

RESOLUTION NO. 2002-85

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING A CONTRACT WITH DIG-IT TRACTOR SERVICES INC. FOR RIGHT OF WAY MOWING, TRIMMING AND SHRUB MANAGEMENT SERVICES ON ALL TOWN RIGHT OF WAYS, INCLUDING GRIFFIN ROAD; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO A CONTRACT FOR \$29,200 ANNUALLY; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Town has provided funding for the mowing of Town right of ways; and

WHEREAS, the mowing of the Town right of ways is essential to continue our commitment to "Preserving Our Rural Lifestyle;" and

WHEREAS, on August 21, 2002, the Town Administrator received Requests For Proposals (RFP) for mowing and trimming services from three (3) firms; and

WHEREAS, the Town Administrator has analyzed the proposals, discussed the proposals and recommends that a contract be prepared.

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


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

Section 2: The Town Council hereby authorizes the contract between the Town of Southwest Ranches and Dig-It Tractor Services, Inc. for right of way mowing, trimming, canal bank and shrub management services on all Town right of ways, including Griffin Road, for \$29,200, annually.

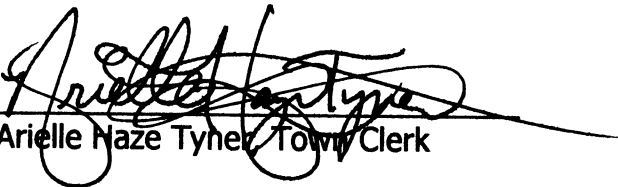
Section 3: The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into an Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate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

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

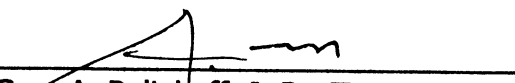
PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Broward County, Florida, this 18th day of September 2002.


Mecca Fink, Mayor

Attest:


Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:


Gary A. Poliakoff, J. D., Town Attorney

731826_1.DOC

Agreement

between

Town of Southwest Ranches

and

Dig-It Tractor Services Inc.

for

**Right of Way Mowing, Trimming and Shrub
Management**

Right of Way Mowing, Trimming and Shrub Management Agreement

THIS AGREEMENT made and entered into this 18 day of September 2002, by and between the Town of Southwest Ranches, a municipal corporation of the State of Florida (hereinafter referred to as "TOWN") and Dig-It Tractor Services Inc., a Florida Corporation (hereinafter referred to as "SERVICE PROVIDER").

WHEREAS, the TOWN advertised through an "Invitation To Submit Proposals for Right of Way Mowing, Trimming and Shrub Management Services, and

WHEREAS, Proposals in response to the Invitation To Submit Proposals were received by the TOWN on August 21, 2002, and

WHEREAS, on September 12, 2002 the TOWN Council approved the Agreement for the Right of Way Mowing, Trimming and Shrub Management Services with SERVICE PROVIDER.

NOW THEREFORE, in exchange of the mutual covenants , conditions, requirements and other considerations hereinafter stated , the TOWN and SERVICE PROVIDER hereby agree as follows:

1. Work To Be Performed By Service Provider:

1.1 Upon execution of this Agreement the SERVICE PROVIDER shall immediately commence to perform the duties and responsibilities as defined and described in the "Invitation To Submit Proposals" labeled and attached to the Agreement as Composite Exhibit "1". (The labor as well as all materials and equipment to be provided pursuant to this Agreement shall hereinafter be referred to as "Services" unless otherwise stated.) In performing its obligations under this Agreement, the SERVICE PROVIDER shall be deemed an independent contractor and not an agent or employee of the TOWN.

1.2 All Services pursuant to this Agreement shall be timely furnished by SERVICE PROVIDER based upon a written Request For Service provided by the TOWN. The Services and frequency of Services shall be provided as set forth below:

a) Mowing Services shall be provided at least nine (9) times per year

b) Trimming Services shall be provided at least five (5) times per year

c) Canal Bank Trimming Services shall be provided at least five (5) times per year

d) Shrub Management Cutting Services shall be provided at least five (5) times per year

e) The Services designated in 1.2 (a) through (d) above may be requested more frequently by the TOWN with compensation to be provided based upon the unit price schedule labeled and attached to this Agreement as Attachment "A" entitled "Proposal" which is attached to and part of Composite Exhibit "1").

f) All Services rendered pursuant to this Agreement shall be performed in accordance with the applicable standard of care for persons and/or entities performing these types of Services for municipalities in Broward County, Florida. SERVICE PROVIDER shall perform such Services in accordance with all applicable codes, ordinances, rules and regulations governing these Services as well as the provisions of Composite Exhibit "1" which provisions are incorporated by reference into this Agreement. SERVICE PROVIDER warrants and represents to the TOWN that it is licensed to do business in Florida and has the expertise and ability to provide all Services necessary to meet the TOWN'S objectives and requirements as set forth in this Agreement.

1.3 The following Services shall be provided by SERVICE PROVIDER on a split schedule:

a) Mowing, Trimming and Canal Bank Trimming Services on the east side of I-75 will be provided during the first ten (10) days of the month in which Services are requested by the TOWN.

b) Mowing, Trimming and Canal Bank Trimming Services on the west side of I-75 will be provided during the second ten (10) days of the month in which Services are requested by the TOWN.

2. Compensation

2.1 Annual Compensation

SERVICE PROVIDER shall render all Services to the TOWN as described in this Agreement for the total Stipulated Sum of Twenty Nine Thousand Two Hundred Dollars (\$29,200.00). ("Annual Compensation"). This total amount of annual compensation is expressly based SERVICE PROVIDER furnishing the TOWN with Services as described in Subparagraphs 1.2(a)-(d) above.

2.2 The TOWN shall pay the following compensation per each Service provided pursuant to this Agreement. These Services are included in the Annual Compensation as described in 2.1 above.

a) Mowing, Trimming and Canal Bank Trimming Services are performed in tandem for a total cost of Two Thousand Eight Hundred Dollars (\$2,800.00) per requested service

b) Shrub Management Cutting Services to be performed on a sixteen (16) hour cycle for a total cost of Eight Hundred Dollars (\$800.00) per requested Service

3. Method of Payment: TOWN shall pay SERVICE PROVIDER at thirty (30) day intervals based upon Services rendered by SERVICE PROVIDER and approved by the TOWN. SERVICE PROVIDER shall timely submit written applications requesting payment by the TOWN. Payments shall be made by the TOWN to SERVICE PROVIDER within fifteen (15) days from its receipt of a written application for payment. As a pre-requisite to receiving any payment from the TOWN, the SERVICE PROVIDER shall provide the TOWN with appropriate lien releases and other satisfactory documentation from SERVICE PROVIDER and its subcontractors and suppliers to ensure that all persons rendering Services have been paid. SERVICE PROVIDER shall not render any Services outside the scope of this Agreement without first obtaining a written approved Change Order issued by the TOWN in accordance with Paragraph 10 below. All additional out of scope Services performed by SERVICE PROVIDER without a written approved Change Order shall be at the SERVICE PROVIDER'S own risk and expense.

4. Term: This Agreement shall be for a period of one (1) year from execution. Based upon mutual agreement and written approval by the TOWN Council, this Agreement may be extended for two (2) additional one (1) year periods at the same rate of compensation as set forth in this Agreement. Extension of this Agreement shall be based upon performance of the Service Provider as reviewed by the TOWN on an annual basis.

5. Assignment: All Services to be performed pursuant to this Agreement shall be performed by the SERVICE PROVIDER and no Services shall be assigned and/or subcontracted to other parties or firms without the express written consent and approval of the TOWN.

6. Indemnification: SERVICE PROVIDER shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services provided pursuant to this Agreement, to prevent damage, injury or loss to (1) all employees performing the Services and other persons who may be affected thereby, (2) all the Services and all materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto. SERVICE PROVIDER shall timely provide all notices and comply with all applicable laws, ordinances, rules, regulations and orders of any public authority bearing on the safety of persons and property in order to provide protection from damage, injury or loss. To the fullest extent permitted by law, the SERVICE PROVIDER shall indemnify

and hold harmless the TOWN, its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Services itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the SERVICE PROVIDER, any subcontractor, any material or equipment supplier, anyone directly or indirectly employed by any of them. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph. In any and all claims against the TOWN, or any of their agents or employees by any employee of the SERVICE PROVIDER, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the SERVICE PROVIDER or any subcontractor and/or supplier under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. The foregoing indemnity from SERVICE PROVIDER shall be applicable to all losses, damages, expenses or claims for damage or injury to any person or property, resulting from their negligence, recklessness or intentional wrongful misconduct of SERVICE PROVIDER, and persons employed or utilized by SERVICE PROVIDER relating to the performance of Services as described in this Agreement. This indemnification provision is incorporated by reference into Composite Exhibit "1" and this Agreement. The indemnification as provided in this paragraph shall be subject to a monetary limitation of Five Hundred Thousand (\$500,000.00) Dollars which the TOWN and SERVICE PROVIDER both acknowledge that this amount bears a reasonable commercial relationship to this Agreement. The SERVICE PROVIDER shall promptly remedy all damage or loss to any property caused in whole or in part by the SERVICE PROVIDER, any subcontractor, supplier or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the SERVICE PROVIDER are in addition to his other obligations under this Agreement. This provision shall survive the termination or expiration of this Agreement.

7 Insurance:

7.1 SERVICE PROVIDER shall obtain and maintain the following insurance during the performance of all Services pursuant to this Agreement. All insurance shall be written by a company authorized and licensed to provide insurance in the State of Florida.

(a) *Workers' Compensation Insurance*: SERVICE PROVIDER shall provide for all employees workers compensation insurance in compliance with the Worker's Compensation Law of the State of Florida.

(b) *Comprehensive General Liability Insurance*, SERVICE PROVIDER shall provide the TOWN with Comprehensive General Liability Insurance with minimum limit of One Million Dollars (\$1,000,000.00) per occurrence.

(c) *Automobile Liability Insurance*, SERVICE PROVIDER shall provide the TOWN with automobile liability insurance with a limit of at least \$100,000.00/\$300,000.00 per occurrence.

7.2 SERVICE PROVIDER shall provide the TOWN with a Certificate of Insurance and at the request of the TOWN, a copy of all insurance policies reflecting the insurance coverage maintained by SERVICE PROVIDER pursuant to this Agreement. The TOWN shall be listed as an additional insured. All certificates and endorsements required herein shall state that TOWN be provided thirty (30) days written notice prior to expiration or cancellation of any of the insurance policies applicable to this Agreement.

8. Notice: Whenever either party desires to give notice unto the other, such notice must be in writing, return receipt requested, or by hand delivery or by a national overnight delivery service such as Federal Express, addressed to the party to whom it is intended at the place specified. For the present the parties designate the following as the respective places for giving of notice:

As to the TOWN:

John Canada, Town Administrator
6589 S. W. 160 Avenue
Southwest Ranches, Fl. 33331

and

Steven B. Lesser Esq.
Becker & Poliakoff, P.A.
3111 Stirling Road
Ft. Lauderdale, Florida 33312

As to the SERVICE PROVIDER:

Craig Standfield
17501 S. W. 70 Place
Southwest Ranches, Fl. 33331

9. Termination:

9.1 This Agreement may be terminated by either party upon not less than seven (7) days written notice should the other party fail, in a material way, to perform in accordance with the terms of this Agreement and through no fault of the party initiating the termination. The seven (7) day notice shall serve as a period to enable the breaching party to cure the alleged breach that served as the basis for the declaration of termination.

9.2 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the Services, failure to continuously perform the Services in a manner that will meet or accomplish the objectives or multiple breach of the provisions of this Agreement.

9.3 This Agreement may be terminated for convenience by action of TOWN upon not less than thirty (30) days' written notice.

9.4 In the event that this Agreement is terminated for convenience, SERVICE PROVIDER shall be paid ONLY for Services performed and approved by the TOWN as of the date this Agreement is terminated and no other compensation or damages shall be recoverable. Upon being notified of TOWN'S election to terminate, SERVICE PROVIDER shall refrain from performing further Services or incurring additional expenses.

10. Change Orders and Modification of Agreement TOWN and SERVICE PROVIDER may request changes that would increase, decrease or otherwise modify the Scope of Services to be provided under this Agreement. Such changes must be made by a written Change Order executed by the parties, with the same formality and of equal dignity associated with the original execution of this Agreement.

11. No Waiver of Rights: Neither the TOWN'S review, approval or payment for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the SERVICE PROVIDER shall be and remain liable to the TOWN in accordance with the applicable law for all damages to the TOWN caused by the SERVICE PROVIDER'S negligent performance of any of the Work furnished under the Agreement. The rights and remedies of the TOWN provided for under this Agreement are in addition to other rights and remedies provided by law.

12. Jurisdiction, Venue And Attorney's Fees: In the event of any action, litigation or proceeding of any type regarding or relating to performance of this Agreement, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees at all trial, bankruptcy and appellate levels. The venue and jurisdiction for any litigation arising from the Agreement shall be in a Court of competent jurisdiction in Broward County, Florida.

13. **No Assignment:** This Agreement is personal to TOWN and cannot be assigned by the SERVICE PROVIDER without written approval of TOWN which consent shall not be unreasonably withheld.

14. **Gender:** Wherever the context shall so require, all words herein in the masculine gender shall be deemed to include the feminine or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

15. **Time is of the Essence:** Time is of the essence of this Agreement. The parties agree that the time for performance maybe reasonably extended for matters outside the control of the respective parties. Where necessary to effectuate the intent of the parties, the terms of this Agreement shall survive completion of the Project. This Agreement shall be construed under the laws of the State of Florida regardless of where executed by either party.

16. **Days:** The terms "days" as referenced in this Agreement shall mean consecutive calendar days.

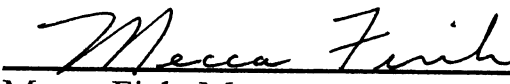
17. **Written Agreement:** This Agreement is binding upon the parties hereto, their successors and assigns and replaces any and all prior agreements or understanding between the parties hereto (whether written or oral) and cannot be modified except in a written document signed by TOWN and SERVICE PROVIDER. **This Agreement is the joint product of the parties and shall not be more strictly construed against any party to this Agreement.**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE MADE AND EXECUTED THIS agreement on the respective dates under each signature: TOWN OF SOUTHWEST RANCHES through its TOWN COUNCIL, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Council action on the 12th of September, 2002 and Town of Southwest Ranches signing by and through its Mayor, duly authorized to execute same.

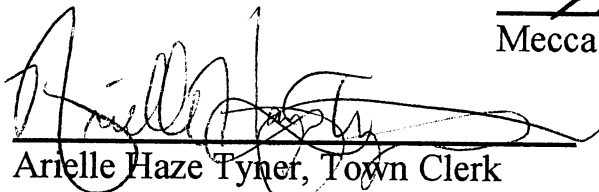
TOWN

TOWN OF SOUTHWEST RANCHES

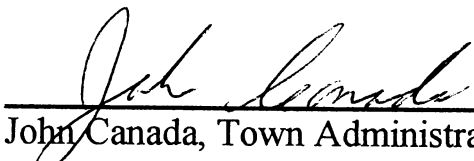
ATTEST:



Mecca Fink, Mayor

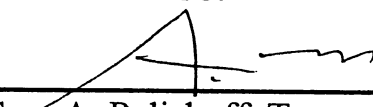


Arielle Haze Tynert, Town Clerk



John Canada, Town Administrator

APPROVED AS TO FORM AND
CORRECTNESS:

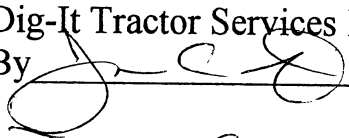
By 

Gary A. Poliakoff, Town Attorney

SERVICE PROVIDER

Dig-It Tractor Services Inc.

By



JAMES C. STANFIELD

Print

(Corporate Seal)

10th day of OCTOBER, 2002

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Proposal

A. Qualifications:

1. Similar Projects include:

Since May of 2001 Dig- It Tractor Services has been providing right of way Mowing in the Town of Southwest Ranches. On a as needed work order.

Other similar mowing contracts include, New Horizon Church in Southwest Ranches. Over 10 acre contract.

Caloosa Home owners Assoc. This is in Palm Beach County. 17 Miles of Canal Easements.

80- Acre park for City of Parkland.

2. Key Individual assigned to provide specific service.

Craig Stanfield

3. References

John Canada – Town Administrator 954 – 434- 0008

Alyn Kay - Landscape Architect 954 - 252 - 0965

Todd Flack - Florida Certified Landscape Contractor 954 – 680- 1619

John Shannon – City of Parkland 954-370-0007

4. Identification of Sub-Contractors

None

Dig-It Tractor Services currently maintains the following equipment:

- 1- TS 110 4- wheel drive 90 hp Tractor
- 2- TV 140 4-wheel drive 110 hp Tractor
- 3- 20 foot batwing mower
- 4- 8 foot bush hog mower
- 5- Articulated sidearm mower
- 6- 2yard front end loader with grapples
- 7 - Small commercial mower and brush trimmers

Services to be provided

Dig-It Tractor Services will provide contract mowing for right of ways , and Right of ways on North and South Griffin road located within the Town limits. Berms, access roads of various widths and around structures.

Work schedule is proposed for 9 - 10 cycles per year.

Services will be rendered according to:

Sections X. XI. XII. XIII. XIV. XV. XVI. XVII. Of RFP.

The scope of work is broken down in two parts, with only two fees.

- Mowing and trimming are performed in tandem and billed together.
- Canal bank cutting is included in mowing and trimming.
- Shrub management cutting (side arm vertical cutting) will be performed on a work order system. Minimum 8 hours @ \$65.00 per hour.

50.00 / hr

Note: Shrub management cutting will be assigned by priority according to town staff.

- **Mowing and trimming fee including canal banks.**

PROPOSED FEE PER MONTH : \$ 3400.00

Note: This price is per the RFP guidelines.

Note: Discount will be offered if contract could be performed in a split schedule
Mowing & Trimming, i.e. east side of I-75 first 10 days, west side of I-75 next 10
days.

PROPOSED FEE PER MONTH WITH DISCOUNT \$ 2800.00

- **Shrub Management Cutting fee . (side arm mower)**

PROPOSED FEE : Minimum 8 Hours @ \$ 65.00 per hour.

DIG IT TRACTOR SRVC. INC
Company or Firm Name


Authorized Signature

August 19th 2002
Date