

RESOLUTION NO. 14-1107

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING A DEBRIS LICENSE AGREEMENT WITH THE GRAHAM COMPANIES FOR DEBRIS STORAGE ON ITS PROPERTY; APPROVING THE DEBRIS LICENSE AGREEMENT BETWEEN THE GRAHAM COMPANIES AND THE TOWN; AUTHORIZING THE TOWN OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE DEBRIS LICENSE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE DEBRIS LICENSE AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the United States Federal Emergency Management Agency requires that the Town have available to it, in the event of a Hurricane, a temporary debris storage site; and

WHEREAS, the Town previously had an agreement with The Graham Companies for a temporary debris storage on their property; and

WHEREAS, that parcel of property has been developed and is no longer available for debris storage; and

WHEREAS, the Town is in need of a new temporary debris storage area; and

WHEREAS, the Town Manager has determined the The Graham Companies parcel along Commerce Way between NW 146th St. and NW 148th St. is the next best option as it is approximately the same size as the prior parcel (20 acres); and

WHEREAS, the site has been evaluated by O'Brien's Recovery Management and attached is a proposed site layout with a legend, the environmental evaluation, and the flood map showing Zone AE.

WHEREAS, the Town will use the site for storing yard trash and uncontaminated vegetative debris. Due to the site's proximity to water, there will be a 50 foot setback of all area bordering water. The northeast corner of the property will be used to address small quantities of hazardous materials that inadvertently come onto the site. The site will be managed by O'Brien's Recovery Management, and the site will be operated 24 hours per day and 7 days per week.

WHEREAS, the Debris License Agreement has been reviewed and approved by the Town's attorney and The Graham Companies attorney.

WHEREAS, the site and supporting documentation have been preliminarily approved by Miami Dade County's Division of Environmental Resource Management (DERM).

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Approval of the Graham Companies Debris License Agreement. The Debris License Agreement (hereinafter "Agreement") for debris storage between the Town and the Graham Companies (a copy of which is attached as Exhibit A) together with such non-material changes as may be acceptable to the Town manager and approved as to form and legality by the Town Attorney, are approved.

Section 3. Authorization of Town Officials. The Town Manager and Town Attorney are authorized to take all steps necessary to implement the Terms and conditions of the Agreement.

Section 4. Execution of Contracts. The Town Manager is authorized to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and/or any amendments to the Agreement, subject to the approval as to form and legality by the Town Attorney.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.
Passed and adopted this 14th day of January, 2014.

The foregoing resolution was offered by Nelson Rodriguez who moved its adoption. The motion was seconded by Tony Lama and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	<u>Yes</u>
Vice Mayor Manny Cid	<u>Yes</u>
Councilmember Tim Daubert	<u>Yes</u>
Councilmember Tony Lama	<u>Yes</u>
Councilmember Ceasar Mestre	<u>Yes</u>
Councilmember Frank Mingo	<u>Yes</u>
Councilmember Nelson Rodriguez	<u>Yes</u>

Wayne Slaton
Wayne Slaton
MAYOR

Attest:

M. Tejada
Marjorie Tejada
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi
Raul Gastesi
Gastesi & Associates, P.A.
TOWN ATTORNEY

DEBRIS LICENSE AGREEMENT

This Debris License Agreement ("**Agreement**") is made and entered into as of January 1, 2014 ("**Effective Date**") by and between THE GRAHAM COMPANIES ("**Graham**") and the Town of Miami Lakes, a Florida municipal corporation ("**Town**").

RECITALS

A. Graham is the owner of numerous properties located within Miami Lakes, Miami-Dade County, Florida, including that certain parcel of real property generally described as that certain undeveloped property located in Miami Lakes surrounding Graham Dairy Lake which is west of Oak Lane and between approximately 146th St. and 148th St. ("**Initial Property**").

B. The Town has requested that in the event of a hurricane Graham permit the Town to temporarily use property of Graham for the purpose of receiving, storing and processing (including reduction by grinding and/or burning) debris resulting from a hurricane in connection with post hurricane cleanup by the Town.

C. Graham has agreed that in the event of a hurricane, subject to the terms and conditions of this Agreement, Graham will provide a limited license to the Town for the purpose of receiving, storing and processing (including reduction by grinding and/or burning) debris resulting from a hurricane in connection with post hurricane cleanup by the Town.

NOW THEREFORE, in consideration of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and incorporated herein by reference as if set forth at length.
2. **Limited License**. Graham hereby agrees, subject to the terms and conditions of this Agreement, that for a period of one year from the Effective Date (the "**Term**"), in the event of a hurricane, Graham will provide a limited license(s) ("**License**") to the Town for the use of the Initial Property (or other property made available to the Town by Graham instead of the Initial Property, at the discretion of Graham) for the purpose of receiving, storing and processing (including reduction by grinding and/or burning) debris resulting from a hurricane in connection with post hurricane cleanup by the Town (the property made available to the Town for the purpose set forth above shall be referred to as the "**Licensed Property**"). The License will be made available to the Town without payment of a license fee. The License will commence upon request by the Town to Graham following a hurricane. Any License under this Agreement will terminate upon the earlier of the end of the Term or six (6) months from the commencement of such License. The Term of this Agreement may be extended on an annual basis for up to five years upon consent of both Graham and the Town. Notwithstanding anything herein to the contrary, this Agreement shall not create any interest in any parcel of property owned by Graham, whether a limited License is provided hereunder or not.
3. **Use of Licensed Property Limited to the Town**. The use of any License hereunder shall be for the benefit of the Town only for the purposes of the activities of the Town in

connection with hurricane cleanup activities. The License shall not permit the general public to use the Licensed Property for any purpose whatsoever.

4. **Site Cleanup by Town.** Prior to the expiration of any License hereunder, the Licensed Property shall be cleaned by the Town and restored to the condition existing prior to the hurricane. All debris, material and vegetation shall be removed from the Licensed Property by the Town. If required by Graham, the Licensed Property will be graded and seeded with surface laid grass acceptable to Graham. The cleanup obligation set forth herein shall survive termination of this Agreement

5. **Environmental Testing.** Prior to use of the License Property, the Town will conduct environmental testing as required by applicable law. After cleanup of the Licensed Property, the Town, at its sole cost and expense, will have environmental testing and environmental studies performed to the satisfaction of Graham to assure Graham that the Licensed Property is free and clear from all environmental contamination or substances resulting from the use of the License.

6. **Liability of Town.** The Town hereby agrees to indemnify and hold Graham harmless from and against any and all claims, liability, liens, costs, losses, damages, expenses and demands, including reasonable attorneys' fees and costs at trial and all appellate levels, arising out of, or directly caused by, the use of the Licensed Property by the Town, its contractors, agents or employees, including, but not limited to, any claims, liability, liens, costs, losses, damages, expenses and demands resulting from third-party claims relating to injury or death to persons, or loss of or damage to property. The town or his contractor shall maintain at least \$2,000,000.00 of liability insurance naming Graham as an additional insured and provide evidence thereof to Graham prior to the use of the License. The Town shall be responsible for any deductible under said liability insurance. With respect to the liability of the Town hereunder, the Town hereby waives sovereign immunity to the extent permitted by applicable law. In addition, the Town shall be responsible for, and shall indemnify and hold Graham harmless from any environmental contamination of the License Property in connection with the use of the License Property pursuant to a License. The provisions set forth herein shall survive termination of this Agreement.

7. **Agricultural Exemption.** The Initial Property and any other property made available for a License hereunder is used for agricultural purposes and is classified as agricultural property for real estate tax purposes. Any License hereunder shall be used in such a manner, and subject to the provision that, the agricultural tax classification for the property remains. The Town will coordinate with Graham in connection with the agricultural use of the Property. The Town shall indemnify Graham for any increased real estate tax resulting from the use of a License hereunder.

8. **Nuisance/Compliance with Laws.** The Town shall, in no way, disrupt, impede, annoy, infringe or commit any act that may be to the detriment of Graham or Graham's tenants, their customers, employees, invitees or any other persons coming onto the License Property. The Town shall be responsible for obtaining all required approvals and permits and shall only use the License Property in compliance with all applicable laws, rules and regulations.


IN WITNESS WHEREOF, the undersigned have executed and delivered this agreement on this ___ day of December, 2013.

THE GRAHAM COMPANIES
a Florida corporation

Witnesses:




Audrey Vance

By: 

THE TOWN OF MIAMI LAKES

Witnesses:

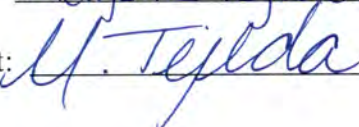


NICOLE SINGLETARY

By: 

Print: Alex Rey

Print: Marjorie Tejada

Attest: 

(Tenant's Corporate Seal)