

**RESOLUTION NO. 2004 - 68**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN AGREEMENT WITH URBAN ASSOCIATES, INC. IN ACCORDANCE WITH THE "DESIGN ARTS PROGRAM"; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT WITH URBAN ASSOCIATES, INC. FOR \$30,000.00; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town has been awarded a \$15,000 matching grant as part of Broward County's Cultural Council Grant Program, to help develop a design plan for the Town's Rural Identity Entranceway Project; and

**WHEREAS**, in furtherance of the grant, the Town issued a request for proposals ("RFP") seeking a vendor for this project; and

**WHEREAS**, the Town's Public Arts Advisory Committee reviewed the RFP responses and recommended Urban Associates, Inc. for this project; and

**WHEREAS**, on March 11, 2004, the Town Council accepted the Public Arts Advisory Committee's recommendation and adopted Resolution No. 2004-48, which selected Urban Associates, Inc. for this project; and

**WHEREAS**, in furtherance of the Town Council's selection an Agreement between the Town and Urban Associates, Inc. has been created.

**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.

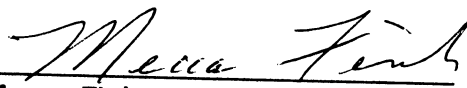
**Section 2:** The Town Council hereby approves an agreement between the Town of Southwest Ranches and Urban Associates, Inc in the amount of Thirty Thousand Dollars (\$30,000) for the development of a design plan for the Town's Rural Identity Entranceway Project.

**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, Florida, this 13 day of May 2004, on a motion by Council Member Maines and seconded by Council Member Blanton.

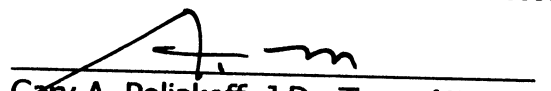
Fink	<u>Y</u>	Ayes	<u>5</u>
Knight	<u>Y</u>	Nays	<u>          </u>
Blanton	<u>Y</u>	Absent or	<u>          </u>
Maines	<u>Y</u>	Abstaining	<u>          </u>
Nelson	<u>Y</u>		

  
\_\_\_\_\_  
Mecca Fink, Mayor

ATTEST:

  
\_\_\_\_\_  
Shari Canada, Town Clerk

Approved as to Form and Correctness:

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

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6/28/04

**Contract  
Between  
Town of Southwest Ranches  
And  
Urban Associates, 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 URBAN ASSOCIATES, 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 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.

Application fees, if required, for permits and other agency approvals shall be paid directly by the 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'S Project Manager, Lee Rickles, requesting payment. The Project Manager shall review the invoice and shall determine if the invoice is ripe for payment through the verification that all Services for a particular Phase has been satisfactorily completed in accordance with this Contract. The Project Manager's recommendation concerning the payment shall be signed, dated, and shall be written directly on the invoice. The invoice shall then be submitted directly to the Town Administrator for processing. CONSULTANT shall furnish with each invoice a properly executed Release of Lien, a sample of which will be provided by the TOWN, 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".

Payment is due as of the date the Program Manager approves the invoice. A monthly service charge of one and one-quarter percent (1.25%) of the invoice amount, with a maximum annual rate of fifteen percent (15%), will be applied to all invoices not paid within thirty (30) days from the date of the Program Manager's approval. CONSULTANT shall have the right to suspend services on this project if payment is made beyond the thirty day period prescribed above. CONSULTANT'S suspension of services shall continue until the overdue amount is paid in full. Any delays caused by the suspension of services, or costs incurred as a result thereof, shall be the responsibility of the TOWN.

**ARTICLE 4**  
**TERM**

The Services rendered by CONSULTANT pursuant to this Contract shall be completed on or before September 30, 2004, 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 be considered work product and 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.

The CONSULTANT shall not be held liable for any signed and sealed plans that are independently modified or altered by 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**

To the extent applicable, CONSULTANT will provide for all employee 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 :

Keith M. Poliakoff, Esquire  
Becker & Poliakoff, P.A.  
3111 Stirling Road  
Ft. Lauderdale, Florida 33112-6525

For CONSULTANT:

Urban Associates, Inc.  
Attn: Leo Urban  
9671 Aloe Road  
Boyton Beach, Florida 33436

**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, and failure to pay consultant as provided herein.

This Contract may be terminated for convenience by action of Town Administrator or by CONSULTANT upon not less that fifteen (15) day's 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. The prevailing party, if applicable, in any proceeding shall be entitled to recover reasonable costs and attorney fees at all tribunal levels.

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 13<sup>th</sup> of May, 2004 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

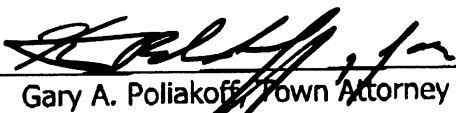
  
\_\_\_\_\_

Shari Canada, Town Clerk

  
\_\_\_\_\_

John Canada, Town Administrator

APPROVED AS TO FORM AND  
CORRECTNESS:

By   
\_\_\_\_\_

Gary A. Poliakov, Town Attorney

CONSULTANT

URBAN ASSOCIATES, INC.

By *Leo Urban, President*  
Leo Urban, President

(Corporate Seal)

20<sup>th</sup> day of June, 2004

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## **Exhibit "A"**

### **Scope of Services**

The CONSULTANT, Urban Associates, Inc., represents that it has assembled a professional design team comprised of the following: Urban Associates, Inc. Landscape Architects (lead), with Leo F. Urban, Donna Vohwinkel, and Brian Euell; Ken Cimetta of Cimetta Design (graphic designer); Jeff Trompeter of Civil design, Inc. (civil engineering and land surveying); Kenneth J. Kirsch of Hirsch Architects, Inc. (architect); Adam Ginsburg of Ginsburg Engineering, LLC (structural engineering); Jeremy Chancey (environmental studies, wetland migration, horticultural, Lake Littoral Planting Design) (Collectively the "Design Team"). This Design Team shall provide design development services, cost estimations, and will facilitate a series of public meetings, as delineated below, to identify and to create design concepts for a Rural Identity Design Entranceway Project as part of the Town's Rural Identification Design Program. The Design Team will be engaged to develop design concepts for three quarter (3.75) acre passive park parcel at the northeast entrance into the TOWN. The design concepts shall create both a sense of place, and connect this parcel to the adjacent regional greenway, with an entry gateway feature and elements that create a unique vista.

#### **Rural Identity Design Entranceway Project**

This Rural Identity Design Entranceway Project ("Entranceway Project") shall entail the development of a complete design plan that shall involve: trail connections, serene water features, bike facility, shaded areas, multipurpose trails at grade level at the crossing of Griffin Road and the C-11 Canal corridor, design of a rural crossing bridge, over the C-11 Canal connection to regional greenways trails to serve as an identity marker to the TOWN.

#### **Public Meetings**

The Design Team, shall coordinate with the appropriate Town Staff, and shall facilitate public meetings to discuss an over-all design concept or vision, that enhances, or develops the existing sense of place for the TOWN's passive park and Entranceway Project by creating design concepts that create both a sense of place and connect this parcel to the adjacent regional greenways.

The Design Team shall conduct a minimum of four (4) public meetings and community workshops. A minimum of three (3) of the public meetings and community workshops will be used by the design team to elicit input and participation from the Town of southwest Ranches community, including the homeowner's associations, the Public Art Advisory Committee, and residents in the neighborhoods near the proposed Rural Identity Design Entranceway Project under consideration. These public meetings and community workshops will be used to determine the primary issues for consideration in

the design development and the creation of design concepts and themes for the proposed project.

The fourth public meeting will be used for the presentation of final conceptual designs, drawings, and plans for the proposed design project to the TOWN Council for approval, and to further refine and develop recommendations for the future.

#### **Preliminary Narrative**

CONSULTANT agrees to complete a preliminary narrative needs assessment report on the results of the public meetings and community workshops, and preliminary sketches of the design concepts for the proposed Rural Identity Design Entranceway Project (to include specific examples of site planning and schematic designs). CONSULTANT shall provide these items to the TOWN no later than fifteen (15) calendar days before the expiration of this Agreement.

#### **Final Designs**

CONSULTANT agrees to complete the final conceptual designs, drawings, and cost estimates for the proposed design project. The final schematic designs will be presented to the TOWN on oversized foam board suitable for presentation and also reduced to 8 1/2" by 11" sheets. This information shall be suitable for presentation for individual or collective design commissions that will lead to design development and construction. Final submission shall include drawings as described above, narrative description, cost estimations and method of installation, and implementation budget for the design components. Final submission for the above is due no later than fifteen (15) calendar days following the expiration of this Agreement.

#### **Final Narrative Report**

CONSULTANT agrees to complete a final narrative report describing the municipality's proposed Rural Identity Design Entranceway Project and design project for the development of the design sign concepts. Final submission for the above is due no later than fifteen (15) calendar days following the expiration of this Agreement.

#### **Required Documentation of Services Rendered**

CONSULTANT shall provide, as an attachment to the units of service invoice, a brief description of activities and programs, and list the hours the staff worked, and the rate of pay for each staff and design team member during the period covered by the invoice. In addition to the documentation and deadline requirements specified above, CONSULTANT shall provide with its invoice copies of the Design Team's invoice(s). The Design Team's invoice(s) must include information, which clearly relates all amounts

billed to the requirements of this Project. Final invoice shall include documentation of the completion of all items not previously submitted.

### **Project Evaluation Report**

CONSULTANT shall provide a Project Evaluation Report within fifteen (15) calendar days after the completion of the project.

**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>

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**Town Deliverables**

Phase V

Due by November 1, 2004

Final Construction Drawings Adequate to Receive building permits including:

- Outline of Specifications
- Architectural Plans
- Site Sections & Details
- Landscape Plan
- Irrigation by Others

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