RESOLUTION NO. 09-152

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE SELECTION OF LIMOUSINES OF SOUTH FLORIDA, INC. BUS **FOR** MUNICIPAL **OPERATION SERVICES: APPROVING** THE **AGREEMENT** BETWEEN LIMOUSINES OF SOUTH FLORIDA, INC. AND THE TOWN; AUTHORIZING THE 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 Town of Miami Lakes (the "Town") issued a Request for Proposals for Municipal Bus Services on December 22, 2008 (the "RFP"); and

WHEREAS, on January 22, 2009, all bids were publicly opened and read, and the Town received one (1) responsive and responsible bid from Limousines of South Florida, Inc. which was reviewed by the Town Manager; and

WHEREAS, after reviewing the bid submitted to the Town, the Town Manager recommends the selection of Limousines of South Florida, Inc. for the provision of municipal bus services pursuant to the terms and conditions of the RFP and the Agreement; and

WHEREAS, the Town Council finds that approval of Limousines of South Florida, Inc., along with 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 above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Limousines of South Florida, Inc. Limousines of South

Florida, Inc., is hereby selected for Municipal Bus Services within the Town of Miami Lakes.

Approval of the Agreement. The Agreement for Municipal Bus Services Section 3. between the Town and Limousines of South Florida, Inc., (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.

Authorization of Town Officials. The Town Manager and Town Section 4. Attorney are authorized to take all steps necessary to implement the terms and conditions of the Agreement.

Authorization of Fund Expenditure. Notwithstanding the limitations Section 5. 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.

The Town Manager is authorized to **Execution of the Agreement.** Section 6. 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.

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

PASSED AND ADOPTED this 14th day of July, 2009.

Motion to adopt by Carrilmenter Mary. Calling second by Vice Mayor Richard Rulido.

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi Vice Mayor Richard Pulido

Councilmember Mary Collins
Councilmember George Lopez
Councilmember Robert Meador II
Councilmember Nick Perdomo
Councilmember Nancy Simon

yes yes yes yes

> Michael Pizzi MAYOR

ATTEST:

Debra E Eastman MORIURIE TEJECO TOWN CLERK, ACTING

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"

TOWN OF MIAMI LAKES AGREEMENT FOR MUNICIPAL BUS SERVICES

This Agreement for Municipal Bus Services (this "Agreement") is entered into on _____, 2009 (the "Effective Date"), between the TOWN OF MIAMI LAKES, a municipal corporation of the State of Florida, hereafter referred to as the "Town" and Limousines of South Florida, Inc., a Florida Corporation, hereafter referred to as the "Contractor."

This Agreement contains the terms and conditions under which the Contractor shall furnish all services necessary for certain mini-bus public transportation services desired by the Town.

IN CONSIDERATION of the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties agree as follows:

SECTION ONE. SCOPE OF AGREEMENT

- 1.1 The Contractor agrees to provide mini-bus service to Town Residents (with no charge or fare) in accordance with the terms of this Agreement (the "Bus Services").
- 1.2 The Town shall provide a 25' mini-bus (the "Town Bus") to the Contractor for use solely for the provision of Bus Services. The Town Bus is owned by the Town, and the Contractor shall NOT utilize the Town Bus for any other use except as authorized by this Agreement.
- determined by the Town Manager in his or her sole discretion (the "Operating Hours"). The Town Manager in his or her sole discretion shall be responsible for designation of the pick up and delivery points and the Contractor shall only use such stops for the authorized route(s). The established service shall only include locations within the Town. The transit stops to be established by the Town shall include, but shall not be limited to, existing public transit bus stops, the Town Hall, multi-family buildings, shopping centers, malls, and office buildings. The Contractor shall provide the Bus Services a minimum of five (5) days per week and a maximum of seven (7) days per week. The Contractor shall provide the Bus Services at a minimum of four (4) hours per day and a maximum of nine (9) hours per day. No Bus Services shall be provided on New Year's Day, Memorial Day, Labor Day, Thanksgiving Day, or Christmas Day.
- 1.4 The Contractor shall make available to the Town, upon twenty-four (24) hours advance written notice by the Town Manager, the Town Bus or an alternate back-up bus of equivalent quality and size for any Town special event at the same hourly rate specified in Section 11.1 of this Agreement.
- 1.5 The Town shall reimburse to the Contractor all diesel fuel necessary for the provision of the Bus Services. Diesel fuel shall be provided and paid for by the Town. The Contractor shall not use fuel provided by the Town for any purpose other than the provision of the Bus Services.

1.6 In case of a hurricane watch, or when directed by the Town Manager, the Contractor shall station the Town Bus at the Town Hall or at such other location as directed by the Town Manager in his or her sole discretion.

SECTION TWO. PERSONNEL REQUIREMENTS

- 2.1 Vehicle chauffeurs ("Drivers") employed by the Contractor for the purpose of providing the Bus Services shall be properly licensed operators. The Drivers shall possess the qualifications as required by the State of Florida and Miami-Dade County, Florida (the "County") including a current commercial driver's license with a passenger endorsement, and are subject to a complete background check performed by the Town's Police Department in accordance with Administrative Order #07-01. All Drivers shall be employees of the Contractor.
- 2.2 Drivers must be considerate and courteous to all patrons. The Contractor shall agree to replace any Driver who is inconsiderate or discourteous as determined by the Town Manager in his or her sole discretion. If needed, all Drivers must provide assistance to elderly and/or disabled residents with loading and unloading of packages on and off the bus. Drivers must be well groomed and in uniform attire identifying the name of the Town, town logo and the identity of the Driver. Uniform attire must be pre-approved by the Town Manager.
- 2.3 Drivers shall display the proper route sign in the Town Bus when in operation and the "out of service" sign when out of operation.
- 2.4 The Contractor shall provide communication between the Town Bus, the Contractor's headquarters, and the Town. The Town Manager must, at all times, be able to make contact with the Town's Bus Driver.

SECTION THREE. MAINTENANCE AND STORAGE OF TOWN BUS

- 3.1 The Contractor shall properly store the Town Bus when not in use at a pre-approved location selected by the Town Manager, and shall provide daily interior and exterior cleaning for the Town Bus so that the Town Bus is clean at all times.
- 3.2 The Contractor shall be responsible for performing all routine scheduled maintenance of the Town Bus including oil changes, tire rotation and replacement, and all other work considered routine scheduled maintenance by the manufacturer. The Manufacturer's scheduled maintenance manual for the Diesel engine bus shall be used to define the phrase "scheduled maintenance." A log of the performed scheduled maintenance shall be provided and attached to the monthly invoice.
- 3.3 The Contractor shall perform all other necessary repairs only with the prior written approval of the Town Manager of the amount of the repair, which shall be billed separately to the Town at rates competitive in the industry. No charge shall be made to the Town for work covered under the manufacturer's warranty. During periods of maintenance and repair, the Contractor shall provide, at the Contractor's sole cost and expense, an alternate bus of at least equal quality and size for the

provision of the Bus Services subject to the prior approval of the Town Manager in his or her sole discretion.

SECTION FOUR. LICENSING, REPORTING, RECORDS

- 4.1 The Contractor shall obtain all applicable local, County, state, and federal licenses necessary for the provision of the Bus Services in Miami-Dade County, Florida, and the Contractor shall have a Special Services license from the County Passenger Transportation Regulatory Division. The Contractor shall also assist Town in obtaining any further County, state or federal authorizations.
- 4.2 The Contractor shall record on a daily basis and report weekly to the Town all disruptions in service, late service, vehicle breakdowns, maintenance problems, accidents, vehicles out of service/commission and any other incidents affecting the Town Bus or the Bus Services.
- 4.3 The Contractor shall implement a written dispute resolution process for the rapid resolution of passenger complaints regarding the provision of the Bus Services. The Contractor shall document passenger complaints and describe any actions taken to resolve such complaints and verbally report to the Town Manager the complaints and actions taken within twenty-four (24) hours of any complaint and in writing within four (4) calendar days.
- 4.4 The Contractor shall maintain during the term of this Agreement and for a period of three (3) years from the date of termination certain records relating to this Agreement and all records required pursuant to federal, state, County, and local law.
- 4.5 The Town Manager shall, during the Term of this Agreement and for a period of three (3) years from the date of termination, have access to and the right to examine and audit any records of the Contractor pertaining to this Agreement

SECTION FIVE. PRE-SERVICE REQUIREMENTS

The following items shall be delivered to the Town by the Contractor at least two (2) days prior to the start of the service and are subject to approval by the Town Manager:

- 5.1 An operations manual for the Bus Services which documents all operational procedures and policies, including but not limited to the following:
 - (a) Vehicle operating procedures;
 - (b) Communications operating procedures;
 - (c) Drivers conduct rules and regulations;
 - (d) Safety procedures;

- (e) Accident procedures;
- (f) Administration and reporting procedures;
- (g) Other operating procedures and policies as required for proper operation of Bus Services;
- (h) Dispute resolution procedures;
- (i) Maintenance procedures; and
- (j) Training procedures for Drivers.

SECTION SIX. TERM AND TIME OF PERFORMANCE

- 6.1 This Contract shall be effective upon the Effective Date and shall continue for a term of three (3) years (the "Term").
- 6.2 The Town Manager may, at his or her sole option, extend the Contract on the same terms and conditions for up to two (2) additional one (1) year terms (the "Renewal Term"). Such Renewal Term shall be effective upon receipt of a written notice from the Town Manager to the Contractor received no later than thirty (30) days prior to the date of termination.

SECTION SEVEN. TERMINATION

- 7.1 This Agreement may be terminated by either party without cause upon ninety (90) days advance written notice to the other party. Further, either party may immediately terminate this Agreement upon the failure of the other party to cure a breach following fifteen (15) days prior written notice of the breach and a demand that it be cured.
- 7.2 Upon termination of this Agreement pursuant to Paragraph 7.1, the Contractor shall return the Town Bus to the Town in the condition in which it was received at the commencement of this Agreement, normal wear and tear excepted. Any costs necessary to restore or prepare the Town Bus for return to Town shall be the sole responsibility of the Contractor. The Town shall have the right to inspect and to approve the condition of the Town Bus prior to acceptance of delivery of the Bus and should the Town determine that the Town Bus is not in the proper condition, the Contractor shall at its sole cost and expense remedy any and all deficiencies identified by the Town within 30 days.
- 7.3 In the event this Agreement is terminated, any compensation payable by the Town shall be withheld until the Town Bus is returned pursuant to Section 7.2 of this Agreement.

7.4 Compensation upon Termination shall be limited to services performed and approved by the Town Manager up to the effective date of the Termination, provided that the Contractor has first complied with the provisions of Paragraph 7.3.

SECTION EIGHT. NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, private postal service, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. Notice shall be deemed given on the day on which personally served, or if by mail, on the date of actual receipt. The place for giving notice shall remain the same as set forth in this Agreement until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For the Town:

Town Manager

Town of Miami Lakes

15700 NW 67th Ave, Suite 302

Miami Lakes, FL 33014

With a copy to:

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

Town Attorney

2525 Ponce de Leon Blvd., Suite 700

Coral Gables, FL 33134

For the Contractor:

Limousines of South Florida, Inc.

2595 N. W. 38th Street

Miami, FL 33142

SECTION NINE. INDEMNIFICATION

9.1 The Contractor agrees to indemnify, reimburse, defend and hold harmless the Town and, at Town's option, defend or pay for an attorney selected by the Town to defend the Town and Town's officers, agents and employees for, from and against all claims, actions or causes of actions, losses, damages, liabilities, costs and expenses, including reasonable costs, attorneys' and paralegals' fees, imposed on or incurred by the Town in connection with any and all loss of life, bodily injury, personal injury and damage to property which arises or relates, directly or indirectly, to the Contractor's use of any vehicle provided for in this Agreement and the Contractor's performance of the services set forth in this Agreement. To the extent considered necessary by the Town, any sums due the Contractor under this Agreement may be retained by Town until all of Town's claims for indemnification, pursuant to this Agreement, have been settled or otherwise resolved and any amount withheld shall not be subject to payment of interest by Town.

- 9.2 Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by Town. Nothing in this Agreement shall be construed as consent by the Town to be sued by third parties in any matter arising out of this Agreement or any other contract entered into by the Contractor.
 - 9.3 The provisions of this section shall survive termination or expiration of this Agreement.

SECTION TEN. INSURANCE

- 10.1 <u>Insurance</u>: The Contractor shall secure and maintain throughout the duration of this Contract, 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 A 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 Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include a minimum of:
- 10.2 <u>Worker's Compensation and Employer's Liability Insurance</u>: 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.
- 10.3 <u>Comprehensive Automobile and Vehicle Liability Insurance</u>: This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims for injuries to members of the public and/or damages to property of others arising from the Contractor'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.
- shall protect the Contractor 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 Contractor 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.
- 10.5 <u>Certificate of Insurance</u>: Contractor 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 Contract and shall state that such insurance is as required by this Contract. The Town reserves the right to require the Contractor 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.

- 10.6 Additional Insured: The Town and Miami-Dade County School Board are to be specifically included as an Additional Insured for the liability of the Town and Miami-Dade County School Board resulting from operations performed by or on behalf of Contractor in performance of this Contract. Contractor's insurance, including that applicable to the Town and Miami-Dade County School Board as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town or Miami-Dade County School Board shall be in excess of and shall not contribute to Contractor's insurance. Contractor'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.
- 10.7 <u>Deductibles</u>: All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION ELEVEN. PAYMENT

11.1 In return for satisfactory performance of Bus Services provided by the Contractor as specified in this Agreement, the Town agrees to pay the Contractor the following rates per hour of bus operation:

Year One \$33.34 per hour Year Two \$33.54 per hour Year Three \$34.34 per hour

- 11.2 In addition to the payments described in Section 11.1 above, the Town shall pay the Contractor a fee of \$2.00 per hour for dispatcher services during the Operating Hours, if required, as determined by the Town Manager in his sole discretion.
- 11.3 The Town shall not be responsible for payment of any other monies to the Contractor under this Agreement other than approved necessary repairs in accordance with Section 3.3 of the Agreement and any tolls and licensing fees directly associated with the provision of Bus Services. Such tolls and licensing fees are to be reimbursed to the Contractor at cost by the Town upon submission of receipts. No additional monies shall be paid by the Town for routine scheduled maintenance or storage of the Town Bus.

- 11.3 Compensation for Bus Services shall be payable by the Town in arrears, each month, pursuant to the approval of the monthly invoice of the Contractor. The invoice shall indicate the number of hours of Bus Service provided in the prior month and any backup documentation required by the Town Manager.
 - 11.4 Invoices shall be processed by Town pursuant to the Florida Prompt Payment Act.
- 11.5 If a dispute should occur regarding an invoice, the Town Manager may withhold payment of the disputed amount and may pay to the Contractor the undisputed parts of the invoice.

ARTICLE TWELVE. MISCELLANEOUS

- 12.1 <u>Assignment and Performance</u>: Neither this Agreement nor any interest in it shall be assigned, transferred or encumbered by either party. The Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education or a combination of the foregoing, to adequately and competently perform the duties, obligations and services set forth in this Agreement and to provide and perform such services to the Town's satisfaction. The Contractor shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner. The quality of the Contractor's performance shall be comparable to the best local and national standards. The Contractor shall complete one hundred percent of all scheduled trips on a daily basis, subject to delays which are attributable to vehicular accidents and mechanical failure which do not arise due to the Contractor's failure to properly maintain the vehicles. The Contractor shall provide timely alternate transportation to any Town resident(s) left without transportation due to the preventable actions of the Contractor.
- 12.2 <u>Waiver of Breach and Materiality</u>: Failure by the Town to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. The Town and the Contractor agree that each requirement, duty and obligation set forth in this Agreement is substantial and important to the formation of this Agreement and, therefore, is a material term of this Agreement.
- 12.3 Compliance With Laws: The Town and the Contractor shall comply with all federal, state, County, and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities and obligations related to this Agreement. The Contractor shall at all times during this Agreement comply with all applicable requirements of the United States Department of Transportation and the Federal Transit Administration, which shall include, but not be limited to, regulations for drug and alcohol testing. To the extent that any terms of this Agreement are inconsistent with the United States Department of Transportation regulations, the requirements of the United States Department of Transportation shall control. The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act ("ADA") at all times while providing Bus Services

for public transportation. To the extent that any terms of this Agreement are inconsistent with the ADA, the requirements of the ADA shall control.

- 12.4 <u>Severance</u>: In the event this Agreement or any portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the Town or the Contractor elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
- 12.5 Applicable Law, Venue, Waiver of Jury Trial: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be proper exclusively in Miami-Dade County, Florida. THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION BETWEEN THE PARTIES HEREUNDER.
- 12.6 <u>Amendments</u>: No modification, amendment or alteration of the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both the Town and the Contractor.
- 12.7 <u>Prior Agreements</u>: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.
- 12.8 Attorneys' Fees: 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.
- 12.9 <u>Independent Contractor</u>: The Contractor and its employees, volunteers and agents shall be and remain independent contract 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.
- 12.10 <u>Survival of Provisions</u>: Any terms or conditions of this Agreement that require acts beyond the date of the term of the Agreement shall survive termination of the Agreement and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
 - 12.11 Days: Reference in this Agreement to days shall mean calendar days.

12.12 <u>Town Manager</u>: Reference in this Agreement to Town Manager shall mean the Town Manager or his or her designee.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written.

Attest:	TOWN OF MIAMI LAKES	
By:	By: Frank Bocanegra, Town Manager	
By:		
Signed, sealed and witnessed in the presence of:	As to the Contractor: Limousines of South Florida, Inc.	
By: Tursell Herry	By: Name: Mark Lovit Title: President	

(*) In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the Contract to do so in its behalf.