

RESOLUTION NO. 02-102

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE AGREEMENT BETWEEN ILER PLANNING GROUP AND THE TOWN OF MIAMI LAKES FOR PLANNING AND ZONING SERVICES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Iler Planning Group (the "Planner") has begun to provide services to the Town of Miami Lakes (the "Town") in the areas of planning and zoning; and

WHEREAS, the Town Manager finds it in the best interest of the Town to continue using the services of Planner for the planning and zoning services of the Town; and

WHEREAS, the Town Council finds that approval of an agreement between the Town and Iler Planning Group 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:

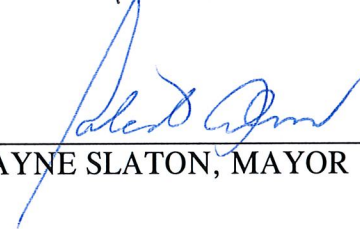
Section 1. Recitals. The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. Approval of Agreement. The agreement for professional services for planning and zoning between Iler Planning Group and the Town of Miami Lakes (the "Agreement"), 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, is approved.

Section 3. Execution. The Town Manager is authorized to execute the Agreement on behalf of the Town.

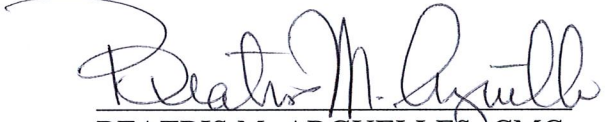
Section 4. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 12th day of November, 2002.



WAYNE SLATON, MAYOR

ATTEST:



BEATRIS M. ARGUELLES, CMC
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



WEISS, SEROTA, HELFMAN, PASTORIZA & GUEDES, P.A.
TOWN ATTORNEY

4-3
Thomson/meador

Council voted _____ as follows:	
Mayor Wayne Slaton	<u>Yes</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador	<u>NO</u>
Councilmember Michael Pizzi	<u>NO</u>
Councilmember Nancy Simon	<u>NO</u>
Councilmember Peter Thomson	<u>Yes</u>

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 12th day of November, 2002, by and between **ILER PLANNING GROUP** (hereinafter the "IPG"), and the **TOWN OF MIAMI LAKES, FLORIDA**, a Florida municipal corporation, (hereinafter the "Town").

WHEREAS, IPG and Town, through mutual negotiation, have agreed upon a scope of services, schedule, and fee for the Town's basic planning and zoning services.

WHEREAS, the Town utilized the services of IPG for the Comprehensive Development Master Plan and the re-zoning of the Dunnwoody property.

WHEREAS, the Town desires to engage IPG to perform the services on an as needed basis, as specified in the approved Scope of Services set forth in Section 2 of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, IPG and the Town agree as follows.

1. Purpose and Authorization.

- 1.1 The purpose of this Agreement is to provide for the Town's retention of IPG to perform the planning and zoning services for the Town as described in Section 2 below.
- 1.2 IPG is authorized and designated to act on behalf of the Town as the Town's Planner in accordance with any applicable codes and the Town's comprehensive master plan.

2. Scope of Services.

- 2.1 IPG shall perform professional planning services for the City (the "Services"), consisting of the following:
 - a. Perform all duties required of the Director of Planning and Zoning and the Zoning Official, as provided by Chapter 33 of the Town Code.
 - b. Provide on-site planning services for up to ten (10) hours per week.
 - c. Prepare staff reports and recommendations for up to six (6) applications per month
 - d. Attend one (1) Local Planning Agency and one (1) Town Council meeting per month to present applications, staff reports, and answer questions.
 - e. Provide a toll-free phone number and e-mail address for applicants, staff and Councilmembers to contact IPG when not on-site, anytime during regular business hours. IPG will also be available for off-site meetings and/or conference calls with applicants.

- f. Provide information to the general public as it relates to all land development activities within the Town.
 - g. Provide information to potential applicants as it relates to policies and procedures within the Town relative to land planning within the Town.
 - h. Oversee the development, maintenance and updating of land use and zoning maps as required by local and state agencies.
 - i. Act as liaison between the Town, Miami-Dade County, South Florida Regional Planning Council and State Department of Community Affairs.
 - j. Provide information to Town Manager, Mayor and Council Members, and Town Attorney on all relevant and applicable planning and zoning issues.
 - k. Provide any other urban planning, zoning, platting and intergovernmental coordination services as may be directed by the Town Manager.
- 2.2 IPG shall submit documents to the Town Manager, the Town Attorney and the Town Clerk with sufficient advance time for the Town to adequately notice and agenda for approval by the Council and/or for public hearing.
- 2.3 IPG will provide their own computers for on-site work.
- 2.4 As specified in the Town Charter, IPG's direction for the services provided in this Agreement shall be through the Town Manager.

3. **Town Responsibilities.**

- 3.1. The Town shall be responsible for public notice requirements, preparation of any required ordinances and resolutions and preparation of Town Council and Local Planning Agency meeting agendas.
- 3.2. The Town will provide on-site office space, computer network/internet connection, copy equipment and telephones for IPG employees performing the services required by this Agreement.

4. **Term.**

- 4.1 This Agreement shall become effective retroactive to February 1, 2002, upon execution by both parties, and shall remain in effect until March 31, 2003, unless earlier terminated in accordance with Paragraph 7 of this Agreement.

5. **Compensation and Payment.**

- 5.1 IPG shall be paid on an hourly basis in accordance with the Fee Schedule attached hereto as Exhibit "A". Total compensation under this contract shall not exceed \$75,000.

5.2 The Town shall also reimburse IPG for all actual expenses including copy costs, telephone charges and other expenses as approved by the Town Manager.

5.3 The Town shall pay IPG within thirty (30) calendar days of approval of an invoice by the Town Manager.

6. **Conflict of Interest.**

6.1 To avoid any conflict of interest or any appearance thereof, IPG shall not, for the term of this Agreement, represent any private sector entities (developers, corporations, real estate investors, etc.), with regard to planning and zoning issues in the Town.

7. **Termination.**

7.1 Either party may terminate this Agreement upon 30 days written notice to the other party.

7.2 Upon receipt of the Town's written notice of termination, IPG shall not enter into any subcontract or other third party agreements or incur any financial obligations or expenses unless such expenses are specifically approved or directed in writing by the Town Manager.

7.3 In the event of termination by the Town, IPG will be paid for all work accepted by the Town up to the date of termination provided that IPG has first complied with the provisions of Paragraph 7.4 of this Agreement.

7.4 In the event of termination or expiration of this Agreement, IPG shall cooperate in good faith in order to effectuate a smooth and harmonious transition from IPG to the Town, or to any other person or entity the Town may designate. IPG will take all reasonable and necessary actions to transfer all books, records, reports, working drafts, documents, maps, and data of the Town in its possession to either the Town or its designee, in a hard copy and computer format and in an orderly fashion, within 14 calendar days from the written notice of termination or expiration of this Agreement.

8. **Insurance.**

8.1 IPG shall maintain at its sole cost and expense at all times during the term of this Agreement general commercial liability insurance coverage and professional liability insurance coverage with minimum policy limits for each coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence, single limit for property damage and bodily injury, including death. IPG shall maintain at its sole cost and expense at all times during the term of this Agreement automobile

liability insurance coverage with a minimum single limit in the amount of Five Hundred Thousand Dollars (\$500,000.00) per occurrence, single limit for property damage and bodily injury, including death.

8.2 The Town shall be named as an "additional insured" under the general commercial liability and automobile liability policies. Certificates of insurance coverage evidencing the minimum required coverages set forth in Paragraph 8.1 shall be delivered to the Town simultaneously with the execution of this Agreement. Each policy shall also state that it is not subject to cancellation, modification, or reduction in coverage without thirty (30) days written notice to the Town prior to the effective date of cancellation, modification, or reduction in coverage.

9. **Nondiscrimination.**

9.1 During the term of this Agreement, IPG shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination. Any violation of such provisions shall constitute a material breach of this Agreement.

10. **Attorneys Fees and Waiver of Jury Trial.**

10.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

10.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

11. **Indemnification.**

11.1 IPG shall defend, indemnify, and hold harmless the Town, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with IPG's negligence, tortuous acts, unlawful conduct or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between IPG and third parties made pursuant to this Agreement. IPG shall reimburse the Town for all its expenses including reasonable attorney fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with IPG's negligence, tortuous acts, unlawful conduct or non-performance of this Agreement.

11.2 The provisions of this section shall survive termination of this Agreement.

12. **Notices/Authorized Representatives.**

12.1 Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties at the following addresses:

For the Town:

Town of Miami Lakes
Attention: Alex Rey, Town Manager
6853 Main Street
Miami Lakes, Florida 33014
Telephone: (305) 558-8244
Facsimile: (305) 558-8511

With a copy to:

Weiss Serota Helfman Pastoriza & Guedes, P.A., Town Attorneys
Attention: Nina L. Boniske, Esq.
2665 South Bayshore Drive
Suite 420
Miami, FL 33133
Phone: (305) 854-0800
Facsimile: (305) 854-2323

For Iler Planning Group:

Henry B. Iler, AICP, President
11211 Prosperity Farm Road
Suite 205B
Palm Beach Gardens, Florida 33410
Phone: (561) 626-7067
Facsimile: (561) 626-5292

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions hereof.

13. **Governing Law.**

13.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida.

14. **Entire Agreement/Modification/Amendment.**

14.1 This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

14.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

15. **Ownership and Access to Records and Audits.**

15.1 All records, books, documents, maps, data, CAD & GIS materials, deliverables, papers and financial information (the "Records") that result from IPG providing services to the Town under this Agreement shall be the property of the Town.

15.2 IPG shall maintain any and all Records pertaining to work performed under this Agreement during the term of this Agreement and for a period of three (3) years following termination of this Agreement.

15.3 The Town 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 IPG involving transactions related to this Agreement.

15.4 The Town may cancel this Agreement for refusal by IPG to allow access by the Town 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.

16. **Nonassignability.**

16.1 This Agreement shall not be assignable by IPG unless such assignment is first approved by the Town Manager.

17. **Severability.**

17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

18. **Waiver.**

18.1 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.

19. **Prohibition Of Contingency Fees.**

19.1 IPG warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for IPG, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for IPG, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

20. **Independent Contractor.**

20.1 IPG is and shall remain an independent contractor and is not an employee or agent of the Town. Services provided by IPG shall be by employees of IPG working under the supervision and direction of IPG and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees or representatives of the Town. IPG agrees that it is a separate enterprise from the Town.

20.2 IPG shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with IPG. This Agreement shall not be construed as creating any joint employment relationship between IPG and the Town, and the Town will not be liable for any obligation incurred by IPG, including but not limited to unpaid minimum wages and/or overtime payments.

21. **Warranties of IPG.**

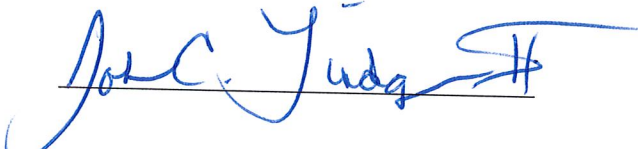
21.1 IPG warrants and represents that at all time during the term of this Agreement that it shall maintain in good standing all required licenses and certificates required under federal, state and local laws necessary to perform the Scope of Services specified in this Agreement.

21.2 IPG warrants and represents that its employees have received sexual harassment training and that IPG maintains appropriate sexual harassment and discrimination policies.

21.3 IPG warrants and represents that its employees will abide by the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes and the Conflict of Interest and Code of Ethics ordinances sets forth in Section 2-11.1 of the Town Code and Section 2-11.1 of the Miami-Dade County Code, as these codes may be amended from time to time.


IN WITNESS WHEREOF, IPG and the Town have caused this instrument to be signed by their respective duly authorized, all on the day and year first above written.

Attest:



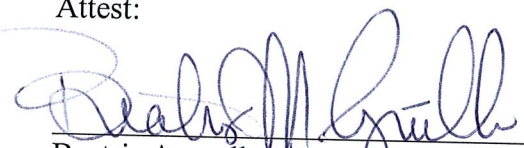
Jose C. Tude

ILER PLANNING GROUP

By: 


Henry B. Iler, President

Attest:




Beatris Arguelles, Town Clerk

TOWN OF MIAMI LAKES

By: 

Wayne Slaton, Mayor

Approved as to Legal Sufficiency:



Nina Boniske, Town Attorney

Exhibit "A"

Ilter Planning Group Hourly Rates

President/Principal.....	\$110.00/hr
Principal IPG.....	\$85.00/hr
Senior IPG.....	\$75.00/hr
GIS Specialist.....	\$65.00/hr
Clerical/Administrative.....	\$45.00/hr
Overhead Rate.....	25%