

**RESOLUTION NO. 07-515**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE AGREEMENT BETWEEN M.C. HARRY AND ASSOCIATES, INC. AND THE TOWN OF MIAMI LAKES FOR THE ROYAL OAKS PARK COMMUNITY CENTER DESIGN CRITERIA SERVICES; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town of Miami Lakes (the "Town") has retained M.C. Harry and Associates, Inc. ("M.C. Harry") under a Professional Services Agreement to provide architectural services for specific projects throughout the Town; and

WHEREAS, pursuant to Work Authorization No. 01A-07 M.C. Harry shall develop architectural, structural, mechanical, electrical and plumbing design drawings for the Royal Oaks Park Community Center (the "Project Agreement"); and

WHEREAS, M.C. Harry has agreed to provide said services under the Project Agreement; and

WHEREAS, the Town Council finds that approval of the Project Agreement between M.C. Harry and the Town is in the best interests 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 above recitals are true and correct and incorporated into this resolution by this reference.

**Section 2. Approval of Agreement.** The Project Agreement between M.C. Harry Associates, Inc. and the Town of Miami Lakes for the development of architectural, structural, mechanical, electrical and plumbing design drawings for the Royal Oaks Park Community Center (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 3. Authorization of Town Officials.** The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

**Section 4. Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Town Manager pursuant to the Town's Purchasing Procedures Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement, including any requirements pursuant to the Miami-Dade County Building Better Communities General Obligation Bond Program.

**Section 5. Execution of Agreement.** The Town Manager is authorized to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the Agreement, subject to the approval as to form and legality by the Town Attorney.


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

PASSED AND ADOPTED this 10 day of April, 2007.

Motion to adopt by Mary Collins, second by Nancy Simon.

FINAL VOTE AT ADOPTION

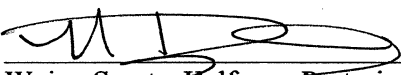
Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Mary Collins	<u>yes</u>
Councilmember Roberto Alonso	<u>absent</u>
Councilmember Robert Meador	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Richard Pulido	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>

  
\_\_\_\_\_  
Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Debra Eastman, MMC  
TOWN CLERK

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

  
\_\_\_\_\_  
Weiss, Serota, Helfman, Pastoriza,  
Cole & Boniske, P.L.  
TOWN ATTORNEY

# EXHIBIT A

## PROJECT AGREEMENT

Between

TOWN OF MIAMI LAKES, FLORIDA

And

M.C. HARRY AND ASSOCIATES, INC.

for

Work Authorization No. 01A-07

ROYAL OAKS PARK COMMUNITY CENTER

PROJECT AGREEMENT  
Between

THE TOWN OF MIAMI LAKES, FLORIDA

And

M.C. HARRY AND ASSOCIATES, INC.

For

Work Authorization No. 01A-07

ROYAL OAKS PARK COMMUNITY CENTER

Pursuant to the provisions contained in the "Professional Services Agreement" between the TOWN OF MIAMI LAKES, FLORIDA (the "TOWN") and M.C. HARRY AND ASSOCIATES, INC., ("CONSULTANT") dated \_\_\_\_\_, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below. Unless otherwise provided for herein, the defined term "TOWN" shall also include the Town Manager or his or her designated representative.

The TOWN and CONSULTANT agree as follows:

**SECTION 1. SCOPE OF SERVICES**

1.1 The CONSULTANT shall provide architectural and engineering services to the TOWN for the Royal Oaks Community Center (the "Project") which shall be based upon the ACAI Design Criteria Package the Community Center dated October 30, 2006 (the "Design"), with mutually agreed upon VE changes to be determined. The building shall be a single story building of approximately 8,200 gsf.

1.2 The "Scope of Services" and "Project Schedule" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as set forth herein, which includes architectural, structural, mechanical, electrical, and plumbing engineering services for the applicable tasks of the Project and called "Scope of Services" and "Project Schedule" and listed in Exhibit "1" attached hereto.

1.3 The TOWN may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Professional Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

## **SECTION 2. DELIVERABLES**

2.1 As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the TOWN the following Deliverables:

Construction Documents (plans and specifications) for construction of the Project (specific interim deliverables shall be as defined in Exhibit "1" attached hereto).

2.2 The CONSULTANT acknowledges the construction budget for the project is \$ 1,700,000.00 (the "Construction Budget"). The CONSULTANT shall develop cost estimates as provided in Exhibit "1" and if any of these estimates exceed the Construction Budget, the CONSULTANT and the TOWN shall meet to mutually adjust the Design and the Scope of Services as necessary at no additional cost to the TOWN.

## **SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE**

3.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect (the "Effective Date") until 30 months, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Town Manager, in his sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 30 days. No further extensions of this Agreement shall be effective unless authorized by the TOWN Council.

3.2 **Commencement.** The CONSULTANT'S Scope of Services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date this Agreement is executed by both parties. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. CONSULTANT must receive written notice from the Town Manager prior to the beginning the performance of the Scope of Services.

3.3 **Contract Time.** Upon execution of this Project Agreement, the CONSULTANT shall commence the Scope of Services to the TOWN on the Commencement Date, and shall continuously perform Scope of Services to the TOWN, without interruption, in accordance with the time frames set forth in the "Project Schedule," a copy of which is attached and incorporated into this Agreement as Exhibit "1". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 **Time is of the Essence.** All limitations of time set forth in this Project Agreement are of the essence.

#### **SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION**

4.1 **Lump Sum Compensation.** The TOWN agrees to pay the CONSULTANT as compensation for performance of the Scope of Services described in Exhibit "1" a total Lump Sum Fee of \$170,900 pursuant to the Payment Schedule as defined and set forth in Exhibit "2" attached hereto and made a part hereof (the "Payment Schedule").

4.2 **Reimbursable Expenses.** The following expenses are reimbursable at their actual cost: travel and accommodations, long distance telephone calls, facsimile, courier services, mileage (at a rate approved by the TOWN), photo and reproduction services. All document reproductions are also reimbursable, at a rate approved by the TOWN.

4.3 **Payment for Additional/Reimbursable Services.** Payment for Additional/Reimbursable Services may be requested monthly in proportion to the services performed. When such services are authorized as an hourly rate, the CONSULTANT shall submit for approval a duly certified invoice, giving names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a project or task. The CONSULTANT shall attach to the invoice all supporting data for payments made to Subconsultants engaged on the Project. In addition to the invoice, the CONSULTANT shall, for Hourly Rate authorizations, submit a progress report giving the percentage of completion of the Project development and the total estimated fee to completion.

#### **SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT**

##### **5.1 Invoices**

5.1.1 **Lump Sum Compensation and Reimbursable Expenses.** CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule set forth in Exhibit "2", to this Project Agreement. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the TOWN. The TOWN shall pay CONSULTANT within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONSULTANT to the TOWN.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONSULTANT is disputed, or additional backup documentation is required, the TOWN shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the TOWN with additional backup documentation within five (5) working days of the date of the TOWN'S notice. The TOWN may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The TOWN, at its sole discretion, may

pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subsection 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

5.4 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the TOWN that, upon receipt from the TOWN of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the TOWN all documents requested by the TOWN evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the TOWN by the CONSULTANT.

## **SECTION 6. TERMINATION/SUSPENSION**

6.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Project Agreement or causes it to be terminated by the TOWN, the CONSULTANT shall indemnify the TOWN against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the TOWN for cause and it is subsequently determined by a court by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Subsection 6.2 of this Project Agreement and the provision of Subsection 6.2 shall apply.

6.2 **For Convenience.** This Project Agreement may be terminated by the TOWN for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the TOWN and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Subsection 5.1 of this Project Agreement. Under no circumstances shall the TOWN make any payment to the CONSULTANT for services which have not been performed.



6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the CONSULTANT'S work product shall become the property of the TOWN and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the TOWN, transfer to either the TOWN or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Further, upon the TOWN'S request, the CONSULTANT shall assign its rights, title and interest under any subcontractor's agreements to the TOWN.

6.4 **Suspension for Convenience.** The TOWN shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to ninety (90) calendar days. If any such suspension is directed by the TOWN, the CONSULTANT shall immediately comply with same. In the event the TOWN directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the TOWN shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

#### **SECTION 7. INCORPORATION OF TERMS AND CONDITIONS OF PROFESSIONAL SERVICE AGREEMENT**

7.1 This Project Agreement incorporates the terms and conditions set forth in the Professional Services Agreement dated \_\_\_\_\_ between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Professional Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

**ATTEST:**

**TOWN OF MIAMI LAKES**

\_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
TOWN OF MIAMI LAKES, FLORIDA, ONLY:**

\_\_\_\_\_  
Town Attorney

**ATTEST:**

**M.C. HARRY AND ASSOCIATES, INC.**

\_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_\_  
Thomas M. Carlson  
President

\_\_\_\_\_  
Please type name of Assistant Secretary

Date: \_\_\_\_\_

(CORPORATE SEAL)

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

## Exhibit "1"

### **Scope of Services / Project Schedule**

The CONSULTANT shall provide architectural and engineering services to the TOWN for the "Royal Oaks Community Center" (the "Project"), which includes architectural, structural, mechanical, electrical, and plumbing engineering services as necessary to produce deliverable for the Project and collectively called the "Scope of Services."

The design of the Project shall be based upon the ACAI Design Criteria Package (DCP) the Royal Oaks Community Center dated October 30, 2006 (the "Design"), consisting of a single story building of approximately 8,200 gsf.

The design services required for the Project include the following tasks and responsibilities (Phases 1 through 5):

I. Scope of Services.

1. Phase 1.

1.1 Phase 1 – Value Engineering Changes.

1.1.1 CONSULTANT shall meet with the TOWN to review the existing Design and shall propose a list of value engineering (VE) changes. The VE changes are intended to maintain the basic design appearance of the building as designed, but to reduce the overall construction cost; and

1.1.2 CONSULTANT shall review the previous DCP plans against current codes and regulations, and shall document any changes recommended; and

1.1.3 CONSULTANT shall review the detailed cost estimate prepared previously by ACAI and shall prepare a summary estimate of the proposed VE changes; and

1.1.4 CONSULTANT shall document the proposed changes through mark-ups of the existing drawings, and with a narrative report detailing the changes recommended; and

1.1.5 The TOWN shall review and approve the VE and other proposed changes to establish a mutually agreed upon scope that will meet the Construction Budget.

1.2 Phase I - Deliverables. The deliverables shall include an annotated set of Design plans, report narrative documenting all of the proposed changes and the cost estimate documenting the assumptions. Up to 4 sets will be duplicated and provided.

1.3 Schedule. This task will begin with the Notice to Proceed and end with the Town review and approval. This task is expected to take no more than 60 calendar days.

2. Phase 2.

2.1 Phase 2 – Construction Documents.

2.1.1 CONSULTANT shall prepare Final Construction Plans and Specifications. From the revised Design documents CONSULTANT shall prepare a final construction documents package to include architectural, structural, mechanical, electrical, and plumbing engineering disciplines, and final technical specifications. The Final Construction Plans and Specifications shall include typical documents required for issuance of a building permit (e.g. plans; sections; elevations; details; life safety plan; and code summary documentation); and

2.1.2 CONSULTANT shall submit 60% complete construction documents and specifications for review; updated cost estimate; attend one review meeting with the Town of Miami Lakes and revise drawings per one set of agreed upon comments; and

2.1.3 CONSULTANT shall submit 90% complete construction documents and specifications for review; updated cost estimate; attend one review meeting with the Town of Miami Lakes and revise drawings per one set of agreed upon comments; and

2.1.4 CONSULTANT shall update the construction documents with agreed upon comments and comments received from the permitting authorities and shall submit ready to advertise (RTA) version of Final Construction (Bid) Documents and copies for project team use.

2.1.5 CONSULTANT shall provide an updated Construction Budget;

2.2 Deliverables. CONSULTANT shall deliver 4 sets of 90% complete construction documents; specifications and cost estimate distributed as printed sets. Drawing sets can be either full size or half size. CONSULTANT shall deliver 4 sets of 100% RTA construction documents.

2.3 Schedule. This Phase 2 shall begin with the approval of the Phase 1 items. The CONSULTANT will complete the 90% construction documents within 75 Calendar Days of the Effective Date and will complete the 100% contract documents within 21 calendar days from receipt of the comments from the TOWN. This task will overlap with Building Permitting. This task is expected to take no more than 160 calendar days.

3. Phase 3.

3.1 Phase 3 - Building Permitting. CONSULTANT shall assist with preparing the building permit applications and supporting documentation; submit applications to agencies; prepare and submit responses to requests for information (RFI's) from each agency; and shall modify the documents as necessary.

3.2 Deliverables. CONSULTANT shall deliver 2 sets of 100% RTA construction documents signed and sealed by the professional of record.

3.3 Schedule. This task will start within 7 days of completion of the 90% construction documents submittal, and will end with building permit approvals. CONSULTANT will respond to comments received from the permit agencies within 14 calendar days. It is assumed this task can be completed within 60 calendar days, but it is acknowledged that the Consultant has very little control over this timeline.

4. Phase 4.

4.1 Phase 4 - Bidding Phase Assistance. Bidding Phase Assistance – CONSULTANT shall Assist the Town in the development of one (1) Bid Package; assist Town in responding to a reasonable amount of written RFI's from Bidders and in preparing up to two addenda; assist Town with one (1) pre-bid meeting with potential bidders; review the qualifications of the low responsive bidder and, if required, provide a written letter report to the Town.

4.2 Deliverables. N/A

4.3 Schedule. This task will start with issuance of the plans for bidding, and will end with the receipt; analysis and recommendation of the bids received. It is assumed this task can be completed within 75 calendar days,

5. Phase 5.

5.1 Phase 5 - Administration of the Construction Contract.

5.1.1 The Construction Phase shall begin with a Notice to Proceed issued to the contractor and shall end when the final Payment Certificate is approved by the TOWN. During this period, the CONSULTANT shall provide administration of the Construction Contract as set forth in the General and Supplementary Conditions of the Construction Contract.

5.1.2 The CONSULTANT and Project Manager, as the representatives of the Owner during the Construction Phase, shall advise and consult with the Owner and shall have authority to act on behalf of the Owner to the extent

provided in the General Conditions and the Supplementary Conditions of the Construction Contract.

- 5.1.3 The CONSULTANT shall visit the site at least bi-weekly and at all key construction events, to ascertain the progress of the Project and to determine in general if the Work is proceeding in accordance with the Contract Documents. The CONSULTANT shall notify the Owner in writing of any non-compliant work discovered during the site observations. The CONSULTANT will not be required to make extensive inspections or provide continuous daily on-site inspections to check the quality or quantity of the Work unless otherwise set forth in this Agreement. The CONSULTANT will not be held responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor will the CONSULTANT be held responsible for the Contractor's or Subcontractors', or any of their agents' or employees', failure to perform the Work in accordance with the Contract Documents.
- 5.1.4 The CONSULTANT shall furnish the Owner with a written report of all observations of the Work made by the CONSULTANT during each visit to the Project.
- 5.1.5 The CONSULTANT shall perform the basic service requirements as required by the approved General Conditions and Technical Specifications, including: Review and approve shop drawings; Review and recommend monthly payment applications for the Contractor; periodic site visits; Substantial Completion inspection of the Project; Issue a punch list of any defects and discrepancies in the Work Recommend issuance of a Certificate of Final Acceptance and final payment to the CONTRACTOR.

5.2 Deliverables. N/A

5.3 Schedule. The construction period shall be 273 Calendar Days from Notice to Proceed to substantial completion, plus 30 days for final completion or as otherwise defined in the construction documents.

II. Additional Services. The tasks as listed below are considered to be beyond the Scope of Services as defined in this Agreement, and if authorized by written authorization, shall be compensated at either a mutually agreed lump sum fee or hourly rate.

- 1. Financial feasibility, life cycle costing, or other special studies.
- 2. Design services relative to future facilities, systems and equipment which are not intended to be constructed as part of this Project.

3. Detailed estimates of construction cost prepared by an independent professional cost estimator; consisting of quantity surveys itemizing all material, equipment and labor required for a project.
4. Interior design services required for or in connection with the selection of furniture or furnishings.
5. The services of one or more full-time Project Field Representatives during construction.
6. Making major revisions changing the scope of the Project due to causes beyond the control of CONSULTANT. Major revisions are defined as those changing the scope and arrangement of spaces and/or scheme or any portion thereof.
7. Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural/engineering practice related directly to architecture, engineering, design and construction of the Project.
8. Additional contract administration, should the time required of CONSULTANT exceed the Contract Time for the Work by more than 5%, and only if the delay is beyond the control of CONSULTANT.

**EXHIBIT "2"**

**PAYMENT SCHEDULE**

Fees shall be earned proportional to the tasks and phases as completed. CONSULTANT shall invoice the TOWN monthly as a percentage of the task/phase completed based on the following schedule:

Phase 1	Value Engineering	\$18,467
Phase 2	Contract Documents	\$74,221
Phase 3	Permitting	\$16,552
Phase 4	Bidding Phase	\$5,394
Phase 5	Construction Administration	\$56,266
	Total	<u>\$170,900</u>