

RESOLUTION NO. 05-270

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE MIAMI LAKEWAY N DRAINAGE AND PARKING IMPROVEMENTS AGREEMENT WITH ACOSTA TRACTORS, INC.; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO FINALIZE THE TERMS OF THE AMENDMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 11, 2004, the Town Council approved an Agreement, (the "Agreement") whereby Acosta Tractors, Inc. ("Acosta") would provide drainage and parking improvements to the Town; and

WHEREAS, the Town desires to extend the term of this agreement and increase the contract price so that Acosta can provide additional improvements to the Town while maintaining the same unit prices; and

WHEREAS, the First Amendment to the Agreement (the "Amendment") will increase the total price of the contract, but maintain unit prices at the same level; and

WHEREAS, the Town Council finds that approving the Amendment 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 First Amendment. The First Amendment to the Agreement between Acosta Tractors, Inc. and the Town of Miami Lakes, 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. Authorization of Town Officials. The Town Manager, Town Attorney and the Mayor are authorized to take all actions necessary to implement the terms and conditions of the Amendment.

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

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

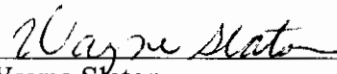
Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 17th day of January, 2005.

Motion to adopt by Pizzi, second by Vice Mayor Alonso/Collins

FINAL VOTE AT ADOPTION


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>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>
Councilmember Peter Thomson	<u>Absent</u>


Wayne Slaton
MAYOR

ATTEST:

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
Cole & Boniske, P.A.
TOWN ATTORNEY

F:/702001/Agreements/Approving First Amendment to Acosta Tractors

**FIRST AMENDMENT TO
MIAMI LAKEWAY N DRAINAGE AND PARKING IMPROVEMENTS AGREEMENT
BETWEEN ACOSTA TRACTORS, INC.
AND THE TOWN OF MIAMI LAKES**

This First Amendment to the Miami Lakeway N Drainage and Parking Improvements Agreement between Acosta Tractors, Inc. and the Town of Miami Lakes (the "First Amendment") is made and entered into this 18th day of January, 2005, by and between the Town of Miami Lakes, Florida, a municipal corporation of the State of Florida (the "Town") and Acosta Tractors, Inc., (the "Contractor").

WITNESSETH

WHEREAS, on May 11, 2004, the Town Council approved an Agreement, attached as Exhibit "1," by Resolution No. 04-224, whereby Contractor would provide drainage and parking improvements to the Town (the "Agreement"); and

WHEREAS, the Town Council desires to amend the total contract price in the Agreement to reflect additional improvements and to extend the term.

NOW THEREFORE, in consideration of the mutual covenants set forth in this First Amendment, the parties hereby amend the Agreement to read as follows:¹

Section 1. Amendment to Agreement. The parties amend the Agreement as follows:

* * *

3.1 This Contract shall be effective upon execution by both parties and shall continue ~~for a term of 180 days~~ until March 31, 2005. At its sole discretion, the OWNER shall have an option to renew this Contract upon the same terms and conditions (the "Option"). This Option may be exercised at the sole discretion of the Town Manager. Such extension shall be effective upon receipt of a

^{1/} Additions to existing text are shown by underline; deletions are shown by ~~strikeout~~.

written notice from the Town Manager to the CONTRACTOR received no later than 30 days prior to the date of termination.

- 3.2 The CONTRACTOR shall initiate work on the Project upon execution of this Agreement. The Contractor shall complete all Work, except for the roadway striping and landscape installation by ~~August 16, 2004~~ March 31, 2005. Roadway striping and landscape installation shall be completed by September 15, 2004.

* * *

- 4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents and the Schedule of Values. For all Unit Price Work, an amount equal to the sum of the established Unit Price for each separately identified item in the Bid Form, times the actual accepted quantity of that item will be paid for each separate work authorization. The maximum contract amount of the contract is as follows:

Contract Price \$~~1,087,462.19~~\$1,120,885.29

Contract Price (in words) ~~One Million Eighty Seven Thousand Four Hundred Sixty Two Dollars and 19/100~~ One Million One Hundred Twenty Thousand Eight Hundred Eighty Five Dollars and 29/100

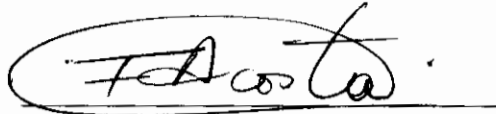
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Section 2. No Further Modifications. All other terms and conditions of the Agreement not in conflict or superseded by this First Amendment shall remain in full force and effect as if set forth in full herein.

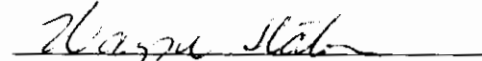
IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this First Amendment upon the terms and conditions above stated on the day and year first above written.

CONTRACTOR:

TOWN:



Felix Acosta
PRESIDENT



Wayne Slaton
MAYOR

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



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

Attest:



TOWN CLERK

F:/702001/Agreements/First Amendment to Acosta Tractors Agmt