

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 1942.08

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A JOINT PROJECT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR TURF AND LANDSCAPE MAINTENANCE; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AUTHORIZING THE MAYOR AND TOWN MANAGER TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Golden Beach, Florida (the "Town") desires to enter into a Joint Project Agreement with the State of Florida Department of Transportation ("FDOT") concerning turf and landscape maintenance of certain FDOT rights-of-way; and

WHEREAS, the Town Council finds that approval of the attached Joint Project Agreement between FDOT and the Town is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the foregoing recitals are true and correct and incorporated herein by this reference.

Section 2. Agreement Approved. That the Joint Project Agreement, in substantially the form attached hereto as Exhibit "A" (the "Agreement"), is hereby approved, and the Mayor is authorized to execute the Agreement on behalf of the Town, once approved by the Town Attorney as to form and legal sufficiency.

Section 3. Implementation. That the Mayor and Town Manager are authorized to take any and all action necessary to implement and enforce the purposes of this Resolution and the Agreement on behalf of the Town.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing resolution was offered by Vice Mayor Rojas, seconded by Councilmember Lusskin, and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Amy Rojas	<u>Aye</u>
Councilmember Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Absent</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 26th day of August, 2008.



MAYOR GLENN SINGER

ATTEST:


ELIZABETH SEWELL
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

MAINTENANCE DEPARTMENT
1000 Northwest 111th Avenue
Room# 6205B
Miami, FL 33172

STEPHANIE C. KOPELOUSOS
SECRETARY

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

July 9, 2008

Mr. Alexander Diaz
City Manager
Town of Golden Beach
1 Golden Beach Drive
Golden Beach, Florida 33160

RE: **New Joint Project Agreement for Turf and Landscape**
Contract Number: AP 789 – Financial Number: 25235417801

Dear Mr. Diaz:

The Department was not able to renew Memorandum of Agreement BDD50 for the job noted in the reference. New Department procedures required this type of agreement between Agencies to have a different contract and financial number. Therefore a new agreement will need to be executed by the City and the Department.

The new Joint Project Agreement has the same terms as the one that it replaces. If your City agrees, enclosed are five copies to be executed by the City. Please include the City's Resolution.

The existing agreement expires September 30th, 2008. To assure continuity of services and payments, please return the executed agreement to our office before **September 1, 2008**.

If you have any questions, you may call me at (305)470-5426

Sincerely,

SHANY IANOTTI
Project Manager Assistant

cc: Khaled Al-Said, Guy Gladson, Hernan Villar, file

JOINT PROJECT AGREEMENT
BETWEEN
THE FLORIDA DEPARTMENT OF TRANSPORTATION
AND
TOWN OF GOLDEN BEACH
TURF AND LANDSCAPE MAINTENANCE

This Agreement is made and entered into this 26 day of August, 2008, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **TOWN OF GOLDEN BEACH**, a municipal corporation of the State of Florida, existing under the Laws of the State of Florida, hereinafter called the **TOWN**.

WITNESSETH:

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

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

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

WHEREAS, the **TOWN**, by Resolution No. 1942-08 dated 8/26/08, attached hereto as Attachment "B", which by reference hereto shall become a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

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

1. TOWN'S MAINTENANCE RESPONSIBILITIES

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

1.1. Mow, cut, and/or trim and edge the grass or turf in accordance with the

latest edition of the State of Florida "Guide for Roadside Mowing" and the latest edition of the "Maintenance Rating Program".

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

2. WORK SCHEDULE

The **TOWN** shall submit a schedule to the **DEPARTMENT** containing the dates when the **TOWN** is planning to perform the mowing work. In addition, before the **TOWN** starts the work, the **DEPARTMENT** shall be notified via fax of the state road(s) and day(s) in which the **TOWN** will be working. The fax shall be sent to the attention of the "North Dade Maintenance Engineer", at FAX # (305) 650-0067.

3. NATURAL DISASTERS

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

4. MAINTENANCE DEFICIENCIES

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

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

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

4.2. Terminate this Agreement.

5. NOTICES

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

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

To TOWN: TOWN OF GOLDEN BEACH
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Attn: CITY MANAGER

6. LANDSCAPE MODIFICATION

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

7. FINANCIAL PROVISIONS

7.1 The total maximum appropriation of this Agreement is THIRTEEN THOUSAND NINE HUNDRED SIXTY NINE DOLLARS WITH TWENTY ONE CENTS (\$13,969.21.00) per year. Eligible project costs may not exceed this amount. The **TOWN** shall submit quarterly invoices for **DEPARTMENT** review, approval, and payment in accordance with the terms of this Agreement. Quarterly lump sum payments will be made upon invoice approval in the total amount of THIRTEEN THOUSAND NINE HUNDRED SIXTY NINE DOLLARS WITH

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TWENTY ONE C. .TS (\$13,969.21) This Agreement is a reimbursement contract. No advance funding payments are authorized herein.

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

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

7.4 Travel costs will not be reimbursed.

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

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

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

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

8. PAYMENT ADJUSTMENT

In the event temporary work by the **DEPARTMENT'S** forces or by other Contractors temporarily prevent the **TOWN** from performing the work described in this Agreement, the **DEPARTMENT** shall deduct from the affected quarterly lump sum payment(s) the acreage of the affected area and only compensate the

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TOWN for the actual work it performs.

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

9. TERMINATION

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

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

10. TERMS

- 10.1. The term of this Agreement shall only commence when the **DEPARTMENT** issues the **TOWN** the Notice to Proceed Letter.
- 10.2. In accordance with Section 287.058(1)(e), Florida Statutes, this Agreement is for a term of one (1) year beginning on the date stated in the Notice to Proceed.
- 10.3. In accordance with Section 287.0582, Florida Statutes, the **DEPARTMENT** shall only appropriate the annual amount of THIRTEEN THOUSAND NINE HUNDRED SIXTY NINE DOLLARS WITH TWENTY ONE CENTS (\$13,969.21) per year at the beginning of each **DEPARTMENT** Fiscal Year (July 1).
- 10.4. This Agreement shall commence on October 1ST, 2008, and end on September 30TH, 2009.
- 10.5. In accordance with Section 287.058(1)(f), Florida Statutes, this Agreement may be renewed on a yearly basis for a maximum of two (2) years after the initial term for a period no longer than the term of the original contract, whichever

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period is longer, only if mutually agreed to in writing by the **DEPARTMENT** and the **TOWN**, subject to the same terms and conditions set forth in this Agreement. Said renewals shall be contingent upon both satisfactory **TOWN** performance evaluations by the **DEPARTMENT** and the availability of future funding.

11. **ATTACHMENT "A" AMENDMENT**

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

12. **TIME EXTENSION**

In accordance with Section 287.012(14), Florida Statutes, this Agreement may be extended if mutually agreed to in writing by both parties, for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in this Agreement; provided the **DEPARTMENT** may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There shall be only one extension of this Agreement.

13. **ADDITIONAL LANDSCAPING**

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

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

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

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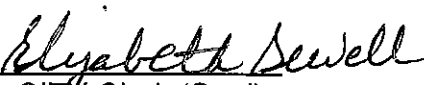
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

TOWN OF GOLDEN BEACH

FLORIDA STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: 
MAYOR

BY: _____
District Secretary

ATTEST: 
CITY Clerk (Seal)

ATTEST: _____
Executive Secretary

LEGAL REVIEW:

BY: _____
District General Counsel

ATTACHMENT "A"

Below is the state road, the limits, length and acreage of the areas to be maintained by the TOWN OF GOLDEN BEACH under this AGREEMENT.

STATE RD	LOCAL NAME	FROM	TO	LENGTH	ACRES
A1A	Ocean Blvd.	Terracina Ave.	Dade/Broward County Line	1.20	5.10

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ATTACHMENT "C"

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION SPECIAL PERMIT

District Six
6/95

DATE: _____ PERMIT NO.: _____
SECTION NO.: _____ STATE ROAD NO.: _____
COUNTY: _____ MILEPOST FROM: _____ TO: _____
STATE PROJECT NO.: _____ (if applicable) RECORD NO.: _____

APPLICANT: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP CODE: _____
TELEPHONE NO.: _____

Applicant requests permission from the State of Florida Department of Transportation, hereinafter called the Department, to construct, operate, and maintain the facility shown in the accompanying engineering as described here: _____

Location of Construction, Street Name, and Nearest Intersection: _____

1. Is the proposed work within the corporate limits of a municipality: Yes () No ()
Name of municipality: _____ Local Government Contact: _____
2. Prior to filing this application, the location of all existing utilities, both aerial and underground, has been ascertained, and the accurate locations are shown on the drawings (as applicable). A letter of notification was mailed on _____ to the following utilities/municipalities: _____
3. It is expressly stipulated that this permit is a license for permissive use only and that the construction within and/or upon public property pursuant to this permit shall not operate to create or vest any property right in said holder.
4. Whenever it is determined by the Department that it is necessary for the construction, repair, improvement, maintenance, safe and/or efficient operation, alteration, or relocation of any or all portion of said highway and/or transportation facility; the Permittee shall immediately remove any and all installed facilities from said highway and/or transportation facility, or reset or relocate thereon as required by the Department at the Permittee's expense.
5. All work shall meet Department's Roadway and Traffic Design Standards, Specifications for Road and Bridge Construction, and other applicable criteria in effect at the time of permit issuance. The work shall be performed under the inspection supervision of _____, Permit/Maintenance Engineer located at _____, Telephone No. _____. This designated engineer shall be notified forty-eight (48) hours prior to the pre-construction meeting and again immediately before commencement of work. All material and equipment shall be subject to inspection by the designated engineer or his authorized representative.
6. All Department property shall be restored to its original condition as far as practical in keeping with Department Specifications, and in a manner satisfactory to the Department, within thirty (30) days of the installation of the permitted work, unless otherwise approved by the Department.
7. A drawing covering details of this work shall be made a part of this permit. This drawing shall include plan, profile, and cross sections as appropriate, and may be required to bear the seal of a professional engineer licensed in the State of Florida. As built drawings are required: Yes () No ()
8. The Permittee shall commence actual construction in good faith within _____ days from the date of said permit approval and shall complete construction within _____ days from the commencement of work unless the permittee shows good cause for delay and the Department approves an extension. No extension beyond one (1) year from the date of issuance of this permit will be granted.
9. This construction and maintenance shall not interfere with the property and rights of a prior Permittee.
10. Special Conditions and Instructions by the Department: _____

11. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the State's right, title, and interest in the land to be entered upon and used by the Permittee, his heirs, assigns, and successors in interest, and the Permittee will, at all times, assume all risk of and indemnify, defend, and save harmless the State of Florida and the Department from and against any and all loss, damage, cost, or expense arising in any manner on account of the exercise or attempted exercise by said Permittee of the aforesaid rights and privileges.
12. During construction through Department acceptance of the permitted work, all safety regulations of the Department shall be observed and the holder must take measures, including placement and display of safety devices, that may be necessary in order to safely conduct the public through the project area in accordance with the Department's current edition of the Roadway and Traffic Design Standards, Index Series 600, and the Manual of Uniform Traffic Control Devices.
13. In case of non-compliance with the Department's requirements in effect as of the approved date of this permit, this permit is void and the work will be brought into compliance or removed from the right-of-way at no cost to the Department.

Submitted and Agreed to by: _____ Corporate Seal
Signature of Permittee
Name and Title (typed) _____ Attested
Recommended for approval: _____ Title: _____ Date: _____
Approved by: _____ Date: _____
District Permit Engineer or Authorized Representative

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