by the District as provided for in this Agreement, or damages incurred by the District for which the Owner has indemnified the District, shall be paid to District by Owner, its successors or assigns, as applicable, within thirty (30) days after receiving a statement for same with support documentation (invoices and the like) for all charges shown.

26. In the event payment is not received within thirty (30) days from the billing for such charges, the District shall be entitled to file a lien in the Broward County Public Records upon all non-governmental owned property within Subject Property, which lien shall be inferior to any existing mortgage then encumbering the property, ad valorem taxes, and any such other liens, impositions and assessments as may be given priority by applicable statutes. This lien shall be effective upon the recording of a claim of lien in the public records of Broward County, Florida, and will be for the unpaid sums due the District, including reasonable attorney's fees, together with interest thereon at eighteen percent (18%) per year or the highest non-usurious rate allowable by law, whichever is less. The District agrees to grant partial releases of any lien in its favor upon payment of a proportionate share of the lien amount based upon and for the real property sought to be released. In the alternative, the Drainage District shall be entitled to include said unpaid expenses or costs on the annual tax bill for Subject Property issued by the Broward County Property Appraiser or Revenue Collector.

27. To the extent the Owner is determined to be the cause of any damage to adjacent property owners as a result of construction of the proposed Surface Water Management Area, Owner agrees to take responsibility for such damage, without waiving any defenses or admitting any liability thereto or absolving any of Owner's contractors or subcontractors or third parties from liability for their own actions.

28. The Owner hereby undertakes to indemnify and hold harmless, the District and its agents, employees and commissioners, from any and all liability, loss or damage the District, its agents, employees or commissioners, may suffer as a result of claims, demands, costs, attorney's fees, judgments, liens, penalties, or interest, as a result of any damage caused by the District, its agents or employees, to the vegetation located in the Mitigation Area, except for such damages which are caused by the willful or

wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoided. District's employees and agents will use their best efforts not to cause harm to the Mitigation Area improvements and District agrees to give Owner reasonable notice prior to entering the Mitigation Area improvements unless an emergency and then District will notify Owner as soon as reasonably practical under the circumstances. In addition, the Owner and District acknowledge that:

A. After receipt of notification of a claim or action against the District, the District shall notify the Owner, in writing within fifteen (15) consecutive calendar days or as reasonably practical, by registered or certified mail, of any such claim made or action filed against the District of the obligations indemnified against hereunder.

B. The Owner agrees to defend any such claims brought, or actions filed against the District, its agents, employees or commissioners, with respect to the subject of the indemnity contained herein, including but not limited to any claims of SFWMD, Broward County EP & GMD, the State of Florida DEP and/or the Federal EPA including, but not limited to claims associated with nutrient level criteria, whether such claims or actions are rightfully or wrongfully brought or filed. In case a claim should be brought or an action filed with respect to the subject of the indemnity herein, the District agrees that the Owner, may employ attorneys of their own selection to appear and defend the claim or action on behalf of the District at the expense of the Owner. The Owner shall have the primary authority for the direction of the defense and may make recommendations to the District concerning the acceptability of any promise or settlement of any claims or actions against the District. The District retains the right to reject any settlement offer which may be proposed pursuant to this Agreement and no settlement shall be made without approval by the District's Board of Commissioners, provided, however, District does not have the right to reject a settlement and Owner, as applicable, shall not be required to obtain District's approval of a settlement involving only the payment of money by Owner, pursuant to the indemnity contained in this Agreement, provided that the settlement releases the District and its agents, employees and commissioners from any and all liability arising out of the proceeding being settled. Copies of all correspondence and pleadings associated with any litigation arising out of this paragraph shall be mailed to District and District's attorney and as directed by the District; and

C. In the event any employee or agent of the District is charged with a violation of any local, state or federal law as a result of damage sustained by the plants or other growth within the Mitigation Area, the Owner agrees to provide that employee or agent with legal representation to defend any and all

charges filed against said employee or agent and to pay any and all costs, fines, or other penalties incurred by or assessed against the employee or agent and/or the District unless such employee or agent causes such damage willfully, wantonly or through gross negligence.

29. Both before and after completion of the Surface Water Management System, the Owner shall at all times provide the District with the name and phone number of an individual or individuals who shall be available to answer questions and complaints regarding the responsibility of maintenance of the Surface Water Management Area and adjacent drainage facilities.

30. Notwithstanding anything to the contrary in this Agreement, the Owner acknowledges that the assessment and lien rights which the District is entitled to exercise in the event the Owner or a successor owner fails or refuses to pay over to District all monies due the District arising out of this Agreement, shall be and are superior to any other lien rights of Owner or a successor owner which may be placed on any part of Subject Property before or after transfer of parcels or parts of parcels which comprise Subject Property. However, District acknowledges that Owner and said successor owner is not assigning District any voting or governance rights as part of the covenants contained in this Agreement.

31. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to District:

South Broward Drainage District
Attn: District Director
6591 S.W. 160th Avenue
Southwest Ranches, Florida 33331

with a copy to:

Douglas R. Bell, Esquire
Cumberland Building, Suite 505
800 East Broward Boulevard
Fort Lauderdale, Florida 33301

As to Owner:

NAME AND ADDRESS

unless the address is changed by a party by notice given to the other parties. Notice shall be in writing,

mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by facsimile, electronic mail, telegraph or private courier, but shall be deemed to have been given when received.

32. In the event of any litigation under this Agreement or litigation with respect to the enforcement of any liens of the District, the prevailing party shall be entitled to an award of its court costs and reasonable attorney's fees at trial and all appellate levels of judicial proceedings.

33. To the extent permitted by law, the indemnifications and hold harmless, as applicable, set forth in this Agreement shall survive the execution of this Agreement and the completion of all activities and/or construction to be completed by the Owner or its contractors, subcontractors, designees, or agents, and its successors or assigns in or on the Surface Water Management System.

34. In addition to this Agreement, the Owner is subject to all rules and regulations of the District regarding construction of the Surface Water Management System.

35. The District agrees to issue its permit to the Owner for construction of the Surface Water Management System contemplated herein in accordance with the terms and conditions of this Agreement.

36. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

37. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which will constitute one and the same Agreement.

38. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, assigns, grantees and to those persons who are specifically assigned in writing any rights or obligations hereunder. Further, this Agreement shall be a covenant running with the land described as Subject Property and as Mitigation Area and binding upon all owners of such land. The Owner shall disclose this Agreement in writing to all persons acquiring any portion of Subject Property and Mitigation Area subsequent to the date of this Agreement and any declaration of covenants, conditions or restrictions recorded with respect to Subject Property subsequent to the date of this Agreement shall specially refer to this Agreement.

39. This Agreement shall be construed and interpreted according to the laws of the State of Florida and the venue with respect to any litigation with respect to this Agreement shall be Broward County, Florida.

40. All terms and words used in this Agreement, regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

41. This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

42. The Exhibits hereto contain additional terms of this Agreement. Typewritten or handwritten provisions inserted in this agreement or exhibits (and initialed by the parties) shall control all printed provisions in conflict therewith.

43. Whenever approvals of any nature are required by any party to this agreement, it is agreed that same shall not be unreasonably withheld.

44. This Agreement shall be severable and if any part or portion of this Agreement shall be found to be invalid or unenforceable, such findings shall not affect the remainder of this Agreement.

45. This Agreement merges and supersedes any and all previous agreements on the subject matter between the parties, whether oral or written, and constitutes the entire agreement between the parties.

46. The District and Owner agree that notwithstanding anything in this Agreement or elsewhere to the contrary, Owner shall have the right to establish and record in the Public Records of Broward County, Florida, such use restrictions and covenants as the Owner shall determine with respect to the Surface Water Management System and adjacent drainage facilities. Further, the Owner shall have the unconditional right to enforce said restrictions and covenants by all means allowable by law or such other means as may be contained in any instrument of record pertaining to such restrictions and covenants. The use restrictions and covenants established with respect to the Surface Water Management System, adjacent drainage facilities and other property as established by the Owner shall be deemed covenants running with the land. Notwithstanding the foregoing, in no event shall any of Owner's use restrictions or covenants interfere with the rights of the District pursuant to this Agreement and if a use or covenant is restricted or prohibited by the District, the Owner cannot override or exclude said restricted or prohibited

use or covenant. The terms and provisions of this Paragraph shall survive the execution and delivery of this Agreement.

47. The Owner agrees that if it is necessary for District to remove any of the Mitigation Area improvements or Surface Water Management System constructed pursuant to this Agreement and restore the District's existing drainage system, or complete the Surface Water Management System, that the Owner will reimburse the District for any and all costs incurred to effect said removal, restoration and/or completion, including reasonable attorneys fees and costs expended in connection with such removal, restoration and/or completion.

48. The Owner agrees to reimburse District and pay for all reasonable attorneys fees and costs incurred by District in negotiating this Agreement and the cost of recording this Agreement in the Public Records of Broward County, Florida.

49. This Agreement shall be recorded in the public records of Broward County, Florida.

{Remainder of this page left intentionally blank}

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:

"District"
(SOUTH BROWARD DRAINAGE DISTRICT)

Witness Signature †

Witness Printed Name †

By: Scott Hodges, Chairperson

Attest:

Witness Signature †

Robert E. Goggin IV, Secretary

Witness Printed Name †

STATE OF FLORIDA)
)§
COUNTY OF BROWARD)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20__ by SCOTT HODGES and ROBERT E. GOGGIN, IV as Chairperson and Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, on behalf of SOUTH BROWARD DRAINAGE DISTRICT. They are personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC SIGNATURE

"Owner"

SHOW NAME OF OWNER

Witness Signature †

Witness Printed Name

Witness Signature †

Witness Printed Name †

By: _____
Name, Title

STATE OF FLORIDA)
) §
COUNTY OF)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20__ by _____, as Owner, who (is personally known to me) or (has produced _____ as identification).

Witness my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC SIGNATURE

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT #4

December 14, 2012

Prepared by: South Broward Drainage District
RETURN TO: 6591 S.W. 160 Avenue
Southwest Ranches, FL 33331

MAINTENANCE AND INDEMNIFICATION AGREEMENT
(Project Name)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **SOUTH BROWARD DRAINAGE DISTRICT**, a political subdivision of the State of Florida, whose address is 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "District", and **Name of Property Owner, a** _____ whose address is _____, hereinafter referred to as "Owner".

WITNESSETH:

WHEREAS, District is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries and approving all subdivision plats and development plans affecting lands within its geographical boundaries; and

WHEREAS, Owner is the Property Owner of a real estate development known as NAME OF PROJECT which is located within the boundaries of the District and Owner is or will be responsible for maintenance of all common areas within said property. The NAME OF PROJECT is hereinafter referred to as "Subject Property" and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

WHEREAS, Owner acknowledges that Owner has the primary responsibility to maintain at its expense the surface water management and drainage system for the Subject Property and the drainage, flowage and storage of stormwater on and across the Subject Property (hereinafter, collectively referred to as the "Drainage System"); and

WHEREAS, a portion of the Subject Property will be used as a Wetland Mitigation and Conservation Area and over which a Conservation Easement has been dedicated to Broward County, a political subdivision of the State of Florida and South Florida Water Management District, a political subdivision of the State of Florida; and

WHEREAS, the property which the Wetland Mitigation and Conservation Area and Conservation

Easement is over is described on Exhibit "B" attached hereto is hereinafter referred to as "Mitigation Area"; and

WHEREAS, the Conservation Easement has been recorded in Broward County, Florida Public Records at Official Records Book _____, Page _____; and

WHEREAS, as a condition of allowing the development of Subject Property and the Mitigation Area, the District requires LIST EASEMENTS, AS APPLICABLE (hereinafter referred to as "Easements") for stormwater drainage, flowage and storage through and for the Subject Property, for flowage of stormwater drainage from neighboring properties, which may or may not be adjacent to the Mitigation Area and for stormwater drainage, flowage and storage through and into the Mitigation Area; and

WHEREAS, the aforescribed Easements have been dedicated to the District and are recorded in the Public Records of Broward County, Florida in OR Book _____, Pages _____
_____. The Owner acknowledges the dedication of these Easements and that the District has on a non-exclusive basis, access to and the right to utilize the areas dedicated by said Easements (hereinafter collectively referred to as "Easement Areas") for the purpose of constructing, maintaining and repairing the Drainage System, together with any necessary appurtenances incidental and necessary thereto. Notwithstanding anything to the contrary contained herein, in performing such work to maintain the Easements, the District shall use its best efforts to not degrade the quality of any wetlands enhanced or created within the Mitigation Area. If such degradation occurs, the Owner or Licensee of Broward County Environmental Protection and Growth Management Department (EP&GMD) License No. _____ referred to in said License shall be responsible for rectifying such degradation; and

WHEREAS, Owner acknowledges and agrees that the District shall have the authority to issue permits in the future that will allow and permit the installation of drainage improvements over, under and across the aforescribed Easement Areas for off-site properties to connect to the proposed lake system for the Subject Property and to flow through the Drainage System; and

WHEREAS, the future connections to the Drainage System by off-site properties have been taken into account by the Owner's Engineer in the design of the surface water management system for the Subject Property; and

WHEREAS, the Owner acknowledges that Owner has the primary responsibility to maintain drainage, flowage and storage of stormwater from Subject Property and through and over the Mitigation Area; and

WHEREAS, District requires the unrestricted right to maintain stormwater flowage across, over and through the Mitigation Area and requires that the Mitigation Area remain open, clear and free of obstructions which would restrict said stormwater flowage; and

WHEREAS, collectively, the Mitigation Area, Drainage System and all related easements, will hereinafter be referred to as the "Surface Water Management System"; and

WHEREAS, as a condition of allowing the development of Subject Property and of allowing the Mitigation Area to be located across the Drainage/Flowage/Storage Easement, the District requires Owner to enter into this Agreement and as a condition of issuing a permit or permits for development of Subject Property and the Mitigation Area to do the following:

(a) to indemnify and hold harmless the District from any and all liability as the result of the construction of the Drainage System; and

(b) to indemnify and hold harmless the District from any and all liability as a result of the construction and placement of the Mitigation Area over the Drainage Easements and Drainage, Flowage and Storage Easement; and

(c) to maintain stormwater drainage, flowage and storage into and through the Mitigation Area; and

(d) to maintain the Mitigation Area in accordance with the requirements of the District and other applicable governmental requirements; and

(e) to maintain the Surface Water Management System for the Subject Property; and

(f) to remove trees, landscaping and other debris which falls into or blows onto any portion of the Mitigation Area; and

(g) to keep the Easement Areas, free and clear of all permanent obstructions, including but not limited to, landscaping; and

WHEREAS, the Owner is agreeable to entering into this Agreement and to be responsible for any and all damages and expenses incurred by the District as a result of the District agreeing to the issuance of a permit for construction of the Surface Water Management System constructed thereon, and other improvements described herein and all other matters stated in this Agreement including, but not limited to, the provisions (a) through (g) of the preceding paragraph; and

WHEREAS, the Owner acknowledges that the Owner has the primary responsibility to maintain at its expense, the Surface Water Management System and related Easement Areas; and

WHEREAS, as part of the development of Subject Property, Owner will be constructing access roads and adjacent roadside swales, all of which shall be maintained by the Owner and subject to the Indemnification and Maintenance Obligations stated herein; and IF APPLICABLE

WHEREAS, District requires the Owner to assign its lien rights, if any, to District in the event the Owner fails and/or refuses to collect the monies which may be due the District as a result of expenses incurred by District to enforce this Agreement or arising out of this Agreement; and

WHEREAS, Owner shall pay to District those monies which may be due the District as the result of expenses incurred by District arising out of this Agreement; and

WHEREAS, District and Owner are desirous of entering into an agreement to provide for construction and maintenance of the Surface Water Management System and for maintenance of access roads and roadside swales adjacent to said access roads IF APPLICABLE;

WHEREAS, notwithstanding anything stated herein, the District has the right, but not the obligation to maintain the Surface Water Management System; and

NOW, THEREFORE, in consideration of the premises and Ten and No/100 (\$10.00) Dollars and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by District and Owner, each intending to be legally bound, do hereby represent, warrant, covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference as though set forth verbatim.
2. The Owner agrees that Owner shall be responsible for such work as may be necessary to maintain the Surface Water Management System in the condition required by the District, and other governmental agencies other than the District which have jurisdiction over Subject Property and the Mitigation Area.
3. The Owner acknowledges that if it fails to maintain the Surface Water Management System, the District will perform the required maintenance work in accordance with the terms of this Agreement.
4. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Mitigation Area and should the work of District's employees and/or agents cause any harm whatsoever to the Mitigation Area improvements that the Owner shall be responsible for replanting or other work which may be necessary in order to return the Mitigation Area

improvements back to their condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and its assigns, unless such harm or damage to the Mitigation Area improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Mitigation Area improvements and District agrees to give Owner reasonable notice prior to entering the Mitigation Area unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances.

5. The Owner acknowledges that in the event the District's employees and/or agents are required to maintain any portion of the Surface Water Management System, and should the work of District's employees and/or agents cause any harm whatsoever to any improvements on the Subject Property, that the Owner shall be responsible for any work which may be necessary in order to return the improvements back to their original condition as required by the District, and/or other governmental agencies which have jurisdiction over Subject Property. This responsibility shall remain solely that of the Owner and Owners assigns, unless such harm or damage to the improvements is caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the improvements and District agrees to give Owner reasonable notice prior to entering the Subject Property unless an emergency exists in which case the District will notify Owner as soon as reasonably practical under the circumstances.

6. During the period of time beginning with commencement of construction of the Surface Water Management System the Owner agrees that, for and in consideration of an additional \$10.00 and other good and valuable consideration, the receipt of which is acknowledged by the Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which District may sustain or incur by reason of or in consequence of the Owner's negligence in the construction and completion of the Surface Water Management System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. This indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or Owners employees' or agents' negligence in the construction of the Surface Water Management System. The Owner agrees to take over and defend such claims or actions

filed against District with respect to the indemnity contained in this Paragraph 6. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

7. After completion of construction by Owner, the Owner shall indemnify and hold harmless the District from any and all actions or claims which District may sustain or incur by reason of or in consequence of the Owner's negligence in the maintenance of the Surface Water Management System and/or negligence of the Owner and its employees or agents in the performance of the work to be performed by the Owner under this Agreement. This indemnification includes, but is not limited to, any and all personal injuries which may be suffered by any individuals or entities as a result of Owner's and/or its employees' or agents' negligence in the maintenance of the Surface Water Management System. The Owner shall take over and defend such claims or actions filed against District with respect to the indemnity contained in this Paragraph 7. Nothing contained herein shall be deemed, however, to constitute a waiver by District of any limitations of its liability that may be accorded it by virtue of Section 768.28, Florida Statutes, or any subsequent similar law. Further, nothing contained herein shall be construed to provide that either party may be liable to any person not a party to this Agreement and neither party waives any defenses it may have against claims from such persons.

8. Owner acknowledges that the District has no obligation or responsibility regarding any portion of the Surface Water Management System, that any damage which may be caused to Surface Water Management System shall be repaired by the Owner, and the District shall have no obligation to repair or be responsible for any damage which may be caused to the Surface Water Management System as a result of either activities of the District or by third parties unless caused by willful or wanton acts or gross negligence of District, its employees or agents and such harm is not reasonably avoidable. District's employees and agents will use their best efforts not to cause harm to the Surface Water Management System and District agrees to give Owner reasonable notice prior to entering the Easement Areas, except in the event of an emergency as solely determined by the District. In this event, the District will make a reasonable attempt to notify Owner as soon as reasonably practical under the circumstances. This Paragraph does not and is not intended to release third parties from any damage that the third parties may cause to the Surface Water Management System.

9. The Owner shall be responsible for restoring in kind any fences, berms, side ditches, culverts, or any other structures and appurtenances which are required to be restored as a result of construction and maintenance of the Surface Water Management System and shall provide for and coordinate any necessary utility relocations. In addition, the Owner shall take all necessary precautions to confine construction and maintenance of the Surface Water Management System and all associated tasks to the Easement Areas.

10. The Owner agrees that during construction and maintenance of the Surface Water Management System, Owner shall proceed in such a manner that the drainage of Subject Property and areas adjacent to Subject Property which drain into and through the Surface Water Management System will be maintained at all times and that the Owner shall take all reasonable and necessary steps to prevent pollution of the Subject Property and the Surface Water Management System during the construction and maintenance of the Surface Water Management System.

11. The Owner during construction and maintenance of the Surface Water Management System shall be responsible to repair any damage which Owner and Owner's Contractors cause to the District's existing drainage systems including appurtenances thereto. The Owner agrees to reimburse District for all costs incurred by District to repair any damage to the District's existing drainage system which occur as a result of the aforementioned obligations to be performed by the Owner pursuant to this Agreement. The Owner does not waive any defenses or admit any liability by such agreement, nor is this Agreement meant to absolve the contractors, subcontractors or third parties from liability for their own actions.

12. In the event the Surface Water Management System is not being constructed or maintained pursuant to the plans approved by the District and/or requirements of the District, the Owner agrees that within twenty (20) consecutive calendar days after written notice by District, the Owner will commence to repair and correct any deviations from the approved plans and District requirements, said repairs and/or corrections to be completed within sixty (60) working days of said notice. If this is not done, the Owner shall, as directed by the District, remove that portion of the Surface Water Management System which District requires to be removed. If any part of the Surface Water Management System is removed pursuant to this Paragraph, any other portion of the District's drainage system which has been removed or altered shall be restored to its original condition or District criteria as of the date of this Agreement.

13. The Owner agrees that if construction, maintenance or lack of maintenance of the Surface

Water Management System causes or is causing damage to District's drainage systems (including appurtenances thereto) or the Surface Water Management System is not being constructed or maintained in accordance with the original approved plans or District requirements, that within twenty (20) consecutive calendar days after receipt of written notice by District to Owner and the contractor, which notice shall specifically describe the nature and extent of the damage or improper construction or maintenance, that the District may order and direct that all or a portion of the Surface Water Management System being constructed or worked on by the Owner shall cease. If District gives notice as provided herein, Owner and contractor shall cease work and the work shall not begin again for that portion which is stopped until damage or threat of damage has been repaired or removed or correction of the improper construction or maintenance has commenced, and the District authorizes resumption of said work in writing. The Owner agrees to notify the contractor constructing the work described in this Agreement of the District's right to stop the contractor's work upon said notice and to provide the contractor with such notice if notice is given to Owner.

14. After completion of the Surface Water Management System and prior to final acceptance by the District, the Owner shall provide to District as-built drawings of the Surface Water Management System and adjacent drainage facilities, including inverts, elevations and locations of culverts and appurtenances associated therewith, and all other drainage improvements constructed as part of the Surface Water Management System and as required by the permit issued by the District.

15. After completion of the Surface Water Management System to the satisfaction of the District, the District shall issue written approval of the Surface Water Management System following which the Owner shall assume responsibility for maintenance of the Surface Water Management System.

16. The Owner acknowledges and agrees that the Drainage System shall be re-certified by a Florida Registered Professional Engineer every 5 years in accordance with the District's Charter and Criteria Manual.

17. In the event the District is required to maintain any portion of the Surface Water Management System, the District's right to maintain will not include any portion of the Mitigation Area improvements. Also, District agrees not to treat the Mitigation Area plant or aquatic growth or that portion of the Surface Water Management System which lies adjacent to the Mitigation Area by spraying herbicides, unless no other reasonable means of treatment are available. In addition, the District will make a reasonable effort to give Owner, seven (7) days notice of District's intent to spray herbicides and the areas

to be sprayed. The Owner acknowledges and agree that any damages to the Mitigation Area improvements or the Surface Water Management System or appurtenances thereto, caused by spraying or the lack of spraying and/or maintenance as contemplated by this Agreement, is not the responsibility of the District and the District has no obligation to repair said damages, unless caused by the willful or wanton acts of the District or its agents or employees.

18. The Mitigation Area shall be located with markers as required and approved by the District to designate its actual location. These markers shall be maintained and replaced by the Owner if removed or damaged.

19. At all times following the execution of this Agreement, the District agrees to allow the Owner and its successors and assigns, access to the Mitigation Area and the Owner agrees to allow the District, its successors and assigns access to and across the Mitigation Area.

20. The Owner's obligations under this Agreement are assignable in whole or in part by Owner to a successor owner or to a property owners association. Such assignment to a successor owner or property owners association may be made by Owner only with the consent of District in writing of the document effecting said assignment, and upon acknowledgment in writing that the assignee has read and understands the assignment which must provide that the assignee agrees to perform Owner's obligations hereunder and to be bound by the terms of this Agreement. Upon the delivery of said document to District, acceptance of said document in writing by District, recording in the Broward County Public Records of said document, all with respect to an assignment to a successor owner, subject to written approval of the Surface Water Management System by the District, Owner shall have no responsibility to perform pursuant to the terms of this Agreement. Notwithstanding anything to the contrary herein contained, Owner and any subsequent assignor will continue to be liable for any damage arising out of events which occurred prior to the assignment of such party's obligations as stated herein. District's approval as stated herein will not be unreasonably withheld. To be effective, the assignment to a successor owner or property owners association, signed by the successor owner or property owners association and written consent of the District, must be recorded in the Broward County Public Records.

21. If exercised by District, the District's responsibility for maintaining the Surface Water Management System shall consist primarily of maintaining flowage through the Surface Water Management System, including the Mitigation Area.

22. Nothing contained in this Agreement shall create any obligation of District to maintain any

drainage structures or culverts within Subject Property and maintenance of all internal drainage structures, culverts and outfalls into the Subject Property and the Surface Water Management System shall be the responsibility of the Owner.

23. In addition to its obligations as stated herein, Owner shall maintain the internal access roadways within Subject Property, the access road drainage swales and all drainage structures within Subject Property, which maintenance obligation shall be subject to the Owner's Maintenance and Indemnification obligations stated in this Agreement. IF APPLICABLE

24. In the event District is required to perform maintenance as stated herein, District shall do so to the best of its ability without unreasonable interference with Owners business operations on Subject Property.

25. Any expenses or costs, including reasonable attorney's fees incurred by the District with respect to the matters for which the District has been indemnified under this Agreement or as a result of any work performed by the District as provided for in this Agreement, or damages incurred by the District for which the Owner has indemnified the District, shall be paid to District by Owner, its successors or assigns, as applicable, within thirty (30) days after receiving a statement for same with support documentation (invoices and the like) for all charges shown.

26. In the event payment is not received within thirty (30) days from the billing for such charges, the District shall be entitled to file a lien in the Broward County Public Records upon all non-governmental owned property within Subject Property, which lien shall be inferior to any existing mortgage then encumbering the property, ad valorem taxes, and any such other liens, impositions and assessments as may be given priority by applicable statutes. This lien shall be effective upon the recording of a claim of lien in the public records of Broward County, Florida, and will be for the unpaid sums due the District, including reasonable attorney's fees, together with interest thereon at eighteen percent (18%) per year or the highest non-usurious rate allowable by law, whichever is less. The District agrees to grant partial releases of any lien in its favor upon payment of a proportionate share of the lien amount based upon and for the real property sought to be released. In the alternative, the Drainage District shall be entitled to include said unpaid expenses or costs on the annual tax bill for Subject Property issued by the Broward County Property Appraiser or Revenue Collector.

27. To the extent the Owner is determined to be the cause of any damage to adjacent property owners as a result of construction of the proposed Surface Water Management Area, Owner agrees to take responsibility for such damage, without waiving any defenses or admitting any liability thereto or absolving any of Owner's contractors or subcontractors or third parties from liability for their own actions.

28. The Owner hereby undertakes to indemnify and hold harmless, the District and its agents, employees and commissioners, from any and all liability, loss or damage the District, its agents, employees or commissioners, may suffer as a result of claims, demands, costs, attorney's fees, judgments, liens, penalties, or interest, as a result of any damage caused by the District, its agents or employees, to the vegetation located in the Mitigation Area, except for such damages which are caused by the willful or wanton acts or gross negligence of the District, its employees or agents and such harm is not reasonably avoided. District's employees and agents will use their best efforts not to cause harm to the Mitigation Area improvements and District agrees to give Owner reasonable notice prior to entering the Mitigation Area improvements unless an emergency and then District will notify Owner as soon as reasonably practical under the circumstances. In addition, the Owner and District acknowledge that:

A. After receipt of notification of a claim or action against the District, the District shall notify the Owner, in writing within fifteen (15) consecutive calendar days or as reasonably practical, by registered or certified mail, of any such claim made or action filed against the District of the obligations indemnified against hereunder.

B. The Owner agrees to defend any such claims brought, or actions filed against the District, its agents, employees or commissioners, with respect to the subject of the indemnity contained herein, including but not limited to any claims of SFWMD, Broward County EP & GMD, the State of Florida DEP and/or the Federal EPA including, but not limited to claims associated with nutrient level criteria, whether such claims or actions are rightfully or wrongfully brought or filed. In case a claim should be brought or an action filed with respect to the subject of the indemnity herein, the District agrees that the Owner, may employ attorneys of their own selection to appear and defend the claim or action on behalf of the District at the expense of the Owner. The Owner shall have the primary authority for the direction of the defense and may make recommendations to the District concerning the acceptability of any promise or settlement of any claims or actions against the District. The District retains the right to reject any settlement offer which may be proposed pursuant to this Agreement and no settlement shall be made without approval by the District's Board of Commissioners, provided, however, District does not have the

right to reject a settlement and Owner, as applicable, shall not be required to obtain District's approval of a settlement involving only the payment of money by Owner, pursuant to the indemnity contained in this Agreement, provided that the settlement releases the District and its agents, employees and commissioners from any and all liability arising out of the proceeding being settled. Copies of all correspondence and pleadings associated with any litigation arising out of this paragraph shall be mailed to District and District's attorney and as directed by the District; and

C. In the event any employee or agent of the District is charged with a violation of any local, state or federal law as a result of damage sustained by the plants or other growth within the Mitigation Area, the Owner agrees to provide that employee or agent with legal representation to defend any and all charges filed against said employee or agent and to pay any and all costs, fines, or other penalties incurred by or assessed against the employee or agent and/or the District unless such employee or agent causes such damage willfully, wantonly or through gross negligence.

29. Both before and after completion of the Surface Water Management System, the Owner shall at all times provide the District with the name and phone number of an individual or individuals who shall be available to answer questions and complaints regarding the responsibility of maintenance of the Surface Water Management Area and adjacent drainage facilities.

30. Notwithstanding anything to the contrary in this Agreement, the Owner acknowledges that the assessment and lien rights which the District is entitled to exercise in the event the Owner or a successor owner fails or refuses to pay over to District all monies due the District arising out of this Agreement, shall be and are superior to any other lien rights of Owner or a successor owner which may be placed on any part of Subject Property before or after transfer of parcels or parts of parcels which comprise Subject Property. However, District acknowledges that Owner and said successor owner is not assigning District any voting or governance rights as part of the covenants contained in this Agreement.

31. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to District:

South Broward Drainage District
Attn: District Director
6591 S.W. 160th Avenue
Southwest Ranches, Florida 33331

with a copy to:

Douglas R. Bell, Esquire
Cumberland Building, Suite 505
800 East Broward Boulevard
Fort Lauderdale, Florida 33301

As to Owner:

NAME AND ADDRESS

unless the address is changed by a party by notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by facsimile, electronic mail, telegraph or private courier, but shall be deemed to have been given when received.

32. In the event of any litigation under this Agreement or litigation with respect to the enforcement of any liens of the District, the prevailing party shall be entitled to an award of its court costs and reasonable attorney's fees at trial and all appellate levels of judicial proceedings.

33. To the extent permitted by law, the indemnifications and hold harmless, as applicable, set forth in this Agreement shall survive the execution of this Agreement and the completion of all activities and/or construction to be completed by the Owner or its contractors, subcontractors, designees, or agents, and its successors or assigns in or on the Surface Water Management System.

34. In addition to this Agreement, the Owner is subject to all rules and regulations of the District regarding construction of the Surface Water Management System.

35. The District agrees to issue its permit to the Owner for construction of the Surface Water Management System contemplated herein in accordance with the terms and conditions of this Agreement.

36. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

37. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which will constitute one and the same Agreement.

38. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, assigns, grantees and to those persons who are specifically assigned in writing any rights or obligations hereunder. Further, this Agreement shall be a covenant running with the land described as Subject Property and as Mitigation Area and binding upon all owners of such land. The Owner shall disclose this Agreement in writing to all persons acquiring any portion of Subject Property and Mitigation Area subsequent to the date of this Agreement and any declaration of covenants, conditions or restrictions recorded with respect to Subject Property subsequent to the date of this Agreement shall specially refer to this Agreement.

39. This Agreement shall be construed and interpreted according to the laws of the State of Florida and the venue with respect to any litigation with respect to this Agreement shall be Broward County, Florida.

40. All terms and words used in this Agreement, regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

41. This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

42. The Exhibits hereto contain additional terms of this Agreement. Typewritten or handwritten provisions inserted in this agreement or exhibits (and initialed by the parties) shall control all printed provisions in conflict therewith.

43. Whenever approvals of any nature are required by any party to this agreement, it is agreed that same shall not be unreasonably withheld.

44. This Agreement shall be severable and if any part or portion of this Agreement shall be found to be invalid or unenforceable, such findings shall not affect the remainder of this Agreement.

45. This Agreement merges and supersedes any and all previous agreements on the subject matter between the parties, whether oral or written, and constitutes the entire agreement between the parties.

46. The District and Owner agree that notwithstanding anything in this Agreement or elsewhere to the contrary, Owner shall have the right to establish and record in the Public Records of Broward County, Florida, such use restrictions and covenants as the Owner shall determine with respect to

the Surface Water Management System and adjacent drainage facilities. Further, the Owner shall have the unconditional right to enforce said restrictions and covenants by all means allowable by law or such other means as may be contained in any instrument of record pertaining to such restrictions and covenants. The use restrictions and covenants established with respect to the Surface Water Management System, adjacent drainage facilities and other property as established by the Owner shall be deemed covenants running with the land. Notwithstanding the foregoing, in no event shall any of Owner's use restrictions or covenants interfere with the rights of the District pursuant to this Agreement and if a use or covenant is restricted or prohibited by the District, the Owner cannot override or exclude said restricted or prohibited use or covenant. The terms and provisions of this Paragraph shall survive the execution and delivery of this Agreement.

47. The Owner agrees that if it is necessary for District to remove any of the Mitigation Area improvements or Surface Water Management System constructed pursuant to this Agreement and restore the District's existing drainage system, or complete the Surface Water Management System, that the Owner will reimburse the District for any and all costs incurred to effect said removal, restoration and/or completion, including reasonable attorneys fees and costs expended in connection with such removal, restoration and/or completion.

48. The Owner agrees to reimburse District and pay for all reasonable attorneys fees and costs incurred by District in negotiating this Agreement and the cost of recording this Agreement in the Public Records of Broward County, Florida.

49. This Agreement shall be recorded in the public records of Broward County, Florida.

{Remainder of this page left intentionally blank}

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:

"District"
(SOUTH BROWARD DRAINAGE DISTRICT)

Witness Signature †

Witness Printed Name †

By: Scott Hodges, Chairperson

Attest:

Witness Signature †

Robert E. Goggin IV, Secretary

Witness Printed Name †

STATE OF FLORIDA)
)§
COUNTY OF BROWARD)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20__ by SCOTT HODGES and ROBERT E. GOGGIN, IV as Chairperson and Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, on behalf of SOUTH BROWARD DRAINAGE DISTRICT. They are personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC SIGNATURE

"Owner"

SHOW NAME OF OWNER

Witness Signature †

Witness Printed Name

Witness Signature †

By: _____
Name, Title

Witness Printed Name †

STATE OF FLORIDA)
) §
COUNTY OF)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20__ by _____, as Owner, who (is personally known to me) or (has produced _____ as identification).

Witness my hand and official seal in the county and state last aforesaid this _____ day of _____, 20__.

NOTARY SEAL OR STAMP

NOTARY PUBLIC SIGNATURE

EXHIBIT "A"

EXHIBIT "B"

MEMORANDUM

DATE: January 24, 2013
TO: South Broward Drainage District Commissioners
FROM: Kevin M. Hart, P.E.
District Director
Subject: Request to Transfer Funds from SBDD Capital Improvements Committed Account to the SBDD General Operating Account

Comments:

SBDD recently completed the CIP project for the lighting and electrical improvements at SBDD's headquarters property. This project included the installation of new site lighting, upgrades to the lighting in the maintenance bays, and the conversion of the electrical service to both buildings from overhead to underground. The project was previously approved by the Board with funding through the Capital Improvement Committed Account.

Financial impacts to this Agenda Item: None; the contract for this work was previously approved by the SBDD Board of Commissioners and has been paid in full through the General Operating Account.

This is to request approval to transfer \$53,782.40 from the SBDD Capital Improvement Committed Account to the SBDD General Operating Account as reimbursement for the CIP project for lighting and electrical improvements at the SBDD headquarters property.

KH

Attachments



SOUTH BROWARD DRAINAGE DISTRICT

6591 SOUTHWEST 160TH AVENUE
SOUTHWEST RANCHES, FL 33331

SUNTRUST
ACH RT 061000104
63-215-631

1/22/2013

PAY TO THE ORDER OF Imperial Electrical Inc.

\$ **13,977.50

Thirteen Thousand Nine Hundred Seventy-Seven and 50/100***** DOLLARS

Imperial Electrical Inc
11821 NW 11 Street
Plantation, Florida 33323

MEMO

AUTHORIZED SIGNATURE

⑈00013925⑈ ⑆063102152⑆ 1000093447315⑈

SOUTH BROWARD DRAINAGE DISTRICT

Imperial Electrical Inc.

Date 1/7/2013 Type Bill Reference Invoice 5041

Original Amt. 13,977.50

1/22/2013
Balance Due 13,977.50
Discount
Check Amount

Payment 13,977.50
13,977.50

Cash - Sun Operating

13,977.50

SOUTH BROWARD DRAINAGE DISTRICT

Imperial Electrical Inc.

Date 1/7/2013 Type Bill Reference Invoice 5041

Original Amt. 13,977.50

1/22/2013
Balance Due 13,977.50
Discount
Check Amount

Payment 13,977.50
13,977.50

Cash - Sun Operating

13,977.50

PAYMENT RECORD

RECEIVED
JAN 15 2013
BY:

INVOICE

IMPERIAL ELECTRICAL INC.

11821 NW 11 Street ~ Plantation, Florida 33323 ~ Phone (954) 938-0520 ~ Fax (954) 938-0530

DATE 1/7/2013

INVOICE 5041

JOB NO.

CONTRACT NO.

TERMS

TO: South Broward Drainage District
6591 SW 160 Ave
Southwest Ranches, Fl 33331

Replace Overhead Electrical Service Feeder to Underground

Item #	Item	
13	FPL Handhole	\$ 250.00
14	Service Entrance for Office Bldg	\$ 7,500.00
15	Service Entance for Maint Bldg	\$ 6,000.00
16	Additional 1" Conduit	\$ 227.50

Fund General (CIP)
OK By [Signature]
Date 1-17-13
Acct. # 1795.7
Posted [Signature]

TOTAL DUE

\$ 13,977.50

Underground electrical services for office & maintenance building.
CIP PROJECT 2011/2012



SOUTH BROWARD DRAINAGE DISTRICT
6591 SOUTHWEST 160TH AVENUE
SOUTHWEST RANCHES, FL 33331

SUNTRUST
ACH RT 061000104
63-215-631

12/24/2012

PAY TO THE ORDER OF Electrical Contracting Service, Inc.

\$ ****3,980.00**

Three Thousand Nine Hundred Eighty and 00/100*****

DOLLARS

Electrical Contracting Service, Inc.
2375 West 77th Street
Hialeah, FL 33016

MEMO

AUTHORIZED SIGNATURE

⑈00013869⑈ ⑆063102152⑆ 1000093447315⑈

SOUTH BROWARD DRAINAGE DISTRICT
Electrical Contracting Service, Inc.

13869

Date	Type	Reference	Original Amt.	Balance Due	12/24/2012 Discount	Payment
11/8/2012	Bill	Invoice 9828	3,980.00	3,980.00		3,980.00
				Check Amount		3,980.00

Cash - Sun Operating

3,980.00

SOUTH BROWARD DRAINAGE DISTRICT
Electrical Contracting Service, Inc.

13869

Date	Type	Reference	Original Amt.	Balance Due	12/24/2012 Discount	Payment
11/8/2012	Bill	Invoice 9828	3,980.00	3,980.00		3,980.00
				Check Amount		3,980.00

Cash - Sun Operating

3,980.00

PAYMENT RECORD

Electrical Contracting Service, Inc.

2375 West 77th Street
Hialeah, FL 33016
305-556-0041
Fax 305-820-0553

Invoice

Date	Invoice #
11/8/2012	9828

Bill To
South Broward Drainage 6591 SW 160 Avenue Southwest Ranches, FL 33331

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CF	10/31/2012			
Quantity	Item Code	Description			Price Each	Amount
1	Contract	10% retainage			3,980.00	3,980.00
Fund: <u>General</u>						
OK By: <u>[Signature]</u>						
Date: <u>12-19-12</u>						
Acct. #: <u>1795.7</u>						
Posted: <u>[Signature]</u>						
Total					\$3,980.00	



SOUTH BROWARD DRAINAGE DISTRICT
 6591 SOUTHWEST 160TH AVENUE
 SOUTHWEST RANCHES, FL 33331

SUNTRUST
 ACH FT 061000104
 63-215-631

1380

11/19/2012

PAY TO THE ORDER OF Electrical Contracting Service, Inc. \$ ****35,824.90**

Thirty-Five Thousand Eight Hundred Twenty-Four and 90/100*****

DOLLARS

Electrical Contracting Service, Inc.
 2375 West 77th Street
 Hialeah, FL 33016

MEMO

AUTHORIZED SIGNATURE

⑈00013807⑈ ⑆063102152⑆ 1000093447315⑈

SOUTH BROWARD DRAINAGE DISTRICT
 Electrical Contracting Service, Inc.

Date	Type	Reference	Original Amt.	Balance Due	11/19/2012 Discount	Payment
11/8/2012	Bill	Invoice 9827	35,824.90	35,824.90		35,824.90
				Check Amount		35,824.90

1380

Cash - Sun Operating

35,824.90

SOUTH BROWARD DRAINAGE DISTRICT
 Electrical Contracting Service, Inc.

Date	Type	Reference	Original Amt.	Balance Due	11/19/2012 Discount	Payment
11/8/2012	Bill	Invoice 9827	35,824.90	35,824.90		35,824.90
				Check Amount		35,824.90

1380

Cash - Sun Operating

35,824.90

PAYMENT RECORD

Electrical Contracting Service, Inc.

2375 West 77th Street
 Hialeah, FL 33016
 305-556-0041
 Fax 305-820-0553

Invoice

Date	Invoice #
11/8/2012	9827

Bill To
South Broward Drainage 6591 SW 160 Avenue Southwest Ranches, FL 33331

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CF	10/31/2012			

Quantity	Item Code	Description	Price Each	Amount
1	Contract	Mobilization	1,000.00	1,000.00
1	Contract	Demolition	500.00	500.00
7	Contract	Ltg standards	2,490.00	17,430.00
12	Contract	Ltg handholes	355.00	4,260.00
7	Contract	Ground rods	20.00	140.00
1	Contract	Sign light	1,070.00	1,070.00
1,530	Contract	Circuits panel NP to handhole	0.33	504.90
1	Contract	Circuits handhole to light pole/sign light	5,100.00	5,100.00
1	Contract	Replace & relocate existing photo cell	500.00	500.00
1	Contract	SBDD pump stations maint shop lighting	1,500.00	1,500.00
12	Contract	Maint shop luminaire	575.00	6,900.00
1	Contract	Circuits existing circuits	400.00	400.00
1	Contract	Add'l conduit	500.00	500.00
1	Contract	Less 10% retainage	-3,980.00	-3,980.00

Electrical Work

Fund General
 OK By [Signature]
 Date 11-16-12
 Acct. # 1795.7
 Posted _____

Total	\$35,824.90
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MEMORANDUM

DATE: January 29, 2013
TO: South Broward Drainage District Commissioners
FROM: Kevin M. Hart, P.E.
District Director
Subject: Tree Removal Mitigation – Clark Residence, SW Ranches

Comments:

In September, 2012 SBDD entered into a contract with Pan American Landscaping, LLC (Pan American) to remove and/or trim trees at sixteen (16) locations in the Town of Southwest Ranches (Town). The total contract amount is 7,990.00.

During the course of their work, Pan American mistakenly removed seven (7) mature, bald cypress trees from a canal bank located within an easement on the property owned by Mr. Christopher Clark and Ms. Liliana Armas (property owners) at 18900 SW 53rd Street, SW Ranches, FL 33332. These cypress trees were removed without a permit from the Town and SBDD was notified by the Town of the “Unpermitted Tree Removal”. Under their notification, the Town appraised the value of the trees at \$5,698.78 and indicated their interest in ensuring that the property owners were satisfied with the outcome of the mitigation.

After several discussions with both of the property owners, Pan American and the Town, it is proposed that SBDD issue the property owners a check in the amount of \$5,700.00 as reimbursement for replacement of the cypress trees on their property. Within ninety (90) days of issuing the check, the property owners will then contract to have the following trees planted on their property: seven (7) cypress trees; one (1) live oak tree; and two (2) additional flowering trees. The Town has indicated that this will satisfy the mitigation required under the citation issued to Pan American for the “Unpermitted Tree Removal”. Furthermore, the Town will coordinate with the property owners to ensure that the new trees are satisfactory and in compliance with the Town’s mitigation requirements.

Pan American has agreed to forfeit any payment under their tree removal Contract with SBDD to offset the costs of the mitigation and legal costs incurred by the District.

Financial Impacts to Agenda Item: The District will incur approximately \$1,000 in legal fees, above and beyond the portion to be deducted from Pan American’s Contract (\$2,290).

This is to request approval and authorization to issue a check in the amount of \$5,700.00 to Mr. Christopher Clark and Ms. Liliana Armas to mitigate the removal of the seven (7) mature bald cypress trees. Issuance of the check will be conditional upon the property owners agreeing to plant seven (7) cypress trees, one (1) live oak tree, and two (2) additional flowering trees on their property and indemnifying the District from any further liability, claims, losses or damage as a result of the unauthorized removal of the seven (7) mature bald cypress trees by Pan American Landscaping, LLC. To offset both the cost of the mitigation and legal costs incurred by SBDD, the District will close out their Contract with Pan American Landscaping, LLC with no payments (\$0.00).

KH

Attachments



Town of Southwest Ranches

13400 Griffin Road
Southwest Ranches, Florida 33330
Phone: (954) 434-0008
Fax: (954) 434-1490
Website: www.southwestranches.org

November 19, 2012

Joe Certain, Project Manager
South Broward Drainage District
6591 SW 160 Avenue
Southwest Ranches, FL 33331

**RE: Unpermitted Tree Removal at 18900 SW 53 Street, Southwest Ranches, FL 33332
Property ID# 503936100240**

Dear Mr. Certain:

This letter is to notify South Broward Drainage District of the Town of Southwest Ranches' findings and recommendations regarding the above-referenced unpermitted Tree Removals and Tree Abuse related to the District's multi-location maintenance project in the area of SBDD Canal #12.

The Town of Southwest Ranches supports SBDD's obligations with regard to ensuring proper drainage and minimization of restriction to drainage systems, and we greatly appreciate the District's communication, multiple voluntary actions, and spirit of cooperation to ensure compliance with the Town of Southwest Ranches' Code of Ordinances.

Since the District has demonstrated its intention to remain in full compliance, in spite of the serious nature of the mistaken removals, we are confident that this issue will be resolved. It is the Town's intention to ensure proper remediation occurs with as little inconvenience and expense as possible to the District and its contractor.

Additionally, the Town is desirous that we may be of assistance to the District in any alteration that made be made to your procedures so that such mistakes may be avoided on future projects. We encourage continued communication between our agencies to ensure full and open disclosure of any information that may be helpful.

An appraisal report of casualty trees and recommendations for mitigation/bringing the project into compliance follows.



Town of Southwest Ranches

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 Southwest Ranches, Florida 33330
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 Fax: (954) 434-1490
 Website: www.southwestranches.org

Unpermitted Tree Removal at 18900 SW 53 Street, Southwest Ranches, FL 33332, Property ID# 503936100240, Page 2

Summary

Town Staff was made aware of the project in writing by Kevin Hart, SBDD District Director, on August 30, 2012.

This notification was followed by a courtesy call to the District Director from the Town's Arborist requesting the District ensure their contractor would be properly licensed, would perform the work according to Best Management Practices, and that only invasive exotic, not native species, would be removed. The District Director stated SBDD's investment in full compliance with all requirements of the Town's Code. In accordance with Resolution 2012-031, a permit was issued without prior inspection on 9/12/12.

On 10/1/12, the Town's Landscape Inspector performed an emergency inspection on the site of 18900 SW 53 Street, Southwest Ranches, FL 33332, after being notified by the District of inadvertent removal by its contractor of native cypress species during the project.

Town Staff was notified, and the Town Administrator assigned follow up on the project to the Town's Arborist on October 4.

Observations

The Town's Arborist performed an inspection on October 9, 2012, documenting the removal of 7 mature native bald cypress trees in violation of Southwest Ranches *Code of Ordinances* Sections 10-24 *General prohibitions* (2) and 10-27 *Tree removal permit requirements and standards* (a) (1). Estimated canopy area removed is 6,487 square feet. Total appraised value of casualty trees is \$5,698.78

ID #	Specific Epithet	Common name	Estimated Caliper @ 12" (in inches)	Condition/ Diminution Rating	Value Each	Total Appraised Value	Estimated Canopy Removed (in square feet)	Notes on Condition and Structure
1	<i>Taxodium distichum</i>	bald cypress	16	80%	\$1,106.56	\$885.25	926.67	No defect or decay visible
2	<i>Taxodium distichum</i>	bald cypress	9	80%	\$622.44	\$497.95	926.67	Large girdling roots. No decay or other defect visible
3	<i>Taxodium distichum</i>	bald cypress	13	80%	\$899.08	\$719.26	926.67	No defect or decay visible
4	<i>Taxodium distichum</i>	bald cypress	23	80%	\$1,590.68	\$1,272.54	926.67	No defect or decay visible
5	<i>Taxodium distichum</i>	bald cypress	21	80%	\$1,452.36	\$1,161.89	926.67	Tri-crack in heart wood. No decay or other defect visible
6	<i>Taxodium distichum</i>	bald cypress	15	80%	\$1,037.40	\$829.92	926.67	No defect or decay visible
7	<i>Taxodium distichum</i>	bald cypress	6	80%	\$414.96	\$331.97	926.67	No defect or decay visible



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Unpermitted Tree Removal at 18900 SW 53 Street, Southwest Ranches, FL 33332, Property ID# 503936100240, Page 3

Evidence was also documented of pruning practices not in conformance with Broward County Tree Trimmer Licensing Standards or *American National Standards for Tree Care Operations-Tree Shrub, and Other Woody Plant Maintenance Standard Practices (Pruning)*; also known as the *ANSI A300 (Part 1)-2001 Pruning* in violation of Southwest Ranches *Code of Ordinances* Section 10-23, 10-24 (3) and Section 10-28 *Tree abuse (non-conforming pruning)*. This relatively minor violation can be mitigated with corrective pruning by a Tree Trimmer licensed by Broward County or a Certified Arborist.

Analysis

Appraisal procedures followed are set forth by reference within the Town of Southwest Ranches *Code of Ordinances*, Chapter 10, Article II, Sections 10-19 - 10-32, as amended. The "Replacement Cost Method" was employed for determining mitigation values, per Rule 14-40.030 F.A.C.

The following reference materials were used per *Code of Ordinances* Section 10-22 *Documents Incorporated by Reference*: Council of Plant Appraisers *Guide for Plant Appraisal*, 9th Edition; FDACS/DPI *Grades and Standards for Nursery Plants*, 2nd Edition. Florida ISA *Tree Species Ratings for Florida*, Rev. 11/2001 and *Betrocks Plantfinder Wholesale Guide to Foliage and Ornamental Plants*, October 15, 2012 issue were used to provide comparative value of casualty trees and replacements.

In the appraisal process, casualty trees were positively identified, measured, sketched, photographed and appraised.

The Replacement Cost Method was used to determine the square inch value of each casualty tree and a total value was assigned for each casualty tree.

In order to reliably and accurately appraise the size and probable condition of casualty trees, it was also necessary to examine trees of the same species remaining on site, growing under similar conditions to removed trees. Examples of remaining trees were also positively identified, measured, assessed and photographed.

Discussion

The method of tree appraisal used is determined by the casualty tree's species, size, availability of replacement, and cost of installation including stump removal and cleanup. The Replacement Cost Method and square inch value is a process by which appraisal of the value for trees greater than 6" but less than 36" caliper/diameter is commonly based and this method is included in the Florida Administrative Code.

Condition Ratings for the structural integrity and health of branches and foliage (removed plant parts) of casualty trees were conservatively derived using examples from remaining trees onsite, and the Species and Location factors were determined using the International Society of Arboriculture Florida Chapter's *Tree Species Ratings for Florida*

Canopy Area for casualty trees was calculated based upon average canopy square feet of remaining trees on site, casualty tree estimated size, species rating and location.

Conclusions

It is required by Southwest Ranches *Code of Ordinances* that the Town ensure compliance through remedial action or mitigation to compensate for impacts to trees within the project. Additionally, the Town has a duty to ensure that the subject property owner will be satisfied with the outcome of the mitigation. The Town has applied methods of appraisal in a conservative and reasonable manner and is desirous of ensuring compliance and resident satisfaction without undue hardship on the responsible parties.



Town of Southwest Ranches

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Unpermitted Tree Removal at 18900 SW 53 Street, Southwest Ranches, FL 33332, Property ID# 503936100240, Page 4

In accordance with the Southwest Ranches *Code of Ordinances*, measures that may be taken to mitigate impacts to the trees include:

1. Replacement in accordance with Section 10-27 (i) (1) (b) 1. – 6., Section 10-27 (i) (5) and Section 10-28 (b) (2).
2. Remuneration in lieu of replacement to the Town's Tree Preservation Trust Fund per Section 10-27 (i) (6).

In the interest of working with the District to facilitate corrective action, as a further option for compliance, the Town would alternatively consider accepting in-kind service in an amount equal to the total appraised value of casualty trees (\$5,698.78).

Recommendations

Should the property owner desire their removed trees to be replaced, the Town will accept the value of such replacements as a bona fide part of the required mitigation.

Should compliance via tree Replacement be selected, it should be noted that the Town would opt for replacement species that meet or exceed the rating spread of removed trees as established by the Florida Chapter ISA *Tree Species Ratings for Florida*. Additionally, all terms and conditions of replacement must be in accordance with the *Code of Ordinances of the Town of Southwest Ranches, Chapter 10 ENVIRONMENT, Article II. Tree Preservation, Sections 10-19 through 10-31 and Replacement Tree Category Appendix 1*.

- As an example of the amount of trees required for replacement, 22 category 1 trees (minimum 2 species) of 12' minimum height / 2" caliper may be installed; or any combination of *Replacement Tree Category Appendix 1, Category 1, 2, and 3* trees may be installed to equal the required Canopy Credit of 6,487 square feet.
- Trees must be at least Florida #1 quality, or better.
- The responsible party would be required to maintain the health of the replacement trees for a period of one year from the date of planting.
- The responsible party would be required to replace within 60 days any tree that dies or is determined to be effectively destroyed within one year of planting.
- The one-year maintenance period would also apply for any tree required to be replaced again due to failure or effective destruction.
- The installation would be required to adhere to the plant material standards set forth in the *Florida Grades and Standards for Nursery Plants*
- The installation would be required to adhere to the standards and best management practices set forth in the *American National Standards for Tree Care Operations-Tree Shrub, and Other Woody Plant Maintenance Standard Practices (Transplanting)*: also known as the *ANSI A300 (Part 6)-2005 Transplanting*.

Should compliance via Remuneration in lieu of replacement to the Town's Tree Preservation Trust Fund be selected, a total equal to the total appraised value of casualty trees in the amount of \$5,698.78 would be payable to the Town of Southwest Ranches Tree Preservation Trust Fund.

Should compliance via in-kind service be selected, the Town would prepare a scope of work/specifications for needed invasive exotic removal within the Town and would anticipate a mutual agreement upon the amount of in-kind work to be performed prior to the commencement of such work.



Town of Southwest Ranches

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Unpermitted Tree Removal at 18900 SW 53 Street, Southwest Ranches, FL 33332, Property ID# 503936100240, Page 5

Once again, the Town of Southwest Ranches appreciates the spirit of cooperation and the District's obvious intention to comply and mitigate for the mistaken removals and we are confident that proper remediation will be achieved with as little inconvenience and expense as possible to the District and its contractor.

If you have any questions, or require additional information, please do not hesitate to contact me at 954-343-7452 or dlauretano@southwestranches.org

Sincerely,

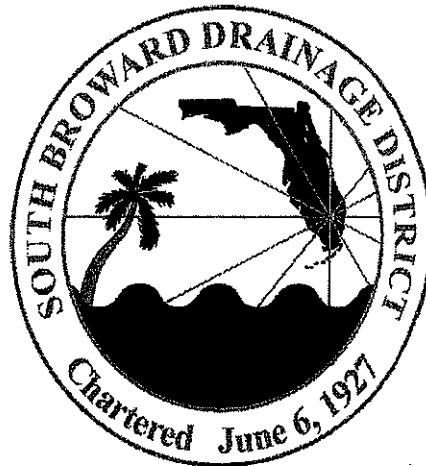
December M. Lauretano-Haines
PROS Coordinator
ISA Certified Arborist® #FL-6019A
LIAF #2007-0045

Cc: Andy Berns, Town Administrator
Kevin Hart, Director, South Broward Drainage District

SOUTH BROWARD DRAINAGE DISTRICT

TREE REMOVAL AND TRIMMING IN

SOUTHWEST RANCHES



AUGUST 2012

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PROJECT NAME:

AUGUST 2012 SBDD TREE REMOVAL AND TRIMMING IN SOUTHWEST RANCHES

LOCATIONS/DESCRIPTION:

- 1) 5581 S.W. 188th Avenue Remove all trees and vegetation from fence to water.
- 2) 5781 S.W. 188th Avenue Remove all Brazilian Pepper trees from fence to water and trim all other tree branches over water on the south side of the property.
- 3) 5801 S.W. 188th Avenue Remove a Brazilian Pepper tree 20' upland. Trim all branches and trees over water on the north side of the property.
- 4) 18900 S.W. 54th Place Remove all trees from fence to water.
- 5) 18901 S.W. 53rd Street Remove all trees from water 20' upland.
- 6) 18900 S.W. 53rd Street Remove all Brazilian Pepper trees and Mimosa trees. Trim all other branches over water.
- 7) 18901 S.W. 50th Street Remove all Brazilian Pepper trees 20' upland and trim all other trees.
- 8) 18331 S.W. 48th Street Remove eight (8) Bischofia trees and four (4) Pine trees and trim all other tree branches over water.
- 9) 18100 S.W. 50th Street Remove all Brazilian Pepper trees from water 20' upland..
- 10) 18340 S.W. 48th Street Trim all branches and trees over water.
- 11) 18391 S.W. 50th Street and the vacant lot south On the north lot where house is only trim all trees and branches over water. On the south vacant lot, remove all trees except for Bichofia and Palm trees.
- 12) 18130 S.W. 50th Court Trim all branches over water.
- 13) 18051 S.W. 57th Street Trim all branches and trees over water.

- | | |
|--|--|
| 14) Vacated Lot West of
7110 S.W. 182 nd Way | Remove one (1) Mallelucca Tree laying down on the ground and grind down the Root Ball. |
| 15) 6521 S.W. 183 rd Way | Trim all trees over water on the South and West Canals. |
| 16) 6451 S.W. 183 rd Way | Trim all branches or trees over water. |

Color Codes:

**ORANGE = TREES TO BE REMOVED
GREEN = TREES TO BE TRIMMED.**

INVITATION TO BID: Sealed Bids will be accepted until 3:00 p.m. on Thursday, August 16, 2012. Bids shall be submitted to the South Broward Drainage District (District) in a sealed envelope with the words **“South Broward Drainage District – Tree Removal and Trimming in Southwest Ranches”** on the outside of the envelope. Please make sure to also write the **name of your company** on the outside of the envelope and deliver to:

**Joseph Certain
South Broward Drainage District
6591 S.W. 160th Ave.
Southwest Ranches, FL 33331**

Bids shall be valid for 90 days from date of bid opening. The bids will be opened publicly at 3:15 p.m.

IMPORTANT PRE-BID INFORMATION:

*All potential bidders must contact Joe Certain for a **mandatory site visit**. A bid submitted without site location visit with the District will not be accepted. The last site visit will be **Wednesday, August 15, 2012 at 1:00 p.m.***

GENERAL PROJECT DESCRIPTION:

REMOVAL AND/OR TRIMMING OF TREES AND VEGETATION AT LOCATIONS REFERENCED. TREE CHIPS/MULCH MUST BE HAULED AWAY BY CONTRACTOR. DO NOT REMOVE ANY NATIVE TREES.

I SCOPE OF WORK

- A. Prior to submitting bid, contact Joe Certain @ 954-680-3337 to visit project locations.

- B. Trees to be removed and/or trimmed will be marked by the District in orange or green paint.
- C. Trim all branches hanging over the water from the edge of water vertically 20' or to the top of the trees.
- D. Contractor to remove all trees, branches, brush and mulch and dispose of properly every day. No stockpiling.
- E. Trees and stumps to be removed must be cut down and the stumps shall be ground down to a minimum of 6" below ground level. All mulch must be removed.
- F. Contractor must restore any damage to public or private property at the contractor's expense.
- G. If SBDD determines that the stump cannot be ground down, the Contractor must cut the stump even with the ground level.
- H. Contractor must remove any trees or branches from the water at the site location they are working in.
- I. Contractor will provide and use warning signs, traffic control and appropriate safety measures as required in accordance with the Broward County Traffic Engineering Division regulations.

II SCHEDULE

- A. Work under this Agreement must be performed during the following hours: **8:00 A.M. through 4:00 P.M., Monday through Friday.** Weekend, holiday and extended work hours work will require approval by the District.
- B. The Contractor, prior to commencement of any work under this Project, shall secure approval from property owner, of access routes for performing the work as described in this project.
- C. Upon receipt of a written notice to proceed; the Contractor agrees to commence with the specified work within fourteen (14) days and to faithfully prosecute the same in a continuous and uninterrupted manner and to complete the same in all respects in accordance with the Project documents in no more than thirty (30) calendar days from the commencement date.

The Owner and the Contractor recognize that time is of the essence in this Agreement and that the Owner will suffer financial loss if the work is not completed within the schedule specified in this Agreement, plus any extensions thereof allowed in accordance to the General Conditions. They

also recognize the delays, expense and difficulties involved in proving in a legal proceeding, the actual loss suffered by the owner if the work is not completed on time. Accordingly, the owner and contractor agree that as liquidated damages and for delay (but not as a penalty) the contractor shall pay the owner five hundred dollars (\$500.00) for each consecutive calendar day after the completion date specified in this Agreement until the work is complete. The owner shall have the right to deduct from the final payment all such amounts with the Contractor being liable to the owner for any deficiency. For the purpose of this clause "completion" shall mean the date on which the last element of the construction work performed by the Contractor pursuant to this Agreement is approved by the owner in writing.

- D. ***Pre-work conference will be held, time/date to be announced.***
- E. Call for utility locations 48 hours before digging (Sunshine One Call Center - 1-800-432-4770).

III GENERAL

- A. The Contractor has agreed, and by these presence, does hereby agree with the District that he will duly perform, carry out and be bound by each and every one of the terms, provisions, conditions and covenants as set out and contained in this Project document for the consideration herein mentioned, at his own cost and expense, to furnish all equipment, tools, materials and labor of every description necessary for and to carry out and complete in a good, firm, substantial and workman-like manner the work described in this Project document.
- B. The Contractor affirms that he has all necessary licenses, registrations and certifications to legally perform the work required under this Project and the necessary approved documents from all applicable government agencies. The Contractor hereby agrees that it is the Contractor's absolute responsibility to comply with each and every requirement of any and all such licenses, certificates and registrations. Contractor shall provide copies of all such licenses, certificates and registration within five (5) calendar days of request by District.
- C. The Contractor affirms, and by these presence does affirm, that he has visited and examined the Project site and has fully informed himself of the conditions that exist throughout the project site. He further declares that he has examined the Project package and fully familiarized himself with the said Documents and also any local, State, County, and Federal laws pertaining to this project.
- D. The Contractor agrees that he will not transfer or assign this Project without written approval from the District (which may be arbitrarily withheld).

- E. The Contractor agrees that during the progress of said work, he will, at all time, comply with the safety requirements of OSHA.
- F. The Contractor does hereby save and hold harmless the District, District's agents and employees from any liability, damages, costs, or expenses, including but not limited to attorneys' fees and court costs, through all trial and appellate levels arising out of any injury to persons or property sustained by reason of the default or neglect of the Contractor to properly comply with any of the above safety requirements or other governmental requirements necessary to complete the work, or in consequence of, any neglect in safeguarding the work or through the use unsuitable materials in the construction of the improvement, or by, or on account of, any act or omission, neglect or misconduct of the Contractor, or by, or on account of, any claims or amounts recovered for any infringement of patent, trademark, or copyright or from any claims or amounts arising or recovered under the "Worker's Compensation Law" or any other laws, by-laws, ordinances, order or decree, or arising or resulting from the work or actions of Contractor (or any employees, subcontractors, agents or invites) performed in connection with this Project.
- G. In compliance with the applicable provisions of the Rules of the Florida Department of Commerce, Chapter 8C-26 through Chapter 8C-41, or as amended, the Contractor shall provide adequate and sufficient barricades and maintain safe conditions at the job site at all times until the District accepts and signs off on the work performed.
- H. Contractor shall protect pets, livestock, horses and preserve private property and shall restore, as required, all private property, where applicable, to its original condition (as it was prior to commencement of the project).
- I. Contractor shall be responsible for all above and below ground utility identification as required.
- J. The Contractor must provide, at all time, and while work is being performed in the field, a representative who can communicate in English.
- K. This agreement includes Acknowledgment Of Conformance With O.S.H.A. Standards" (Page 14).
- L. The rate of wages of all laborers, mechanics and apprentices employed by the Contractor or any subcontractor on the work covered by this Contract shall not be less than the prevailing rates for wages for similar skills or classifications.
- M. Gender Statement: Wherever the pronoun "he" is used in this document, it refers to all genders.

IV PAYMENT

- A. Upon faithful performance of this Project work in all respects by the Contractor, including providing all dump tickets, the District agrees to pay the Contractor for all items of work performed and materials furnished and included in the agreed upon price.
- B. The District agrees to pay the Contractor and the Contractor agrees to accept as full compensation upon satisfactorily completing the Project the amount specified on the bid proposal form (Page 12).
- C. If the Contractor is in full compliance with the terms and conditions of this Project document, the Contractor will be paid one hundred percent (100%) of the value of the work completed in a good and workmanlike manner in accordance with the terms and provisions of the Project documents. In no event shall the District be required to pay any progress payments.
- D. The Contractor shall submit an affidavit verifying any and all monies owed to suppliers or subcontractors for services or material related to this project. No payment shall be due in any case within less than 48 hours after the submittal of the affidavit. Upon receipt of payment, the Contractor shall furnish the District with a final Release of Lien for the work completed. In addition, the Contractor acknowledges that the District may, at the sole discretion of the District, issue joint checks to the Contractor and his suppliers and subcontractors for all applicable monies owed as agreed upon by District & Contractor.

V INSURANCE

- A. The Contractor shall, at his own expense, purchase and maintain such insurance as will protect the District and the Contractor from any claims under workers' compensation laws; disability benefit laws or other similar employee laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees or any person other than his employees including claims insured by usual personal injury liability coverage; from claims for injury to or destruction of tangible property including loss of use resulting there from any or all of which may arise out of or result from the Contractor's operations under the Project documents, whether such operations be by any subcontractor or anyone directly or indirectly employed by any of them or for whose acts may be legally liable.
- B. Said insurance shall include all major divisions of coverage and be on a comprehensive basis including:
 - 1. Premises Operations (including X, C and U coverage as applicable).
 - 2. Independent Contractor's Protective (minimum 1 year coverage)
 - 3. Products and Completed Operations.
 - 4. Personal Injury Liability with Employment Exclusion Deleted

5. Contractual Liability
6. Owned, non-owned and hired motor vehicles.
7. Broad Form Property Damage including Completed Operations.

C. The limits of said insurance shall provide coverage for not less than the following amounts:

1. Workers' Compensation, etc.
(Required. Exempt status will not be accepted)
 - a. State Statutory
 - b. Applicable Federal Statutory
(e.g. Longshoreman's and/or Maritime)
 - c. Employer's Liability

\$ <u>100,000.00</u> /by accident
- each accident
\$ <u>100,000.00</u> /by disease
- employee
\$ <u>500,000.00</u> /by disease
- policy limits
2. Contractor's Liability Insurance which will also include completed operations, product liability coverage, elimination of the exclusion with respect to property under the care, custody and control of the Contractor and; independent contractors; contractual broad form property damage:
 - a. General Aggregate (Except Products -Completed Operations) \$ 2,000,000.00
 - b. Products - Completed Operations Aggregate \$ 1,000,000.00
 - c. Personal and Advertising Injury (Per Person/Organization) \$ 1,000,000.00
 - d. Each Occurrence (Bodily Injury and Property Damage) \$ 1,000,000.00
 - e. Property Damage liability insurance will provide Explosion, Collapse and Underground coverage where applicable.
 - f. Excess Liability General Aggregate \$ 2,000,000.00

- | | | |
|----|---|------------------------|
| | Each Occurrence | \$ <u>2,000,000.00</u> |
| | g. Fire Damage (Any one fire) | \$ <u>50,000.00</u> |
| 3. | Automobile Liability | |
| | a. Bodily Injury: | |
| | Each Person | \$ <u>1,000,000.00</u> |
| | Each Accident | \$ <u>2,000,000.00</u> |
| | b. Property Damage: | |
| | Each Occurrence | \$ <u>1,000,000.00</u> |
| | OR | |
| | c. Bodily Injury and Property Damage
Combined Single Limit: | |
| | Each Occurrence | \$ <u>2,000,000.00</u> |
| | Aggregate | \$ <u>2,000,000.00</u> |
| 4. | The Contractual Liability coverage required shall provide coverage for not less than the following amounts: | |
| | a. General Aggregate | \$ <u>3,000,000.00</u> |
| | b. Bodily Injury and Property Damage
Combined Each Occurrence | \$ <u>3,000,000.00</u> |
| 5. | Acceptance of a Certificate of Insurance by District for coverage of limits less than specified herein shall not waive the requirements of this section or reduce the Contractor's liability below the limits specified herein. | |
| | a. Liability coverage for the District shall be provided by endorsement as an additional insured on the Contractor General Liability Policy. Add the District as follows: | |

District: *South Broward Drainage District*
6591 Southwest 160 Avenue
Southwest Ranches, Florida 33331

- D. Subject to any limitations which may be provided by Florida Statutes, Section 725.06, the Contractor shall indemnify and hold harmless the Owner for liability for damages to persons or property caused in whole or in part by any act, omission or default of the Owner arising from the

Agreement or its performance, an amount which shall not be less than \$1,000,000.00 per occurrence. Pursuant to Florida Statutes Section 725.06(2), the Contractor shall indemnify and hold harmless the Owner, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the contract.

- E. It is understood and agreed that insurance coverage required herein shall specifically include, any claim for damages for personal injury, including wrongful and accidental death, and property damages which may arise by reason of the Contractor, its agent or representatives or subcontractors, depositing spoil material on lands within the Project limits and/or on property located adjacent to the Project limits.
- a. Prior to commencing the Work, the Contractor shall procure and maintain at its own expense, until one year after completion and final acceptance of the Work, the following insurance that shall protect the Contractor from and indemnify and hold harmless the Owner from:
1. Any claims under Workers Compensation, disability benefits, and other similar employee benefit acts.
 2. Any claims for damage because of bodily injury, sickness, disease or death of any person other than his employees.
 3. Any claims under products and completed operations coverage.
 4. Any claim for damages insured by usual personal liability coverage which are sustained by (1) any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor or (2) by any other person.
 5. Any claim for damages because of injury to, or destruction of tangible property including loss of use resulting therefrom.
 - a. The Contractor shall provide: Workers Compensation and employer's liability insurance in accordance with the laws of the State of Florida. Exempt status will not be accepted.
 - b. Prior to commencing the work, the Contractor shall furnish certificates from all insurance companies showing the above insurance in force, stating policy number, dates of expiration and limits of liabilities thereunder and copies of all insurance policies.

- c. The Contractor agrees that neither he nor his insurance company will subrogate any loss or claim to the Contractor's equipment or personnel against the Owner and further providing that the insurance will not be canceled or changed prior to at least thirty (30) days after written notice of such cancellation or change has been mailed to the Owner and showing the Owner as a loss payee under such policies.
- F. At the request of the District, the Contractor shall provide copies of all insurance for District's review within five (5) calendar days of said request.

BID PROPOSAL FORM

South Broward Drainage District
6591 S.W. 160 Avenue
Southwest Ranches, Florida 33331

Re: TREE REMOVAL AND TRIMMING IN SOUTHWEST RANCHES

The undersigned hereby declares that he has examined the site work and has fully informed himself with the conditions that exist at the project site. He further declares that he has examined all Project Documents and fully familiarized himself with the said Documents and also any Local, State, County, and Federal laws pertaining to this project.

The undersigned certifies that this proposal is made without any collusion or fraud and not in connection with any other person, partnership, corporation or company making a proposal for this same project.

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

The undersigned hereby proposes to furnish all labor, equipment and materials necessary to complete the work in strict accordance with the Bid Documents and all addendums, if issued, for the price shown below.

PRICES PER SITE:

Site #1: \$ 135.00

Site #9: \$ 75.00

Site #2: \$ 85.00

Site #10: \$ 390.00

Site #3: \$ 65.00

Site #11: \$ 1,490.00

Site #4: \$ 145.00

Site #12: \$ 340.00

Site #5: \$ 1,370.00

Site #13: \$ 125.00

Site #6: \$ 785.00

Site #14: \$ 990.00

Site #7: \$ 225.00

Site #15: \$ 315.00

Site #8: \$ 1,390.00

Site #16: \$ 65.00

LUMP SUM PRICE FOR SITES 1-16: \$ 7,990.00

COMPANY NAME: Pan American Landscaping, LLC PHONE #: 954-434-3964
EMAIL ADDRESS: panamland@bellsouth.net
COMPANY ADDRESS: 15751 Sheridan Street, #157, Davie, FL 33331

Julie Safdie
Signature of Owner or Authorized Representative

Julie Safdie
Print Name

8/16/12
Date

SBDD reserves the right to accept or reject any and/or all bids or parts of bids, to waive any informality, irregularities or technicalities, to re-advertise for bids, or take any other actions that may be deemed to be in the best interest of SBDD. SBDD also reserves the right to award the contract on a split order basis, group by group, or item by item, or such combination as will best serve the interests of the District. SBDD also reserves the right to waive minor variations to the specifications. Final award of Bid(s) shall be made by the SBDD Board of Commissioners.

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

TO THE SOUTH BROWARD DRAINAGE DISTRICT:

Julie Safdie, hereby acknowledge and agree that as Contractor for the South Broward Drainage District, that we have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health regulations, and agree to indemnify and hold harmless the South Broward Drainage District, against any and all legal liability or loss the District, its employees or agents, may incur due to Pan American Landscaping failure to comply with such act.

Arielle Asencio
ATTEST

Pan American Landscaping, LLC
By: Julie Safdie
CONTRACTOR
BY: Julie Safdie
DATE: 8/16/12

BR WARD

CLASS: B

TREE TRIMMER LICENSE

TTL# B-847 EXPIRES: 08/31/2012

PAN AMERICAN LANDSCAPING INC.

15751 BIRCHDALE STREET #105 157

DAVE, FL 3302

TRAINED EMPLOYEE: JULIE SANDIE



SOUTH BROWARD DRAINAGE DISTRICT

CONTRACT AGREEMENT

TREE REMOVAL/TRIMMING IN SWR

This is to confirm that Pan American Landscaping and South Broward Drainage District agree that Pan American Landscaping will duly perform, carry out and be bound by each and every term, provision and condition of the August 16, 2012 Invitation to Bid which is attached and made part of this Contract Agreement.

The following constitute the Contract Documents: The Contract Agreement, Bid Proposal Form, and Acknowledgement of Conformance with OSHA Standards.

This Agreement is for the SBDD "Tree Removal/Trimming in SWR" project for the lump sum price shown below.

TOTAL LUMP SUM PRICE FOR ALL (16) LOCATIONS: \$7,990.00

Acceptance by Owner:

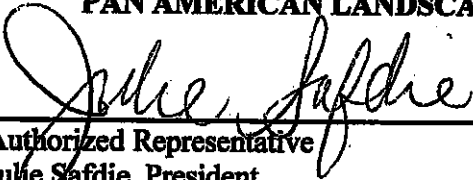
SOUTH BROWARD DRAINAGE DISTRICT



Kevin M. Hart, P.E., District Director

Date: 9/18/12

Acceptance by Contractor:

PAN AMERICAN LANDSCAPING


Authorized Representative
Julie Safdie, President

Date: 9/11/12