

RESOLUTION No. 2008-21-708

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT"), ATTACHED HERETO AS EXHIBIT "A", FOR THE MAINTENANCE OF STAMPED CONCRETE ALONG NORTHWEST 2ND AVENUE (STATE ROAD 441); PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Livable Community Corridor Study was conducted along Northwest 2nd Avenue (State Road 441), and

WHEREAS, the Livable Community Corridor Study addressed matters such as transportation, beautification and aesthetics along the Corridor, and

WHEREAS, it has been determined that instead of providing regular concrete along the Intersections, impacted by the Study, that stamped concrete would be more aesthetically pleasing and more pedestrian-friendly, and

WHEREAS, the City and FDOT agree that if FDOT installs stamped concrete, that the City will maintain that stamped concrete upon installation in accordance with the Memorandum Of Agreement, attached hereto as Exhibit "A,"

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. AUTHORIZATION: The City Manager and the City Clerk are hereby authorized and directed to execute and attest, respectively, that certain

Memorandum Of Agreement with the Florida Department of Transportation ("FDOT") for the maintenance of stamped concrete along Northwest 2nd Avenue (State Road 441), attached hereto as Exhibit "A."

Section 3. INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain three (3) fully executed copies of the subject Agreement, with one to be maintained by the City; with one to be delivered to the Florida Department of Transportation, and with one to be directed to the Office of City Attorney.

Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON FEBRUARY 13, 2008.

ATTEST:


SHIRLEY GIBSON, MAYOR


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Vice Mayor Watson
SECONDED BY: Councilman Bratton

VOTE: 5-1

Mayor Shirley Gibson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Vice Mayor Barbara Watson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Melvin L. Bratton	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Oscar Braynon, II	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Councilman Aaron Campbell	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilwoman Sharon Pritchett	<input type="checkbox"/> (Yes)	<input checked="" type="checkbox"/> (No)	
Councilman André Williams	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	

MAINTENANCE MEMORANDUM OF AGREEMENT
HIGHWAY BEAUTIFICATION -- STAMPED CONCRETE SIDEWALK

THIS AGREEMENT, made and entered into this 13th day of February, 2008 by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter the "DEPARTMENT", and **CITY OF MIAMI GARDENS**, a political subdivision of the State of Florida, existing under the Laws of Florida, hereinafter the "CITY".

WITNESSETH:

WHEREAS, as part of the continual updating of the State of Florida Highway System, for the purposes of safety, protection of the investment and other reasons, has constructed and maintains a six-lane highway facility within the corporate limits of the CITY: State Road (SR) 7 (US-441) within Miami-Dade County, hereinafter the "PROJECT LIMITS"; and

WHEREAS, subject to the terms and conditions detailed herein, the CITY desires to install stamped concrete sidewalk within the "Project Limits", and

WHEREAS, the CITY and the DEPARTMENT mutually recognize that the maintenance of the stamped concrete sidewalk within PROJECT LIMITS would be more efficiently and effectively performed by the CITY; and

WHEREAS, the parties hereto mutually recognize the need for entering into a Maintenance Memorandum of Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the CITY, by Resolution No. 2008-21-708, dated , February 13, 2008 attached hereto as Exhibit "A", "CITY Resolution", which is incorporated herein by reference, desires to enter into this Agreement and authorizes its officers to do so;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties herein agree as follows:

1. The CITY agrees, in perpetuity and at no cost to the DEPARTMENT, to maintain all stamped concrete sidewalk within the PROJECT LIMITS in accordance with Department Maintenance Rating Program (MRP) standards. The CITY's maintenance responsibilities are specifically set out as follows:
 - a. To maintain means keeping the sidewalk areas free of weeds;
 - b. To maintain also means replacing in kind any damaged sidewalk;

- c. To maintain also means periodically cleaning the sidewalk when visibly soiled by dirt and/or the growth of fungi.
2. If, at any time after the CITY has assumed the maintenance responsibilities listed in Section 1, it shall come to the attention of the DEPARTMENT's District Secretary that the PROJECT LIMITS, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary may, at his option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the CITY placing CITY on notice thereof. Thereafter, the CITY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may, at its option, proceed as follows:
 - a. Maintain the deficient sidewalk, or a part thereof, with DEPARTMENT and/or independent contractor's materials, equipment and personnel, and invoice the reasonable cost of such work to the CITY; or
 - b. Terminate the Agreement in accordance with Section 6 of this Agreement and remove, by DEPARTMENT and/or independent contractor's materials, equipment and personnel, all PROJECT sidewalk and invoice the reasonable cost of such removal to the CITY.
3. It is understood between the parties hereto that the stamped concrete sidewalk covered by this Agreement may be removed, relocated or adjusted at any time in the future as determined to be necessary by the DEPARTMENT in order that the state road be widened, altered or otherwise changed to meet future criteria or planning of the DEPARTMENT. The CITY shall be given sixty (60) calendar days notice to remove said stamped concrete sidewalk after which time the DEPARTMENT may remove the same. Any mitigation required for remaining stamped concrete sidewalk shall be the responsibility of the CITY.
4. This Agreement may be terminated under any one of the following conditions:
 - a. By the DEPARTMENT, if the CITY fails to perform its duties under Section 1, following ten (10) days written notice.
 - b. By the DEPARTMENT, for refusal by the CITY to allow public access to all documents, papers, letters, or other materials subject to the provisions of **Chapter 119, Florida Statutes**, and made or received by the CITY in conjunction with this Agreement.
5. The term of this Agreement commences upon execution.
6. To the extent permitted by law, the CITY shall indemnify and hold harmless the DEPARTMENT, its officers and employees from all suits, actions, claims and liability arising out of the CITY's negligent performance of the work under this Agreement or due to the failure of the CITY to maintain the sidewalk within the PROJECT LIMITS in conformance with the standards described in Section 1 of this Agreement.

7. This writing embodies the entire Agreement and understanding between the parties hereto. There are no other Agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
8. 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 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 TWENTY-FIVE THOUSAND DOLLARS (\$25,000) and which have a term for a period of more than 1 year.
9. The DEPARTMENT's District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof. Said District Secretary's decision upon all claims, questions, and disputes shall be final and conclusive upon the parties hereto.
10. This Agreement may not be assigned or transferred by either party without the other party's consent.
11. Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses:

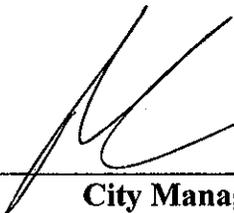
If to the DEPARTMENT: State of Florida Department of Transportation 1000 NW 111 Avenue Miami, Florida 33172 Attn: Mr. Ronald Steiner, P.E. District Maintenance Engineer	If to the CITY: City of Miami Gardens 1515 NW 167 St., Bldg. 5, Suite 200 Miami Gardens, Florida 33169 Attn: Mr. Daniel O. Crew City Manager
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12. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the Agreement and Florida law, the laws of Florida shall prevail.

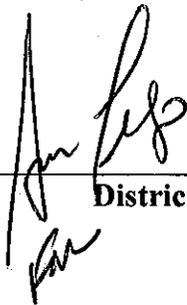
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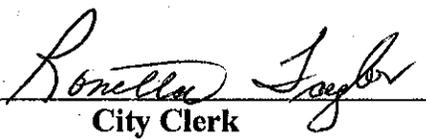
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the day and year above written.

STATE OF FLORIDA
CITY OF MIAMI GARDENS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

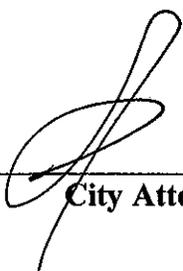
By:  _____
City Manager

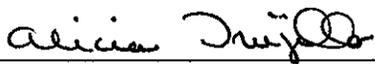
By:  _____
District Secretary

Attest:  _____
City Clerk

Attest:  _____
Executive Secretary

LEGAL REVIEW:

 _____
City Attorney

 _____
District General Counsel