

RESOLUTION NO. 03- 176

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AUTHORIZING THE TOWN TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH MIAMI-DADE COUNTY REGARDING A FEMA ROAD RESTORATION AND MITIGATION PROGRAM; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, as a result of the damage caused by Hurricane Irene and the “No Name Storm,” the Federal Emergency Management Agency (“FEMA”) approved \$804.45 million in projects Miami-Dade County (the “County”) to assist with road restoration, drainage replacement, canal dredging and other projects to reduce flooding and property damage from future storms; and

**WHEREAS**, of these funds, \$1,347,914.00 is allotted for projects within the boundaries of the Town of Miami Lakes (the “Town”); and

**WHEREAS**, the Town Council desires to enter into an agreement with the County to help expedite the completion of these projects (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 Memorandum of Agreement between the Town and Miami-Dade County regarding the FEMA Road Restoration and Mitigation Program, attached as

Exhibit "A," with such non-material changes acceptable to the Town Manager and approved as to form and legal sufficiency by the Town Attorney, is approved.

**Section 3. Authorization of Town Officials.** 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 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

**Section 5. Execution of Agreement.** The Town Manager 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 14<sup>th</sup> day of October, 2003

Wayne Slaton  
WAYNE SLATON, MAYOR

ATTEST:

Beth M. Gault  
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]  
TOWN ATTORNEY

# EXHIBIT "A"

## MEMORANDUM OF AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF MIAMI LAKES

### FEMA ROAD RESTORATION AND DRAINAGE MITIGATION PROGRAM

As a result of the flooding associated with Hurricane Irene and the "No Name Storm", FEMA approved projects for Miami-Dade County totaling approximately \$804.45 million for road restoration, drainage replacement, drainage system cleaning, canal dredging, major neighborhood drainage projects, and sidewalk restoration to repair infrastructure damage and implement hazard mitigation projects to reduce flooding and related property damage in the future.

This Memorandum of Agreement by and between Miami-Dade County (County) and the Town of Miami Lakes (Town) is made for the purpose of requesting the County to undertake within the Town certain Federal Emergency Management Agency (FEMA) Road Restoration and Drainage Mitigation Program Projects assigned by FEMA to and under the control of the County.

The FEMA projects are funded 75% by FEMA, 12-1/2% by the Florida Department of Community Affairs (DCA) in the form of grants, and 12-1/2% by local matching funds for eligible administration, design and construction costs incurred on approved FEMA Program Projects. By this Agreement the County will manage the implementation of those FEMA assigned Program Projects falling within the jurisdictional geographic boundary of the Town, following established FEMA Projects Guidelines for this Program as are being implemented elsewhere in unincorporated Miami Dade County. A list of the approved Program Projects within the Town are shown on Attachment "A", depicting 15 sites with an aggregate FEMA estimated value of \$1,347,914. The County will manage the financial administration of the Project sites, prepare FEMA documentation, advance funds for design and construction, and provide design and construction management for an agreed fee of 2% of the design and constructions costs for all sites identified in attachment "A". This management fee is not reimbursed by the Program and is consistent with similar costs for this type of work.

Of the \$1,347,914 FEMA total estimate, the combined FEMA and DCA grant would be \$1,179,425. The local matching fund to be reimbursed by the Town to the County would be 12-1/2%, \$168,489 plus a 2% fee \$26,958, to recover County administration costs. This would represent a TOTAL Town commitment of \$195,447.

This Agreement allows the County to recover the entire cost of the program being implemented within the Town's geographic boundaries, including those costs incurred by the County prior to the execution of this Memorandum of Agreement pursuant to expediting the design of the FEMA sites identified in Attachment "A". The Town agrees that any cost incurred by the County pursuant to this Memorandum of Agreement which is not reimbursed by DCA or FEMA would be borne by the Town and reimbursed to the County by the Town. Reimbursements by the Town to the County would be made 30 days after presentation of County invoices based on actual expenditures plus the corresponding 2% fee.

The County will provide all the necessary services on the following basis:

1. Project implementation will be guided by the "FEMA Procedures Manual" established county-wide for the FEMA Road Projects.
2. Prioritization will be established by the County, consistent with its own FEMA program development. The Town will be able to prioritize its locations within the Town.
3. The County will be solely responsible for determining completion and acceptance of the design and construction work, based on letters of recommendations or Certificates of Completion issued by the Engineer designated by the County and as approved by the County Construction Manager.
4. The County will provide the Town complete permitted design packages identified by Project Worksheets and geographic boundaries. The Town understands that these design packages were developed without underground utility information. In order to expedite implementation and minimize construction conflicts in the field, the Town has agreed to provide such missing underground utility information through its own engineers at its own cost, and to propose alternate plans to avoid such construction conflicts.
5. The County will identify all necessary permits, utility adjustments and right-of-way for the Project in accordance with applicable Federal, State and Local Laws and ordinances. The Town recognizes that the complete permitted design packages provided to the Town by the County were prepared under County regulations and ordinances and may conflict with local laws and ordinances. The Town will bring to the attention of the County any such potential conflicts for resolution, recognizing that FEMA may rule ineligible for reimbursement any additional costs resulting thereby.
6. Final construction costs and soft costs will be determined and certified by the County. The Town shall reimburse the County within (30) days of written invoice or be subject to interest at the rate of 8% per year. Soft costs are costs not directly attributable to construction, such as planning and design, geotechnical sampling and analysis, surveying, consultant management services, and the like.

7. Final construction contract costs and soft costs may not exceed its original estimate for each site by more than fifteen percent (15%). Therefore the County recommends a contingency reserve of 15% be established by the Town.

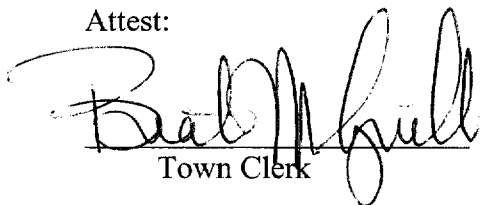
The County shall notify the Town immediately if any change contemplated in the scope of the work will increase the projected costs. The Town Engineer will respond to field emergencies within two (2) hours of receiving the notification of change from the County. Written or oral comments concerning the change(s) will be provided by the Town's Engineer. After receipt of comments from the Town Engineer the County will make the final determination.

8. In cases where there are FEMA sites falling partially in the Town and in the County, the County shall prorate the costs according to the work performed in each jurisdiction of the road.
9. In the event that unexpected circumstances create additional costs from which the contractor is entitled to reimbursement, these costs shall be allocated by the County to the entity having jurisdiction of the segment of the road where such costs are incurred.
10. 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.
11. The Town shall be responsible for the maintenance of the municipal roadways and infrastructure after the Project is completed.
12. There may be occasions for justifiably canceling certain work by either the Town or the County. Upon notification, all work will be promptly stopped in an orderly fashion. The Town will not be obligated to reimburse the County for work which has been cancelled and not performed. Any payment for work in process at the time the cancellation order becomes effective, for which the County is liable to compensate a contractor, shall be reimbursed by the Town to the County.

13. The FEMA Program Projects have all been identified, defined, estimated and funded by FEMA as shown on individual County Project Worksheets (PW) previously submitted to the Town. The Town shall have the right of inspecting and commenting on the design of each Project Worksheet (PW) site, and to make recommendations upon completion of the design. Should the Town's recommendation result in costs not eligible for reimbursement by the FEMA program, then the work may proceed upon agreement from the County, and that ineligible portion of the construction work cost will be tracked separately for full reimbursement by the Town to the County.
  
14. The County can not guarantee a fixed construction schedule for the Town's projects, however, will schedule such work whenever it is opportune in light of spare County contract capacity and nearby assignments being undertaken. Any schedule provided by the County without being covered with a County Work Order to a contractor is to be interpreted as a preliminary schedule which is subject to change. The County will strive to fit all Town work within the period allowed by FEMA, currently October 1, 2004 for Irene Storm projects and October 2005 for No-Name Storm projects, but can not guarantee such coverage.
  
15. A design schedule for those sites not yet assigned by the County for design shall be mutually developed immediately upon execution of this Memorandum of Agreement, and the work can commence in accordance with established County procedures utilizing available County geotech, surveying and design contract capacity. Such work is not expected to cause conflicts with ongoing County work.
  
16. The initial term of this Agreement shall be for a period of three (3) years beginning on the date of execution by both parties hereto. Upon mutual written consent of the parties, this Agreement may be extended for another year.

IN WITNESS THEREOF, the parties through their duly authorized representatives hereby execute this AGREEMENT.

Attest:

  
 Town Clerk

10/14/03  
 Date

TOWN OF MIAMI LAKES, FLORIDA  
 6853 Main Street  
 Miami Lakes, Florida 33014

Authorized signature on behalf of the Town of Miami Lakes, Florida.

By:  10/27/03  
 Town of Miami Lakes Date

Harvey Ruvin, Clerk  
 Attest:

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk                      Date

BY: \_\_\_\_\_  
George M. Burgess, County Manager

**MIAMI LAKES  
ROADWAY RESTORATION AND DRAINAGE REPLACEMENT PROGRAM  
ATTACHMENT "A"**

| FEMA PW                    | COUNTY | PW | SITE               | FEMA APPR.            | MUNICIPALITY | LOCATION   | FROM       | TO         | TYPE   |
|----------------------------|--------|----|--------------------|-----------------------|--------------|------------|------------|------------|--------|
| 681                        | 66     |    | 278                | \$96,929.00           | MIAMI LAKES  | NW 78 PL   | NW 167 ST  | NW 169 TER | RECO   |
| 681                        | 66     |    | 279                | \$73,912.53           | MIAMI LAKES  | NW 79 AVE  | NW 154 ST  | NW 167 TER | RECO   |
| 681                        | 66     |    | 280                | \$33,634.48           | MIAMI LAKES  | NW 79 PL   | NW 167 TER | NW 169 TER | RECO   |
| 681                        | 66     |    | 292                | \$85,212.71           | MIAMI LAKES  | NW 163 TER | NW 79 AVE  | NW 82 AVE  | RESURF |
| 681                        | 66     |    | 293                | \$30,806.48           | MIAMI LAKES  | NW 164 TER | NW 79 AVE  | NW 82 AVE  | RESURF |
| 681                        | 66     |    | 294                | \$61,409.70           | MIAMI LAKES  | NW 166 TER | NW 79 AVE  | NW 82 AVE  | RESURF |
| 681                        | 66     |    | 296                | \$30,806.48           | MIAMI LAKES  | NW 167 TER | NW 79 AVE  | NW 82 AVE  | RESURF |
| 681                        | 66     |    | 297                | \$154,474.86          | MIAMI LAKES  | NW 167 TER | NW 82 CT   | NW 83 PL   | RECO   |
| 681                        | 66     |    | 298                | \$24,006.27           | MIAMI LAKES  | NW 168 ST  | NW 82 AVE  | NW 83 PL   | RESURF |
| 681                        | 66     |    | 300                | \$131,458.24          | MIAMI LAKES  | NW 169 TER | NW 79 AVE  | NW 82 AVE  | RECO   |
| 681                        | 66     |    | 6132               | \$20,605.41           | MIAMI LAKES  | NW 78 PL   | NW 167 ST  | NW 169 TER | RESURF |
| 681                        | 66     |    | 6133               | \$34,823.20           | MIAMI LAKES  | NW 169 TER | NW 79 AVE  | NW 82 AVE  | RESURF |
| 1329                       | 3057   |    | 11135              | \$194,003.29          | MIAMI LAKES  | NW 163 ST  | NW 57 AVE  | NW 59 AVE  | DRAIN. |
| 1328                       | 3058   |    | 11136              | \$181,827.98          | MIAMI LAKES  | NW 59 AVE  | NW 163 ST  | NW 167 ST  | DRAIN. |
| 1327                       | 3059   |    | 11137              | \$194,003.29          | MIAMI LAKES  | NW 165 TER | NW 57 AVE  | NW 59 AVE  | DRAIN. |
|                            |        |    | <b>TOTAL SITES</b> | <b>15</b>             |              |            |            |            |        |
| <b>Total FEMA Approved</b> |        |    |                    | <b>\$1,347,913.91</b> |              |            |            |            |        |