

RESOLUTION NO. 07-566

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE MEMORANDUM OF AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE TOWN OF MIAMI LAKES FOR TURF AND LANDSCAPE MAINTENANCE AT THE INTERSECTION OF NW 154TH STREET AND STATE ROAD 826; AUTHORIZING TOWN OFFICIALS 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 Florida Department of Transportation (“FDOT”) controls the roadside areas and median strips throughout the Florida Highway System; and

WHEREAS, the Town of Miami Lakes (the “Town”) in 2004 entered into an agreement with the FDOT for the Town to provide turf and landscape maintenance at the intersection of NW 154th Street and State Road 826 (the “Intersection”) in exchange for the FDOT reimbursing the Town for providing the maintenance of the Intersection; and

WHEREAS, the original agreement was for a total term of three (3) years and in order to continue the services, the FDOT requires the Town to enter into a new agreement; and

WHEREAS, the Town Council finds that approval of the agreement 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 Agreement. The Department of Transportation Turf and Landscape Maintenance Memorandum of Agreement with the Town of Miami Lakes (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 Town Attorney are authorized to take all steps 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.

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 11 day of September, 2007.

Motion to adopt by Mary Collins, second by Robert Alonzo.


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>



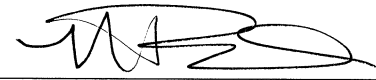
Wayne Slaton
MAYOR

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



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

1000 Northwest 111th Avenue
Miami, FL 33172
Room # 6205B
DISTRICT SIX

STEPHANIE C. KOPELOUSOS
SECRETARY

Where a request for service is an opportunity to serve you!

January 7, 2008

Mr. Osdell Larrea
Director for Public Works and Code Compliance
TOWN OF MIAMI LAKES
15700 NW 67 Avenue
Miami Lakes, FL 33014

RE: NOTICE TO PROCEED
Contract: AOX10 Turf and Landscape Agreement
FIN# 41670917801

Dear Mr. Larrea:

The Department and the Town of Miami Lakes have executed the Joint Project Agreement noted above for a period of one year, starting January 7, 2008.

The Town may invoice the Department after the end of each quarter according to the schedule below.

1 st Quarter-	January 7 th , 2008 thru April 6 th , 2008
2 nd Quarter	April 7 th , 2008 thru July 6 th , 2008
3 rd Quarter	July 7 th , 2008 thru October 6 th , 2008
4 th Quarter	October 7 th , 2008 thru January 6 th , 2009

If you have any questions concerning the agreement, please contact me at telephone number (305) 470-5360.

Sincerely,

Ronald S. Steiner
District Maintenance Engineer

cc: Ron Steiner, Houshang Zahedi, Sarah Perez, Kenneth Robertson.

JOINT PROJECT AGREEMENT
BETWEEN
THE FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE TOWN OF MIAMI LAKES
TURF AND LANDSCAPE MAINTENANCE

This Agreement is made and entered into this 7th day of January, 2008 7/1, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **TOWN OF MIAMI LAKES**, a municipal corporation of the State of Florida, existing under the Laws of the State of Florida, hereinafter called the **TOWN**.

WITNESSETH:

WHEREAS, as a part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, has created roadside areas and median strips on that part of the State Highway System described by Attachment "A", which by reference hereto shall become a part hereof, within the corporate limits of the **TOWN**; and

WHEREAS, the hereto is of the opinion that said median strips and roadside areas shall be attractively landscaped with various flora; and

WHEREAS, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the **TOWN**, by Resolution No. 07-566 dated 9/11/07, attached hereto as Attachment "B", which by reference hereto shall become a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. TOWN'S MAINTENANCE RESPONSIBILITIES

The **TOWN** shall be responsible for the maintenance of all landscaped and/or turfed areas within the **DEPARTMENT'S** right-of-way having the limits described by Attachment "A". The **TOWN** shall be responsible for performing the work described below with a minimum frequency of twelve (12) times per year:

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- 1.1. Mow, cut, and/or trim and edge the grass or turf in accordance with the latest edition of the State of Florida "Guide for Roadside Mowing" and the latest edition of the "Maintenance Rating Program".
- 1.2. Properly prune all plants which include plant and tree trimmings in accordance with the latest edition of the "Maintenance Rating Program". Pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right-of-way.
- 1.3. Remove and dispose of dead, diseased or otherwise deteriorated plants.
- 1.4. Keep litter removed from roadside areas and median strips.
- 1.5. Remove and dispose of all trimmings, roots, branches, litter, etc., resulting from the activities described by (1.1) through (1.4) inclusively as described above.
- 1.6 All work by the **TOWN** pursuant to (1.1) through (1.5) above on the Department's right of way (having the limits described by Attachment "A") shall be executed on the roadway under a traffic control plan in accordance with **DEPARTMENT'S** latest edition of the "FDOT Design Standards".

2. **WORK SCHEDULE**

The **TOWN** shall submit a schedule to the **DEPARTMENT** containing the dates when the **TOWN** is planning to perform the mowing work. In addition, before the **TOWN** starts the work, the **DEPARTMENT** shall be notified via fax of the state road(s) and day(s) in which the **TOWN** will be working. The fax shall be sent to the attention of the "South Dade Maintenance Engineer", at FAX # (305) 256-6304.

3. **NATURAL DISASTERS**

The **TOWN** shall not be responsible for the clean-up, removal and disposal of debris from the **DEPARTMENT'S** right of way having limits described by Attachment "A", following a natural disaster (i.e. hurricane, tornados, etc.). However, the cost of any cycle or part thereof that could be impaired by any such event may be deducted from the **DEPARTMENT'S** affected quarterly payment to the **TOWN**.

4. **MAINTENANCE DEFICIENCIES**

If, at any time while the terms of this Agreement are in effect, it shall come to the attention of the **DISTRICT MAINTENANCE ENGINEER** that the **TOWN'S** responsibilities, as established herein or a part thereof, are not being properly accomplished pursuant to the terms of this Agreement, said **DISTRICT MAINTENANCE ENGINEER** may, at his option, issue a written notice in care of the

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TOWN MANAGER, to place said **TOWN** on notice thereof. Thereafter, the **TOWN** shall have a period of thirty (30) calendar days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within this time period the **DEPARTMENT** may, at its option, proceed as follows:

4.1. Maintain the median or roadside area(s) declared deficient with **DEPARTMENT** and/or a Contractor's material, equipment and personnel. The actual cost for such work will be deducted from the **DEPARTMENT'S** affected quarterly payment to the **TOWN**; or

4.2. Terminate this Agreement.

5. **NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To DEPARTMENT: Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6205-B
Miami, Florida 33172-5800
Attention: District Maintenance Engineer

To TOWN: TOWN OF MIAMI LAKES
15700 NW 67 Avenue, Suite 302
Miami Lakes, Florida 33014
Attention: Town Manager

6. **LANDSCAPE MODIFICATION**

It is understood between the parties hereto that the landscaping covered by this Agreement may be removed, relocated or adjusted at any time in the future as found necessary by the **DEPARTMENT** in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet with future criteria or planning of the **DEPARTMENT**.

7. **FINANCIAL PROVISIONS**

7.1 The total maximum appropriation of this Agreement is THREE THOUSAND THREE HUNDRED EIGHTY FIVE DOLLARS AND TWENTY NINE CENTS (\$3,385.29) per year. Eligible project costs may not exceed this amount. The **TOWN** shall submit quarterly invoices for **DEPARTMENT** review, approval, and payment in accordance with the terms of this Agreement. Quarterly lump sum payments will be

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made upon invoice approval in the total amount of THREE THOUSAND THREE HUNDRED EIGHTY FIVE DOLLARS AND TWENTY NINE CENTS (\$3,385.29) This Agreement is a reimbursement contract. No advance funding payments are authorized herein.

7.2 The **DEPARTMENT** agrees to pay the **TOWN** for the herein described services at a compensation as detailed in this Agreement.

7.3 Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

7.4 Travel costs will not be reimbursed.

7.5 Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of costs incurred include the **TOWN'S** general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

7.6 In the event this Agreement is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

7.7 The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

8. PAYMENT ADJUSTMENT

In the event temporary work by the **DEPARTMENT'S** forces or by other Contractors temporarily prevent the **TOWN** from performing the work described in this

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Agreement, the **DEPARTMENT** shall deduct from the affected quarterly lump sum payment(s) the acreage of the affected area and only compensate the **TOWN** for the actual work it performs.

The **DEPARTMENT** shall initiate this procedure only if the temporary work described in this section is for a period of one (1) month or longer. Adjustment to the **TOWN'S** payment shall also be done as noted in Section Three (3). In the event this Agreement is terminated as established by Section Nine (9) herein, no payment will be prorated for the quarter in which termination occurs for the work that has been completed.

9. TERMINATION

This Agreement, or part thereof, is subject to termination under any one of the following conditions:

- 9.1. In the event the **DEPARTMENT** exercises the option identified by Section Four (4) of this Agreement.
- 9.2. As mutually agreed to by both parties.
- 9.3. In accordance with Section 287.058(1) (c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this Agreement if the **TOWN** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **TOWN** pertinent to this Agreement which are subject to provisions of Chapter 119, of the Florida Statutes.

10. TERMS

- 10.1. The term of this Agreement shall only commence when the **DEPARTMENT** issues the **TOWN** the Notice to Proceed Letter.
- 10.2. In accordance with Section 287.058(1)(e), Florida Statutes, this Agreement is for a term of one (1) year beginning on the date stated in the Notice to Proceed.
- 10.3. In accordance with Section 287.0582, Florida Statutes, the **DEPARTMENT** shall only appropriate the annual amount of THREE THOUSAND THREE HUNDRED EIGHTY FIVE DOLLARS AND TWENTY NINE CEN (\$3,385.29) per year at the beginning of each **DEPARTMENT** Fiscal Year (July 1).
- 10.4. This Agreement shall commence on September 1, 2007, and end on August 31, 2008.
- 10.5. In accordance with Section 287.058(1)(f), Florida Statutes, this Agreement may be renewed on a yearly basis for a maximum of two (2) years after the initial

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term for a period no longer than the term of the original contract, whichever period is longer, only if mutually agreed to in writing by the **DEPARTMENT** and the **CITY**, subject to the same terms and conditions set forth in this Agreement. Said renewals shall be contingent upon both satisfactory **TOWN** performance evaluations by the **DEPARTMENT** and the availability of future funding.

11. ATTACHMENT "A" AMENDMENT

It is further understood that Attachment "A" may be amended or changed at any time, as mutually agreed to in writing by both parties. Payment as specified in Item Seven (7) above shall reflect such amendment or change.

12. TIME EXTENSION

In accordance with Section 287.012(10), Florida Statutes, this Agreement may be extended if mutually agreed to in writing by both parties, for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in this Agreement; provided the **DEPARTMENT** may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There shall be only one extension of this Agreement.

13. ADDITIONAL LANDSCAPING

The **TOWN** may construct additional landscaping within the limits of the right-of-way identified as a result of this Agreement, subject to the following conditions:

- 13.1.** Plans for any new landscaping shall be subject to approval by the **DEPARTMENT**. The **TOWN** shall not change or deviate from said plans without the prior written approval of the **DEPARTMENT**.
- 13.2.** All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards;
- 13.3.** All requirements and terms established by this Agreement shall also apply to any additional landscaping installed under this item;
- 13.4.** The **TOWN** agrees to complete, execute and comply with the requirements of the **DEPARTMENT'S** standard permit provided as Attachment "C" (not to actual size) to this Agreement, which by reference hereto shall become a part hereof.
- 13.5.** No change will be made in the payment terms established under Section Seven (7) of this Agreement due to any increase in cost to the **TOWN** resulting from the installation and maintenance of landscaping added under

this item;

- 13.6.** In the event this Agreement is terminated as established under Section (9) herein, the **TOWN** agrees to accept full responsibility for all maintenance activities within the entire area(s) defined by the plans and permits established as a result of this Section. The **TOWN** shall provide this maintenance at no cost to the **DEPARTMENT**.
- 14.** This writing embodies the entire Agreement and understanding between the parties hereto and there are not other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
- 15.** This Agreement is nontransferable and non-assignable in whole or in part without consent of the **DEPARTMENT**.
- 16.** This Agreement, regardless of where executed, shall be governed by and constructed in accordance with the laws of the State of Florida.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

TOWN OF MIAMI LAKES, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: Wayne Slater
MAYOR

(PSS)

BY: [Signature]
District Secretary

ATTEST: [Signature]
TOWN Clerk (Seal)

ATTEST: [Signature]
Executive Secretary

LEGAL REVIEW:

BY: [Signature]
District General Counsel

ATTACHMENT "A"

Below is the acreage of the areas of the intersection of SR-826 (Palmetto Expressway) and NW 154TH Street (Miami Lakes Dr.) to be maintained by the **TOWN of MIAMI LAKES** under this **AGREEMENT**.

1. South Side:

Slope Mowing	0.794 Acres
Large Machine Mowing	2.391 Acres

2. Median:

Small Machine Mowing	0.130 Acres
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3. North Side:

Large Machine Mowing	1.196 Acres
Slope Mowing	0.040 Acres

Total Acreage:	4.551 Acres
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TOTAL ACREAGE: 4.551

**TOTAL ANNUAL MAXIMUM LIMITING
AMOUNT ELIGIBLE FOR REIMBURSEMENT: \$ 3,385.29**

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