

RESOLUTION NO. 10 85A

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE PROJECT AGREEMENT BETWEEN MILLER LEGG & ASSOCIATES, INC. AND THE TOWN OF MIAMI LAKES TO PROVIDE NW 170TH STREET GREENWAY – PHASE 1 AND MULTI-USE PURPOSE TRAIL DESIGN SERVICES; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) has retained the services of Miller Legg & Associates, Inc. (“Miller Legg”) as Town Landscape Architect; ; and

WHEREAS, pursuant to Work Authorization No. 2010-01, Miller Legg has prepared a Project Agreement to provide NW 170th Street Greenway – Phase 1 and Multi-use Purpose Trail Design Services (the “Project”); and

WHEREAS, Miller Legg has agreed to provide the services for the Project; and

WHEREAS, the Town Council finds that approval of the Project Agreement between the Town and Miller Legg for the Project 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 Project Agreement. Work Authorization No. 2010-01 between Miller Legg and the Town to provide NW 170th Street Greenway – Phase 1 and Multi-use Purpose Trail Design Services (the “Project 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 Project 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 Project Agreement.

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

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

PASSED AND ADOPTED this 9 day of November, 2010.

Motion to adopt by Pizzi, second by Mestre.

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi

yes

Vice Mayor Nick Perdomo

yes

Councilmember Mary Collins

yes

Councilmember Tim Daubert

Yes

Councilmember Nelson Hernandez

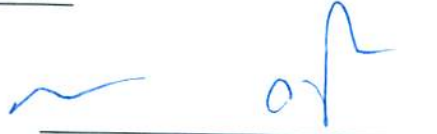
Yes

Councilmember Ceasar Mestre

Yes

Councilmember Richard Pulido

Yes



Michael Pizzi
MAYOR

ATTEST:


TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



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

EXHIBIT "A"

PROJECT AGREEMENT

Between

TOWN OF MIAMI LAKES, FLORIDA

And

MILLER LEGG

for

Work Authorization No. 10-01

NW 170th Street Greenway- Phase I

PROJECT AGREEMENT
Between

THE TOWN OF MIAMI LAKES, FLORIDA

And

MILLER LEGG.

For

Work Authorization No. 10-01

NW 170th Street Greenway- Phase I

Pursuant to the provisions contained in the Continuing Services Agreement between the TOWN OF MIAMI LAKES, FLORIDA (the "TOWN") and MILLER LEGG., ("CONSULTANT") dated 3/28/08, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The TOWN and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide landscape architectural services to the TOWN for the Project as described herein. The design of Phase I of the Greenway Path along the northern side of the canal fronting on NW 170th Street from NW 89th Avenue on the west to NW 82nd Avenue, all within the Town of Miami Lakes (Town).

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. Landscape architectural and Engineering design for the NW 170th Street canal Greenway Path from NW 89th Avenue on the west to NW 82nd Avenue and listed in Exhibit "1."

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 Continuing 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:

Planting, signage and pathway construction documents for Phase I of the Greenway project.

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 until February 26, 2011 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 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 services.

3.3 **Contract Time.** Upon execution of this Project Agreement, the CONSULTANT shall commence services to the TOWN on the Commencement Date, and shall continuously perform 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 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Lump Sum Compensation.** TOWN agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "2" \$15,200.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 **Invoices**

5.1.1 **Lump Sum Compensation and Reimbursable Costs/Services.** CONSULTANT shall submit invoices which are identified by the 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 Costs/Services 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 Project Schedule. 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 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 Costs/Services 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 CONDITONS OF CONTINUING SERVICE AGREEMENT

7.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated March 28, 2008 between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

ATTEST:

M. Tejeda
Town Clerk

TOWN OF MIAMI LAKES

By: Alex Rey
Alex Rey, Town Manager

Date: 11-11-10

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

Kathryn McElroy
Town Attorney

ATTEST:

MILLER LEGG

Reenie Hernandez
Assistant Secretary

By: Michael D. Kroll
Michael D. Kroll
Vice President

Leticia Hernandez
Please type name of Assistant Secretary

Date: 11.11.10

(CORPORATE SEAL)

WITNESSES:

Alina Reich

Print Name: Alina Reich

Katie Chartrand

Print Name: Katie Chartrand

Exhibit "1"

Scope of Services and Project Schedule

SCOPE OF SERVICES NW 170th Street Greenway - Phase I

1.0 PROJECT DESCRIPTION

- 1.1** The Project is generally described as follows: Design of Phase I of the Greenway Path along the northern side of the canal fronting on NW 170th Street from NW 89th Avenue on the west to NW 82nd Avenue, all within the Town of Miami Lakes (Town). See Exhibit "B".

The Town may authorize the totality of the work described herein or in phases as finances may determine. The Greenway consists of a 10-foot wide asphaltic pathway with two observation deck areas, or special seating areas along the route of the path including landscape architecture and basic signage. The project lies totally within the jurisdiction of Dade County DERM – Water Control Section and will require a Class III permit.

2.0 BASIS OF SCOPE

2.1 Landscape Architecture:

- The scope for landscape architectural design includes planting design, signage design and construction observation services. Irrigation design will not be included in this scope but can be added as an additional service.
- Landscaping, material selection and placement/design will be coordinated with DERM and the Town so as to not unduly inhibit canal maintenance operations.
- Permanent irrigation for the Project is not required. Temporary irrigation (or hand-watering or a related means) for establishment of upland plants will be addressed by the contractor.
- Landscape design will account for no irrigation in the selection of plant materials. Xeriscape (drought-tolerant design) principles and installation methods will be utilized for upland planting layout compositions, as well as the use of native Florida plant materials.
- The planting design shall be prepared so as to meet the minimum criteria of the Town.

- Signage will be needed for way-finding and general information. Signage design is limited to basic post and panel style signs. The Task for signage design will be for placement and specification/selection of 'catalogue-ready' prefabricated signage components. No custom signage design is included.
- Lighting is not included in this project. Consultant shall show proposed conduit on the plans for future electrical as discussed with the Client.
- Irrigation is not included in this project.

2.2 Environmental and Permitting:

- Encroachment into the adjacent canal is not proposed.
- Preparation of environmental documentation is not required and therefore, not included in this scope. This documentation can be prepared as an additional service, if required.
- Archaeological and/or historic resources are not involved with this project.
- Right-of-way permitting with the South Florida Water Management District (SFWMD) is not required.
- Permits from the SFWMD, US Army Corps of Engineers (USACOE), are not required. If USACOE asserts jurisdiction, documentation for this permit will require services additional to this proposal.
- Wetland and/or protected species resources are not associated with this project. Should these resources be impacted, additional regulatory coordination and/or environmental permitting will be required. These services are not included, but can be provided as an additional service, if required.
- Contamination services are not included in this scope of services, but can be provided as an additional service, if required.
- Construction and post-construction services are not included.
- The Canal is not tidally influenced.
- A Submerged Aquatic Vegetation (SAV) survey is not included, but can be provided as an additional service, if required.
- Per our understanding of the project, noise and air quality impacts are not anticipated.

- An evaluation of upland tree resources is not included in this scope of services.
- A Class III permit is required from the Dade County DERM Water Control Section. Preparation of this permit and processing same is covered under this contract; permit fees are not covered under this contract and will be provided by the Town as necessary to permit and construct the project.
- The Town should be aware that the environmental permitting process is extremely dynamic. The Consultant is not responsible for project delays and/or design modifications resulting from regulatory comments/input.

2.3 Engineering:

- The site will have no water or sewer utilities.
- Legal positive outfall exists to serve the site and will be used as a means of conveying stormwater runoff to the canal adjacent to the site or to be maintained in swales adjacent to the pathway to be constructed as part of this project.
- No geotechnical engineering services are included in this proposal. Should additional drainage design be required as per the design of the greenway path, it shall be rendered as an additional service.
- Bidding Administration shall be handled by the Town. Should the Town request bid specification documents beyond the plans themselves or want the consultant to conduct or manage bidding, it shall be rendered as an additional service.
- The permitting will also require all necessary survey and topography information to be provided by the Town along with a "*Substantiating letter from the zoning authority stating that the proposed work does not violate applicable zoning law.*" Any other documents that are required by the permitting authority not referenced above will be the responsibility of the Town and/or will be the subject of additional services to this agreement.
- Government Permitting and/or Construction Administration Services will be provided as an additional service on authorizations by Client.

3.0 TOWN RESPONSIBILITIES

- The Town will provide a new survey of the first phase of the project, including topography, easements and rights of way.
- The Town will provide coordination of needed interface with the public works and building departments and any construction permitting required by the Town. Any permit fees required by the Town will be the responsibility of the Town.
- Legal instruments will be required between the Town and Dade County DERM.
- The Town will assign one project manager who will be a single point of contact for Consultant's services under this agreement.
- The Town will provide a new survey of the subject property, including Topography.

4.0 SCOPE OF BASIC SERVICES AND FEES

The scope of services to be provided by Consultant shall be divided into a number of Tasks as described below. Tasks may be authorized individually or in groups.

LANDSCAPE ARCHITECTURE TASKS

Task 1 Landscape Design

- A. Preliminary Planting Plan** - Consultant shall prepare preliminary plans for the upland plantings for the Greenway corridor. These plans will be preliminary in nature depicting the location, material/species and size for each plant shown on the plans. Up to three (3) cross-sections, at key points along the corridor, are included. One (1) set of revisions is included in this Task; revisions will be based on review by DERM and the Town. One (1) Opinion of Probable Cost is included in this fee. One (1) Client review meeting is included in this Task. Task includes one (1) project/site orientation visit by the Consultant.

FEE: Lump Sum of \$3,800.00

- B. Final Planting Plan Construction Documents** - Consultant shall prepare final planting construction documents for the Greenway corridor based on the plan and reviews generated in Task A above. The documents shall include plans, details, quantities, notes, dimensions, and material specifications for the planting installation of all planting material proposed for the Project. Consultant will provide Client with an opinion of probable cost of construction for the proposed work

FEE: Lump Sum of \$4,200.00

Task 2 **Signage Design** - Consultant shall prepare Signage Plans and details for the Greenway corridor. Plans will indicate location and type of signs along the Greenway. Documents will include installation details. Documents will include specifications, font style, message text, sign panel and post materials and enough additional details for a sign fabricator to construct the signs.

FEE: Lump Sum of \$2,000.00

ENGINEERING TASKS

Task 3 **Greenway Path Plan Preparation** – Phase One of the project will include documents needed for the segment of greenway located between NW 89th Ave. and NW 82nd Avenue along NW 170th Street within the Canal Easement/Right of Way. The length of this greenway segment is approximately 0.78 Mile. This work is not included within the 170th Street right of way. Consultant shall prepare one conceptual layout plan for the path, identifying potential relocation and removal of trees for their review and approval. Upon receipt of written approval after receiving input, consultant shall finalize the path grading plans. This phase does not include the design of a supplemental drainage system for this project. Should such a system be requested, it shall be rendered as an additional service.

This work will include layout plan identifying trees adjacent to the path, grading plans and associated details and specifications. An entry Node and one Observation Node are included in this work along with an asphaltic 10-foot pathway and benches periodically located along the pathway. Vertical structures (Gazebos, Pergolas etc.) are not permitted by DERM.

FEE: Lump Sum of \$5,200.00

EXHIBIT "2"

Payment Schedule

FEE SUMMARY			
TASK NUMBER	TASK	LUMP SUM FEE	HOURLY NTE FEE
LANDSCAPE ARCHITECTURE TASKS			
Task 1	Landscape Design		
	A. Preliminary Planting Design	\$3,800.00	---
	B. Final Planting Plan/Construction Documents	\$4,200.00	---
Task 2	Signage Design	\$2,000.00	--
	<i>Landscape Architecture Tasks subtotal</i>	<i>\$10,000.00</i>	<i>---</i>
ENGINEERING TASKS			
Task 3	Greenway Path Plan Preparation	\$5,200.00	---
	<i>Engineering Tasks subtotal</i>	<i>\$5,200.00</i>	<i>---</i>
	TOTAL FEE	\$15,200.00	---