

RESOLUTION NO. 02- 80

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AUTHORIZING THE TOWN TO ENTER INTO AN AGREEMENT WITH MIAMI-DADE COUNTY REGARDING ENHANCED IMPROVEMENTS ON N.W. 87<sup>th</sup> AVENUE; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council desires to enter into an agreement with Miami-Dade County for enhanced improvements along N.W. 87<sup>th</sup> Avenue between N.W. 154<sup>th</sup> Street and Commerce Way (the "Agreement").

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 are incorporated herein by this reference.

**Section 2.**    **Agreement.** The Agreement between the Town and Miami-Dade County, in substantially the form and substance that is attached as Exhibit "A" is approved. The Town Manager and the Town Attorney are authorized to finalize the terms and conditions of the Agreement and the Mayor is authorized to execute the Agreement on behalf of the Town.

**Section 3.**    **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 23<sup>rd</sup> day of July, 2002.

ATTEST:

Wayne Slaton  
WAYNE SLATON, MAYOR

Beatrice M. Aquella  
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]  
TOWN ATTORNEY

Collins / Slaton

Council voted <u>5-0-2</u> 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>Yes</u>
Councilmember Michael Pizzi	<u>Abs</u>
Councilmember Nancy Simon	<u>Abs</u>
Councilmember Peter Thomson	<u>Yes</u>

# EXHIBIT "A"

## MEMORANDUM OF AGREEMENT

This AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2002, by and between the TOWN OF MIAMI LAKES, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "TOWN", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "COUNTY".

### WITNESSETH

WHEREAS, both parties herein wish to facilitate implementing enhancements of a road improvement Project in MIAMI-DADE COUNTY, hereinafter referred to as the "Enhancements" described as follows:

The construction by the COUNTY of enhanced Lighting and Landscaping, including Irrigation, of a COUNTY four lane roadway improvement project on N.W 87<sup>th</sup> Avenue from N.W. 154<sup>th</sup> Street to Commerce Way.

NOW, THEREFORE, in consideration of the promises and the covenants contained herein, the parties agree:

- 1) The TOWN will be responsible for:
  - a) Enhanced Lighting Construction Costs, including cost of proposed decorative lighting fixtures
  - b) Enhanced Landscaping and Irrigation Design Cost
  - c) Enhanced Landscaping and Irrigation Construction Cost
  - d) Total Landscaping Maintenance Costs, including irrigation system
- 2) The COUNTY will be responsible for:
  - a) Standard Lighting Construction Cost, including cost of the standard lighting fixtures

- b) Enhanced Lighting Re-design Costs
  - c) Standard Tree Planting Costs
  - d) Total Lighting Maintenance Costs
- 3) The COUNTY will front up to \$125,000 to compliment the TOWN'S contribution of \$150,000 for a total of \$275,000 to fund the capitol costs associated with the enhanced project lighting during fiscal year 2002-2003.
  - 4) This amount shall be reimbursed by the TOWN to the COUNTY during fiscal year 2002-2003.
  - 5) The enhanced lighting will consist of black decretive poles and post top fixtures with the installation according with standard COUNTY design criteria, as is installed along Miami Lakes Drive East.
  - 6) The design, contract, and construction of the enhanced landscaping and irrigation shall be by the TOWN in coordination with the COUNTY.
  - 7) Subsequent to contract award, any proposed change orders and Supplemental Agreements pertaining to the Enhancements shall be approved by the TOWN prior to execution by the COUNTY, and upon completion of the project, final construction contract costs will be determined and certified by the COUNTY, and the TOWN'S financial participation and disbursement of funds related to the Enhancements, as agreed to herein, adjusted accordingly.
  - 8) All change orders or supplemental agreements, permits, or modification of plans, pertaining to the Enhancements, approved by the COUNTY shall be forwarded to the TOWN to review and make a determination or approval of within 15 days of receipt of such change orders, supplemental agreements, permits or modification of plans.

- 9) The COUNTY agrees to permit the TOWN auditors to inspect the books, records, and accounts of the project for three years after completion of the project. These records shall be made available to the TOWN for inspection within five (5) working days upon receipt of a written request from the TOWN.

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written.

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Approved by Town Attorney as to form and legal sufficiency.

**TOWN OF MIAMI LAKES**  
a municipal corporation

\_\_\_\_\_  
TOWN ATTORNEY

By: \_\_\_\_\_  
Hon. Wayne Slaton, Mayor

ATTEST:

\_\_\_\_\_  
Beatris M. Arguelles, Town Clerk

Approved by County Attorney as to  
form and legal sufficiency.

\_\_\_\_\_  
COUNTY ATTORNEY

**MIAMI-DADE COUNTY**  
a political subdivision, By  
it's Board of County  
Commissioners

By: \_\_\_\_\_  
COUNTY MANAGER

ATTEST:

\_\_\_\_\_  
COUNTY CLERK

**DRAFT 7-17-02**

**JOINT PARTICIPATION AGREEMENT**

This AGREEMENT, made and entered into this 10<sup>TH</sup> day of December 2002, by and between the TOWN OF MIAMI LAKES, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "TOWN", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "COUNTY."

**WITNESSETH**

WHEREAS, both parties herein wish to facilitate the construction of a four lane road improvement project in MIAMI-DADE COUNTY, on N.W. 87<sup>th</sup> Avenue, from N.W. 138<sup>th</sup> Street to N.W 154<sup>th</sup> Street, hereinafter referred to as the "Project"; and

WHEREAS, both parties wish to facilitate implementing enhancements for a portion of the Project, hereinafter referred to as the "Enhancements" described as follows:

The construction by the COUNTY of enhanced Street Lighting and the construction by the TOWN of enhanced Landscaping, including Irrigation, from Commerce Way to N.W. 154<sup>th</sup> Street.

NOW, THEREFORE, in consideration of the promises and the covenants contained herein, the parties agree:

- 1) The COUNTY shall be responsible for:
  - a) Redesign costs for the enhanced street lighting;
  - b) Costs for construction of standard street lighting, including the costs of standard street lighting fixtures and installation;
  - c) Costs for standard tree planting and landscaping; and
  - d) Costs for total street lighting maintenance.



2) THE TOWN SHALL BE RESPONSIBLE FOR:

- a) Construction and installation costs, above the standard cost, for the enhanced street lighting, including costs of proposed decorative lighting fixtures;
- b) Design costs for the enhanced landscaping and the entire irrigation system;
- c) Construction and installation of the enhanced landscaping and the entire irrigation system;
- d) Construction and installation costs of the enhanced landscaping that is above the standard cost of non-enhanced landscaping and of the entire irrigation system; and
- e) Maintenance costs of all landscaping, both standard and enhanced and the entire irrigation system.

3) The TOWN shall reimburse the COUNTY for the construction and installation costs, above the standard cost, of the enhanced street lighting project incurred by the COUNTY, in a total amount not to exceed \$275,000 (the "Total Payment"), subject to the following provisions:

- a) Of the Total Payment, \$150,000 (the "Initial Payment") shall be paid to the COUNTY by the TOWN within 10 days of receipt by the Town Manager of written confirmation from the COUNTY that the Project has been advertised for bid. The Initial Payment shall be applied by the COUNTY to the costs incurred as they accrue;
- b) With respect to the outstanding balance of \$125,000, the COUNTY shall credit to the TOWN a maximum amount of \$99,600 to satisfy the COUNTY's responsibility to provide standard tree planting costs in that amount, subject to receiving from the TOWN invoices for the landscaping together with certified copies of payments to the contractors for these invoices;



- c) The \$25,400 remaining balance of the Total Payment shall be paid to the COUNTY by the TOWN no later than September 30, 2003;
- d) If the bids received for the “enhanced street lighting” portion of the project exceeds the amount specified in Section 3(g), the County shall not award the contract for the “enhanced street lighting” without first obtaining prior written approval of the Town Manager.
- e) Except for approved change orders under Sections 4 and 10 or additional costs approved under Section 3(d), neither party shall be responsible to the other party for financial participation for any costs to complete the Project above those amounts specified in this Agreement. Upon completion of the Project, final Project costs shall be determined by the County and the Town. If the final costs for the “enhanced street lighting” are less than the total amounts approved in this Agreement, such difference shall be refunded to the Town. If the final costs for the “standard landscaping” are less than the amounts approved in this Agreement, such difference shall be refunded to the County.
- f) During the construction of the Project and installation of the Enhancements, each party shall ensure that construction activity does not occur during peak traffic times.
- g) Summary:

**ENHANCED LIGHTING  
COST TO BE PROVIDED  
BY TOWN**

**\$275,000**

**SCHEDULE OF PAYMENT  
TO COUNTY FOR ENHANCED  
LIGHTING COST**

\$150,000 Initial Payment  
 \$ 99,600 Credit to TOWN for Standard Tree Planting Costs  
 \$ 25,400 Reimbursement to COUNTY by September 30, 2003  
**\$275,000 Total Reimbursement**

- 4) The TOWN shall require that the landscaping and irrigation system design plans be prepared in accordance with standard COUNTY design criteria and shall submit the completed

plans to the COUNTY for approval. The TOWN shall not commence construction on the landscaping and irrigation system until receiving written approval from the Miami-Dade County Public Works Director. Approval of change orders or modifications of plans shall not be made without prior written approval of the County Manager.

- 5) The TOWN shall be responsible for the construction, installation and inspection of the landscaping and irrigation system.
- 6) The COUNTY shall install 3" diameter PVC sleeves between the medians and the east side of the roadway to provide connection for the proposed irrigation pumps.
- 7) The TOWN, as part of this Agreement, shall be responsible for the maintenance in perpetuity of the landscaping within the project limits, including existing plant materials, after the project is completed.
- 8) The TOWN shall remove or replace dead or diseased plant materials in their entirety, or remove or replace those that fall below original project standards. All plant material removed or replaced for whatever reason, shall be replaced by plants of the same size and grade as specified in the permitted plans and specifications. The cost for the replacement of dead or diseased plant material shall be at the sole cost and expense of the TOWN.
- 9) The design of the enhanced street lighting, developed in consultation with and approved by the TOWN, shall be similar to that existing lighting on Miami Lakes Drive East, which consists of black decorative poles and post top fixtures with the installation in accordance with standard COUNTY criteria.
- 10) The County shall submit completed street lighting plans to the Town for approval. The County shall not commence construction and installation of the street lighting until receiving written approval from the Town Manager. Approval of change orders or

modifications of plans shall not be made without prior written approval of the Town Manager.

- 11) Either party may, upon the written request of the other party, inspect and/or audit during reasonable business hours, the books, records, and accounts of the Project during the course of the Project and for three years after completion of the Project. Records shall be made available for inspection within five (5) working days upon receipt of a written request.
- 12) The COUNTY and the TOWN hereby agree to indemnify and hold harmless each other to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that statute whereby neither the COUNTY nor the TOWN will be held liable to pay a personal injury or property damage claim or judgment by one person which exceeds the sum of \$100,000, or any claim or judgments or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the other. However, nothing herein shall be deemed to indemnify either the COUNTY or the TOWN from any liability or claim arising out of the negligent performance or failure of performance of the other or any unrelated third party.
- 13) This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceedings arising in any matter pertaining to this Agreement to the extent permitted shall be in Miami-Dade County, Florida.
- 14) 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.

15) 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.

16) All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, hand delivered or overnight delivery addressed as follows (or any other address that the party may be notified may have designated to the sender by like notice):

The COUNTY

Steve Shiver, County Manager  
Miami-Dade County  
111 N.W. First Street, Suite 2910  
Miami, FL 33128

Copied

County Attorney  
Miami-Dade County  
111 N.W. First Street, Suite 2810  
Miami, FL 33128

The TOWN

Beatris Arguelles, Town Manager  
Town of Miami Lakes  
6853 Main Street  
Miami Lakes, Florida 33014

Copied

Nina L. Boniske, Esquire  
Weiss Serota Helfman Pastoriza  
& Guedes, P.A.  
2665 South Bayshore Drive  
Suite 420  
Miami, Florida 33133

Unless otherwise required by law, any notice sent hereunder shall (subject to proof of receipt or refusal of same) be deemed to have been delivered on the same day if hand-delivered, on the next day if sent by overnight courier, or on the day of receipt or refusal, if sent by certified or registered mail.

17) 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.

18) This Agreement may be modified only by an agreement in writing signed and sealed by the TOWN and the COUNTY. 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.

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written.

Approved by Town Attorney as to form and legal sufficiency.



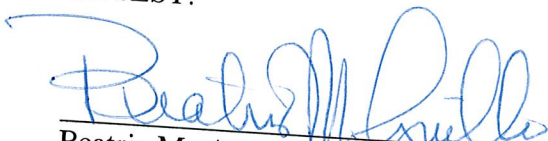
TOWN ATTORNEY

**TOWN OF MIAMI LAKES**

a municipal corporation

By: Wayne Slaton  
HON. WAYNE SLATON, MAYOR

ATTEST:



Beatris M. Arguelles, Town Clerk

Approved by County Attorney as to form and legal sufficiency.



COUNTY ATTORNEY

**MIAMI-DADE COUNTY**

a political subdivision, By its Board of County Commissioners

By:   
COUNTY MANAGER

ATTEST:



COUNTY CLERK

