

RESOLUTION 2010-084

A RESOLUTION OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING A REGIONAL ROAD CONCURRENCY AGREEMENT BETWEEN BROWARD COUNTY, NEW HOPE INC. OF SOUTHWEST RANCHES, AND THE TOWN OF SOUTHWEST RANCHES, FOR PROPORTIONATE FAIR SHARE CONTRIBUTION ASSOCIATED WITH THE SONSHINE ACRES PLAT FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS BY BROWARD COUNTY; PROVIDING FOR WITHHOLDING OF A TOWN CERTIFICATE OF OCCUPANCY FOR ANY DEVELOPMENT WITHIN THE PLAT UNTIL BROWARD COUNTY CONFIRMS PAYMENT OF THE PROPORTIONATE FAIR SHARE CONTRIBUTION HAS BEEN MADE; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 15, 2010, the Town Council approved Delegation Request Application No. DE-12-09 submitted by New Hope, Inc. of Southwest Ranches to amend the plat note of the Sonshine Acres Plat and;

WHEREAS, Broward County has determined that the delegation request will satisfy the regional roadway concurrency requirement upon New Hope Inc. of Southwest Ranches making a proportionate fair share contribution for the County construction of a roadway improvement; and

WHEREAS, the County requires that the developer record a standard form agreement ("Agreement") with the Town as a party to ensure payment of the proportionate fair share contribution necessary to satisfy the regional road concurrency requirement; and

WHEREAS, the Town agrees to be party to said Agreement to the extent that the Town will not issue a Certificate of Occupancy for any development upon the property until the County has notified the Town that it has received payment of the required contribution.

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

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

Section 2: The Town Council of the Town of Southwest Ranches hereby approves the Agreement between Broward County, New Hope Inc. of Southwest Ranches, and the Town of Southwest Ranches, which is attached hereto and incorporated herein by reference as Exhibit "A," and to withhold a certificate of occupancy for any development within the plat until Broward County confirms that payment of the proportionate fair share contribution has been made.

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

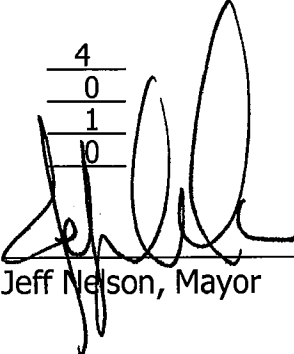
Section 4: The Town of Southwest Ranches hereby agrees to be bound by the requirements of the aforementioned Agreement and to comply with all applicable provisions therein.

Section 5: Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 4th day of August 2010, on a motion by Council Member Breitzkreuz and seconded by Vice Mayor Knight.

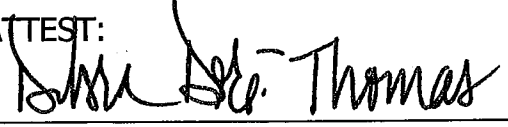
Nelson	<u>AYE</u>
Knight	<u>AYE</u>
Breitzkreuz	<u>AYE</u>
Fisikelli	<u>AYE</u>
McKay	<u>ABSENT</u>

Ayes	<u>4</u>
Nays	<u>0</u>
Absent	<u>1</u>
Abstaining	<u>0</u>



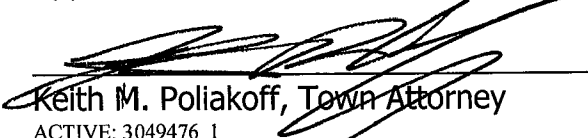
Jeff Nelson, Mayor

ATTEST:



Debra Doré-Thomas, CMC, Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, Town Attorney
ACTIVE: 3049476_1

Return recorded document to:

Development and Environmental Regulation Division
1 North University Drive, Suite 102A
Plantation, FL 33324

Document prepared by:

NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PAID AND/OR PERFORMED.

**REGIONAL ROAD CONCURRENCY AGREEMENT -
COUNTY PROJECT**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

New Hope Inc. in Southwest Ranches, its successors and assigns, hereinafter referred to as "DEVELOPER,"

[AND IF THE PROPERTY IS LOCATED WITHIN A MUNICIPALITY]

The Town of SOUTHWEST RANCHES, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "TOWN."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas; and

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WHEREAS, DEVELOPER has applied for approval of or an amendment to the **Sonshine Acres Plat (055-UP-82)**, hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on July 9, 2010, the Broward County Development and Environmental Regulation Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of or amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in Section 5-182 of the Broward County Land Development Code ("CODE"); and

WHEREAS, the COUNTY has undertaken a project to **improve the intersection of Sheridan Street and Southwest 160 Avenue** as part of the capital improvement program, hereinafter referred to as "Road Project"; and

WHEREAS, DEVELOPER has conducted a study and has determined that the Road Project will mitigate the PLAT's traffic impacts so that the PLAT will satisfy Broward County concurrency standards; and

WHEREAS, DEVELOPER has agreed to pay a share of the cost of COUNTY's Road Project, proportionate to the PLAT's impact; and

WHEREAS, the Broward County Development and Environmental Regulation Division has approved this remedial measure and finds that its concurrency requirements for the PLAT will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER; now THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and DEVELOPER agree as follows:

1. The above recitals are true and correct and are hereby incorporated herein.
2. **CONSTRUCTION OF IMPROVEMENTS.**
 - (a) DEVELOPER agrees to pay to COUNTY **\$49,938.00**, which represents DEVELOPER's proportionate share of the cost of the Road Project. DEVELOPER agrees that the total contribution will be paid during the review of construction plans submitted for County Environmental Review Approval by the Development and Environmental Regulation Division for a new building permit within the PLAT.

(b) Payment shall be made to COUNTY at:

Broward County Board of County Commissioners
Attn: Director, Development and Environmental Regulation Division
1 North University Drive, Suite 102A
Plantation, Florida 33324

2. SECURITY.

(a) DEVELOPER shall provide to COUNTY, contemporaneously with this Agreement, a Letter of Credit, attached hereto as Exhibit "B" in the amount of **\$49,938.00** in a form acceptable to the COUNTY, which represents the DEVELOPER's proportionate share of the cost of the Road Project.

(b) COUNTY agrees to release said security upon receipt of the proportionate share payment, and upon the payment of any required security release fees.

3. CONCURRENCY COMPLIANCE. COUNTY finds that by executing and complying with the terms of this Agreement, DEVELOPER has satisfied the adequacy of the Regional Transportation Network requirement of the Broward County Land Development Code for the PLAT as approved by the COUNTY.

4. If the property is within a municipality, TOWN agrees not to issue a certificate of occupancy for any development within the PLAT until TOWN receives confirmation from COUNTY that the payment required pursuant to Section 2(a) has been received by COUNTY.

5. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Broward County Development and Environmental Regulation Division
1 North University Drive, Suite 102A
Plantation, FL 33324

and

Director, Broward County Highway Construction and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324

For the DEVELOPER:

New Hope Inc in Southwest Ranches

6201 SW 160 Avenue

Southwest Ranches, FL 33331

For the TOWN:

Town Administrator Town of Southwest Ranches

6589 SW 160 Avenue

Southwest Ranches, FL 33331

6. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County Florida, at the DEVELOPER'S expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
7. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
8. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.

9. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
10. NO WAIVER. 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.
11. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
12. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
13. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement.
14. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor and Town Manager, duly authorized to execute same, and DEVELOPER, signing by and through its _____ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By _____
Mayor

____ day of _____, 20__

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____

Assistant County Attorney

DEVELOPER-INDIVIDUAL

Witnesses:

 (Signature)
 Print name: _____

 Name of Developer (Individual)

 (Signature)
 Print name: _____

 (Signature)
 Print name: _____
 Print address: _____

_____ day of _____, 20__

ACKNOWLEDGMENT - INDIVIDUAL

STATE OF _____)
) SS.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is

- [] personally known to me, or
- [] produced identification. Type of identification produced _____.

NOTARY PUBLIC:

(Seal)

My commission expires:

DEVELOPER-CORPORATION/PARTNERSHIP

Witnesses (if partnership):

New Hope Inc in Southwest Ranches
Name of Developer (corporation/partnership)

(Signature)
Print name: _____

By Matthew C. Larson
(Signature)
Print name: Matthew C. Larson
Title: President

(Signature)
Print name: _____

Address: 6201 SW 160 Avenue
Southwest Ranches, FL 33331

28th day of July, 2010

ATTEST (if corporation):

Johnny Lance Howell
(Secretary Signature)

(CORPORATE SEAL)

Print Name of Secretary: Johnny Lance Howell

ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP

STATE OF FLORIDA)
) SS.
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 28 day of July, 2010, by Matthew Craig Larson as President of New Hope Inc in Southwest Ranches, a _____ corporation/partnership, on behalf of the corporation/partnership. He or she is:

[] personally known to me, or
[X] produced identification. Type of identification produced FL DL L625-543-65-108-0

NOTARY PUBLIC:

(Seal)

My commission expires: 5/30/10

Juanita M. Romance
Print name:

Juanita M Romance

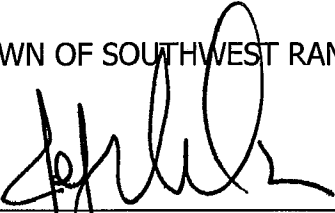
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TOWN

WITNESSES:

TOWN OF SOUTHWEST RANCHES

By 
Jeff Nelson, Mayor

4th day of August, 2010

ATTEST:


Debra Doré-Thomas, CMC, Town Clerk

By 
Charles H. Lynn, AICP, Town Administrator

4th day of August, 2010

APPROVED AS TO FORM:

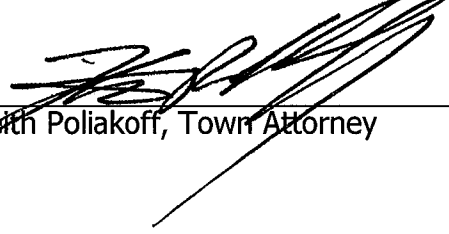
By 
Keith Poliakoff, Town Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

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The Sonshine Acres Plat is legally described as:

THE EAST ONE-HALF (E ½) OF TRACTS 3 AND 4, "FLORIDA FRUIT LANDS COMPANY SUBDIVISION NO. 1", OF SECTION 5, TOWNSHIP 51 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THE WEST 330.00 FEET THEREOF, AND LESS THE EAST 15.00 FEET OF SAID SECTION 4, (FIVE), SAID LANDS LYING AND BEING IN BROWARD COUNTY, FLORIDA, SAID LANDS CONTAINS 4.804 ACRES MORE OR LESS.

EXHIBIT "B"

SECURITY