

RESOLUTION No. **2008-233-921**

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 LOCALLY FUNDED AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), THAT CERTAIN MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND FDOT, AND THAT CERTAIN MAINTENANCE MEMORANDUM OF AGREEMENT WITH FDOT FOR THE INSTALLATION OF TEXTURED ASPHALT PEDESTRIAN CROSSWALKS AT STATE ROAD 7 FROM NORTHWEST 176<sup>TH</sup> STREET TO NORTHWEST 215<sup>TH</sup> STREET, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, FDOT has jurisdiction over and maintains State Road (SR) 7/Northwest 2<sup>nd</sup> Avenue corridor within the corporate limits of the City, and

WHEREAS, the City has requested FDOT to install textured concrete sidewalks and textured asphalt pedestrian crosswalks along SR7/Northwest 2<sup>nd</sup> Avenue from Northwest 176<sup>th</sup> Street to 1250 feet south of Northwest 215<sup>th</sup> Street, and

WHEREAS, FDOT has agreed to install textured concrete sidewalks and textured asphalt pedestrian crosswalks along SR7/Northwest 2<sup>nd</sup> Avenue from Northwest 176<sup>th</sup> Street to 1250 feet south of Northwest 215<sup>th</sup> Street, subject to the terms and conditions detailed in this Agreement, and

WHEREAS, FDOT and the City have found it mutually beneficial to allow the City to pay for the increased costs incurred as a result of installing textured concrete sidewalks and textured asphalt pedestrian crosswalks in the defined area, and

WHEREAS, the parties have agreed as to the additional funding as well as to the maintenance responsibility for the project, and the City Council would like to authorize the City Manager to take any and all steps necessary to implement the project,

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 City Clerk are hereby authorized and directed to execute and attest, respectively, that certain locally funded Agreement between the City of Miami Gardens and FDOT, that certain Memorandum of Agreement between the City of Miami Gardens and FDOT, and that certain Maintenance Memorandum of Agreement with FDOT for the installation of textured asphalt pedestrian crosswalks at State Road 7 from Northwest 176<sup>th</sup> Street to just south of Northwest 215<sup>th</sup> Street, a copy of which is 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 State of 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 DECEMBER 12, 2008.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert  
SECONDED BY: Vice Mayor Watson

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>    </u> (No)
Vice Mayor Barbara Watson	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Melvin L. Bratton	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Oliver Gilbert, III	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Aaron Campbell	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman André Williams	<u>  x  </u> (Yes)	<u>    </u> (No)

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# City of Miami Gardens

1515 NW 167<sup>th</sup> Street  
Building 5, suite 200  
Miami Gardens, Florida 33169



Mayor Shirley Gibson  
Vice Mayor Barbara Watson  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell Jr.  
Councilwoman Sharon Pritchett  
Councilman Oliver G. Gilbert III  
Councilman André Williams

## Agenda Cover Page

Meeting Date: 12/10/2008

Fiscal Impact: **No** Yes

(If yes, explain in Staff Summary)

Funding Source: PW Capital Fund

Contract/P.O. Requirement: Yes **X** No

Sponsor: Danny Crew, City Manager

Public hearing

Ordinance

1st Reading

advertising requirement:

RFP/RFQ/Bid #

Quasi-Judicial

Resolution **X**

2nd Reading

Yes  No **X**

### Title

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 LOCALLY FUNDED AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), THAT CERTAIN MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF MIAMI GARDENS AND FDOT, AND THAT CERTAIN MAINTENANCE MEMORANDUM OF AGREEMENT WITH FDOT FOR THE INSTALLATION OF TEXTURED ASPHALT PEDESTRIAL CROSSWALKS AT STATE ROAD 7 FROM NORTHWEST 176<sup>TH</sup> STREET TO NORTHWEST 215<sup>TH</sup> STREET, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

### Staff Summary

In July 2006, the Planning and Zoning Department did a corridor livable community study with their consultant (Kimley Horn and Associates) on NW 2 Avenue (441) from the Golden Glades Interchange to NW 215 Street with FDOT funding. Community meetings were held by the City to address resident complaints and problems in the corridor. The overview of the study was to do a field review, data collection, existing conditions analysis (Transit, Pedestrian, Bicycle, Traffic, and Land Use), identify alternatives, and develop a project list. Based on the environment for pedestrians, missing and broken sidewalks were identified.

After the study was conducted, the stamped colored concrete concept was utilized to make the corridor more aesthetically pleasing. To unite the sidewalks through intersection, stamped

asphalt crosswalks were also selected. Therefore, as developers improve their property they are being requested to improve the adjacent sidewalks with stamped 10 feet wide concrete sidewalk if possible. This year District 4 (Broward County) has added stamped concrete sidewalks for the north section of 441 by NW 215 Street. Furthermore, William Lehman Dealership has installed new stamped 10 feet concrete sidewalks in front of their property. At the present, the Miami Gardens Credit Union has secured a construction bond with Public Works to replace the existing 6 feet sidewalk to a stamped 10 feet wide concrete sidewalk. The City has been very aggressive in getting everyone involved to make these types of improvements on NW 2 Avenue (FDOT Road).

In 2007, FDOT District 6 (Miami Dade County) approached the City on their Road Resurfacing and Sidewalk Improvement Project. The scope of the project is to resurface the road, add missing sidewalks (to include ADA issues) and signalization on NW 2 Avenue from NW 177 Street to NW 215 Street. The City discussed our future improvements in the corridor with FDOT. Since their new sidewalk additions will be concrete, the City has partnered with FDOT to provide the extra funding (\$672,732 Account #30-12-01-512-664-00 –US441 FDOT Enhancements) for the stamped concrete finish of the sidewalks. Furthermore, the City will also fund the stamped asphalt crosswalks since it is not part of their scope of work.

At no extra charge to the City, the FDOT 441 project will include irrigation sleeves throughout all the medians for future landscaping from NW 183 Street to NW 215 Street.

**Recommendation:**

That the City Council approves and executes the Maintenance Memorandum of Agreements, and locally Funded Agreement with FDOT.

## MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_, day of \_\_\_\_\_, 200\_\_, by and between the State of Florida, Department of Transportation, hereinafter referred to as "FDOT" and the State of Florida, Department of Financial Services, Division of Treasury and City of Miami Gardens hereinafter referred to as the "Participant".

### WITNESSETH

WHEREAS, "FDOT" is currently constructing the following project:

Financial Project Number: 418094-1-52-02  
County: Miami-Dade

hereinafter referred to as the "Project".

WHEREAS, FDOT and the Participant entered into a **Locally Funded Agreement** dated \_\_\_\_\_, wherein DOT agreed to perform certain work on behalf of the Participant in conjunction with the Project.

WHEREAS, the parties to this AGREEMENT mutually agreed that it would be in the best interest of the FDOT and the Participant to establish an interest bearing escrow account to provide funds for the work performed on the Project on behalf of the Participant by the FDOT.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit in the amount of \$672,732.000 (SIX HUNDRED SEVENTY TWO THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS) will be made by the Participant into an interest bearing escrow account established by the FDOT for the purposes of the project. Said escrow account will be opened with the Department of Financial Services, Division of Treasury, Bureau of Collateral Management on behalf of the FDOT upon receipt of this Memorandum of Agreement. Such account will be an asset of FDOT.
2. Other deposits will be made only by the Participant as necessary to cover the cost of additional work prior to the execution of any Supplemental Agreements.
3. All deposits shall be made payable to the Department of Financial Services, Revenue Processing and mailed to the FDOT Office of Comptroller for appropriate processing at the following address:

Florida Department of Transportation  
Office of Comptroller  
605 Suwannee Street  
Mail Station 42-B  
Tallahassee, Florida 32399  
ATTN: LFA Section

4. The FDOT's Comptroller and/or her designees shall be the sole signatories on the escrow account with the Department of Financial Services and shall have sole authority to authorize withdrawals from said account.

5. Unless instructed otherwise by the parties hereto, all interest accumulated in the escrow account shall remain in the account for the purposes of the project as defined in the LFA.

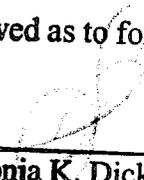
6. The Department of Financial Services agrees to provide written confirmation of receipt of funds to the FDOT.

7. The Department of Financial Services further agrees to provide periodic reports to the FDOT.

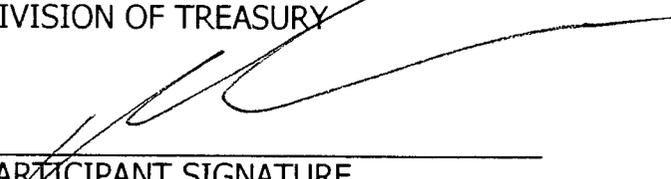
STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
COMPTROLLER

STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF TREASURY

**Approved as to form and legal sufficiency**

  
\_\_\_\_\_  
**Sonja K. Dickens, City Attorney**

\_\_\_\_\_  
PARTICIPANT SIGNATURE

  
\_\_\_\_\_  
STANLEY O. CREED CITY MANAGER  
PARTICIPANT NAME & TITLE

\_\_\_\_\_  
1515 N.W. 167<sup>TH</sup> ST BOG S SUITE 200  
PARTICIPANT ADDRESS

**Attest:**

  
\_\_\_\_\_  
Ronetta Taylor, MMC, City Clerk

\_\_\_\_\_  
FEDERAL EMPLOYER I.D. NUMBER

## LOCALLY FUNDED AGREEMENT

**THIS LOCALLY FUNDED AGREEMENT** (hereinafter 'Agreement') is made and entered into this \_\_\_ day of \_\_\_\_\_, 2008, between the **CITY OF MIAMI GARDENS**, a municipal corporation of the State of Florida, hereinafter called 'CITY', and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** a component agency of the State of Florida, hereinafter called the 'DEPARTMENT'.

### RECITALS:

**WHEREAS**, the DEPARTMENT has jurisdiction over and maintains State Road (SR) 7/NW 2<sup>nd</sup> Avenue corridor within the corporate limits of the CITY; and

**WHEREAS**, the CITY has requested the DEPARTMENT to install textured concrete sidewalks and textured asphalt pedestrian crosswalks along SR7/NW 2<sup>nd</sup> Avenue from NW 176<sup>th</sup> Street to 1250 feet south of NW 215<sup>th</sup> Street; and

**WHEREAS**, the DEPARTMENT has agreed to install textured concrete sidewalks and textured asphalt pedestrian crosswalks along SR7/NW 2<sup>nd</sup> Avenue from NW 176<sup>th</sup> Street to 1250 feet south of NW 215<sup>th</sup> Street, subject to the terms and conditions detailed in this Agreement; and

**WHEREAS**, the DEPARTMENT and the CITY find it mutually beneficial to allow the CITY to fund the increased costs, under Financial Project Number 418094-1-52-02, associated with installing textured concrete sidewalks and textured asphalt pedestrian crosswalks along SR7/NW 2<sup>nd</sup> Avenue from NW 176<sup>th</sup> Street to 1250 feet south of NW 215<sup>th</sup> Street, hereinafter collectively called the 'PROJECT', and as detailed in the attached Exhibit "A", "Scope of Services", which is herein incorporated by reference; and

**WHEREAS**, the parties are authorized to enter into this Agreement pursuant to **Sections 334.044(7) and 339.12 (2006), Florida Statutes (F.S.)**, and authorize its officers to do so;

Page 1 of 11

*Locally Funded Agreement between the City of Miami Gardens  
and the Florida Department of Transportation, Financial Project Number 418094-1-52-02*

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

1. **Recitals.** The Recitals to this Agreement are true and correct and are incorporated herein by reference and made a part hereof.
2. **General Requirements.**
  - (a) The DEPARTMENT will administer and construct the PROJECT in accordance with the PROJECT plans and the attached Exhibit "A", 'Scope of Services'. The DEPARTMENT will complete the PROJECT utilizing funds provided by the CITY.
  - (b) The CITY will provide funding to the DEPARTMENT in the aggregate amount of SIX HUNDRED SEVENTY TWO THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS (\$672,732.00) for the PROJECT, per the Financial Provisions detailed in Section 3 of this Agreement, and as outlined in the attachment Exhibit "B", "Financial Summary", which is herein incorporated by reference.
  - (c) Upon the receipt, authorization and encumbrance of funding received from the CITY as a result of this Agreement, the DEPARTMENT Contractor will commence work on the PROJECT.
  - (d) The DEPARTMENT Contractor may not commence work on the PROJECT until the CITY funding for the PROJECT is on deposit with the DEPARTMENT.
  - (e) The Parties acknowledge that this is a funding Agreement only and the CITY shall not have any contractual obligations to any Contractor or subcontractor who performs the services. The City's sole obligation is the payment of project costs.

**3. Financial Provisions.**

- (a) The CITY agrees that it will, at least fourteen (14) calendar days prior to the DEPARTMENT's advertising the PROJECT for bid, furnish the DEPARTMENT an advance deposit in the amount of SIX HUNDRED SEVENTY TWO THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS (\$672,732.00) for full payment of the estimated PROJECT cost for Locally Funded Project Number 418094-1-52-02. The estimated project cost plus allowances. The DEPARTMENT may utilize the Advance Deposit for payment of the costs of the PROJECT.
- (b) If the accepted bid amount plus allowances is in excess of the Advance Deposit amount, the CITY will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the accepted bid, whichever is earlier, so that the total deposit is equal to the bid amount plus allowances. The DEPARTMENT will notify the CITY as soon as it becomes apparent the accepted bid amount, plus allowances, is in excess of the Advance Deposit amount. However, failure of the DEPARTMENT to so notify the CITY shall not relieve the CITY from its obligation to pay for its full participation on final accounting as provided herein below. If the CITY cannot provide the Additional Deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's PROJECT manager indicating when the deposit will be made. The CITY understands the request and approval of the additional time could delay the PROJECT, and additional costs may be incurred due to a delay of the PROJECT. In the event the bid amount exceeds ten percent (10%) of the Advance Deposit amount,

the City shall reserve the right to either amend the Scope of Services to decrease the area of the stamped concrete, or to provide the additional deposit.

- (c) If the accepted bid amount plus allowances is less than the Advance Deposit amount, the DEPARTMENT will refund the amount that the Advance Deposit exceeds the bid amount plus allowances if such refund is requested by the CITY in writing.
- (d) Should PROJECT modifications or changes to bid items occur that increase the CITY's share of total PROJECT costs, the CITY will be notified by the DEPARTMENT accordingly, and shall be provided with detailed information as to any increases. The CITY agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund its share of the PROJECT. In no event shall project modifications or changes exceed ten percent (10%) of the total project costs, including the Advance and Additional Deposit amounts. The DEPARTMENT shall notify the CITY as soon as it becomes apparent actual costs will overrun the award amount. However, failure of the DEPARTMENT to so notify the CITY shall not relieve the CITY from its obligation to pay for its full participation during the PROJECT and on final accounting as provided herein below. Funds due from the CITY during the PROJECT not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to **Section 55.03, F.S.**
- (e) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty (360) days of final payment to the Contractor. The DEPARTMENT considers

the PROJECT complete when the final payment has been made to the Contractor, not when the construction work is complete. All PROJECT cost records and accounts shall be subject to audit by a representative of the CITY for a period of three (3) years after final close out of the PROJECT. The CITY will be notified of the final cost. Both parties agree that in the event the final accounting of total PROJECT costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the CITY. If the final accounting is not performed within three hundred and sixty (360) days, the CITY is not relieved from its obligation to pay. However, the City's obligation to pay any final sums is contingent upon the City receiving a final accounting.

- (f) In the event the final accounting of total PROJECT costs is greater than the total deposits to date, the CITY will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The CITY agrees to pay interest at a rate as established pursuant to **Section 55.03, F.S.**, on any invoice not paid within forty (40) calendar days until the invoice is paid.
- (g) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached Memorandum of Agreement (MOA) between the CITY, DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury.
- (h) Nothing in this Agreement shall be construed to violate the provisions of Section 339.135(6)(a), Florida Statutes, which provides as follows:

“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 one 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 (\$25,000.00) and which have a term for a period of more than one year.”

4. **Effective Date of this Agreement.** This Agreement shall become effective on the date hereof.
5. **Provisions Separable.** The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.
6. **Amendment of Agreement.** This Agreement may only be amended by mutual agreement of the DEPARTMENT and the CITY, expressed in writing and executed and delivered by each.
7. **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered (personally, by courier service such as Federal Express, or by other messenger) against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

- (a) If to the CITY:  
City of Miami Gardens  
1515 NW 167<sup>th</sup> Street, Bldg. 5, Suite 200  
Miami Gardens, FL 33169  
Attention: Dr. Danny Crew  
Ph: (305)622-8007

(b) If to the Department: Florida Department of Transportation  
1000 NW 111 Avenue, Room 6202-B  
Miami, Florida 33172  
Attention: Michelle Loren Meaux, JPA Coordinator  
Ph: (305)470-5112 Fax: (305)470-5704

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

8. **Entire Agreement.** This Agreement, including its attached Exhibits, contain the sole and entire Agreement between the parties with respect to such subject matter and supersede any and all other prior written or oral agreements between them with respect to such subject matter.
9. **Binding Effect.** This Agreement shall be binding upon the parties and their respective representatives, successors and assigns.
10. **Waiver.** Waiver by either party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.
11. **Captions.** The captions contained in this Agreement are inserted only as a matter of convenience or reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.
12. **Absence of Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to (a) confer upon any entity or person other than the parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b)

authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

13. **Other Documents.** The parties shall take all such actions and execute all such documents which may be reasonably necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement.
14. **Governing Law.** This Agreement and the interpretation of its terms shall be governed by the laws of the State of Florida, without application of conflicts of law principles. Venue for any judicial, administrative or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall lie exclusively in Miami-Dade County, Florida.

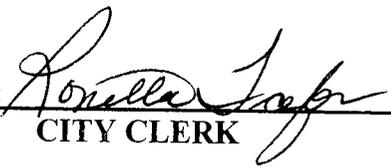
IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first above written, the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, signing by and through its CITY Manager, and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, signing by and through its District Secretary, each duly authorized to execute same.

**CITY OF MIAMI GARDENS:**

**STATE OF FLORIDA,  
DEPARTMENT OF TRANSPORTATION:**

**BY:** \_\_\_\_\_  
**CITY MANAGER**

**BY:** \_\_\_\_\_  
**DISTRICT SECRETARY**

**ATTEST:**  \_\_\_\_\_  
**(SEAL) CITY CLERK**

**ATTEST:** \_\_\_\_\_  
**(SEAL) EXECUTIVE SECRETARY**

**LEGAL REVIEW:**

\_\_\_\_\_  
**CITY ATTORNEY**

\_\_\_\_\_  
**DISTRICT GENERAL COUNSEL**

## EXHIBIT 'A'

### SCOPE OF SERVICES

The DEPARTMENT is installing:

- A six (6) foot wide colored stamped concrete sidewalk along the eastside of SR7/NW 2<sup>nd</sup> Avenue from approximately Station 45+00 to approximately Station 56+60.
- Stamped asphalt pedestrian crosswalks along SR7/NW 2<sup>nd</sup> Avenue from NW 177<sup>th</sup> Street to NW 204<sup>th</sup> Terrace.

PROJECT LIMITS: **SR7/NW 2<sup>nd</sup> Ave. from NW 176<sup>th</sup> St. to 1250 ft. south of NW 215<sup>th</sup> St.**

DEPARTMENT Financial Project Number: **418094-1-52-02**

COUNTY: **Miami-Dade**

DEPARTMENT Project Manager: **Judy Solaun-Gonzalez, P.E. (305)470-5207**

CITY Project Manager: **Tom Ruiz, (305)622-8048**

**EXHIBIT 'B'**

**FINANCIAL SUMMARY**

The DEPARTMENT's Work Program allocates the following funding, programmed on Financial Project Number 418094-1-52-02, for PROJECT completion:

<b><u>Fiscal Year:</u></b>	<b><u>Amount:</u></b>	<b><u>Fund Type:</u></b>
2008/2009	\$672,732.00	Local Funds (LF)

**CITY OF MIAMI GARDENS FINANCIAL RESPONSIBILITY:** **\$672,732.00**

**FLORIDA DEPARTMENT OF TRANSPORTATION  
TEXTURED ASPHALT PEDESTRIAN CROSSWALKS  
MAINTENANCE MEMORANDUM OF AGREEMENT  
WITH  
CITY OF MIAMI GARDENS**

This **AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the **FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **CITY OF MIAMI GARDENS**, a municipal corporation of the State of Florida, hereinafter called the **CITY**.

**RECITALS:**

**WHEREAS**, the **DEPARTMENT** has jurisdiction over **State Road (SR) 7/NW 2<sup>nd</sup> Avenue from NW176th Street to 1250 feet south of NW 215<sup>th</sup> Street**, within the limits of the **CITY**, as part of the State of Florida Highway System; and

**WHEREAS**, the **DEPARTMENT** is installing textured asphalt pedestrian crosswalks on SR7 in accordance with **DEPARTMENT** Contract # C-8P99 the limits of which, hereinafter **PROJECT LIMITS**, are described in the attached Exhibit 'A', which by reference hereto shall become a part hereof; and

**WHEREAS**, the **DEPARTMENT** and the **CITY** are both committed to improving the aesthetics within the **PROJECT LIMITS**; and

**WHEREAS**, the **CITY** has requested the **DEPARTMENT** to install textured asphalt pedestrian crosswalks, at various intersections within the **PROJECT LIMITS**, and the **DEPARTMENT** is willing to do so subject to the terms and conditions contained herein; and

**WHEREAS**, the **CITY**, by Resolution No. 2008-200-921, dated Dec. 9, 2008, attached hereto as Exhibit '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. DEPARTMENT RESPONSIBILITIES**

### 1.1. Assignment

The **DEPARTMENT** and the **CITY** agree that, by executing this **AGREEMENT**, all maintenance responsibilities pertaining to the textured asphalt pedestrian crosswalks on various intersections within the **PROJECT LIMITS** will be assigned to the **CITY** in perpetuity.

## 2. CITY'S MAINTENANCE RESPONSIBILITIES

The **CITY** shall be solely responsible for the maintenance and preservation of the asphaltic surface on all pedestrian crosswalks within the **PROJECT LIMITS**.

### 2.1. LITTER REMOVAL

2.1.1. Promptly and regularly remove all litter from the textured asphalt crosswalk surfaces.

### 2.2. TEXTURED ASPHALT SURFACE

2.2.1. Maintain and make repairs to the textured asphalt crosswalk surfaces to prevent safety hazards for those using or intending to use the pedestrian crossings.

2.2.2. Sweep the textured asphalt surfaces on pedestrian crosswalks periodically to keep them free of debris and to maintain an aesthetically pleasing condition. A light pressure washing may be necessary for heavy stain removal or cleaning.

2.2.3. For any routine repairs or replacement due to noticeable color scarring or surface deterioration of the textured asphalt surfaces, the product authorized installer should be contacted.

## 3. AMENDMENTS

This **AGREEMENT** may be amended in writing if mutually agreed to by both parties.

## 4. MAINTENANCE DEFICIENCIES

If, at any time while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DEPARTMENT'S DISTRICT MAINTENANCE ENGINEER** that the **CITY'S** responsibility as established herein or a part thereof is 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 **CITY MANAGER**, to place the **CITY** on notice regarding its maintenance deficiencies. Thereafter, the **CITY** 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 textured asphalt pedestrian crosswalks declared deficient with **DEPARTMENT** and / or independent contractor's materials, equipment and personnel. The actual cost for such work will be charged to the **CITY**.

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

**To the CITY:** City of Miami Gardens  
1515 NW 167<sup>th</sup> Street, Bldg. 5, Suite 200  
Miami Gardens, FL 33169  
Attention: Dr. Danny Crew

6. **TEXTURED ASPHALT PEDESTRIAN CROSSWALKS INSTALLATION**

6.1. It is understood between the parties hereto that the textured asphalt pedestrian crosswalks in various intersections covered by this **AGREEMENT** may be removed 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**. All costs associated with such activities will be solely

Textured Asphalt Pedestrian Crosswalks

Maintenance Memorandum of Agreement between Florida Department of Transportation and City of Miami Gardens

at the expense of the **DEPARTMENT**.

7. **TERMINATION**

This **AGREEMENT** is subject to termination under any one of the following conditions:

- 7.1. In accordance with Section 287.058(1)(c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **CITY** pertinent to this **AGREEMENT** which are subject to provisions of Chapter 119, of the Florida Statutes.
- 7.2. Only if mutually agreed to by both parties with a six (6) month written notice.

8. **TERMS**

- 8.1. The terms of this **AGREEMENT** shall only commence upon execution by all parties and after the **CITY** receives the Notice To Proceed letter from the **DEPARTMENT**. This **AGREEMENT** shall continue in perpetuity or until termination as set forth in Section 7.
- 8.2. 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.
- 8.3. This **AGREEMENT** is nontransferable and nonassignable in whole or in part without the prior written consent of the **DEPARTMENT**.
- 8.4. This **AGREEMENT**, regardless of where executed, shall be governed by and constructed in accordance with the laws of the State of Florida.

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

**CITY OF MIAMI GARDENS:**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION:**

BY: [Signature]  
City Manager

BY: \_\_\_\_\_  
District Secretary

ATTEST: [Signature]  
City Clerk

ATTEST: \_\_\_\_\_  
Executive Secretary

**LEGAL REVIEW:**

BY: [Signature]  
City Attorney

BY: \_\_\_\_\_  
District General Counsel

**EXHIBIT 'A'**

**PROJECT LIMITS**

Below are the limits of the textured asphalt pedestrian crosswalks and irrigation sleeves to be maintained under this **AGREEMENT**.

State Road Number: 7 (NW 2<sup>nd</sup> Avenue)

Agreement Limits: From NW 176<sup>th</sup> Street to 1250 feet south of NW 215<sup>th</sup> Street

County: Miami-Dade



**EXHIBIT 'B'**

**CITY RESOLUTION**

To be herein incorporated once ratified by the City of Miami Gardens Board of City Commissioners.