

RESOLUTION NO. 2006 – 064

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AWARDED DESIGN BUILD INNOVATIONS (DBA AS NATIVE TECHNOLOGIES) WITH THE PROPOSED MULTI-USE TRAILS PROJECT; APPROVING AN AGREEMENT WITH DESIGN BUILD INNOVATIONS (DBA AS NATIVE TECHNOLOGIES), WHICH ESTABLISHES THE SCOPE AND COMPENSATION FOR ITS SERVICES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 27, 2006, the Town, in compliance with the Town's procurement procedures, published a Request for Bid ("RFB") for the Proposed Multi-Use Trails Project; and

WHEREAS, on April 20, 2006, at 3:00 PM, the Town opened the two (2) responses that it received from Design Build Innovations (dba as Native Technologies) and Welling Construction, Inc.; and

WHEREAS, the bid proposals received from Design Build Innovations (dba as Native Technologies) were for \$50,586.58 (base bid), \$60,267.36 (alternate A) and \$28,197.03 (alternate B), and the bid proposals received from Welling Construction, Inc. were for \$116,100.00 (base bid), \$85,130.00 (alternate A), and \$43,950.00 (alternate B); and

WHEREAS, the Town's Capital Projects Team has concluded that the lowest responsive bidder is Design Build Innovations (dba as Native Technologies); and

WHEREAS, the Town is desirous of entering into an agreement with Design Build Innovations (dba as Native Technologies) for the Proposed Multi-Use Trails Project.

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 of the Town of Southwest Ranches hereby awards the Town's procurement for the Proposed Multi-Use Trails Project to Design Build Innovations (dba as Native Technologies).

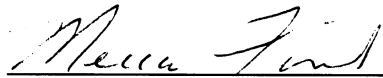
Section 3: The Town Council hereby approves the Agreement, in substantially the same form as that attached hereto as Exhibit "A", between the Town of Southwest Ranches and Design Build Innovations (dba as Native Technologies), for the Proposed Multi-Use Trails Project, for an amount not to exceed \$110,853.94, which includes the base bid plus Alternate A, which is the south side of the Old Sheridan Trail.

Section 4: 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 to effectuate the intent of this Resolution.

Section 5: This Resolution shall become effective immediately upon its adoption.

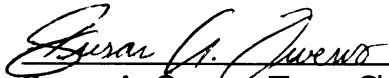
PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 11th day of May, 2006, on a motion by Vice Mayor Don Maines and seconded by Council Member Aster Knight.

Fink	<u>Y</u>	Ayes	<u>4</u>
Maines	<u>Y</u>	Nays	<u>0</u>
Blanton	<u>A</u>	Absent	<u>1</u>
Knight	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		



Mecca Fink, Mayor

ATTEST:



Susan A. Owens, Town Clerk

Approved as to Form and Correctness:



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

FTL_DB: 980419_1

SECTION 60
AGREEMENT

THIS IS AN AGREEMENT, by and between THE TOWN OF SOUTHWEST RANCHES, a Special TOWN of the State of Florida, (hereinafter called TOWN) and _____ (hereinafter called CONTRACTOR).

TOWN and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agrees as follows:

1 **WORK:**

CONTRACTOR shall at his own cost and expense furnish all labor, services, tools, materials, equipment and incidentals necessary to perform all work required by the Contract Documents. The Work is generally described as follows:

- i. **Construction of signs and trail markers and installation as indicated in the plans, as well as other improvements necessary to delineate the trail**

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

**OLD SHERIDAN STREET, DYKES ROAD, 172ND AVENUE, AND 178TH AVENUE,
MULTI-USE TRAILS**

2 **ENGINEER:**

The Project has been designed by **R.J. Behar & Company, Inc.** who is hereinafter called ENGINEER and who is to act as the TOWN'S representative, assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

3 **CONTRACT TIME:**

The Work will be substantially completed within 60 days from the Commencement Date and completed and ready for final payment in accordance with the General Conditions within 90 days from the Commencement Date

4 **CONTRACT PRICE:**

TOWN shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in the prices stipulated in CONTRACTOR'S Bid, which BID is attached hereto and identified as SECTION 40 FORM OF PROPOSAL.

5 **PAYMENT PROCEDURES:**

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

60.5.1 Progress Payments:

TOWN shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in the General Conditions (and in the case of Work performed on the basis of unit prices, based on the number of units completed).

- 60.5.1.1. The CONTRACTOR shall prepare an application for payment by the twenty-fifth day of the month and the TOWN will make payment on the fourth Thursday of the following month.

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60.5.1.2 Prior to Substantial Completion, all progress payments will be on the basis of the progress of the work measured by the schedule of values provided for in the General Conditions, less 10% retainer.

60.5.1.3 Upon Substantial Completion, TOWN shall pay an amount sufficient to increase total payments to CONTRACTOR to 100 percent of the Contract Price, less such amounts as ENGINEER shall determine in accordance with the General Conditions.

60.5.2 Final Payment:

Upon final completion and acceptance of the work in accordance with the General Conditions, TOWN shall pay the remainder of the Contract Price as recommended by ENGINEER.

6 INTEREST:

All moneys not paid when due as provided in the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

7 CONTRACTOR'S REPRESENTATIONS:

In order to induce TOWN to enter into this Agreement CONTRACTOR makes the following representations:

60.7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

60.7.2 CONTRACTOR has studied carefully all reports of explorations and tests of subsurface and latent physical conditions at the site that may otherwise affect cost, progress, performance or furnishing of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.

60.7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 60.7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions, and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

60.7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions.

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- 60.7.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, inspections, tests, reports and studies with the terms and conditions of the Contract Documents.
- 60.7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

8 CONTRACT DOCUMENTS:

The Contract Documents which comprise the entire agreement between TOWN and CONTRACTOR are attached to this Agreement, made a part hereof and consists of the following:

- 60.8.1 This Agreement (pages 60-1 to 60-5, inclusive).
- 60.8.2 Notice of Award.
- 60.8.3 General Conditions (pages 30-1 to 30-45, inclusive).
- 60.8.4 CONTRACTOR'S Form of Proposal consisting of 2 pages, as contained herein.
- 60.8.5 CONTRACTOR'S Form of Summary of Qualifications consisting of 1 page, as contained herein.
- 60.8.6 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

There are no Contract Documents other than those listed above in this Article 60.8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

9 LIQUIDATED AND SPECIAL DAMAGES:

- 60.9.1 Liquidated Damages:
TOWN and CONTRACTOR recognize that time is of the essence as to Substantial Completion and that TOWN will suffer financial loss, apart from the cost described in Paragraph 60.9.2, if the Work is not substantially completed within the time specified in Article 60.3 above, plus any extensions thereof allowed in accordance with Article 30.12 of the General Conditions. TOWN and CONTRACTOR also recognize the delays, expenses and difficulties involved in providing in a legal proceeding the actual loss suffered by TOWN if the Work is not substantially completed on time. Accordingly, instead of requiring any such proof, TOWN and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay TOWN \$ 100.00 (One Hundred Dollars) for each day that expires after the time specified in Article 60.3 above for Substantial Completion (adjusted for any extensions thereof made in accordance with Article 30.12 of the General Conditions) until the Work is substantially complete.
- 60.9.2 Special Damages:
If CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time, CONTRACTOR shall pay TOWN the actual cost reasonably incurred by TOWN for engineering and inspection forces employed on the Work for each day that expires after the time specified in Article 60.3 for the Work to be completed and ready for final payment (adjusted for any extensions thereof made in accordance with Article 30.12 of the General Conditions) until the Work is completed and ready for final payment.
- 60.9.3 TOWN may deduct the amount of liquidated damages and special damages from monies due to CONTRACTOR under this Agreement.

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60.9.4 No Damages for Delay:

No claim for damages or any claim, other than for an extension of time, shall be made or asserted against the TOWN by reason of any delays. CONTRACTOR shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from TOWN for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the TOWN or its agents. Otherwise, CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

10 MISCELLANEOUS:

60.10.1 Terms used in this Agreement which are defined in the General Conditions shall have the meanings indicated in the General Conditions.

60.10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding in another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the TOWN and CONTRACTOR from any duty or responsibility under the Contract Documents.

60.10.3 TOWN and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

OTHER PROVISIONS:

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement in triplicate on the respective dates under each signature: The TOWN signing by and through its CHAIRMAN, authorized to execute same by Public Board Action on to ___ day of _____, 2006, and the CONTRACTOR, through _____, authorized to execute same. One counterpart each has been delivered to TOWN, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by TOWN and CONTRACTOR.

TOWN: THE TOWN OF SOUTHWEST RANCHES

ATTEST:

BY: _____
Mecca Fink, Mayor

Susan A. Owens, Town Clerk
(Seal)

Dated this ____ of _____, 2006

BY: _____
John Canada, Town Administrator

Dated this ____ of _____, 2006

APPROVED AS TO FORM:

Address for giving Notices:
6589 SW 160th Avenue
Southwest Ranches, Florida 33331

BY: _____
Gary A. Poliakoff, J.D.
Town Attorney

CONTRACTOR: | COMPANY NAME

Witness

BY: _____
Name and Title

Witness

Dated this ____ of _____, 2006

Address for giving Notices:

License Number: _____