

RESOLUTION NO. 03-125

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, ACCEPTING THE PROPOSAL FROM AMERICAN ENGINEERING AND DEVELOPMENT CORPORATION FOR THE TRANSFER OF FILL MATERIAL FROM ITS CURRENT LOCATION AT THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO ROYAL OAKS PARK; AUTHORIZING THE TOWN MANAGER AND THE TOWN ATTORNEY TO FINALIZE THE TERMS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") requested proposals from three contractors to load and haul fill material; and

WHEREAS, after reviewing all proposals received, the Town Manager recommends the selection of American Engineering and Development Corporation; and

WHEREAS, the Town Council finds that accepting the proposal from American Engineering and Development Corporation, 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 this reference.

Section 2. Approval of American Engineering. American Engineering and Development Corporation is selected to haul approximately 250 truck loads of fill material from its current location at SW 8th Street and SW 127th Avenue to Royal Oaks Park.

Section 3. Approval of Agreement. The Agreement for hauling of the fill to Royal Oaks Park (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 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds in an amount not to exceed \$20,000 to implement the terms and conditions of the Agreement.

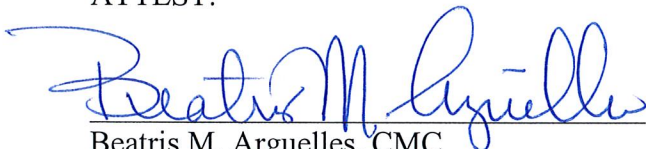
Section 5. Execution of Agreement. The Mayor is authorized to execute the Agreement on behalf of the Town.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.


PASSED AND ADOPTED this 11th day of March, 2003.


WAYNE SLATON, MAYOR

ATTEST:


Beatris M. Arguelles, CMC
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:


Weiss, Serota, Helfman, Pastoriza & Guedes, P.A.
TOWN ATTORNEY

Collins / Meador
Council voted 7-0 as follows:
Mayor Wayne Slaton YS
Vice Mayor Roberto Alonso YS
Councilmember Mary Collins YS
Councilmember Robert Meador YS
Councilmember Michael Pizzi YS
Councilmember Nancy Simon YS
Councilmember Peter Thomson YS

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Exhibit "A"



**American
Engineering &
Development
Corporation**

PROPOSAL

SUBMITTED TO:

Mr. Al Garcia
Kimley-Horn & Associates, Inc.
420 Lincoln Road, Suite 353
Miami Beach, Florida 33139

Phone: (305) 673-2025
Fax: (305) 673-4882

February 27, 2003

PROJECT NAME:

Miami Lakes Park @ NW 87 Ave. & NW 165 St.

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Subject to acceptance of all "Conditions of Proposal" included herewith, American Engineering & Development Corporation ("AEDC") proposes to furnish, in accordance with the following referenced plans, specifications and addenda acknowledged, all labor, material, equipment and supervision required to perform and complete the site work items referenced under "Scope of Work." Please note that AEDC maintains a Safety Division and that this Proposal includes an allocation of resources necessary to enforce all applicable safety regulations and for regular job site inspections to be performed by our Safety Director and supervisory level employees.

Plans: No Plans

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SCOPE OF WORK

\$19,800-

~~\$ 22,275.00~~

EARTHWORK AND GRADING

- A. Load existing fill material at SW 8th Street and SW 127th Ave. and truck it to NW 165th Street and NW 87th Ave. Approximate amount of fill is estimated to be 250 truck loads. A unit price of \$ 4.95 per cubic yard or \$ 89.10 per truckload can be used for determining the total cost.
- B. *Note: The above price is based on a total of 250 truckloads. If quantity is more or less final dollar amount will be adjusted respectively.*

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**American
Engineering &
Development
Corporation**

QUALIFICATIONS AND EXCEPTIONS

1. Removal and replacement of unsuitable material including boulders is excluded.
2. Repair or replacement of existing irrigation system is excluded.
3. Removal, replacement or relocation of existing fencing is excluded.
4. Removal, replacement or relocation of existing trees is excluded.
5. Removal, replacement or relocation of existing light or utility poles are excluded.
6. Sodding and processed topsoil is excluded.
7. Certified as-built drawings are excluded.
8. All impact and utility connection fees are excluded.
9. DOT permits are excluded and shall be furnished by Owner.
10. DERM Permit fees are excluded and shall be furnished by Owner.
11. Payment and performance bond premium is excluded.
12. All construction staking and layout is included provided the Owner furnishes adequate control and benchmark.
13. Bid is based on one (1) mobilization, unless otherwise noted.
14. Owner shall furnish upon request one (1) copy of the civil engineering CADD file along with one (1) copy of the current survey and or final plat.
15. Owner to provide four (4) mil mylars of the civil plans for final as-built preparation.
16. Owner to furnish one (1) full set of contract plans and eight (8) sets of blue-line civil plans for office and field distribution.
17. Soils/density testing is excluded.
18. All RPZ's are specifically excluded.

TOTAL BID

\$ 19,800

\$ 22,275.00

EXECUTIVE OFFICE • 11785 W. OKEECHOBEE ROAD • HIALEAH GARDENS, FL 33018 (305) 825-9800 • (888) 522-8160 • FAX: (305) 825-9808
W. PALM BEACH BRANCH • 363 TALL PINES ROAD • WEST PALM BEACH, FL 33413 • (561) 242-9770 • FAX: (561) 242-9680
www.aedcorp.com

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TERMS AND CONDITIONS OF AGREEMENT TO PROPOSAL

All materials and workmanship shall be in accordance with the plans and specifications within normal tolerance. Work will be started within 10 days after notice to proceed. Customer will furnish complete plans with specifications plus any additional plans required by governmental agencies.

This quotation is subject to approval of plans and specifications furnished to us for bidding purposes. All engineering control points (benchmarks, surveys, etc.) will be established by the customer or his engineer, or will be supplied by the contractor upon request.

All of our operations will be fully covered by workers' compensation, public liability, and property damage insurance. No claims for property damage will be honored, however, unless we are notified within twenty-four (24) hours after such damages occur, are afforded an opportunity to investigate such claims and unless we are to accept responsibility for the alleged damages.

When prices quoted include the cost of spreading and compacting materials, it is agreed that we will be expected to place the materials only in areas that are accessible to heavy equipment (tandem dump trucks, bulldozers, rollers, etc.) and areas large enough to permit economical utilization of such equipment.

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control.

All prices quoted are subject to Florida sales tax where applicable. This quotation is subject to acceptance within thirty (30) days.


Our terms are net, no discount. Invoices will be submitted as work progresses, based upon approximate quantities of work completed. Statements will be submitted by the 25th and will be due and payable by the 10th of the following month. If account remains unpaid after thirty (30) days from date of statement, Customer agrees to pay the maximum interest rate allowed by law on the unpaid monies, and further agrees to pay all court cost and/or reasonable attorney fees incurred in collection of the account.

Unless our quotation provides otherwise, all charges for fill material delivered to, or removed from the job site will be based upon truck measured quantities.

This quotation does not become a contract until accepted by both Customer and an authorized representative of this company. Please sign and return all copies immediately. One (1) executed copy will be mailed to you for your records.

**AMERICAN ENGINEERING &
DEVELOPMENT CORPORATION**

Kimley-Horn and Associates, Inc.



Authorized Signature

Authorized Signature

Albert morejon, Project Manager

Name & Title

Name & Title

February 27, 2003

Date

Date

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www.aedcorp.com

SERVICE AGREEMENT

This Agreement (the "Agreement"), dated this _____ day of _____, 2003, is made between the Town of Miami Lakes, a Florida municipal corporation (the "Town"), whose address is 6853 Main Street, Miami Lakes, Florida 33014, and AMERICAN ENGINEERING & DEVELOPMENT CORPORATION, a Florida corporation (the "Contractor"), whose address is 11765 W. Okeechobee Road, Hialeah Gardens, Florida 33018.

1. **Scope of Services.** Contractor shall provide all labor, material, and equipment for the moving of approximately 4,000 +/- cubic yards of fill material from the South Florida Water Management District site at Tamiami Trail and SW 137th Avenue to Royal Oaks Park (the "Property") pursuant to the direction of the Town Engineer (the "Work"). Work shall commence within ten (10) days of the Notice to Proceed from the Town Manager or the Town Engineer.

2. **Compensation.**

2.01 The Town agrees to pay Contractor a unit price of \$4.95 per cubic yard of fill material. The total sum paid by the Town under this Contract shall not exceed \$20,000.00, without the prior approval of the Town Council.

2.02 At the completion of the Work, the Contractor shall submit an invoice to the Town describing the amount of fill material transferred, and the amount owed to the Contractor.

2.03 The Town shall make payment of said invoice of the approved amount due, not subject to set off, as required under the Florida Prompt Payment Act. No payments shall be due or payable for work not performed or materials not furnished.

3. **Term.** Contractor agrees to complete the Work within thirty (30) calendar days of the Notice to Proceed. The term may be extended with prior approval of the Town Manager.

4. **Protection of Property and the Public.** Nothing in this Agreement will be construed to affect in any way the Town's rights, privileges, and immunities, including the monetary limitations of liability set forth in Section 768.28 of the Florida Statutes. The provisions of this Section will survive the termination or expiration of this Agreement. Notwithstanding the foregoing, Contractor shall:

a. Take all necessary precautions to prevent accidents and injuries to persons or property on or near the Work.

b. Repair and/or replace landscaping, vegetation, walks, drives, or structures of the Town and of any land adjoining any work sites, which are damaged by Contractor, its agents, employees, guests and invitees.

c. Protect all buildings, sidewalks, fences, shade trees, lawns and all other improvements from damage by Contractor. Property obstructions, including, but not limited to

sewers, drains, water or gas lines, conduits, manholes, valve boxes, meter boxes, and street monuments shall be carefully protected from injury and shall not be displaced. The Contractor shall give due notice to any department or public service corporation controlling such items which include, but are not limited to manholes, valve boxes, meter boxes and street monuments prior to adjusting them to grade and shall be held strictly liable to the affected utility if any such appliances are disturbed, damaged or covered up during the course of the Work. Contractor shall be notified of the location of any utilities that may be on the Property.

4. **Indemnification.** The Contractor agrees to indemnify, protect, defend, and hold harmless the Town its elected officials, officers, employees, consultants, and agents from liabilities, damages, losses, and costs including, but not limited to reasonable attorney's fees at both the trial and appellate levels to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the Agreement.

a. The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor and/or any subcontractor under worker's compensation acts, disability benefit acts, or other employee benefit acts.

b. In the event that any claims are brought or actions are filed against the Town with respect to the indemnity contained herein, the Contractor agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. The Contractor agrees that the Town may select the attorneys to appear and defend such claims or actions on behalf of the Town. The Contractor further agrees to pay at the Contractor's expense the attorneys' fees and costs incurred by those attorneys selected by the Town to appear and defend such claims or actions on behalf of the Town. The Town, at its sole option, shall have the sole authority for the direction of the defense, and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions against the Town.

5. **Compliance with Governmental Laws.** Contractor shall comply with all applicable federal, state, county, and municipal laws (including Town laws), ordinances, resolutions and governmental rules, regulations and orders as may be in effect now or at any time which are applicable to Contractor, the Property or the operations conducted at the Property or the Premises.

6. **Contractor's Employees.** Contractor shall at all times be responsible for the conduct and performance of Contractor's employees.

7. **Vehicles and Equipment.** At all times throughout the Term of this Agreement, Contractor shall be responsible to provide any and all vehicles, machinery, tools, accessories, and other items necessary to perform the Work. All vehicles used by Contractor to provide services under this Agreement shall be licensed to operate in the State of Florida.

8. **Insurance.** Contractor shall provide and maintain in force, until all the Work to be performed under this Agreement has been completed and accepted by the Town, with copies to

each additional insured identified herein, Certificates of Insurance (and other evidence of insurance requested by Town or any other additional insured) which Contractor is required to purchase and maintain, and shall require all subcontractors to carry:

a. Workers Compensation insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Worker's Act, the Federal Employers' Liability Act and the Jones Act. Employer's Liability Insurance shall be provided with a minimum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) per accident. Contractor agrees to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

b. Comprehensive General Liability insurance to protect against bodily injury liability and property damage in an aggregate amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Property and/or Operations; Independent Contractors; Products and/or Completed Operations Hazard; Explosion, Collapse and Underground Hazard Coverage; Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to that required for Bodily Injury Liability and Property Damage Liability; and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement.

c. Participant Accident Coverage, per injury with the following limits: (a) Accidental Death and Dismemberment Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) per injury; (b) Excess Medical Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) per injury; and (c) Umbrella Coverage of One Million and 00/100 Dollars (\$1,000,000.00).

d. Business Automobile Liability insurance in an amount not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence combined single limit, for bodily injury and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Owned, Non-owned and Hired vehicles.

e. The Contractor shall either require each of its subcontractors to produce and to maintain subcontractor's public liability and property damage insurance and vehicle liability insurance of the type and in the same amounts specified above or insure the activities of its subcontractors in the Contractor's own policies.

f. Contractor shall furnish to Town certificates of insurance evidencing the insurance coverages specified by this section prior to the Effective Date. The required certificates of insurance shall name the type of policy provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.

g. The required insurance coverage is not to cease and is to remain in full force throughout the Term of this Agreement. All policies must be endorsed to provide Town with at least thirty (30) calendar days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the termination of this Agreement, copies of renewal policies shall be furnished at least sixty (60) calendar days' prior to the date of their expiration.

h. All deductibles must be declared by Contractor and must be approved by the Town. At the Town's sole and absolute discretion, Contractor shall (1) eliminate or reduce such deductible with respect to the Town, or (2) procure a bond in a form satisfactory to the Town.

i. Town shall not be responsible for purchasing and maintaining any insurance to protect the interests of Contractor, subcontractors or others on the Work. Town specifically reserves all statutory and common law rights and immunities and nothing herein is intended to limit or waive same including, but not limited to, the procedural and substantive provisions of Florida Statute 768.28 and Florida Statute 95.11.

9. **Assignment**. This Agreement shall not be assigned in whole or in part by either party.

10. **Governing law; Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In case of any dispute or litigation involving this Agreement, the parties hereof expressly agree that venue for any such proceeding will be exclusively in Miami-Dade County, Florida and no action or proceeding shall be brought in any other County.

11. **Third Parties**. Neither the Contractor nor Town intend to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12. **Attorney's fees**. In the event either party to this Agreement is required to retain legal counsel to enforce any of its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.

13. **Access to Public Records**. The Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes. Contractor shall retain all records associated with this Agreement for a period of three (3) years from the termination of this Agreement.

14. **Inspection and Audit**. During the Term of this Agreement, Contractor shall allow Town representatives access during reasonable business hours to Contractor's records related to this Agreement for the purposes of inspection or audit of such records. If upon a audit of such records, the Town determines the Contractor was paid for services not performed, upon receipt of written demand by the Town, the Contractor shall immediately remit such payments to the Town.

15. **Severability.** If a term, provision, covenant, contract or condition of this Agreement is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this Agreement and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.

16. **Waiver of Jury Trial.** The parties irrevocably and knowingly agree to waive their rights to a trial by jury in any action to enforce the terms and conditions of this Agreement.

17. **Counterparts.** This Agreement may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

18. **Notices.** Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

FOR CONTRACTOR:

American Engineering & Development Corporation
Attn: Albert Morejon, Project Manager
11765 W. Okeechobee Road
Hialeah Gardens, FL 33018
Telephone: (305) 825-9800
Facsimile: (305) 825-9806

FOR TOWN:

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

WITH COPY TO:

Weiss Serota Helfman Pastoriza & Guedes, P.A.
Attn: Nina Boniske, Town Attorney
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133
Telephone: (305) 854-0800
Facsimile: (305) 854-2323

[Acknowledgments on following page]

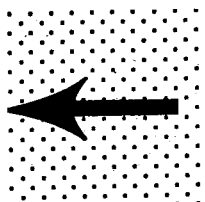
IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: TOWN OF MIAMI LAKES, FLORIDA, signing by and through its Mayor, authorized to execute same by Council action on the 11th day of March, 2003, and _____, signing by and through _____, duly authorized to execute same.

TOWN

TOWN OF MIAMI LAKES, FLORIDA

By: Wayne Slator
Mayor

12th day of March, 2003.



ATTEST:

Beatrice M. Lytle
Town Clerk

APPROVED AS TO FORM AND SUFFICIENCY SOLELY FOR USE BY THE TOWN OF MIAMI LAKES:

By: _____
Town Attorney

CONTRACTOR

AMERICAN ENGINEERING & DEVELOPMENT CORP.

WITNESS

Print Name: _____

(Corporate Seal)
N/A

By: _____
Print Name: _____
Print Title: _____

____ day of _____, 2003.