

RESOLUTION NO. 2009 - 044

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING THE SECOND MODIFICATION TO THE TOWN'S AGREEMENT WITH RJ BEHAR & COMPANY, INC.; EXTENDING THE AGREEMENT UNTIL APRIL 30, 2009; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO THE SECOND AMENDMENT TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 9, 2004, pursuant to Resolution No. 2005-022, the Town Council approved an agreement with RJ Behar & Company, Inc. ("Consultant") to provide Engineering Services to the Town of Southwest Ranches ("Town"), which became effective on March 3, 2005; and

WHEREAS, on February 19, 2009, pursuant to Resolution No. 2009-038, the Town Council approved the First Modification to the Agreement with Consultant to provide Engineering Services to the Town, which extended the term of the agreement through March 31, 2009; and

WHEREAS, the Town is currently reviewing Consultant's performance and its ability to fully cost recover for its services rendered; and

WHEREAS, in order to give the Town additional time to finalize a preliminary analysis on Consultant's cost recovery, the Town desires to extend Consultant's agreement through April 30, 2009; and

WHEREAS, this Resolution and the attached Second Modification to the Agreement seek to effectuate the extension as described herein.

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 Second Modification to its Agreement with RJ Behar & Company, Inc., which extends the term of the Agreement until April 30, 2009, as specifically delineated in Exhibit "A", which has been attached hereto and is incorporated by reference.

Section 3. The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into the Second Modification to the

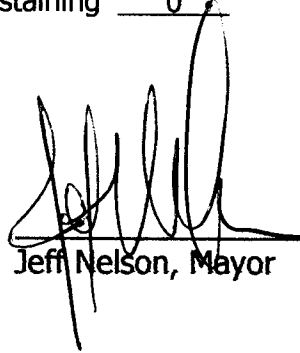
Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

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 19th day of March 2009, on a motion by Council Member Doug McKay and seconded by Vice Mayor Steve Breitkreuz.

Nelson	<u>Y</u>
Breitkreuz	<u>Y</u>
Fisikelli	<u>Y</u>
Knight	<u>Y</u>
McKay	<u>Y</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>
Abstaining	<u>0</u>



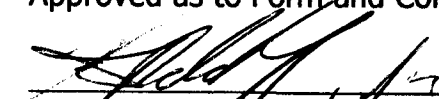
Jeff Nelson, Mayor

ATTEST:



Susan A. Owens, CMC, Town Clerk

Approved as to Form and Correctness:



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

SECOND MODIFICATION TO AGREEMENT

THIS SECOND MODIFICATION TO AGREEMENT entered into as of the ____ day of _____, 2009 between the Town of Southwest Ranches, a municipal corporation of the State of Florida (the "Town") and RJ Behar & Company, Inc., a corporation of the State of Florida ("Consultant"), for the purpose of extending the Agreement between the Town and Consultant effective March 3, 2005 (the "Original Agreement").

WITNESSETH:

WHEREAS, on December 9, 2004, pursuant to Resolution No. 2005-022, the Town Council approved an agreement with Consultant to provide Engineering Services to the Town, which became effective on March 3, 2005; and

WHEREAS, on February 19, 2009, pursuant to Resolution No. 2009-038, the Town Council approved the First Modification to the Agreement with Consultant to provide Engineering Services to the Town, which extended the term of the agreement through March 31, 2009; and

WHEREAS, the Town is currently reviewing Consultant's performance and its ability to fully cost recover for its services rendered; and

WHEREAS, in order to give the Town additional time to finalize a preliminary analysis on Consultant's cost recovery, the Town desires to extend Consultant's agreement through April 30, 2009; and

WHEREAS, the Town and Consultant are both desirous of extending their agreement until April 30, 2009.

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 4.1 of Section 4 "TERM" shall be amended to read as follows:

4.1 TOWN and CONSULTANT agree that this Agreement shall be in full force and effect until ~~April 30, 2009~~ ~~March 31, 2009~~, commencing upon the Effective Date of this Agreement, which shall be the date the last party signs this Agreement. Based upon the approval of the Town Council, this Agreement may be extended for additional time periods.

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

IN WITNESS WHEREOF, this Extension and Modification is accepted and executed as of the ____ day of March, 2009.

TOWN OF SOUTHWEST RANCHES

RJ BEHAR & COMPANY, INC.

Jeff Nelson, Mayor

Robert J. Behar, President

Attest:

Susan A. Owens, CMC, Town Clerk

Approved as to form and correctness:

Witness

Gary A. Poliakoff, Town Attorney

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Witness