

RESOLUTION NO. 2005 - 026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH RICHARD S. RUBIN, INC. FOR GRANT WRITING, PRESENTATION, GRANT ADMINISTRATION, PARTNERSHIP AND GENERAL CONSULTING SERVICES; AMENDING THE AGREEMENT TO AVOID A POTENTIAL CONFLICT WITH THE BROWARD COUNTY COMMISSION; AMENDING THE AGREEMENT TO PROVIDE AN EXCLUSIVITY PROVISION; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO THE AMENDMENT TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 13, 2004, pursuant to Resolution 2004-69, the Town contracted with Richard S. Rubin, Inc. to provide grant writing presentation, grant administration, partnership and general consulting services; and

WHEREAS, Section 2.4 of the Agreement provides for a grant administration fee when the cumulative value of the various grant awards equals a minimum increment of One Million Dollars; and

WHEREAS, the Town desires to amend Section 2.4 to clarify its original intent that the grant administration fee does not include grants received from Broward County; and

WHEREAS, this amendment will help to prevent any potential conflicts of interest with the County Commission; and

WHEREAS, the Town also wishes to amend the Agreement to clarify its original intent that any new grant writing activities performed by Richard S. Rubin, the principal of Richard S. Rubin, Inc., shall be exclusively for the Town of Southwest Ranches.

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 approves the First Amendment to the Agreement with Richard S. Rubin, Inc.

Section 3. The Town Council hereby amends its Agreement with Richard S. Rubin, Inc. to clarify its original intent that the grant administration fee shall not include grants received from Broward County, thereby eliminating any potential conflict of interest with Broward County.

Section 4. The Town Council hereby amends its Agreement with Richard S. Rubin, Inc., to provide that new grant writing activities of Richard S. Rubin, the principal of Richard S. Rubin, Inc., shall be exclusively for the Town of Southwest Ranches.


Section 5. The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into the amended 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 6. 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 9th day of December 2004, on a motion by Vice Mayor Knight and seconded by Council Member Jeff Nelson.

Fink Y
Knight Y
Blanton Y
Maines Y
Nelson Y

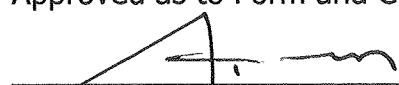
Ayes 5
Nays 0
Absent or
Abstaining 0



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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EXHIBIT "A"

FIRST MODIFICATION TO AGREEMENT

NYR **THIS FIRST MODIFICATION TO AGREEMENT** entered into as of the *9th* day of *December* ~~January~~, 2005 *NYR* between the Town of Southwest Ranches, a municipal corporation of the State of Florida (the "Town") and Richard S. Rubin, Inc., a corporation of the State of Florida ("Consultant"), for the purpose of amending the Agreement between the Town and Consultant dated May 13, 2004 (the "Original Agreement").

WITNESSETH:

WHEREAS, on May 13, 2004, pursuant to Resolution 2004-69, the Town contracted with Richard S. Rubin, Inc. to provide grant writing presentation, grant administration, partnership and general consulting services; and

WHEREAS, Section 2.4 of the Agreement provides for a grant administration fee when the cumulative value of the various grant awards equals a minimum increment of One Million Dollars; and

WHEREAS, the Town desires to amend Section 2.4 to clarify its original intent that the grant administration fee does not include grants received from Broward County; and

WHEREAS, this amendment will help to prevent any potential conflicts of interest with the County Commission; and

WHEREAS, the Town also wishes to amend the Agreement to clarify its original intent that any grant writing activities performed by Richard S. Rubin, the principal of Richard S. Rubin, Inc., shall be exclusively for the Town of Southwest Ranches.

NOW THEREFORE, for and in consideration of the premises and for Ten Dollars (\$10.00) and for other good and valuable consideration the receipt and sufficiency whereof is hereby acknowledged, the parties hereto agree that the Original Agreement shall be amended as follows:

1. The foregoing recitals are true and correct.
2. Section 2.4 "Grant Administration" shall be amended to read as follows:

2.4 Grant Administration

Town and Consultant agree that when the cumulative value of the various grant awards equals a minimum increment of One Million Dollars (\$1,000,000), excluding any Broward County grant awards, Consultant shall receive an additional grant administration fee in the amount of Fifteen Thousand Dollars (\$15,000). Said additional grant administration fee shall be payable only upon the Town's actual receipt of the grant funds, and upon written notice from Contractor, the month following the date when the aggregate awards actually received reach such minimum level, and shall only be paid a maximum of four (4) times during the Term of this Agreement, for a maximum combined payment of Sixty Thousand Dollars (\$60,000), indicating that the Town has been awarded a minimum of Four Million Dollars (\$4,000,000) in combined grant awards, excluding any Broward County grant awards. This provision shall not apply to any grants applied for or grants awarded to the Town prior to the execution of this Agreement.

3. Section 19 "Exclusivity" shall be added to read as follows:

19. Exclusivity

In further consideration of the compensation set forth above, and for other good and valuable consideration the receipt and sufficiency whereof is hereby acknowledged, Town and Consultant agree that any and all grant writing activities of Richard S. Rubin, the principal of Consultant, shall be exclusively for the Town. Said exclusivity may be modified upon a majority approval of the Town Council.

4. Section 20 "Insurance" shall be added to read as follows:

20. Insurance

20.1 Without limiting any of the other obligations or liabilities of CONSULTANT, CONSULTANT shall provide, pay for, and maintain in force until all of its Work to be performed under this Agreement has been completed and accepted by TOWN (or for such duration as is otherwise specified hereinafter) all insurance specified herein. The TOWN shall be named as an additional insured of all the insurance policies to be acquired by the CONSULTANT for the Work and shall also be identified as the certificate holder on all certificates of insurance. The insurance required by this Contract shall be written by a company licensed in Florida and the company must reasonably be acceptable to the TOWN. The insurance required by this Section shall also cover all Work performed by

CONSULTANT'S employees, subcontractors and/or subconsultants pursuant to this Agreement. This insurance shall be primary and other insurance of the TOWN shall not be contributory. The insurance coverages to be acquired and maintained by the CONSULTANT are as follows:

20.2 Workers' Compensation Insurance to apply to employees in compliance with the "Worker's Compensation Law" of the State of Florida; and

20.3 Comprehensive General Liability Insurance: CONSULTANT to provide comprehensive general liability insurance with minimum limit of coverage of One Million (\$1,000,000.00) Dollars 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.

20.4 Professional Liability (Errors and Omissions): CONSULTANT to provide professional liability insurance for errors and omissions with minimum limit of coverage of One Million (\$1,000,000.00) Dollars per occurrence. The deductible shall not be more than Twenty-Five Thousand (\$25,000.00) Dollars.

20.5 Automobile Liability Insurance, CONSULTANT to provide automobile liability insurance to cover any auto with a limit of coverage of at least One Million (\$1,000,000.00) Dollars per occurrence.

20.6 CONSULTANT shall provide to TOWN a certificate of Insurance and a copy of required insurance policies as required by this Section. All certificates and endorsements required herein shall state that TOWN shall be given thirty (30) days notice prior to expiration or cancellation of said policy.

20.7 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.

20.8 Notice of Cancellation and/or Restriction--The Policy(ies) must be endorsed to provide TOWN with at least thirty (30) days notice of cancellation and/or restriction.

20.9 CONSULTANT shall furnish to the TOWN Administrator Certificates of Insurance or endorsements evidencing the insurance Coverage and the insurance policies specified above prior to the execution of the Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement. Approval of the insurance for the coverage amounts set forth herein shall not relieve or decrease the liability of the CONSULTANT in any way. Certificates of Insurance shall contain transcripts of the policies authenticated by the proper office of the insurer, evidencing in particular those insured, the extent of the insurance, the location of the office where communications and notices to and from the insurer shall be issued. CONSULTANT shall provide a per project endorsement acceptable to the TOWN.

20.10 UPON EXECUTION OF THIS AGREEMENT, CONSULTANT SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT THE TOWN OF SOUTHWEST RANCHES IS AN ADDITIONAL NAMED INSURED OR ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND THE OPERATIONS OF CONSULTANT UNDER THE AGREEMENT.

20.11 Cessation of Insurance – All insurance coverage required under this section shall remain in full force and effect for, at least, five (5) years after the expiration of this Agreement.

20.12 The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance documentation.

20.13 These insurance requirements shall not relieve or limit the liability of CONSULTANT. TOWN does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect CONSULTANT's interests or liabilities but are merely minimum requirements established by the Town Administrator. TOWN reserves the right to require any other insurance coverages that TOWN deems necessary depending upon the risk of loss and exposure to liability.

20.14 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against TOWN with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

20.15 CONSULTANT shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against TOWN for payment or assessments in any form on any policy of insurance.

20.16 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which TOWN is named as an additional named insured shall not apply to TOWN. TOWN shall use its best efforts to provide written notice of occurrence within thirty (30) working days of TOWN's actual notice of such event.

4. All other terms and conditions not modified herein shall remain of full force and effect and binding on the parties.

IN WITNESS WHEREOF, this First Modification is accepted and executed as of the 9 day of ~~January~~, ~~2005~~.
December, 2004

TOWN OF SOUTHWEST RANCHES

RICHARD S. RUBIN, INC.

Mecca Fink, Mayor

Richards S. Rubin, Principal

Attest:

Richard S. Rubin, Individual

Shari Canada, Town Clerk

Witness

Approved as to form and correctness:

Witness

Gary A. Poliakoff, Town Attorney

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20.15 CONSULTANT shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against TOWN for payment or assessments in any form on any policy of insurance.

20.16 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which TOWN is named as an additional named insured shall not apply to TOWN. TOWN shall use its best efforts to provide written notice of occurrence within thirty (30) working days of TOWN's actual notice of such event.

4. All other terms and conditions not modified herein shall remain of full force and effect and binding on the parties.

IN WITNESS WHEREOF, this First Modification is accepted and executed as of the ___ day of January, 2005.

TOWN OF SOUTHWEST RANCHES



Mecca Fink, Mayor

Attest:



Shari Canada, Town Clerk

Approved as to form and correctness:



Gary A. Poliakoff, Town Attorney
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RICHARD S. RUBIN, INC.

Richards S. Rubin, Principal

Richard S. Rubin, Individual

Witness

Witness