

RESOLUTION NO. 15-1306

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND THE TOWN OF MIAMI LAKES FOR THE PROVISION OF FLOODPLAIN MANAGEMENT SERVICES AND TECHNICAL SUPPORT SERVICES SUBJECT TO APPROVAL AS TO FORM AND LEGALITY BY THE TOWN ATTORNEY; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (“Town”) operates a floodplain management program within the Town’s Building Department; and

WHEREAS, Town Staff have been negotiating an agreement with the City of Miami Gardens whereby the Town would provide floodplain management services and technical support services to the City of Miami Gardens; and

WHEREAS, an interlocal agreement with the City of Miami Gardens is consistent with the Town’s strategic plan to begin outsourcing consulting services; and

WHEREAS, the Town Council finds that authorizing the Town Manager to enter into an interlocal agreement between the City of Miami Gardens and the Town for the provision of floodplain management services and technical support services is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF 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. Authorization of Town Officials. The Town Manager is authorized to enter into an interlocal agreement with the City of Miami Gardens for the provision of floodplain management services and technical support services. The interlocal agreement with the City of Miami Gardens shall be approved as to form and legality by the Town Attorney.

Section 3. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the interlocal agreement with the City of Miami Gardens.

Section 4. Execution of Agreement. The Town Manager is authorized to execute, on behalf of the Town, an interlocal agreement with the City of Miami Gardens for the provision of floodplain management services and technical support services in substantially the same form as the proposed interlocal agreement attached hereto as Exhibit "A"; to execute any required agreements and/or documents to implement the terms and conditions of the interlocal agreement; and to execute any extensions and/or amendments to the interlocal agreement, subject to approval as to form and legality by the Town Attorney.

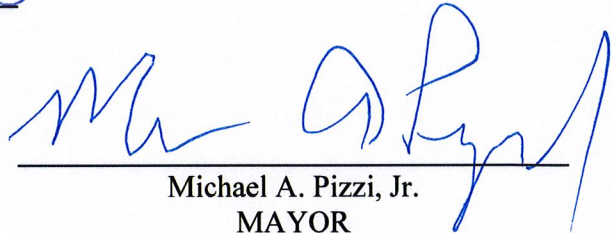
Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.

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Passed and adopted this 5th day of May, 2015.

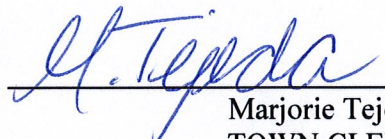
The foregoing resolution was offered by Tony Lama who moved its adoption. The motion was seconded by Nelson Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Michael A. Pizzi, Jr.	<u>No</u>
Vice Mayor Manny Cid	<u>No</u>
Councilmember Tim Daubert	<u>Yes</u>
Councilmember Tony Lama	<u>Yes</u>
Councilmember Ceasar Mestre	<u>absent</u>
Councilmember Frank Mingo	<u>absent</u>
Councilmember Nelson Rodriguez	<u>Yes</u>



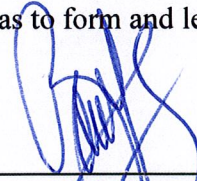
Michael A. Pizzi, Jr.
MAYOR

Attest:



Marjorie Tejada
TOWN CLERK

Approved as to form and legal sufficiency:



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

EXHIBIT A

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF MIAMI GARDENS AND THE TOWN OF MIAMI LAKES
FOR FLOODPLAIN MANAGEMENT SERVICES AND TECHNICAL SUPPORT SERVICES**

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2015, by and between the City of Miami Gardens, Florida (the “City”), a Florida municipal corporation, and the Town of Miami Lakes, Florida (the “Town”), a Florida municipal corporation, who are jointly referred to herein as the Parties.

WITNESSETH

WHEREAS, the City and the Town agree to enter into an Interlocal Agreement pursuant to Section 163.01, Florida Statutes, that allows local governments to make the most efficient use of their powers to enable them to cooperate with each other, when mutually advantageous, in providing services and facilities in the best interest of the public; and

WHEREAS, pursuant to Miami Gardens, Florida, Resolution No. _____, the City has authorized and approved the execution of this Agreement; and

WHEREAS, pursuant to Town of Miami Lakes, Florida, Resolution No. _____, the Town has authorized and approved the execution of this Agreement; and

WHEREAS, the Town operates floodplain management services within the Town’s Building Department; and

WHEREAS, the Town has expressed an interest in contracting with the City to perform floodplain management services; and

WHEREAS, the City and the Town have established a mutually beneficial proposal that provides for additional revenue to the Town, while fulfilling the need for floodplain management services to the City.

NOW THEREFORE, for and in consideration of the terms, conditions and covenants contained herein, the City and the Town agrees as follows:

1. **Purpose:** The Town hereby agrees to provide floodplain management services and technical support services (the “Scope of Services” or “Services”) to the City, pursuant to the Scope of Services described and attached hereto in Exhibit “A” and incorporated herein, in accordance with the terms and conditions of this Agreement.
2. **Term:** The Town will provide the Services for a period of three (3) years, commencing ten (10) days from the date of execution of this Agreement by both Parties.
3. **Option to Renew:** The Parties reserve the right to renew this Agreement for a two (2) year term upon the mutual consent and written agreement of both Parties.
4. **Cancellation:** This Agreement may be canceled by either Party, with or without cause, by providing sixty (60) days written notice of the intent to terminate during which time the Town shall continue to provide services and the City shall pay for the actual Services provided. Upon the expiration of sixty (60) days, the Town shall have no further obligation to provide any Services to the City, this Agreement shall terminate and the Parties shall be released from all further obligations. It shall be the responsibility of the Town to provide for the floodplain

management services and the community rating system coordination. The Town shall transfer all records of administrative and professional work created or maintained during the term of this Agreement to the City. Once transferred, it shall be the sole responsibility of the City to retain all public records and respond to all requests for public records pursuant to the Florida Public Records Act received by the City of Miami Gardens.

5. **Scope of Service:** The Town agrees to provide the Services as detailed in the “Scope of Services” attached hereto as Exhibit “A” of the Agreement. The scope of services may be modified from time to time by mutual consent of the Town Manager of Miami Lakes and the City Manager of Miami Gardens.
6. Neither Party shall be liable for any delay or failure to perform under this Agreement if such delay or failure is neither the fault of the Party, its employees or agents, or the delay is due to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party’s control, or for any of the foregoing that affects subcontractors or suppliers, if no alternate source of supply is available. In the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party’s performance obligation under this Agreement. If the delay or disruption in performance is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party.
7. **Program Manager(s):** The Town’s Program Manager(s) and primary point of contact(s) under this Agreement are Lourdes Rodriguez, the Town’s Permit Supervisor for the Building Department, and Eliezer Palacio, the Town’s Building Official. The City’s Program Manager will be designated by the Miami Garden’s City Manager.
8. **Insurance:** During the term of this Agreement, including renewal(s) and extensions, the Parties shall, at each Party’s sole expense, maintain insurance coverage with such terms and limits as may be reasonable to fully compensate the other Party in the event of a breach of the terms of this Agreement, including but not limited to commercial general liability, premises liability, casualty, workers’ compensation and employers’ liability insurance. A self-insurance program established in accordance with the laws of the State of Florida may provide such coverage. Providing and maintaining adequate insurance coverage is a material obligation of each Party and failure to maintain such coverage is a breach of this Agreement.
9. **Rates, Charges and Work Order Authorization:** The City shall issue a work order for each project to be performed by the Town. The work order authorization will be on a time and materials basis pursuant to the rates based on the salary, benefits and a reasonable overhead amount to be negotiated by the respective City and Town Managers.
10. **Billing and Payment:** The Town agrees that it will bill the City on a monthly basis per the rates approved as per Section 9 of this Agreement. Approval of any invoice by the City shall be within thirty (30) days from the date of the invoice, unless the City disputes or denies the invoice in whole or in part. If denied in part, the City shall pay the undisputed amount of the invoice.
11. **Ownership and Access to Records and Audits:** All records, books, documents, data, deliverables, papers and financial information (the “Records”) that are generated as a result of the Town providing the Services to the City under this Agreement shall be the property of the City. The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Town involving transactions related to this Agreement, upon reasonable notice to the Town. The City may cancel and terminate this Agreement immediately for refusal by the Town to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of

Chapter 119, Florida Statutes. It shall be the sole responsibility of the City to respond to all requests for public records received by the City, made pursuant to the Florida Public Records Act, for any records created as a result of the performance of the Parties' respective obligations under the Agreement. The Town shall fully cooperate with the City in response to any request for records received by the City. The City shall be responsible to respond to public records requests where the City maintains custody of the records. Where the Town has forwarded the records to the City, the Town shall notify the requestor that the records requested are in the possession of the City. Upon completion or termination of the Agreement all records, except employee related records, shall be turned over to the City within thirty (30) calendar days. Any payment due the Town may be held pending receipt of the Records.

12. **Mutual Release, Indemnity and Agreement to Defend and Hold Harmless:** the City does not indemnify or insure the Town for the Town's negligence. Likewise, the Town does not indemnify or insure the City for the City's negligence, except as provided in this paragraph 12.

Subject to the limitations set forth in Florida Statute Section 768.28 and except as provided in this Paragraph 12, the Town shall be fully liable for the actions of its respective officers, elected or appointed, directors, employees, and agents ("Town's Releasees") and shall fully indemnify, defend, and hold harmless, the City, its officers, elected or appointed, directors, employees, and agents (collectively referred to as "City's Releases"), from any and all kinds of claims, suits, causes of action, damages, losses, liabilities, costs or expenses, including court costs and attorney's fees at all level of proceedings (including appellate level), and any judgments, orders or decrees entered thereon or resulting therefrom, for any personal injury, loss of life, damage to property, or any other liability, loss, cost or expense of any kind (collectively referred to as "Claims"), alleged to be caused in whole or in part by the Town, its officers, elected or appointed, directors, employees, and agents in the Town's performance of this Agreement.

Subject to the limitations set forth in Florida Statute Section 768.28, and except as provided in paragraph 12, the City shall be fully liable for the actions of its respective officers, elected or appointed, directors, employees, and agents and shall fully indemnify, defend, and hold harmless, the Town, its officers, elected or appointed, directors, employees, and agents, from any and all kinds of claims, suits, causes of action, damages, losses, liabilities, costs or expenses, including court costs and attorney's fees at all level of proceedings (including appellate level), and any judgments, orders or decrees entered thereon or resulting therefrom, for any personal injury, loss of life, damage to property, or any other liability, loss, cost or expense of any kind, alleged to be caused in whole or in part by the City, its officers, elected or appointed, directors, employees, agents and contractors and subcontractors in the City's performance of this Agreement.

13. **City's Release, Indemnity and Agreement to Hold Harmless for Conditions on City's Property.** The agreement to waive, release, indemnify and hold the Town harmless from any and all claims for conditions on the City's property, is additional consideration to the execution of this Agreement. It is made pursuant to Florida Statutes Section 768.28(19). By entering into this Agreement, the City does not intend to assume any risk of liability for damages, losses or injury suffered by the Town, by anyone claiming by or through the Town, or as a result of a third-party claim asserted, raised, or brought against the Town, as a result of any condition on the City's property. This includes any claim for set-off, contribution or subrogation.

Therefore, subject to the amounts of recovery as provided in Florida Statutes Section 768.28(5), the Town hereby releases, indemnifies, and agrees to hold harmless, the City, its officers, elected or appointed, directors, employees, agents, contractors and subcontractors (collectively referred to as "City's Released Parties" respectively), from any and all kinds of claims, suits, causes of action, damages, losses, liabilities, costs or expenses, including court costs and attorney's fees at all level of proceedings (including appellate level), and any judgments, orders or decrees entered

thereon or resulting therefrom, for any personal injury, loss of life, damage to property, or any other liability, loss, cost or expense of any kind, alleged to be caused in whole or in part from any defect or dangerous condition on the property or facilities used in the performance of this Agreement by the City (regardless of whether such condition was known or unknown, open, obvious, foreseeable or unforeseeable, hidden or not).

14. **Notice:** All legal notices regarding this agreement must be sent to the following address:

As to the Town:

Town of Miami Lakes
Alex Rey
Town Manager
6601 Main Street
Miami Lakes, FL 33016
reya@miamilakes-fl.gov

Amy Hugunin
Assistant to the Town Manager
6601 Main Street
Miami Lakes, FL 33016
hugunina@miamilakes-fl.gov

As to the City:

City of Miami Gardens, Florida
Cameron Benson
City Manager
Miami Gardens, FL 33056

15. **Severability:** If any term or provision of this Agreement shall to any extent be held invalid or illegal by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.
16. **Governing Law; Venue:** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida, with venue for any action lying solely in Miami-Dade County, Florida.
17. **Waiver:** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other, which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
18. **Assignment:** This Agreement is not assignable by either party.
19. **Entire Agreement:** No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the Parties or be binding upon any of them. The Parties acknowledge that this Agreement contains the entire understanding and agreement of the Parties. No modifications hereof shall be effective unless made in writing and executed by the Parties hereto.
20. **Captions and Paragraph Headings:** Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope and intent of this Agreement, nor the intent of any provisions hereof.
21. **Joint Preparation:** The preparation of this Agreement has been a joint effort of the Parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. It is the Parties' further intention that this Agreement be construed liberally to achieve its intent. Each Party represents that this Agreement has been duly authorized, executed and delivered by their respective governing body, in the manner and form required by their respective applicable local laws, and that each Party has the required power and authority to perform this Agreement.

22. **Exhibits are Inclusionary:** All exhibits whether attached hereto or mentioned herein (reference) which contain additional terms shall be deemed to be part of this Agreement.
23. **Attorney's Fees:** In the event of any litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of attorney's fees and costs.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by their duly authorized agents and representatives with all the formalities required by law on the day and year first written above.

FOR THE CITY OF MIAMI GARDENS:

Oliver G. Gilbert III, Mayor

Date

ATTEST:

Ronetta Taylor, City Clerk

Approved as to form and legal sufficiency:

Sonja Knighton Dickens, City Attorney

FOR THE TOWN OF MIAMI LAKES:

Alex Rey, Town Manager

Date

Attest:

Marjorie Tejeda, Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Town Attorney

EXHIBIT A

SCOPE OF SERVICES

The Town shall provide all personnel, equipment, materials and supplies, necessary to perform the Services outlined below.

The Town warrants and represents that its employees have the proper skill, training, background, knowledge, experience, integrity, and character necessary to perform the Services in a competent and professional manner. The Town agrees that the Town will, at all times, employ, maintain and assign to the performance of the Work a sufficient number of competent and qualified personnel necessary to perform the Services in accordance with the Agreement.

All staff assigned by the Town to the performance of the Services shall be employees of the Town. The scope of services to be provided under this agreement will be as follows:

- Perform administrative and professional work as the Floodplain Manager and Community Rating System (CRS) Coordinator in the daily implementation of activities related to the National Flood Insurance Program (NFIP). Review and update as required the City's Flood Plain Management Ordinance
- Review building permits to determine flood zone status and establish and administer procedures to ensure that all floodplain management requirements are met
- Coordinate the activities required for the Federal Emergency Management Agency (FEMA) Community Rating System and prepares and submits the necessary forms. Evaluate the CRS program and improve on the CRS rating in order to receive additional discounts
- Prepare and maintain flood zone maps and associated FEMA revisions, and maintain a database of all requests to FEMA for map revisions
- Manage the elevation certificate files and ensure that elevation certificates are received for all properties in the special flood hazard area
- Provide limited technical assistance to engineers, developers, and the public regarding flood zones, floodplain management requirements, and drainage studies
- Coordinate City floodplain activities with the State NFIP Coordinator and ensure the City complies with the FEMA requirements for the NFIP
- Respond to questions and complaints from the public regarding flooding and drainage
- Review Elevation Certificates
- Review and approve FEMA Community Acknowledgements regarding Letter of Map Amendments
- Prepare Flood Information requests
- Identify and track properties for Substantial Improvement
- Prepare NPDES Permit and BCEGS certification