VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Village Manager
Jacqueline R. Menendez

DATE: June 26, 2007

TO: Honorable Mayor and Members of the Village Council

FROM: Jud Kurlancheek, AICP, Interim Manager

RE: Drainage Improvements Project for Woodcrest Road, Glenridge Road and Buttonwood Drive

RECOMMENDATION

It is recommended that the Village Council award the bid submitted by Miguel Lopez Jr., Inc. for three stormwater drainage projects on Woodcrest Road, Glenridge Road and Buttonwood Drive. These projects are generally located north of the school and the 200 block of Buttonwood.

BACKGROUND

On May 4th, 2007, a mandatory pre-bid conference was held, including a site visit. Sealed bids where delivered to the Village Clerk on May 15th. The awarded party will be responsible for all labor, material, equipment, and incidentals necessary for the construction of the contract items. The funding for this project is a matching state grant, covering fifty (50%) percent of the costs incurred during this project. The remaining funds will come from the Capital Outlay Fund. The total cost of this project is $425,500.00 dollars.

The Drainage Improvements Project consists of:

- Mobilization
- Maintenance of Traffic
- Erosion Control
- Clearing and Grubbing
- Excavation Subsoil
- Optional Base
- Superpave Asphalt Concrete
- Asphalt, Concrete, Speciality Driveway Replacement
- Manholes and Inlets
- Storm Sewer Pipes
- Sodding

The duration of this project shall be for ninety calendar days (90) days, commencing upon notice to proceed. The project will be administered by Tetra Tech, Inc. who designed the specifications.

RESOLUTION NO. 2007- _____

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CONCERNING THE CONSTRUCTION OF DRAINAGE IMPROVEMENTS FOR WOODCREST ROAD, GLENRIDGE ROAD, BUTTONWOOD DRIVE (THE "PROJECT"); AWARDING PROJECT CONSTRUCTION WORK TO MIGUEL LOPEZ, JR. INC, (THE "CONTRACTOR") AUTHORIZING VILLAGE MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT FOR THE PROJECT; AUTHORIZING EXPENDITURE OF FUNDS; AUTHORIZING IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council, upon the recommendation of the Village Manager, desires to construct drainage improvements for Woodcrest Road, Glenridge Road, Buttonwood Drive (the "Project") as described in the specifications prepared by Tetra Tech (the "Village's Project Engineer") pursuant to the lowest responsible, responsive bid received pursuant to sealed bid solicitation for the Project, as received from Miguel Lopez, Jr., Inc., (the "Contractor"); and

WHEREAS, the Village Council finds that Project is necessary for the enhancement of public drainage and is in the best interests of the Village.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

Section 2. **Capital Project Authorizing Resolution.** That pursuant to Village Charter Section 3.07(b), this Resolution shall constitute a Capital Project Authorizing Resolution. The Capital Project is the construction of the above described improvements of the Project at a cost of Four Hundred Twenty Five Thousand Five Hundred and 00/100 ($425,500) Dollars.

Section 3. **Project Authorized; Agreement Approved;**

A. That the Project is hereby authorized. The Project is further described in the Bid Specifications and the Contract for Construction.

B. That the Village Council hereby authorizes the Village Manager to provide for the construction of the Project for a cost which is consistent with this Resolution, to be funded from the funding source which is identified in the Village Manager's memorandum which accompanies this Resolution.

C. That the Village Manager is hereby authorized to execute the Contract for Construction in substantially the form which is attached hereto, once approved by the Village Attorney as to form and legal sufficiency.

D. That the Village Manager is authorized to expend Village funds for the accomplishment of the Project in accordance with Village budget appropriations and this Resolution.

E. That the Village Manager is authorized to take any action which is necessary to implement the Project, including , but not limited to, arranging for the provision of engineer inspection of the Project work at a cost not to exceed $10,000.

Section 4. **Effective Date.** That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this 2nd day of July, 2007.

_____
ROBERT VERNON, MAYOR

ATTEST:

CONCHITA H. ALVAREZ, CMC

_____
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____
Village Attorney

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CONTRACT

THIS AGREEMENT, made and entered into this 2nd day of July 2007, by and between the Village of Key Biscayne, party of the first part (hereinafter sometimes called the "OWNER"), and **Miguel Lopez, Jr. Inc.**, party of the second part (hereinafter sometimes called the "CONTRACTOR").

WITNESSETH: That the parties hereto, for the consideration hereinafter set forth, mutually agree as follows:

1.01 SCOPE OF THE WORK

A. The CONTRACTOR shall furnish all labor, materials, equipment, machinery, tools, apparatus, and transportation and perform all of the Work shown on the Drawings and described in the Specifications entitled:

The Village of Key Biscayne

Drainage Improvements for Woodcrest Road, Glenridge Road, Buttonwood Drive (the "Project"),

as prepared by **Tetra Tech**, acting as, and in the Contract Documents entitled the ENGINEER, and shall do everything required by this Contract and the other Contract Documents.

The work is described in the Contract Documents and the Plans.

1.02 THE CONTRACT SUM

A. The OWNER shall pay to the CONTRACTOR for the faithful performance of the Contract, in lawful money of the United States, and subject to addition and deductions as provided in the Contract Documents, as follows:

Based upon the prices shown in the Proposal heretofore submitted to the OWNER by the CONTRACTOR, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract (obtained from either the lump sum price, the application of unit prices to the quantities shown in the Proposal, or the combination of both) being the sum of:

FOUR HUNDRED TWENTY FIVE THOUSAND FIVE HUNDRED ($425,500) Dollars

1.03 COMMENCEMENT AND COMPLETION OF WORK

A. The CONTRACTOR shall commence Work and the Contract Time will commence to run on the date fixed in the Notice to Proceed.

B. The CONTRACTOR shall prosecute the Work with faithfulness and diligence and shall substantially complete the Work not later than **ninety (90)** calendar days after the commencement date as fixed in the Notice to Proceed. The Work shall be completed within sixty (60) calendar days from the date certified by ENGINEER as the date of Substantial Completion.

1.04 CONTRACTOR'S ACCEPTANCE OF CONDITIONS

A. The CONTRACTOR hereby agrees that, by virtue of submitting a completed Proposal including his declarations therein of full satisfaction, knowledge and understanding of the Contract Documents, site conditions (surface and subsurface) and all other conditions affecting the Work, he assumes full responsibility for performance of the Work as required under this Contract. It is expressly agreed that under no circumstances, conditions or situations shall this Contract be more strongly construed against the OWNER than against the CONTRACTOR and his Surety.

B. It is understood and agreed that the passing, approval and/or acceptance of any part of the Work or material by the OWNER, ENGINEER, or by any agent or representative, as being in compliance with the terms of this Contract and/or of the Contract Documents, shall not operate as a waiver by the OWNER of strict compliance with the terms of this Contract, and/or the Contract Documents covering said work; and the OWNER may require the CONTRACTOR and/or his surety to repair, replace, restore and/or make to comply strictly and in all things with this Contract and the Contract Documents any and all of said Work and/or materials which within a period of one year from and after the date of the acceptance of any such Work or material, are found to be defective or to fail in any way to comply with this Contract or with the Contract Documents. This provision shall not apply to materials or equipment normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The CONTRACTOR shall not be required to do normal maintenance work under the guarantee provisions. Failure on the part of the CONTRACTOR and/or his Surety, immediately after Notice to either, to repair or replace any such defective materials and workmanship shall entitle the OWNER, if it sees fit, to replace or repair the same and recover the reasonable cost of such replacement and/or repair from the CONTRACTOR and/or his surety, who shall in any event be jointly and severally liable to the OWNER for all damage, loss and expense caused to the OWNER by reason of the CONTRACTOR's breach of this Contract and/or his failure to comply strictly and in all things with this Contract.

1.05 LIQUIDATED DAMAGES

A. It is mutually agreed that time is of the essence of this Contract and should the CONTRACTOR fail to complete the work within the specified time, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the CONTRACTOR, and the OWNER will retain the amount of **Five Hundred ($500)** Dollars per calendar day until substantial completion, as fixed, agreed, and liquidated damages for each calendar day elapsing beyond the specified time for completion or any authorized extension thereof. After substantial completion, should CONTRACTOR fail to complete the remaining work within the time specified in Section 1.03 above, the OWNER will retain the sum of **Five Hundred ($500)** Dollars per calendar day until completion. These amounts shall represent the actual damages which the OWNER will have sustained by failure of the CONTRACTOR to complete the work within the specified time; it being further agreed that said sum is not penalty, but is the stipulated amount of damages sustained by the OWNER in the event of such default by the CONTRACTOR.

B. For the purposes of this Article, the day of final acceptance of the work shall be considered a day of delay, and the scheduled day of completion of the work shall be considered a day scheduled for production.

1.06 REIMBURSEMENT OF ENGINEERING EXPENSES

A. Should the completion of the Contract be delayed beyond the specified or adjusted time limit, Contractor shall reimburse Owner for all expenses of engineering and inspection incurred by Owner during the period between said specified or adjusted time and the actual date of substantial completion. All such expenses for engineering and inspection incurred by owner will be charged to Contractor and be deducted from payments due Contractor as provided by this Contract. Said expenses shall be further defined as engineers charges associated with the construction contract project management, including resident project representative costs. These expenses are not included in the daily rate for liquidated damages as defined in Article 1.05 of this Contract. These are additional expenses to be paid whether or not the liquidated damages are assessed.

1.07 PARTIAL AND FINAL PAYMENTS

A. In accordance with the provisions fully set forth in the General Conditions, and subject to additions and deductions as provided, the OWNER shall pay the CONTRACTOR as follows:

1. Within 30 days after receipt by the OWNER of the CONTRACTOR's request for partial payment, the OWNER shall make partial payments to the CONTRACTOR, on the basis of the estimate of Work as approved by the ENGINEER, for work performed during the preceding calendar month, less ten percent (10%) of the amount of such estimate which is to be retained by the OWNER until all work has been performed strictly in accordance with this Agreement and until such work has been accepted by the OWNER.

2. Upon submission by the CONTRACTOR of evidence satisfactory to the OWNER that all payrolls, material bills and other costs incurred by the CONTRACTOR in connection with the construction of the Work have been paid in full, and also, after all guarantees that may be required in the specifications have been furnished and are found acceptable by the OWNER, final payment on account of this Agreement shall be made within sixty (60) days after completion by the CONTRACTOR of all Work covered by this Agreement and acceptance of such work by the OWNER.

1.08 BOND; ADDITIONAL BOND

A. CONTRACTOR shall provide and post with Village a statutory Payment and Performance Bond pursuant to Sec. 255.05, Florida Statutes, upon execution of the Contract

B. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Performance and Payment Bonds hereto attached for its faithful performance, the OWNER shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the Work, the CONTRACTOR shall, at his expense, and within three (3) days after the receipt of Notice from the OWNER to do so, furnish an additional bond or bonds, in

such form and amount, and with such sureties as shall be satisfactory to the OWNER. In such event, no further payment to the CONTRACTOR shall be deemed due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in the manner and form satisfactory to the OWNER.

1.09 CONTRACT DOCUMENTS

A. The Contract Documents which comprise the entire agreement between the Village and the Contractor concerning the Work consist of this Contract for Construction, the Drawings, Plans and Specifications, the Invitation for Bids, the Addenda, the Bid, Instructions to Bidders, the General and Supplementary Conditions, FDEP Supplementary Conditions (Construction), the Performance Bond and Payment Bond, Insurance Certificates, the Notice of Award, the Notice to Proceed, any Change Orders and any other Contract Documents, not specifically listed herein which shall be considered incorporated into and made a part of this Contract by this reference and shall govern this Project. Contractor is reminded and hereby recognizes that all Work under this contract must comply with applicable federal, state, and Miami- Dade County regulations. Any mandatory clauses which are required by such federal, state and county regulations shall be deemed to be incorporated herein immediately upon Village's written request.

B. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of these Contract Documents that are not contained herein. Accordingly it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

C. The Contract Documents shall remain the property of the Village. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the Contractor use, or permit to be used, any or all of such Contract Documents on other Projects without the Village's prior written authorization.

1.10 WAIVER OF JURY TRIAL

Village and Contractor knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract for Construction, arising out of, under, or in connection with the Construction of the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party.

1.11 ASSIGNMENT

Neither party shall assign the Contract or any sub-contract in whole or in part without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder, without the previous written consent of the Village Manager.

1.12 MISCELLANEOUS

1.12.1 **Insurance Requirements:**

Contractor shall provide and maintain in force until all the Work to be performed under this Contract

has been completed and accepted by Village (or for such duration as is otherwise specified hereinafter), the insurance coverages set forth:

1.12.1.a Workers' Compensation insurance at the statutory amount to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability at the statutory coverage amount. The Contractor shall further insure that all of its subcontractors maintain appropriate levels of worker's compensation insurance.

1.12.1.b Comprehensive General Liability with minimum limits of One Million Dollars ($1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

1.12.1.b(1) Premises and/or Operations.

1.12.1.b(2) Independent Contractors.

1.12.1.b(3) Products and/or Completed Operations Hazard.

1.12.1.b(4) Explosion, Collapse and Underground Hazard Coverages.

1.12.1.b(5) Broad Form Property Damage.

1.12.1.b(6) Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.

1.12.1.b(7) Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

1.12.1.b(8) Village is to be expressly included as an Additional Insured on the above-referenced Policies.

1.12.1.c Business Automobile Liability with minimum limits of One Million Dollars ($1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

1.12.1.c(1) Owned Vehicles.

1.12.1.c(2) Hired and Non-Owned Vehicles.

1.12.1.c(3) Employers' Non-Ownership.

The Village is to be expressly included as an additional insured on the policy.

1.12.1.d Builder's Risk Insurance. The coverage shall be "All Risk" coverage for 100 percent of the completed value, covering the Village, as a named insured, with a deductible of not more than Five Thousand Dollars ($5,000.00) per claim and the Contractor specifically agrees to pay all deductibles. The Policy must be endorsed to provide that the Builder's Risk coverage will continue to apply until final acceptance of the Project by Village.

1.12.1.e The Contractor shall either require each of it's Subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the same amounts specified above or insure the activities of it's Subcontractors in the Contractor's own policies.

1.12.1.f If the initial insurance expires prior to the completion of the Work, renewal copies of policies shall be furnished at least thirty (30) days prior to the date of their expiration.

1.12.1.g Notice of Cancellation and/or Restriction-The policy(ies) must be endorsed to provide the Village with at least thirty (30) days notice of cancellation and/or restriction.

1.12.1.h Contractor shall furnish to the Contract Administrator Certificates of Insurance or endorsements evidencing the insurance coverage specified above within ten (10) calendar days after Notification of Award of the Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract.

1.12.1.i All deductibles must be declared by Contractor and must be approved by the Village.

1.12.2 **Village's Right To Terminate Contract**

A. If Contractor fails to timely begin the Work, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if the Contractor shall fail to perform any material term set forth in the Contract Documents or if Contractor shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Village may, upon seven (7) days written Notice of Termination, terminate the services of Contractor, exclude Contractor from the Project site and take the prosecution of the Work out of the hands of Contractor, and use any or all materials on the Project site which have been paid for by the Village, as may be suitable and acceptable and may finish the Work by whatever methods it may deem expedient. In such case Contractor shall not be entitled to receive any further payment until the Project is completed. All damages, costs and charges incurred by Village, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In case the damages and expenses so incurred by Village shall exceed the unpaid balance, then Contractor shall be liable and shall pay to Village the amount of said excess.

B. Contractor agrees that in the event that a initiative measure is adopted at an election by the majority of the electors of the Village voting on such measure, which operates to prohibit the construction of the Project in accordance with the Plans; the Village Council shall have the authority, within thirty (30) days after any such event, to terminate the Contract by providing written notice of termination to the Contractor. In the event of such termination, the Village shall not be liable to Contractor for payment of any supplemental compensation, penalties, damages, loss of profits, termination fee or demobilization fee as a result of such termination, and the Contractor shall only be paid by the Village in accordance with the Contract, for the portion of the Work for the Project which has been performed by Contractor up to the time of notice of termination of the Contract. The Contractor shall be entitled to recover from the Village payment for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, and profit earned on the Project prior to the date of termination.

1.12.3 **Contractor to Check Plans, Specifications and Data**

Contractor shall verify all dimensions, quantities and details shown on the plans, specifications or other data received from Village's Project Engineer, and shall notify Village's Project Engineer in writing of all errors, omissions and discrepancies found therein within three (3) calendar days of discovery and Village's Project Engineer will promptly review the same. Any Work done after such discovery, but prior to written authorization of the Village's Project Engineer, will be done at the Contractor's sole risk.

1.12.4 **Contractor's Responsibility for Damages and Accidents**

A. Contractor shall accept full responsibility for the Work against all loss or damage of any nature sustained until final acceptance by Village, and shall promptly repair any damage done from any cause.

B. Contractor shall be responsible for all materials, equipment and supplies pertaining to the Project. In the event any such materials, equipment and supplies are lost, stolen, damaged or destroyed prior to final acceptance by Village, Contractor shall replace same without cost to Village.

1.12.5 **Defective Work/Guarantee**

A. Village shall have the authority to reject or disapprove Work which the Village finds to be defective. If required by the Village, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with nondefective Work. Contractor shall bear all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

B. Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Village's Project Consultant, Village shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary at Contractor's expense. Any expense incurred by Village in making such removals, corrections or repairs, shall be paid for out of any monies due or which may

become due to Contractor. In the event of failure of Contractor to make all necessary repairs promptly and fully, Village may declare Contractor in default.

C. The Contractor shall unconditionally guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of substantial completion. If, within one (1) year after the date of substantial completion, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from Village, shall promptly correct such defective or nonconforming Work within the time specified by Village without cost to Village. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents including but not limited to any claim regarding latent defects.

D. Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered.

1.12.6 **Legal Restrictions and Traffic Provisions**

Contractor shall conform to and obey all applicable laws, regulations, or ordinances with regard to labor employed, hours of Work and Contractor's general operations. Contractor shall conduct its operations so as not to interfere with or close any thoroughfare, except as provided for in the Contract Documents, without the written consent of the proper authorities.

1.12.7 **Examination and retention of Contractor's Records**

A. The Village or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's books, ledgers, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

B. The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as subparagraph 1.12.7.A above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

C. The right to access and examination of records in subparagraph 1.12.7.A shall continue until disposition of any mediation, claims, litigation or appeals.

1.12.8 **No Damages for Delay**

No claim for damages or any claim, other than for an extension of time shall be made or asserted against Village by reason of any delays. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from Village for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay. Notwithstanding the above, and in accordance with the requirements of Article 12 of the General Conditions, the Contractor shall be granted an extension of time and suspension of liquidated damages for any delay beyond the

control of the Contractor. Should any delay, disruption, interference or hindrance be caused by the Village, for a continuous period or cumulative period of thirty (30) days, the Contractor may terminate the Contract upon seven days written notice to the Village.

1.12.9 **Public Entity Crimes Affidavit**

Contractor shall comply with Section 287.133, Florida Statutes, (Public Entity Crimes Statute) notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

1.12.10 **Indemnification**

Contractor shall indemnify and hold harmless Village, Village's officers and employees and Village's Project Engineer and 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 Contractor and persons employed or utilized by Contractor in the performance of the Agreement.

1.12.11 **Capitalized Terms**

Capitalized terms shall have their plain meaning as indicated herein.

1.12.12 **Independent Contractor**

The Contractor is an independent contractor under the Contract. Services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the Village. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to services rendered under the Contract shall be those of the Contractor.

1.12.13 **Payment to Sub-contractors**

Certification of Payment to Subcontractors: The term "subcontractor", as used herein, includes persons or firms furnishing materials or equipment incorporated into the work or stockpiled for which the Village made partial payment and firms working under equipment-rental agreements. The Contractor is required to pay all subcontractors for satisfactory performance of their Contracts before the Village will make a further progress (partial) payment. The Contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor's work is satisfactorily complete, as determined by the Village. Prior to receipt of any progress (partial) payment, the prime contractor shall certify that all subcontractors having an interest in the Contract were paid for satisfactory performance of their Contracts and that the retainage is returned to subcontractors within 30 days after satisfactory completion of the subcontractor's work. Contractor shall provide this certification in the form designated by the Village.

The Village will not make any progress payments after the initial partial payment until the Contractor completes the Equal Opportunity monthly report, unless the Contractor demonstrates good cause for

not making any required payment and furnishes written notification of any such good cause to both the Village and the affected subcontractors and suppliers.

Within 30 days of the Contractor's receipt of the final progress payment or any other payments thereafter, except the final payment, the Contractor shall pay all subcontractors and suppliers having an interest in the Contract for all work completed and materials furnished. The Village will honor an exception to the above when the Contractor demonstrates good cause for not making any required payment and furnishes such notice to affected subcontractors and suppliers within said 30-day period.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: VILLAGE OF KEY BISCAYNE, FLORIDA, signing by and through its Village Manager authorized to execute same by Council action on the 2 ND day of JULY, 2007, and MIGUEL LOPEZ, INC.JR., signing by and through its_____(insert title of officer) duly authorized to execute same.

ATTEST:

_____
Village Clerk

VILLAGE OF KEY BISCAYNE, FLORIDA

By: _____
Village Manager

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By:_____
VILLAGE ATTORNEY

This ____ day of July 2007.

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION FORMAT AS APPLICABLE

CONTRACTOR

ATTEST:

MIGUEL LOPEZ, JR., INC.

_____
(Secretary)

By: _____
(Signature and Title)

(Corporate Seal)

_____
(Type Name/Title signed above)

This ____ day of July 2007.

CERTIFICATE
(Sample)

STATE OF FLORIDA)
ss
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Board of Directors of _____

_____, a corporation under the laws of the State of Florida,

held on_____, 200____, the following resolution was duly passed and adopted:

"RESOLVED, that _____, as _____President of the corporation, be and he is hereby authorized to execute the Contract dated _____,200_____, between the Village of Key Biscayne and this corporation, and that this execution thereof, attested by the Secretary of the corporation and with corporate seal affixed, shall be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this

_____day of _____, 200____.

_____
Secretary

END OF SECTION

TETRA TECH

June 25, 2007

Mr. Armando Nunez, Director
Department of Public Works
Village of Key Biscayne
88 West McIntyre Street, Suite 230
Key Biscayne, Florida 33149

Subject: **Drainage Improvements for Woodcrest Rd., Glenridge Rd. and Buttonwood Dr. Project.**

Tt # T18920

Dear Mr. Nunez:

Two Contractors submitted Bids for the above referenced Project. The submitted bids, along with the Engineer's Estimate of Construction Costs, are presented below:

	Engineers's Estimate	Miguel Lopez Jr., Inc.	M. Vila & Associates, Inc.
Total Bid	$476,650	$425,500	$494,150

The Bid Documents for this Project state that the low bid will be determined on the basis of the Total Bid Price. It appears for this project that the Village will have the funding to award the Total Bid. Miguel Lopez Jr., Inc. is the apparent low bidder for this Project. The low bidder, Miguel Lopez Jr., Inc., the second bidder, M. Vila & Associates, Inc. and the Engineer's Estimate were all within a similar range for the project's total cost.

Our reference checks revealed that Miguel Lopez Jr., Inc. has performed satisfactorily on previous projects of similar size and scope. There were no bid submittal omissions in Miguel Lopez Jr., Inc.'s bid submittal. Based on our review, Tetra Tech finds Miguel Lopez Jr., Inc. to be a responsive and responsible bidder.

The second lowest bid was submitted by M. Vila & Associates, Inc. No reference check was necessary since this contractor is currently performing satisfactory work for the Village. There were no bid submittal omissions in M. Vila & Associates, Inc.'s bid submittal.

201 East Pine Street, Suite 1000, Orlando, FL 32801
Tel 407.839.3955 Fax 407.839.3790 www.tetratech.com

Conclusion:

Tetra Tech has reviewed the two (2) lowest bids and has determined that the lowest bidder has been responsive to the requirements of the Bid. Based on the contractor reference questionnaire, the lowest bidder is also a responsible bidder.

Tetra Tech recommends that this project, **Drainage Improvements for Woodcrest Rd., Glenridge Rd. and Buttonwood Dr.**, be awarded to the lowest, responsive, and responsible Bidder, Miguel Lopez Jr., Inc. for the Contract amount of $425,500.

Please see attached the following supporting documents:

- Bid tabulation.
- Bid checklist and reference forms for contractor.
- Contractor reference questionnaire.

Please do not hesitate to contact me if you should have any questions or if I can provide any further information.

Sincerely,

Tetra Tech

Narendran Ramachandran, P.E.
Project Manager

NR/slm/18920/corresp/Bid Evaluation Cover Letter.doc
C: Alicia Verea-Feria, E.I.

ILLAGE OF KEY BISCAYNE
rainage Improvements for Woodcrest Rd, Glenridge Rd, & Buttonwood Dr.
ID TABULATION

				ENGINEER's ESTIMATE		LOPEZ DRAINAGE		VILA & ASSOCIATES	
Item No.	Item Description	Quantity	Unit	Unit Price	Extended Total	Unit Price	Extended Total	Unit Price	Extended Total
1	Allowance Account	1	LS	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00
101-1	Mobilization	1	LS	$ 20,000.00	$ 20,000.00	$ 2,500.00	$ 2,500.00	$ 43,000.00	$ 43,000.00
102-1	Maintenance of Traffic	1	LS	$ 10,000.00	$ 10,000.00	$ 3,000.00	$ 3,000.00	$ 3,940.00	$ 3,940.00
104-1	Erosion Control	1	LS	$ 5,000.00	$ 5,000.00	$ 10,000.00	$ 10,000.00	$ 1,675.00	$ 1,675.00
110-1-1	Clearing and Grubbing	1	LS	$ 5,000.00	$ 5,000.00	$ 10,000.00	$ 10,000.00	$ 11,200.00	$ 11,200.00
120-4	Excavation Subsoil	500	CY	$ 12.00	$ 6,000.00	$ 20.00	$ 10,000.00	$ 12.00	$ 6,000.00
285-703	Optional Base	800	SY	$ 20.00	$ 16,000.00	$ 35.00	$ 28,000.00	$ 19.00	$ 15,200.00
334-1-13	Superpave Asphalt Concrete (Traffic "C") Sp-9.5	342	TN	$ 100.00	$ 34,200.00	$ 150.00	$ 51,300.00	$ 150.00	$ 51,300.00
380-1	Asphalt Driveway Replacement	30	SY	$ 60.00	$ 1,800.00	$ 75.00	$ 2,250.00	$ 31.00	$ 930.00
380-2	Concrete Driveway Replacement	35	SY	$ 90.00	$ 3,150.00	$ 150.00	$ 5,250.00	$ 73.00	$ 2,555.00
380-3	Specialty Driveway Replacement	200	SY	$ 100.00	$ 20,000.00	$ 150.00	$ 30,000.00	$ 76.00	$ 15,200.00
425-241	Manholes (P-7) (<10')	15	EA	$ 5,000.00	$ 75,000.00	$ 5,000.00	$ 75,000.00	$ 5,350.00	$ 80,250.00
425-1541	Inlets (DT BOT) (Type "D") (less than 10')	16	EA	$ 4,000.00	$ 64,000.00	$ 3,500.00	$ 56,000.00	$ 4,300.00	$ 68,800.00
30-171-123	15" Storm Sewer Pipe (HDPE)	320	LF	$ 105.00	$ 33,600.00	$ 60.00	$ 19,200.00	$ 95.00	$ 30,400.00
30-171-125	18" Storm Sewer Pipe (HDPE)	1550	LF	$ 110.00	$ 170,500.00	$ 70.00	$ 108,500.00	$ 98.00	$ 151,900.00
575-1-4	Sodding (St. Augustine)	300	SY	$ 8.00	$ 2,400.00	$ 15.00	$ 4,500.00	$ 6.00	$ 1,800.00
	TOTAL				**$ 476,650.00**		**$ 425,500.00**		**$ 494,150.00**

SOLICITATION NO.

BID CHECKLIST AND REFERENCE FORM

Project Data

Owner: Village of Key Biscayne
Location: Village of Key Biscayne

Bidder Information

Name: Miguel Lopez Jr., Inc.
Address: 7711 N.W. 74 ave., Medley, FL 33166
Telephone: (305) 884-0767

Contract: Drainage Improvements for Woodcrest Road, Glenridge Road, & Buttonwood Drive

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Checklist	Circle One			Comments
Indemnification (minimum $1,00)	Y	N	N/A	
Bid Proposal Properly Signed?	Y	N	N/A	
Acknowledge all addenda?	Y	N	N/A	
5% Bid Bond?	Y	N	N/A	
Power of Attorney?	Y	N	N/A	
MBE/WBE Submittal	Y	N	N/A	
Questionnaire Completed?	Y	N	N/A	
Balanced Bid?	Y	N	N/A	
Extensions Correct?	Y	N	N/A	
Serious Bid Omission	Y	N	N/A	
Unauthorized Alterations of Form?	Y	N	N/A	
Incomplete Unit Prices?	Y	N	N/A	
Mobilization Less than 5% Bid?	Y	N	N/A	
Trench Safety Act Form Completed?	Y	N	N/A	
Licenses?	Y	N	N/A	
Certificate of Liability?	Y	N	N/A	
Certificate of Competency?	Y	N	N/A	
Financial Statement?	Y	N	N/A	
Sworn Statement on Public Entity Crimes.	Y	N	N/A	

Reference Inquiry :

See attached "Contractor Reference Questionnaire"

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CONTRACTOR REFERENCE QUESTIONNAIRE

Project # / Name:		**Date:**	6/22/07
Organization/Company:	Cooper City – Public Works		
Name of Party Spoken To:	Carl Miller (954) 434-2300		
Reference Verification:	Alicia Verea-Feria		

Were they timely with contract schedules?

Yes.

Were there any unfair change orders or request for contract time extensions?

No.

Were there any problems with sub-contractors?

No.

Were the punch list items completed in a timely manner?

They perform maintenance and repair work throughout city.

Was the project constructed as specified?

Yes.

Did they demobilize and leave site in a timely manner?

Yes, they are very professional.

Were the pay requests/applications for payment correct and all outstanding liens finalized?

-

Would you recommend them to work on one of your projects again?

Yes, they have worked for the 6 years for the city and will continue.

NOTES:
Performed maintenance, repair, drainage and asphalt work for the 6 years for the city.
"did wonderful job"
Very professional

CONTRACTOR REFERENCE QUESTIONNAIRE

Project # / Name:		**Date:**	6/22/07
Organization/Company:	Grace and Naeen Uddin		
Name of Party Spoken To:	Naeen Uddin (305) 887-6227		
Reference Verification:	Alicia Verea-Feria		

Were they timely with contract schedules?

Yes.

Were there any unfair change orders or request for contract time extensions?

C.O. – Nothing major.

Were there any problems with sub-contractors?

Miguel Lopez Jr. company is the subcontractor.

Were the punch list items completed in a timely manner?

Yes.

Was the project constructed as specified?

Yes.

Did they demobilize and leave site in a timely manner?

Yes.

Were the pay requests/applications for payment correct and all outstanding liens finalized?

Yes.

Would you recommend them to work on one of your projects again?

Yes.

NOTES:
Performed for several School Board of Broward County projects.

- **Civil – sidewalk work.**
- **Currently working with them and look forward to continuing providing services.**

CONTRACTOR REFERENCE QUESTIONNAIRE

Project # / Name:		**Date:**	6/22/07
Organization/Company:	Plantation Acres Drainage District		
Name of Party Spoken To:	David Fradley (954) 771-7440 x 103		
Reference Verification:	Alicia Verea-Feria		

Were they timely with contract schedules?

Yes.

Were there any unfair change orders or request for contract time extensions?

No. The minor C.O. were due to field conditions.

Were there any problems with sub-contractors?

No.

Were the punch list items completed in a timely manner?

Yes.

Was the project constructed as specified?

Yes. Completed all components.

Did they demobilize and leave site in a timely manner?

Yes.

Were the pay requests/applications for payment correct and all outstanding liens finalized?

N/A.

Would you recommend them to work on one of your projects again?

Yes. Would give them additional work.

NOTES:
Small Drainage District project.
Staging, quickly and efficiently.
They were thorough.

SOLICITATION NO.

BID CHECKLIST AND REFERENCE FORM

Project Data

Owner: Village of Key Biscayne
Location: Village of Key Biscayne

Bidder Information

Name: M. Vila & Associates, Inc.
Address: 12097 N.W. 98 Ave. Hialeah Gardens, FL 33166
Telephone: (305) 884-0767

Contract: Drainage Improvements for Woodcrest Road, Glenridge Road, & Buttonwood Drive

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Checklist	Circle One			Comments
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Certificate of Competency?	Y	N	N/A	
Financial Statement?	Y	N	N/A	
Sworn Statement on Public Entity Crimes?	Y	N	N/A	

Reference Inquiry :

Currently performing work for the Village.

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