

RESOLUTION NO. 05- 280

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE AGREEMENT BETWEEN THE TOWN OF MIAMI LAKES AND FLORIDA INTERNATIONAL UNIVERSITY METROPOLITAN CENTER TO PERFORM A TOWN ELDERLY AFFAIRS NEEDS ASSESSMENT SURVEY; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO IMPLEMENT 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") desires to conduct a needs assessment survey focusing on the Town's elderly population (the "Town Elderly Survey"); and

WHEREAS, the Town desires to engage the professional services of the Florida International University Metropolitan Center to assist the Town in conducting the Town Elderly Survey.

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 Agreement. The Agreement between the Town of Miami Lakes and Florida International University Metropolitan Center for the performance of the Town Elderly Survey (the "Agreements"), a copy of which are 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, are approved.

Section 3. Authorization of Town Officials. The Town Manager and Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Agreement.

Section 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds, up to the amount of the Agreement, 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 its adoption.

PASSED AND ADOPTED this 8th day of February, 2005.

Motion to adopt by Collins, second by Thomson.

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>Yes</u>

Wayne Slaton
Wayne Slaton
MAYOR

ATTEST:

[Signature]
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

EXHIBIT "A"

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF MIAMI LAKES
AND
FLORIDA INTERNATIONAL UNIVERSITY METROPOLITAN CENTER**

THIS AGREEMENT is made between **FLORIDA INTERNATIONAL UNIVERSITY METROPOLITAN CENTER**, a Florida _____, (hereinafter the "Consultant"), and the **TOWN OF MIAMI LAKES, FLORIDA**, a Florida municipal corporation, (hereinafter the "Town").

WHEREAS, the Consultant and Town, through mutual negotiation, have agreed upon a scope of services, schedule, and fee for a needs assessment for elderly services within the Town (the "Project"); and

WHEREAS, the Town desires to engage the Consultant to perform the services specified below.

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

1. **Scope of Services/Deliverables.**

1.1 The Consultant shall furnish a Town resident survey as set forth in the Scope of Services for the Project as specified in Exhibit "1," attached to this Agreement.

2. **Term/Commencement Date.**

2.1 This Agreement shall become effective from March 1, 2005 and shall remain in effect through May 31, 2005, unless earlier terminated in accordance with Paragraph 7. The Town Manager may extend the term of this Agreement up to an additional 180 days by written notice to the Consultant

2.2 Consultant agrees to complete each deliverable for the Project within the timeframes set forth in the Project Schedule attached as Exhibit "2", unless extended by the Town Manager.

3. **Compensation and Payment.**

3.1 The Consultant shall be compensated a lump sum of \$15,000.00 for the completion of the Project.

3.2 The Town shall pay Consultant, upon receipt of each invoice, in the following manner:

- a) \$7,500 at completion of Phase 1; and
- b) \$7,500 at the completion of Phase 2.

3.3 The Town shall pay Consultant in accordance with the Florida Prompt Payment Act.

3.4 If a dispute should occur regarding an invoice submitted, the Town Manager may withhold payment of the disputed amount and may pay to the Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the Town Manager whose decision shall be final.

4. **Subconsultants.**

4.1 The Consultant shall be responsible for all payments to any subconsultants and shall maintain responsibility for all work related to the Project.

4.2 Any subconsultants used on the Project must have the prior written approval of the Town Manager.

5. **Town's Responsibilities.**

5.1 Furnish to Consultant, at the Consultant's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Consultant, in possession of the Town.

5.2 Arrange for access to and make all provisions for Consultant to enter upon real property as required for Consultant to perform services as may be requested in writing by the Consultant.

6. **Conflict of Interest.**

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

7. **Termination.**

7.1 The Town Manager without cause may terminate this Agreement upon five (5) days written notice to the Consultant, or immediately with cause.

7.2 Upon receipt of the Town's written notice of termination, Consultant shall stop work on the Project unless directed otherwise by the Town Manager.

7.3 In the event of termination by the Town, the Consultant shall be paid for all work accepted by the Town Manager up to the date of termination,

provided that the Consultant has first complied with the provisions of Paragraph 7.4.

- 7.4 The Consultant shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Project to the Town, in a hard copy and electronic format within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

8. **Insurance.**

The Consultant shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the Town Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. If requested by the Town Manager, the insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. The insurance coverages shall include a minimum of:

- 8.1 Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law.
- 8.2 Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- 8.3 Commercial General Liability. If applicable, commercial general liability coverage with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
- 8.4 Certificates of Insurance shall be provided to the Town at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted.

9. **Nondiscrimination.**

- 9.1 During the term of this Agreement, Consultant 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

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 Consultant 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 any way connected with Consultant's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement. Consultant shall reimburse the Town for all its expenses including reasonable attorneys 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 Consultant's performance 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 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 (or their successors) at the following addresses:

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

With a Copy to: Nina Boniske, Town Attorney
Weiss Serota Helfman Pastoriza Guedes
Cole & Boniske, P.A.
2665 S. Bayshore Drive

Suite 420
Miami, Florida 33133
Telephone: (305) 854-0800
Facsimile: (305) 854-2323

For The Consultant: Patricia Alvarez
Director
Florida International University
Office of Sponsored Research Administration
University Park Campus
11200 S.W. 8 St., MARC 430
Miami, Florida 33199

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, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the Town under this Agreement shall be the property of the Town.

15.2 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 the Consultant involving transactions related to this Agreement.

15.3 The Town may cancel this Agreement for refusal by the Consultant 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 Consultant unless such assignment is first approved by the Town Manager. The Town is relying upon the apparent qualifications and personal expertise of the Consultant, and such firm's familiarity with the Town's area, circumstances and desires.

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. **Independent Contractor.**

18.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

19. **Compliance with Laws.**

19.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

20. **Waiver.**

20.1 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.

21. **Survival of Provisions.**

21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

22. **Prohibition Of Contingency Fees.**

22.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, 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 the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. **Counterparts.**

23.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

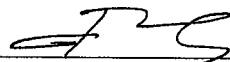
IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The Town, signing by and through its Town Manager, attested to by its Town Clerk, duly authorized to execute same and by Consultant by and through its _____, whose representative has been duly authorized to execute same.

Attest:



Town Clerk

TOWN OF MIAMI LAKES

By: 

Alex Rey, Town Manager

Date: _____

CONSULTANT

By: _____

Date: _____

EXHIBIT "1"
SCOPE OF WORK
Needs Assessment for Elderly Services in the Town of Miami Lakes

The task will be divided in two (2) phases.

A. Phase One:

1. Demographic analysis of census data;
2. Development of focus group script;
3. Recruitment of focus group participants;
4. Focus group of 10-12 participants; and
5. Development of instrument for phone survey.

Cost: \$7,500

B. Phase Two:

1. Phone Survey approve by Town of Miami Lakes;
2. Phone survey that will result in 400 phone surveys of elderly residents in Town of Miami Lakes;
3. Best practice analysis of other town programs; and
4. Preparation of final report and presentation before commission and committee.

Cost \$7,500

EXHIBIT "2"
PROJECT SCHEDULE

Phase 1:

- Week of January 24:* Focus Group Recruitment & Data Gathering
- Week of January 31:* Focus Group
- Week of February 7:* Development of Survey Instrument for Phone Survey
- Week of February 14:* Survey approved by Town

Phase 2:

- Week of February 21:* Phone Survey
- March 1:* Final Report: Needs Assessment for Elderly Services in the Town of Miami Lakes