

RESOLUTION NO. 07- 521

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE SELECTION OF MILLENNIUM TECHNOLOGY GROUP TO CREATE THE TOWN'S INFORMATION TECHNOLOGY MASTER PLAN FOR THE NEXT FIVE YEARS; APPROVING THE CONTRACT BETWEEN MILLENNIUM TECHNOLOGY GROUP AND THE TOWN OF MIAMI LAKES; AUTHORIZING TOWN OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") issued a Work Order to the five vendors on the Qualified Vendor List for information technology services; and

WHEREAS, on March 6, 2007, the proposals in response to the Work Order were opened and Millennium Technology Group was the only vendor who a submitted a proposal; and

WHEREAS, after reviewing the qualifications of Millennium Technology Group, the Town Manager recommends the selection of Millennium Technology Group; and

WHEREAS, the Town Council finds that approval of Millennium Technology Group along with the Contract, 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 Millennium Technology Group. Millennium

Technology Group is selected and approved to create the Town's Information Technology Master Plan for the next five years.

Section 3. Approval of Contract. The Contract to create the Town's

Information Technology Master Plan for the next five years between Millennium Technology Group and the Town (the "Contract"), 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 Town Officials. The Town Manager and Town

Attorney are authorized to take all steps necessary to implement the terms and conditions of the Contract.

Section 5. 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 Contract.

Section 6. Execution of Contract. The Town Manager is authorized to execute

the Contract on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Contract and to execute any extensions and/or amendments to the Contract, subject to the approval as to form and legality by the Town Attorney.

Section 7. Effective Date. This Resolution shall take effect immediately upon

adoption.

PASSED AND ADOPTED this 8th day of May, 2007.

Motion to adopt by Robert Meador, second by Roberto Alonso.

FINAL VOTE AT ADOPTION

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Mary Collins	<u>yes</u>
Councilmember Roberto Alonso	<u>yes</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
Wayne Slaton
MAYOR

ATTEST:

Debra Eastman
Debra Eastman, MMC
TOWN CLERK

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

[Signature]
Weiss, Serota, Helfman, Pastoriza,
Cole & Boniske, P.L.
TOWN ATTORNEY

EXHIBIT A

AGREEMENT BETWEEN
THE TOWN OF MIAMI LAKES
AND MILLENNIUM TECHNOLOGY GROUP
FOR INFORMATION TECHNOLOGY SERVICES

THIS AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 2007, by and between the Town of Miami Lakes, a Florida municipal corporation (the "Town"), and Millennium Technology Group. ("CONSULTANT").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. PURPOSE/AUTHORIZATION

1.1 The purpose of this Agreement is to provide for the Town's retention of CONSULTANT to perform all information technology services for the Town as described in Section 2 below.

2. SCOPE OF SERVICES

2.1 The scope of the project is to define and create the Information Technology Master Plan for the Town of Miami Lakes for the next five (5) years.

3.1 The cost of services for the project is \$34,000.00. Payment schedule to be mutually agreed upon and defined prior to execution of the agreement.

4. RECORDS/RIGHT TO INSPECT AND AUDIT

4.1 All records, books, documents, papers and financial information (the "Records") that result from CONSULTANT providing services to the Town under this Agreement shall be the property of the Town.

4.2 Upon termination or expiration of this Agreement, or at any time during the term of this Agreement, and upon the written request of the Town Manager, any and all such Records shall be delivered to the Town by CONSULTANT within 15 calendar days of the date of such request. Any compensation due to CONSULTANT shall be withheld until such Records are received by the Town.

4.3 The CONSULTANT shall maintain all Records for the time periods specified in the State of Florida Record Retention laws, and such other books, documents, papers and financial information pertaining to work performed under this Agreement during the term of this Agreement and

for a period of three (3) years following termination or expiration of this Agreement.

- 4.4 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 or expiration of this Agreement, have access to and the right to examine and audit any Records of CONSULTANT involving transactions related to this Agreement.
- 4.5 The Town may cancel this Agreement for refusal by CONSULTANT to allow access by the Town Manager to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

5. INDEMNIFICATION

- 5.1 CONSULTANT shall defend, indemnify, and hold harmless the Town, its officers, attorneys, 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 in any way connected with CONSULTANT, its officers', agents' or employees' acts or omissions, negligence, recklessness, misconduct, performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between CONSULTANT and third parties made pursuant to this Agreement. CONSULTANT shall reimburse the Town for all its expenses including reasonable attorney 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.
- 5.2 CONSULTANT shall defend, indemnify, and hold harmless the Town, its officers, attorneys, agents and employees, from all losses, injuries, damages, wages or overtime compensation due CONSULTANT'S agents or employees in rendering services pursuant to this Agreement, including payment of Town's reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any employment related litigation or claims under federal or state law.
- 5.3 The provisions of this section shall survive termination of this Agreement.

6. INSURANCE

The CONSULTANT shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its

interest and the interest of the Town against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida, be rated AB or better, and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town shall be in excess of the CONSULTANT's insurance and shall not contribute to the CONSULTANT's insurance. The insurance coverages shall include a minimum of:

- 6.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.
- 6.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the Town against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT 's use of motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive that the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.
- 6.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the Town against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONSULTANT or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.
- 6.4 **Certificate of Insurance:** CONSULTANT shall provide the Town Manager with Certificates of Insurance for all required policies. The Certificates of Insurance shall not only name the types of policy(ies)

provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to require the CONSULTANT to provide a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the services, renewal Certificates of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. 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. Acceptance of the Certificate(s) is subject to approval of the Town Manager.

6.5 **Additional Insured** - The Town is to be specifically included as an Additional Insured for the liability of the Town resulting from operations performed by or on behalf of CONSULTANT in performance of this Agreement. CONSULTANT's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to CONSULTANT's insurance. CONSULTANT's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

6.6 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONSULTANT shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

7. **TERM AND RENEWAL**

7.1 This Agreement shall become effective upon execution by both parties and shall continue through the end of the project unless earlier terminated as provided in Section 8 (the "Term").

8. **TERMINATION**

8.1 The Town may elect to terminate all or a portion of the Information Technology Services provided by CONSULTANT in this Agreement by giving CONSULTANT written notice at least 90 calendar days prior to the effective date of termination. Upon receipt of written notice of termination, CONSULTANT shall not enter into any third party agreements and shall incur only those expenses specifically approved or directed in writing by the Town Manager. Upon termination, the Town Manager may elect not to use the services of CONSULTANT.

- 8.2 CONSULTANT may terminate the Agreement at any time by giving the Town written notice at least 180 calendar days prior to the effective date of termination.
- 8.3 In the event of termination or expiration of this Agreement, CONSULTANT and the Town shall cooperate in good faith in order to effectuate a smooth and harmonious transition from CONSULTANT to the Town, or to any other person or entity the Town may designate, and to maintain during such period of transition the same services provided to the Town pursuant to the terms of this Agreement.
- 8.4 CONSULTANT will take all reasonable and necessary actions to transfer all books, records and data of the Town in its possession in an orderly fashion to either the Town or its designee in a hard copy and computer format.
- 8.5 Subsequent to the termination of this Agreement, the Town may contract with CONSULTANT at a mutually agreed upon amount to perform specified services on an as needed basis.
- 8.6 In the event that this Agreement is terminated for convenience, the CONSULTANT shall be paid for any Information Technology Services performed up to the date of termination. Upon receipt of a notice of termination, the CONSULTANT shall perform only those services specified by the Town Manager and shall not incur additional expenses without the Town Manager's prior written approval.
- 8.7 Upon termination or expiration, any compensation payable by Town to CONSULTANT shall be withheld until all Records and documents are provided to Town pursuant to Section 4.2 of this Agreement.
- 8.8 Upon termination or expiration, the Town shall not be liable to CONSULTANT for any additional compensation, consequential or incidental damages, lost profits, or any other compensation, beyond the compensation structure specifically provided for in this Agreement.

9. **ENTIRE AGREEMENT/MODIFICATION/AMENDMENT**

- 9.1 This writing contains the entire Agreement of the parties and supersedes 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.
- 9.2 No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed with the same formality as this document.

10. **SEVERABILITY**

10.1 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.

11. GOVERNING LAW

11.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

12. WAIVER

12.1 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.

13. NOTICES/AUTHORIZED REPRESENTATIVES

13.1 Any notices required or permitted 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 private postal service, addressed to the parties at the following addresses:

For the Town:

Town of Miami Lakes
Attention: Alex Rey, Town Manager
15700 NW 67 Avenue
Miami Lakes, Florida 33014
Telephone: (305) 558-8244
Facsimile: (305) 558-8511

With a copy to:

Weiss Serota Helfman Pastoriza Cole &
Boniske, P.L., Town Attorneys
Attention: Nina L. Boniske, Esq.

2525 Ponce de Leon Blvd
Suite 700
Miami, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

For CONSULTANT:

Millennium Technology Group, Inc.
Attn: Darrell T. Forte
950 South Pine Island Road, Suite A-150
Plantation, FL 33324
(O) 954-727-8136
(C) 954-600-9780
(F) 954-337-0984

With copy to:

Thomas J Hess, PA
1401 Brickell Avenue
Suite 825
Miami, FL 33131-2624

(O) 305-373-0330
(F) 305-373-2735

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions hereof.

14. INDEPENDENT CONTRACTOR

- 14.1. CONSULTANT is and shall remain an independent contractor and is not an employee or agent of the Town. Services provided by CONSULTANT shall be by employees of CONSULTANT working under the supervision and direction of CONSULTANT and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the Town. CONSULTANT agrees that it is a separate and independent enterprise from the Town.
- 14.2. CONSULTANT shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with CONSULTANT. This Agreement shall not be construed as creating any joint employment relationship between CONSULTANT and the Town, and the Town will not be liable for any obligation incurred by

CONSULTANT, including but not limited to unpaid minimum wages and/or overtime payments.

15. STAFFING/REMOVAL

- 15.1 If at any time during the term of this Agreement the Town Manager becomes dissatisfied with the performance of any of CONSULTANT'S staff assigned to provide services under this Agreement, the Town Manager may request that the particular employee be removed from servicing this account. Representatives of CONSULTANT and the Town Manager shall meet to discuss appropriate remedial action to alleviate the performance deficiencies experienced by the Town. If the proposed resolution is unsatisfactory to the Town Manager, CONSULTANT shall reassign said personnel out of the Town within 10 calendar days of notification by the Town Manager.
- 15.2 CONSULTANT agrees to act in good faith and to use its best efforts to resolve any problems experienced by the Town.
- 15.3 CONSULTANT shall be responsible for maintaining current background checks on all employees and agents assigned to work in the Town. Background checks for each individual must be performed prior to providing any services to the Town. Written verification of any background checks must be provided to the Town if requested by the Town Manager.

16. WAIVER OF JURY TRIAL

- 16.1. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to a trial by jury.

17. ASSIGNMENT/SUBCONTRACTS

- 17.1 This Agreement shall not be assignable by CONSULTANT without the prior approval of the Town Council, at the Town's sole discretion.
- 17.2 CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the Town Manager, which shall be on his/her sole and absolute discretion.

18. PROHIBITION AGAINST CONTINGENT FEES/CONFLICTS

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

18.2 Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

18.3 CONSULTANT agrees that none of its officers or employees shall, during the Term or any renewal term of this Agreement, serve as an expert witness against Town in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process.

19. WARRANTIES OF CONSULTANT

19.1 CONSULTANT warrants and represents that at all times during the Term or any renewal term of this Agreement that it shall maintain in good standing with the State of Florida, that all required licenses and certificates of CONSULTANT and its employees and agents required to perform services hereunder under federal, state and local laws necessary to perform the Scope of Services specified in this Agreement shall remain current and active.

19.2 CONSULTANT warrants and represents that its employees have received sexual harassment training and that CONSULTANT maintains appropriate sexual harassment and anti-discrimination policies.

19.3 CONSULTANT warrants and represents that its employees will abide by the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes and the applicable provisions of the Conflict of Interest and Code of Ethics ordinances sets forth in Section 2-11.1 of the Town Code and Section 2-11.1 of the Miami-Dade County Code, as these codes may be amended from time to time.

19.4 CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

19.5 CONSULTANT represents that all persons delivering the Information Technology Services as required by this Agreement have the requisite

knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in this Agreement and agrees to provide and perform such Information Technology Services to Town's satisfaction for the agreed compensation.

19.6 CONSULTANT shall maintain a Drug-Free workplace as that term is defined in Florida Statutes.

19.7 CONSULTANT shall comply with all applicable federal, state, county and Town laws, rules and regulations in the performance of Information Technology Services.

20. ATTORNEYS' FEES

20.1 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.

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IN WITNESS WHEREOF the undersigned parties have executed this Agreement on the date indicated above.

WITNESSES:

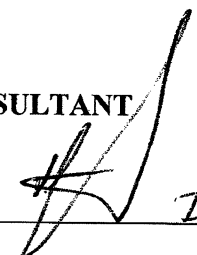


Print Name: Fernando Flores



Print Name: Myron Jackson

CONSULTANT

By:  Darryl T. Fort

Date: 4/23/2007

ATTEST:

TOWN OF MIAMI LAKES

Town Clerk

By: _____

Date: _____

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

Town Attorney