

**INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF CORAL SPRINGS, FLORIDA, AND
THE CITY OF COCONUT CREEK, FLORIDA,
PROVIDING FOR THE DESIGN AND CONSTRUCTION
OF LANDSCAPE IMPROVEMENTS AND SHARING OF COSTS
OF MAINTENANCE TO THE MEDIANS ON STATE ROAD 7**

This Interlocal Agreement ("Agreement"), is made and entered into by and between the City of Coral Springs, a municipal corporation ("Coral Springs"), and the City of Coconut Creek, a municipal corporation ("Coconut Creek") (collectively referred to as the "Parties").

WHEREAS, the cities of Coral Springs and Coconut Creek desire to improve the medians on State Road 7 adjacent to each respective City to include the installation of irrigation, pavers, landscaping, and sod ("landscape improvements"); and

WHEREAS, the parties desire to provide for the ongoing maintenance of the landscape improvements upon completion of the construction of the landscape improvements; and

WHEREAS, the City of Coconut Creek offered to be the lead agency to procure the design and construction of the landscape improvements and to pursue a Highway Beautification Grant from the Florida Department of Transportation to help recoup the costs for said design and construction; and

WHEREAS, the City of Coconut Creek has offered to have its landscape maintenance contractor provide for regular maintenance of the landscape improvements once completed; and

WHEREAS, the City of Coral Springs has offered to reimburse the City of Coconut Creek for one half (1/2) of the monthly maintenance costs of the completed landscape improvements; and

WHEREAS, the public will benefit from the beautification of the State Road 7 medians through the landscape improvements adjacent to each City; and

WHEREAS, this Agreement is entered into pursuant to Section 163.01, the "Florida Interlocal Cooperation Act of 1969," of the Florida Statutes, and upon execution by the Parties shall be filed with the Clerk of the Circuit Court of Broward County.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **Contract Administrator.** Coconut Creek's Director of Public Works, or his/her designee.
- 1.2 **State Road 7 Medians.** For purposes of this Agreement, State Road 7 medians shall mean the medians on State Road 7 from immediately north of Cullum Road/Turtle Creek Drive to just south of the Sawgrass Expressway as depicted on the map attached hereto and made a part hereof as Exhibit "A".

ARTICLE 2. SCOPE OF SERVICES

- 2.1 Coconut Creek will procure the design and construction of improvements to the State Road 7 medians to include the installation of irrigation, pavers, landscaping and sod ("landscape improvements").
- 2.2 Coconut Creek will pursue a Highway Beautification Grant from Florida Department of Transportation ("FDOT") in the amount of One Hundred Thousand Dollars \$100,000 to apply towards the costs for these improvements.
- 2.3 Coconut Creek will assume responsibility for the maintenance of all new landscape improvements including the proper watering and proper fertilization of all plants and keeping them free as practicable from disease and harmful insects; to properly mulch the plant bed; to keep the premises free of weeds; to mow and/or cut the grass to a proper height; to properly prune all the plants which includes (1) removing dead or diseased parts of plants, or (2) pruning such parts thereof which present visual hazard for those using the roadway. To maintain also means removing or replacing dead or diseased plants in their entirety, removing or replacing those that fall below original project standards. All plants removed for whatever reason shall be replaced by plants of the same grade. To maintain also means to keep litter removed from the landscaped areas in the right-of-way. Plants shall be those items which would be scientifically classified as plants and include but are not limited to trees, grass, or shrubs. Coconut Creek will also maintain the irrigation system within the State Road 7 medians once the improvements are completed.
- 2.4 Coconut Creek shall obtain any and all necessary approvals and/or licenses from any entity with a property interest in the landscape improvement area for both the installation and all on-going maintenance, including, but not limited to, FDOT.
- 2.5 Coconut Creek shall require all contractors performing any portion of the work detailed in this Article to obtain and keep in effect during its performance of any of the work detailed in this Article, a minimum of one million dollars (\$1,000,000.00) general liability insurance policy with the City of Coconut Creek and the City of Coral Springs listed as an additional insured. Additionally, Coconut Creek shall require all contractors performing any portion of the work detailed in this Article to

execute an indemnification and hold harmless agreement in a form mutually agreed upon by Coconut Creek and Coral Springs.

A copy of such proof of insurance and indemnification/hold harmless agreement shall be provided to the City of Coral Springs prior to any contractor performing any portion of the work. Failure to comply with this Section will create a material breach of this Agreement and subject this Agreement to termination. No contractor shall be allowed to perform any work during the thirty (30) day cure period provided for in Article 6.

ARTICLE 3. COST SHARING

3.1 Upon completion of the landscape improvements, Coral Springs agrees to pay Coconut Creek for one-half (1/2) of the total costs of the landscape maintenance for the landscape improvements to the State Road 7 medians on a monthly basis.

3.2 METHOD OF BILLING AND PAYMENT

3.2.1 Coconut Creek must submit an invoice monthly to Coral Springs providing for the total expenses incurred and the amount due and owing from Coral Springs to Coconut Creek.

3.2.2 This Interlocal Agreement provides for strict accountability of all funds and the Parties have the right to conduct an audit of all receipts and disbursements.

3.2.3 Coral Springs shall pay Coconut Creek within thirty (30) calendar days after receipt of Coconut Creek's invoice.

3.3 Payment of the Coconut Creek invoice shall be made as follows:

City of Coconut Creek
Attn: Karen Brooks
Deputy City Manager and Director of Finance and Administrative Services
4800 West Copans Road
Coconut Creek, FL 33063

ARTICLE 4. TERM AND TIME OF PERFORMANCE OF AGREEMENT

4.1 This Interlocal Agreement shall become effective upon the last date that this Agreement is executed by all parties to this Agreement and shall continue in full force and effect for thirty (30) years from the date of final execution of this Agreement.

4.2 All duties, obligations, and responsibilities of the parties to this Agreement, required by this Interlocal Agreement, shall remain in full force and effect through the termination date or any extended termination date, as set forth above, unless

written notice of termination by a party is provided pursuant to Article 6, "Termination," and Section 7.7, "Notices." Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Interlocal Agreement.

ARTICLE 5. GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Interlocal Agreement or any other contract. The parties to this Agreement are state agencies or political subdivisions as defined in Chapter 768.28, Florida Statutes, and agree to be fully responsible for the acts and omissions of their agents or employees to the extent permitted by law. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 6. TERMINATION

- 6.1 This Interlocal Agreement may be terminated for cause by an aggrieved party if the party in breach has not corrected the breach within thirty (30) days after written notice from an aggrieved party (with a copy to the Contract Administrator) identifying the breach.
- 6.2 Notice of termination shall be provided in accordance with the "Notices" section of this Interlocal Agreement except that notice of termination by Contract Administrator, which Contract Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice, which shall be promptly confirmed in writing in accordance with the "Notices" section of this Interlocal Agreement.

ARTICLE 7. MISCELLANEOUS

- 7.1 Public Records. The parties shall comply with all public records requirements of Chapter 119, Florida Statutes, as may be required by law.

IF EITHER PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.

- 7.2 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the

other parties hereto, and any attempt to transfer or assign any interest in this Agreement without the written consent of the other parties shall be void.

- 7.3 All Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.4 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 7.5 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR CORAL SPRINGS:
DIVISION/DEPARTMENT
Attn: Rich Michaud, Director of Public Works
9500 West Sample Road
Coral Springs, Florida 33065
rmichaud@coralsprings.org

FOR COCONUT CREEK:
Department of Public Works
Attn: Jim Berkman, Director
4900 West Copans Road
Coconut Creek, FL 33073
JBerkman@coconutcreek.net

- 7.6 Interpretation. The language of this Agreement has been agreed to by the parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of

the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

- 7.7 Independent Contractor. Each party is an independent contractor and not an agent, employee, partner, or joint venturer of the other parties. Beyond what is provided herein, the parties have no authority to undertake or accept any obligation, liability or expense on behalf of the other party, nor act in any other manner on behalf of the other parties, nor in the name of the other parties hereto.
- 7.8 Third Party Beneficiaries. The parties do not intend to directly or substantially benefit a third party by this Agreement. Therefore, the parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.
- 7.9 Materiality and Waiver of Breach. The parties agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement, and that each is, therefore, a material term hereof. A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.10 Compliance with Laws. The parties shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing their duties, responsibilities, and obligations related to this Agreement.
- 7.11 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.
- 7.12 Joint Preparation. This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against any one (1) party.
- 7.13 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.
- 7.14 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties acknowledge and accept that jurisdiction of any controversies or legal

problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THE PARTIES MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

7.15 Agreement Subject to Funding.

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Coconut Creek and the City Commission of the City of Coral Springs in the annual budget for each fiscal year of this Agreement, and is subject to immediate termination by either party based on lack of funding.

7.16 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

7.17 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full and legal authority.

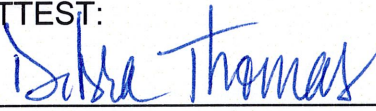
7.18 Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be an original, but together such counterparts shall constitute only one (1) instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

INTERLOCAL AGREEMENT BETWEEN THE CITY OF CORAL SPRINGS, FLORIDA,
AND THE CITY OF COCONUT CREEK, FLORIDA, PROVIDING FOR THE DESIGN
AND CONSTRUCTION OF LANDSCAPE IMPROVEMENTS AND SHARING OF COSTS
OF MAINTENANCE TO THE MEDIANS ON STATE ROAD 7.

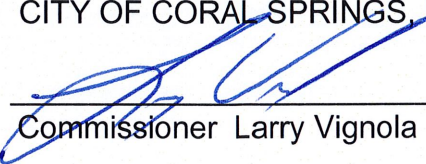
IN WITNESS WHEREOF, THE PARTIES have caused these present to be executed in
their respective names by the proper officials the day and year first above written.

ATTEST:



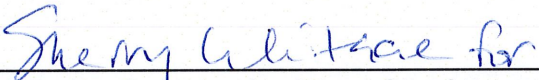
Debra Thomas, CMC, City Clerk

CITY OF CORAL SPRINGS, FLORIDA



Commissioner Larry Vignola

APPROVED AS TO FORM:



Nicholas A. Noto, Assistant City Attorney

INTERLOCAL AGREEMENT BETWEEN THE CITY OF CORAL SPRINGS, FLORIDA,
AND THE CITY OF COCONUT CREEK, FLORIDA, PROVIDING FOR THE DESIGN
AND CONSTRUCTION OF LANDSCAPE IMPROVEMENTS AND SHARING OF COSTS
OF MAINTENANCE TO THE MEDIANS ON STATE ROAD 7.

COCONUT CREEK

Attest:

CITY OF COCONUT CREEK

Leslie Wallace May, MMC
City Clerk

By: _____
Mary C. Blasi, City Manager

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY:

Date

Terrill C. Pyburn, City Attorney