

**RESOLUTION 2003-5**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT WITH STRELKOW & ASSOCIATES, INC. FOR GRIFFIN ROAD WIDENING LANDSCAPE ARCHITECTURE SERVICES; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on August 23, 2002, RFP proposals for Griffin Road Widening Landscape Architecture Services were received at Town Hall; and

**WHEREAS**, the Town established resident workshop meetings for resident input on the various aspects of the Griffin Road Widening; and

**WHEREAS**, one of the recommendations from the resident workshop meetings was for the Town to acquire the services of a professional landscape architect to provide input and direction for the Town; and

**WHEREAS**, the Town Council approved the recommendations of the residents, directed the results to be sent to the County and approved the procurement of the services.

**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 Strelkow & Associates, Inc. for Griffin Road Widening Landscape Architecture Services for an amount not to exceed \$35,000.

**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.

**Agreement**

**between**

**Town of Southwest Ranches**

**and**

**Strelkow Associates, Inc.**

**for**

**Landscape Consultant Services –  
Griffin Road Widening Project**

THIS IS AN AGREEMENT made and entered into by and between the Town of Southwest Ranches, a municipal corporation of the State of Florida, hereinafter referred to as "TOWN" and Strelkow Associates, Inc., hereinafter referred to as "CONSULTANT".

WHEREAS, the Town of Southwest did advertise for landscape Consultant Services- Griffin Road Widening Project, and

WHEREAS, proposals were received by the Town of Southwest Ranches on August 23, 2002, and

WHEREAS, on September 12, 2002 the Town Council approved the Agreement for Landscape Consultant Services -Griffin Road Widening Project.

NOW THEREFORE, in consideration of the foregoing premises and the mutual terms and conditions herein, the TOWN and CONSULTANT hereby agree as follows:

1. **Scope and Description of Services To Be Performed By Consultant:**

Upon execution of this Agreement the CONSULTANT shall immediately commence to perform the landscape architectural duties and responsibilities as defined and described in the Scope of Services labeled and attached to this Agreement as Exhibit "A" ("Services"). Consultant hereby represents and warrants to the TOWN that all Services rendered pursuant to this Agreement shall be performed in accordance with the standard of care for landscape design professionals in Broward County, Florida that render professional landscape design Services to municipalities. The Services rendered by Consultant shall include those Services referenced in Exhibit "A". The Consultant shall perform all Services in the most expeditious and economical manner consistent with the interests of the TOWN. To the extent that Consultant becomes aware that any construction work ("Work") performed by the contractor selected by the TOWN to perform the Work ("Contractor") is not in accordance with the standards referenced herein, Consultant shall promptly notify the TOWN in writing upon the discovery of any non-compliant work. Consultant shall perform its Services in compliance with the requirements of the applicable edition of the Florida Building Code with Broward County Amendments and other local jurisdictional codes,

laws, regulations and ordinances. and in accordance with the terms of this Agreement.

## **2. Consultants:**

The Consultant warrants that it and all of its sub-consultants are properly licensed to perform all Services relative to this Agreement.

a. A sub-consultant is a person or entity who has a direct Contract with the Consultant to perform any of the Work described in this Agreement at the Project.

b. The Consultant shall be responsible to the TOWN for the acts and omissions of its employees, sub-consultants and their respective employees performing any of the services under this Agreement.

c. The Consultant shall have the sole obligation and responsibility to select, control and supervise all consultants. All sub-consultants rendering services on the Project shall be licensed to perform such Services. The Consultant may not contract with anyone with whom the TOWN has a reasonable objection.

d. The Consultant and its sub-consultant(s) shall perform without expense to the TOWN, such professional services as may be required to correct or remedy any negligent act, error or omission of the Consultant or its sub-consultants.

## **3. Quality of Services:**

The Consultant shall be responsible for the professional quality and technical accuracy of Services furnished by the Consultant pursuant to this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its-Services that it renders to the TOWN.

TOWN's engagement of the Consultant is based upon the Consultant's representations to the TOWN that:

- i) it is an organization of experienced Consultant professionals authorized and licensed to do business in Florida;

ii) it is qualified, willing and able to perform the Services for the Project; and

iii) it has the expertise and ability to provide the Services to meet the TOWN'S objectives and requirements.

#### **4. Contract Sum For Services Rendered :**

TOWN and CONSULTANT agree that the compensation under this Agreement shall be a stipulated lump sum amount including reimbursable expenses of Thirty-Five Thousand (\$35,000.00) Dollars ("Contract Sum"). TOWN shall provide an initial payment for up front setup and administrative costs in the amount of Five Thousand (\$5,000.00) Dollars which amount is included in the Contract Sum. All other payments shall be made by the TOWN to the Consultant within thirty (30) consecutive calendar days after receipt of an invoice accompanied by supporting documentation as the TOWN may reasonably require. Upon receipt of each payment, Consultant shall furnish the TOWN with appropriate Partial and Final Releases of Lien including those from its sub-consultants. Payment may be withheld by the TOWN on account of Consultant's failure to perform its obligations contemplated by this Agreement. However, payment shall not be withheld for Services performed for which there is no dispute.

#### **5. Term:**

TOWN and CONSULTANT agree that this Agreement shall be for a period up to and including the end of the landscape and irrigation guarantee period on the Griffin Road – Widening Project. Based upon mutual agreement and approval by the Town Council this Agreement may be extended.

#### **6. Assignment and Performance:**

All Services pursuant to this Agreement shall be performed by the CONSULTANT and none of the Services shall be subcontracted to other parties or firms without the express written consent and approval of the Town Administrator.

## **7. Indemnification:**

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless the TOWN, its directors, officers, members, and their respective employees (hereafter collectively referred to as "Related Parties"), from and against all liability, claims, damages, losses and expenses, including, but not limited to, attorneys' fees, expert witness fees and other consultant fees to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of Services rendered by the Consultant for the Project. The foregoing indemnity from the Consultant shall not extend to liability resulting from the negligence of the TOWN or its Related Parties. This indemnification is in accordance with Section 725.08, Florida Statutes.

## **8. Insurance:**

8.1 Workers' Compensation Insurance, CONSULTANT to provide for all employees workers compensation insurance in compliance with the Worker's Compensation Law of the State of Florida.

8.2 Comprehensive General Liability Insurance, CONSULTANT to provide comprehensive general liability with minimum limit of One Million Dollars (\$1,000,000) per occurrence.

8.3 Automobile Liability Insurance, CONSULTANT to provide automobile liability insurance with a limit of at least \$100,000/\$300,000 per occurrence.

8.4 The insurance as required by this Agreement shall exclusively cover the Services of Consultant with respect to this Project, and not other projects of Consultant. Consultant shall not begin any Services at the Project until it has obtained all insurance required hereunder and has furnished a Certificate of Insurance to TOWN. The Certificate of Insurance shall name the TOWN as an additional insured with respect to its General Liability Insurance. The insurance required by this Subparagraph must be written by a company licensed in the State of Florida and the company must be reasonably acceptable to the TOWN. Copies of the pertinent insurance policies maintained by Consultant shall be made available for inspection and copying by the TOWN. This insurance shall be primary and other insurance of TOWN shall not be contributory. Consultant shall not cause any insurance policies to be cancelled or permit them to lapse during the period of performance of this Agreement. All policies must provide

that TOWN shall receive not less than thirty (30) consecutive calendar days notice of any cancellation. Certificates of Insurance shall be authenticated by the proper office of the insurer, evidencing in particular those insured, the extent of the Insurance, the location of and the operations to which the mentioned notice of cancellation clause. A copy of the Certificate of Insurance is labeled and attached to the Agreement as Exhibit "B". Consultant shall be responsible for verifying that all sub-consultants maintain Worker's Compensation Insurance.

**9. 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 Consultant shall be and remain liable to the TOWN in accordance with the applicable law for all damages to the TOWN caused by the CONSULTANT'S negligent performance of any of Services furnished under this Agreement. The rights and remedies of the TOWN as provided for under this Agreement are in addition to other rights and remedies provided by law.

**10. Accounting Records:**

The Consultant shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. The TOWN shall be afforded access to all Consultant's records related to this Project, including, but not limited to billing invoice records, and other supporting documentation regarding Services rendered to TOWN, as well as all books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement, as kept by Consultant in the normal course of business, and the Consultant shall preserve all such records for a period of five (5) years after the Final Payment. At the request of the TOWN, Consultant shall provide access to such records to the TOWN's insurance carrier.

**11. Termination:**

11.1 This Agreement may be terminated for cause by action of Town Administrator or by CONSULTANT upon providing a five (5) consecutive calendar day written notice by the party that elects to terminate based upon a material breach of this Agreement. The five (5) consecutive calendar day notice

shall constitute a cure period to enable the non-breaching party to cure the breach.

11.2 Termination of this Agreement for cause by the TOWN shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner that will meet or accomplish the objectives of the TOWN or for a material breach of this Agreement.

11.3 This Agreement may be terminated for convenience by action of Town Administrator or by CONSULTANT upon not less than fifteen (15) consecutive calendar day written notice.

11.4 In the event that this Agreement is terminated for convenience, CONSULTANT shall only be entitled to recover compensation for those Services performed to the date and accepted by the TOWN as of the date this Agreement is terminated. Upon being notified of TOWN'S election to terminate, CONSULTANT shall refrain from performing further Services or incurring additional expenses

## **12: Change of Agreement and Additional Services:**

12.1 TOWN and CONSULTANT 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 in accordance with the provision of the intent of the RFP for the services to be performed. The changes must be a written amendment, that is executed by the parties, with the same formality and of equal dignity of this Agreement, prior to any change from this Agreement. All Services rendered without compliance with this Paragraph shall be provided at the sole risk of the Consultant and TOWN shall have no obligation to pay for any Services rendered that is outside the Scope of Services as contemplated by this Agreement.

12.2 In the event that other municipal jurisdictions need to acquire the services provided under this Agreement said terms and consideration are available through this competitive negotiated Agreement.

## **13. 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. All disputes pursuant to this Agreement shall be brought in a court of competent jurisdiction and venue in Broward County, Florida.

14. **Alternative Dispute Resolution:**

If any dispute arises in connection with the performance of any obligation under this Agreement, the parties agree to consult with each other and consider the use of mediation or other form of alternative dispute resolution prior to resolving to litigation. Pending resolution of any dispute, the Consultant shall continue to perform its obligations under the Agreement to minimize interruptions in the rendering of Services and /or construction of the Project.

15. **No Assignment:**

This Agreement is personal to Association and cannot be assigned by the Architect without written approval of Association which consent shall not be unreasonably withheld.

16. **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.

17. **Time is of the Essence:**

Time is of the essence of this Agreement. 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.

18. **Waiver:**

No waiver of any provisions of this Agreement shall be valid unless in writing and signed by the party against whom it is to be entered.

19. **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 the TOWN and Consultant. Consultant shall not render any Services beyond the scope of this Agreement without written authorization from the TOWN. To the extent that Consultant renders additional Services without written authorization, Consultant shall perform such Services at its own risk, cost and expense. **This Agreement is the joint product of the parties and shall not be more strictly construed against any party to this Agreement.**

20: **Notice**

Notices to the parties as provided herein shall be by certified mail, return receipt requested overnight mail by recognized carriers such as Federal Express, to the following addresses.

**For 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  
Fort Lauderdale, Florida 33312-6525

**For CONSULTANT:**

Strelkow Associates, Inc.  
4474 Weston Road, Suite 144  
Davie, Florida 33331

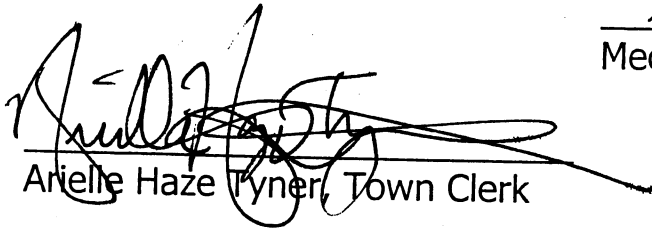
IN WITNESS THEREOF, THE PARTIES HERETO HAVE MADE AND EXECUTED THIS Agreement on the respective dates under each signature: TOWN OF SOUTHWEST RANCHES through its TOWN COUNCIL, signing by and through its

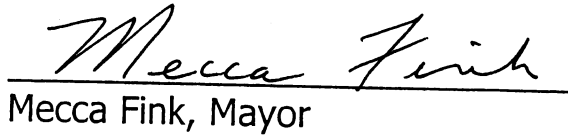
Mayor or Vice-Mayor, authorized to execute same by Council action on the 10<sup>th</sup> of October, 2002 and Town of Southwest Ranches signing by and through its Mayor, duly authorized to execute same.

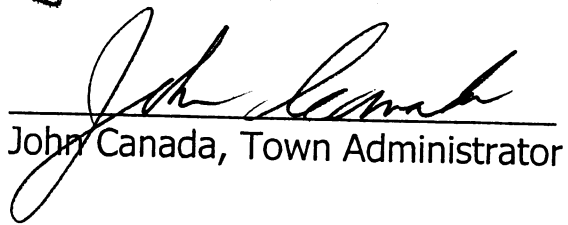
TOWN

TOWN OF SOUTHWEST RANCHES


ATTEST:

  
Arielle Haze Tynner, Town Clerk

  
Mecca Fink, Mayor


  
John Canada, Town Administrator

APPROVED AS TO FORM AND  
CORRECTNESS:

By   
Gary A. Poliakoff, Town Attorney

CONSULTANT

Strelkow Associates, Inc.

By   
DEBORAH F. STRELKOW  
Print

(Corporate Seal)  
7<sup>th</sup> day of November, 2002

## **Exhibit "A"**

### **Scope of Services**

- Task 1     Preliminary Meeting with Town Staff and Agencies
- Meeting to discuss and receive Town project criteria and review overall time frame plan and strategy
  - Meeting with County officials and County consultants to obtain all necessary project information and project updates
- Task 2     Review County Landscape, Irrigation and Walkway Plans
- Review and recommend changes to the latest landscape, irrigation and walkway plans prepared by County consultant
  - Comments and typical section plans and specifications will be based upon creativity and Town criteria
  - Review and recommend changes to written specifications provided by County consultant
  - Prepare draft report listing findings and recommendations and present to Town for review and comment
- Task 3     Modification of County Plan
- Meetings in coordination with Town staff with County and County consultant to present the finding, recommended changes
  - Determine time frame changes and cost for the modification of County Plan to meet recommendations, if necessary
  - Provide necessary updates and revisions to recommendations based upon County discussions
- Task 4     Maintenance Program