

**RESOLUTION 2003-38**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AUTHORIZING THE SELECTION OF A DESIGNER FOR "RURAL IDENTIFICATION DESIGN PROGRAM" GRANT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, at the January 16, 2003 Town Council Meeting, a presentation was made discussing the application for a design arts grant; and

**WHEREAS**, pursuant to Resolution 2003-34, a Public Arts Advisory Committee was established on February 13, 2003; and

**WHEREAS**, The Public Arts Advisory Committee has reviewed the submitted design work and will recommend their highest ranked designer; and

**WHEREAS**, the Town Council has determined that it will select a designer for the "Rural Identification Design Program."

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

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

**Section 2:** The Town Council of the Town of Southwest Ranches approves the Rural Public Arts Advisory Committee recommendation of the highest ranked proposer, Cimetta Design (Ken Cimetta), to provide design for the "Rural Identification Design Program."

**Section 3:** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 13<sup>th</sup> day of March 2003

Mecca Fink  
Mecca Fink, Mayor

Attest:

Arielle Haze Tyner  
Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:

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

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RES 2005-38

**Contract**  
**Between**  
**Town of Southwest Ranches**  
**And**  
**Cimetta Design, Inc.**  
**For Rural Identification Design**

THIS AGREEMENT, by and between the TOWN OF SOUTHWEST RANCHES, a municipal corporation of the State of Florida, hereinafter referred to as "TOWN" and CIMETTA DESIGN, INC. hereinafter referred to as "CONSULTANT".

All references to "days" in this CONTRACT shall be interpreted to mean "consecutive calendar days" unless otherwise stated.

W I T N E S S E T H, that CONSULTANT and TOWN, for the consideration hereinafter named, agree as follows:

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

### **ARTICLE 1** **SCOPE OF SERVICES**

Upon execution of this Contract, the CONSULTANT shall immediately commence to perform the duties and responsibilities as defined and described in the "Scope of Services" labeled and attached to this Contract as Exhibit "A". All Services shall be provided in accordance with the standard of care for rural design services rendered to municipalities in Broward County, Florida. All Services rendered pursuant to this Contract shall comply with all applicable building codes, ordinances and regulations of the TOWN and Broward County, Florida .

### **ARTICLE 2** **CONTRACT SUM**

TOWN and CONSULTANT agree that the compensation under this Contract to perform all Services set forth in Exhibit "A" shall be a lump sum stipulated maximum amount, including reimbursable expenses of Thirty-Thousand (\$30,000.00) Dollars. CONSULTANT assumes all risks and responsibilities for performing all Services on behalf of the TOWN for the Contract Sum. The TOWN shall not be liable for any cost increases associated with labor or material that may arise during the performance of Services. In the event the cost of the Services exceed the Contract Sum, CONSULTANT shall pay such excess from its own funds and the TOWN shall not be required to pay any part of such excess. The only exception shall be any adjustments to the Contract Sum by written Change Order issued in accordance with the terms and conditions of this Contract To the extent that CONSULTANT proceeds to perform additional Services in excess of those Services described in Exhibit "A" without an executed written Change Order issued in accordance with this Contract, such Work shall be at CONSULTANT'S own risk at no charge to TOWN.

**ARTICLE 3**  
**PAYMENT TO CONSULTANT**

TOWN and CONSULTANT agree that payment of any portion of the Contract Sum shall be made on a per Phase basis upon completion of each Phase of Services referenced in the Compensation Schedule labeled and attached to this Contract as Exhibit "B". Once CONSULTANT has completed a specific Phase of Services, an invoice shall be submitted to the TOWN requesting payment. The TOWN shall pay the invoice but only after verification by the TOWN that all Services for a particular Phase has been satisfactorily completed in accordance with this Contract. CONSULTANT shall furnish with each invoice a properly executed Release of Lien for the amount set forth in the invoice. Payment may be withheld by TOWN should CONSULTANT fail to satisfactorily perform any of the Services or provide the Documentation to the TOWN as set forth in Exhibit "A".

**ARTICLE 4**  
**TERM**

The Services rendered by CONSULTANT pursuant to this Contract shall be completed on or before September 30, 2003, time being of the essence. Based upon mutual agreement of the parties and written approval by the Town Council the term of this Contract may be extended.

**ARTICLE 5**  
**ASSIGNMENT AND PERFORMANCE**

All Services rendered pursuant to this Contract 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. In consideration of the Contract Sum as referenced above, CONSULTANT covenants to the TOWN that it is the sole owner and creator of all original work generated and furnished to TOWN pursuant to this Contract. CONSULTANT assigns all right, title and interest to all work generated by the Services rendered pursuant to this Contract to TOWN including but not limited to all intellectual property rights, i.e., trademark, copyright, servicemark, etc., and moral rights (VARA). It is further acknowledged and agreed by the parties that all work and services rendered pursuant to this Contract shall become the exclusive property and intellectual property of the TOWN. As the sole property owner of all Services and work generated therefrom as provided by CONSULTANT, the TOWN may make any modifications, substantial or otherwise and any licensing or other rights with respect to Services and work generated Services rendered shall be in the sole discretion of the TOWN.

**ARTICLE 6**  
**INDEMNIFICATION BY CONSULTANT**

To the extent permitted by law, CONSULTANT, shall defend, save harmless and indemnify TOWN and its officers, and employees from liabilities, damages, losses and costs including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT arising out of the CONSULTANT'S acts or omissions while providing all Services pursuant to this Contract. The CONSULTANT shall not guarantee or be responsible for the performance of services and furnishing of products by any contractor, sub-contractor, CONSULTANT, manufacturer, supplier or fabricator retained by other persons or entities .

**ARTICLE 7**  
**CONTRACT DOCUMENTS**

This Contract and attached Exhibits "A" and "B" shall govern this Project. Where there is a conflict between any provision set forth within the Contract Documents and a more stringent state or federal provision which is applicable to this Project, the more stringent state or federal provision shall prevail.

This Contract 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.

**ARTICLE 8**  
**APPLICABLE LAW AND VENUE**

This CONTRACT shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this CONTRACT and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction and venue of an appropriate Court of competent jurisdiction of the Seventeenth Judicial Circuit of Broward County, Florida. **BY ENTERING INTO THIS CONTRACT, CONSULTANT AND TOWN HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF OR RELATING TO THIS PROJECT.**

**ARTICLE 9**  
**INSURANCE**

CONSULTANT to provide for all employees workers compensation insurance in compliance with the Worker's Compensation Law of the State of Florida as well as General Liability Insurance as outlined in a Certificate of Insurance as furnished to the TOWN at the time of execution of this Contract. At the TOWN'S option and request, CONSULTANT shall provide a copy of required insurance policies to the TOWN. All certificates and endorsements required herein shall state that TOWN shall be an additional insured and be provided with thirty (30) days notice prior to expiration or cancellation of said policy.

**ARTICLE 10**  
**NOTICE**

Whenever either party desires to give notice unto the other, such notice must be in writing, return receipt requested, 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:

For TOWN:

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

With a copy to :

Steven B. Lesser Esquire  
Becker & Poliakoff, P.A.  
3111 Stirling Road  
Ft. Lauderdale, Florida 33112-6525

For CONSULTANT:

Ken Cimetta  
Cimetta Design, Inc.  
18251 SW 52<sup>nd</sup> Court  
Southwest Ranches, Florida 33331

**ARTICLE 11**  
**TERMINATION**

This Contract may be terminated for cause by action of Town Administrator or by CONSULTANT upon immediate written notice by the party that elects to terminate. Termination of this Contract for cause shall include, but not be limited to, failure to satisfactorily perform the Services, failure to timely or continuously perform the Services in a manner that will meet or accomplish the objectives of the TOWN.

This Contract may be terminated for convenience by action of Town Administrator or by CONSULTANT upon not less than fifteen (15) days written notice. In the event that this Contract is terminated for convenience, CONSULTANT shall be paid for any Services performed to the date this Contract is terminated. Upon being notified of TOWN'S election to terminate, CONSULTANT shall refrain from performing further Services or incurring additional expenses.

**ARTICLE 12**  
**ADDITIONAL SERVICES**

TOWN and CONSULTANT may request changes that would increase, decrease or otherwise modify the Scope of Services to be provided under this Contract. Such changes must be made by written agreement in the form of Change Order executed by all parties, with the same formality and of equal dignity of this Contract, prior to any change from this Contract.

**ARTICLE 13**  
**MISCELLANEOUS**

Where necessary to effectuate the intent of the parties, the agreements herein shall survive closing. This CONTRACT is personal to the TOWN and cannot be assigned by the CONSULTANT without written approval of the TOWN. This Contract replaces any and all prior agreements or understandings between the parties hereto (whether written or oral) and cannot be modified except as a written document signed by the TOWN and the CONSULTANT.

**ARTICLE 14**  
**MEDIATION**

The parties shall endeavor to resolve any and all claims arising from this Contract by mediation which, the parties will mutually agree to otherwise, shall be conducted pursuant to the Construction Industry Mediation Rules of the American Arbitration



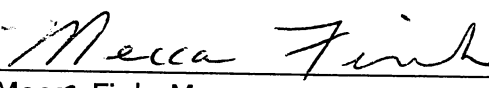
Association currently in effect. A request for mediation shall be filed, in writing, with the other party to the Contract. To the extent litigation is permitted under this Contract, the request may be made concurrently with the filing of a legal or equitable proceedings, which shall be stayed pending the outcome of a mediation which will be completed within sixty (60) days from the date a request for mediation is submitted to the other party unless the parties agree to an extension. The statute of limitations of any claim shall be tolled from the date mediation is requested until completed. To the extent the parties cannot mutually select a mediator, within fifteen (15) days, from the date a request for mediation has been submitted, either party can request the American Arbitration Association to appoint a mediator with construction experience to serve as mediator. The mediator selected to serve shall be certified by the Florida Supreme Court. The mediation shall be conducted in Broward County, Florida.

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, authorized to execute same by Council action on the 10 of April, 2003 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

  
\_\_\_\_\_

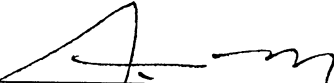
Arielle Haze Tyner, Town Clerk

  
\_\_\_\_\_

John Canada, Town Administrator

APPROVED AS TO FORM AND  
CORRECTNESS:

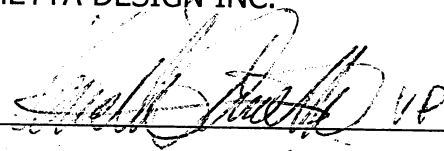
By

  
\_\_\_\_\_  
Gary A. Poliakoff, Town Attorney

CONSULTANT

CIMETTA DESIGN-INC.

By

 VP

KENNETH CIMETTA  
Print Name

(Corporate Seal)

\_\_\_\_<sup>th</sup> day of April, 2003

## **Exhibit "A"**

### **Scope of Services**

**I. CONSULTANT:** Cimetta Design, Inc., Ken Cimetta, to provide design development services, cost estimations, and to facilitate a series of public meetings to identify and create design concepts for the proposed Rural Identification Design Program.

The Rural Identification Design Program would entail the development of six (6) prototypical design concepts for:

- 1.) Entranceways into the town (Major, Secondary)
- 2.) Multi-purpose Equestrian Signage (way finding, Caution, Information, Crossings)
- 3.) Public Parks (Entrances, equestrian entrance, parking, restroom, trail, entrance, exit, water way, canoe trail, community entrance, main entrance, secondary, graphic interpretative;
- 4.) Neighborhood Entranceways;
- 5.) Town Hall (Main Grounds, Building, Parking, Ent
- 6.) Docking and parking directionals. The design concepts will help establish a sense of arrival, and the community's character.

The design team, along with the homeowners associations: i.e. Ivanhoe Estates, South Florida Trail Riders Association, Rolling Oaks Civic Association, Green Meadows Homeowners Association, and the Town's public art subcommittee, will facilitate public meetings to discuss an over-all concept, or vision, that enhances, or develops, the existing sense of place for the homeowner's associations in the neighborhoods adjacent to the proposed Rural Identification Design Program project. The design team will also use the public meetings to discuss visual identity needs for the neighborhood(s) and the municipality, and to present the professional design team's final drawings and reports.

### **II. PUBLIC MEETINGS**

A. CONSULTANT will meet with Town Staff, Grants Administrator and public arts committee to review overall time frame and strategy.

B. CONSULTANT agrees to complete, a minimum of four (4) of public meetings or community workshops where the design team will elicit input and participation from the homeowner's associations, the public art subcommittee, and residents in the neighborhoods nearest the proposed Rural Identification Design Program under consideration for the entranceway enhancement design projects. These public meetings and community workshops will be used to determine the primary issues for consideration in the design development and creation of design concepts and themes for the proposed Rural Identification Design Program integrating the natural

landscape and design elements to be implemented for each neighborhood and the Town's public lands. The public meetings will also be used to discuss and elicit input and participation from the residents for creation of an overall visual concept, or identity that develops a sense of place for the neighborhoods and the municipality.

The final round of public meetings will be used for the presentation of final conceptual designs, drawings, and plans for the proposed entrance-ways enhancement design project to the Town Council of Town of Southwest Ranches and to further refine and develop recommendations for the future.

### **III. DOCUMENTATION**

A. CONSULTANT agrees to complete one (1) preliminary narrative report on the results of the public meetings and community workshops, including preliminary sketches of the concepts for the proposed entrance-ways enhancements with the Rural Identification Design Program design project (to include specific examples of site planning and schematic designs). These items will be provided to SWR no later than one (1) month before the expiration of this agreement, August 30, 2003.

B. CONSULTANT shall complete one (1) final narrative report and final conceptual designs, drawings, and schematic designs the final conceptual designs, drawings, and preliminary cost estimates for the proposed design project. The final schematic designs covering the six (6) prototypical design areas will be presented to the TOWN on oversized foam board suitable for presentation and also reduced to 8½" by 11" sheets. This information should suitable for presentation for individual or collective design commissions that could lead to design development and construction. Final submission should include drawings incorporated into a "Concept Design Manual" as described above, narrative description, cost estimations, and implementation budget for the design components. These items will be provided to SWR by September 30, 2003.

**Exhibit "B"**  
**Compensation**

		<u>TOWN</u>	<u>GRANT</u>
Phase I	Up front setup and administrative costs	\$2,500	-0-
Phase II	Completion of public meetings/community workshops (includes \$4,000 reimbursement from County grant)	\$2,500	\$4,000
Phase III	Preliminary narrative report with preliminary sketches of the projects design concepts (includes \$5,500 reimbursement from County grant)	\$5,000	\$5,500
Phase IV	Final narrative report and final conceptual designs, drawings, schematic designs and preliminary cost estimates for the proposed design project (includes \$5,500 reimbursement from County grant)	<u>\$5,000</u>	<u>\$5,500</u>
<b>Total</b>		<b>\$15,000</b>	<b>\$15,000</b>