

## **CONSTRUCTION AGREEMENT**

**THIS CONSTRUCTION AGREEMENT** (this Agreement) is made on October 31, 2016 (“Effective Date”) by and between the MIAMI-DADE COUNTY EXPRESSWAY AUTHORITY, a body politic and corporate, a public instrumentality, and an agency of the State, existing under the Florida Expressway Authority Act, as amended, whose address is 3790 NW 21<sup>st</sup> Street Miami, Florida, 33142 (hereinafter referred to as the “Authority”) and the Town of Miami Lakes, Florida, a public body corporate and politic (the “Town”) on behalf of its Board of Town Commissioners, located at 6601 Main Street, Miami Lakes, FL 33014 (hereinafter referred to as the “Construction Coordinator”).

**WHEREAS**, the Authority is authorized by Section 348.0009, Florida Statutes (2015), to enter into agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, et al., for the purpose of carrying out the provisions of the Florida Expressway Authority Act; and

**WHEREAS**, the purpose of this Construction Agreement is to permit the Construction Coordinator to construct a gateway feature fountain and associated landscaping on Authority right of way, which is the subject of a separate Permit between the parties; and

**WHEREAS**, the Construction Coordinator also proposes to construct improvements to State Road 924, Section 87008, Subsection 2505 at MP 1.0 Local name Gratigny Parkway located in Miami-Dade County. The totality of all work to be performed by the Construction Coordinator pursuant to this Agreement is hereinafter referred to as the “Improvement”; and

**WHEREAS**, the parties agree that the Improvement will remain the personal property, maintenance responsibility and liability of the Town of Miami Lakes.

**NOW THEREFORE**, based on the foregoing, and in consideration of the mutual covenants contained herein, the parties hereby agree to the following terms and conditions:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Construction Term. The Construction Coordinator shall have a period of six (6) months for construction of the Improvement that shall commence upon the Effective Date of this Agreement.
3. This Agreement may be renewed at the sole discretion of the Authority for an additional construction period as determined by the Authority.
4. Termination. Either party may terminate this Agreement at any time, with or without cause by providing sixty (60) days written notice of termination. The Authority’s termination will be without liability to the Construction Coordinator. Coordinator will be solely responsible for removing the Improvement from the site, cleaning and restoring the site as well as correcting and disposing of any environmental or health hazards that may have resulted from the construction activities conducted pursuant to this Agreement.
5. Construction of Improvement. The Construction Coordinator is authorized, in accordance with the conditions set forth in Exhibit “A” titled “Scope of Services/Special Provisions”, and this

Agreement to enter the Authority's right of way to perform all activities necessary for the construction of the Improvement.

- a. The Improvement shall be designed and constructed in accordance with the latest edition of the State of Florida Department of Transportation's (the Department) Standard Specifications for Road and Bridge Construction and Department Design Standards and the Manual Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall also apply as deemed appropriate by the Authority: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Department Plans Preparation Manual ("PPM") for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), the Department Traffic Engineering Manual and the Florida Building Code.
- b. The Construction Coordinator will be required to obtain all requisite permits, including from the Miami-Dade County Department of Regulatory and Economic Resources, and submit a set of approved stamped construction plans to the Authority, prior to any work being commenced. Should any changes to the plans be required during construction of the Improvement, the Construction Coordinator shall be required to notify the Authority of the changes and receive approval from the Authority prior to the changes being constructed.
- c. The Construction Coordinator shall maintain and secure the Improvement area at all times and coordinate any work needs of the Authority or their contractor during the construction of the Improvement.
- d. The Construction Coordinator shall conduct a pre-construction meeting to coordinate all construction activities in the area and notify the Authority and its contractor a minimum of forty-eight (48) hours before beginning construction of the Improvement. The Construction Coordinator shall notify the Authority should construction of the Improvement be suspended or stopped for any reason.
- e. The Construction Coordinator shall be solely responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout construction activities of the Improvement in accordance with the latest edition of the FDOT Standard Specifications, Section 102. The Construction Coordinator is responsible for the development of an MOT plan, if applicable, and making changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the FDOT Design Standards, Index 600 series. Any MOT plan developed by the Construction Coordinator that deviates from the FDOT Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Authority prior to implementation.
- f. The Construction Coordinator shall be solely responsible for locating existing utilities, both aerial and underground, and for ensuring that all utility locations are accurately

documented on the construction plans. All utility conflicts must be fully resolved by the Construction Coordinator directly with the utility owner.

- g. Due to the proximity of the Improvement construction site to Miami Opa-locka Executive Airport, the Construction Coordinator shall obtain the appropriate FAA/MDAD permits for any clearance requirements for cranes and any other equipment if applicable.
  - h. The Construction Coordinator will be solely responsible for obtaining any and all permits required by governmental agencies for the construction of the Improvement.
6. Insurance and Indemnification Requirements.
- a. The Construction Coordinator is required to secure general liability insurance from the selected contracting firm naming the Authority and the Florida Department of Transportation (FDOT) as additional insureds for any and all claims for injury or damage to person or property, and for the loss of life or property that may occur (directly or indirectly) by the Construction Coordinator or their contractor(s) for construction activities in the Authority's right of way. Such insurance amount shall be carried in a minimum amount of not less than \$1,000,000.00 Dollars for bodily injury or death to any one person or any number of persons in any one occurrence, and not less than \$1,000,000.00 Dollars for property damage, or a combined coverage of not less than 300,000.00 Dollars.
  - b. Additionally, the Construction Coordinator shall supply the Authority or designee with a copy of the payment and performance bond in the amount of the estimated cost for the Improvement construction.
  - c. Prior to the commencement of the construction activities, the Construction Coordinator shall provide Authority with certificates of insurance documenting that the requisite coverage is in place and effective for the entire term of the construction of the Improvement. If the construction activities are being performed by employees of a local governmental entity then the Construction Coordinator shall provide a self-insurance certificate, which shall include the Authority and FDOT as additional insureds.
  - d. Nothing contained in this Agreement shall be construed as a waiver of the sovereign immunity of the respective parties.
7. It is hereby agreed by the parties that this Agreement creates a permissive use only and that the Improvement shall remain the personal property and sole responsibility of Town of Miami Lakes.
8. The Construction Coordinator herein acknowledges that all work constructed pursuant to this Agreement constitute a removable fixture that does not attach to the Authority's right of way. Accordingly, [The Town of Miami Lakes will be responsible for the removal at its own cost within 90 days of notification by MDX](#) and the Construction Coordinator shall not acquire any

right, title, interest, or estate in the Authority's right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement.

9. The parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to chapter 163, Florida Statutes.
10. The Construction Coordinator is solely responsible for and shall perform all required testing associated with the design and construction of the Improvement. Testing results shall be made available to the Authority upon request. The Authority shall have the right to perform its own independent testing during the course of the Improvement but is not obligated to do so.
11. The Construction Coordinator shall exercise the construction rights granted herein and shall perform in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, industry standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those the Authority, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Agency, the Army Corps of Engineers, the United States Coast Guard and local government entities.
12. The Authority is not obligated nor expected in any manner to be responsible for compliance with any regulatory requirements relating to the construction, operation, maintenance or repair/replacement of the Improvement.
13. If the Authority determines that a condition exists on the Improvement site that threatens the public's safety, the Authority may at its discretion stop or suspend the construction activities immediately and have any potential hazards removed from the right of way at the sole cost, expense, and effort of the Construction Coordinator. The Construction Coordinator shall bear all construction delay costs resulting from such action by the Authority.
14. The Construction Coordinator shall be responsible to maintain and restore all transportation roadway features that might require relocation within the Authority right of way to facilitate the Improvement.
15. The Construction Coordinator will be solely responsible for clean-up and restoration required to correct any environmental or health hazards that may result from the construction activities and operation of the Improvement on the Authority's right of way.
16. The Construction Coordinator shall be solely responsible for establishing and implementing a procedure for emergency response plans for natural disasters and for curing any code violations for the Improvement.
17. The site shall be maintained by the Construction Coordinator in accordance with the Authority's standards for landscaping and appearance. All associated homeless and graffiti remediation shall be addressed by the Construction Coordinator at no cost to the Authority.

18. Notices. Any Notice required to be given hereunder shall be in writing and may be given by personal delivery (including delivery by courier or express mailing service), or by registered or certified mail, postage prepaid, return receipt requested, addressed to Authority and Construction Coordinator, as the case may be, each at the address designated below. Either party may, by written notice to the other, specify a different address for Notice purposes.

**AUTHORITY**  
Miami-Dade Expressway Authority  
3790 NW 21<sup>ST</sup> Street  
Miami, Florida 33142  
Tel: 305 637 3277  
Fax: 305 637-3298

**CONSTRUCTION COORDINATOR**  
Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014  
Attention: Town Manager  
Tel. 305 364-6100  
Fax. 305 558-8511

19. The Improvement within MDX right away, shall be coordinated with the MDX Engineer and its designated representative for the project. Should schedule conflicts emerge during construction of the Improvement any MDX Project construction will take precedence over the construction of the Improvement authorized by this Agreement.
20. Complete Agreement. This Agreement contains the complete understanding of the parties with respect to the subject matter hereof. No modification, waiver or amendment of this Agreement or any of its conditions or provisions shall be binding upon parties unless in writing and signed by both parties.
21. Governing Law. This Agreement shall be construed and interpreted under the laws of the State of Florida, without giving effect to principles of conflict of laws, except where specifically preempted by federal law. The parties agree that the proper venue with respect to any state or federal litigation in connection with this Agreement shall be in Miami-Dade County.

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

**CONSTRUCTION COORDINATOR**

**TOWN OF MIAMI LAKES**

By: \_\_\_\_\_

Alex Rey  
Town Manager

**MIAMI-DADE COUNTY EXPRESSWAY  
AUTHORITY**

By: \_\_\_\_\_  
Javier Rodriguez, P.E.  
Executive Director

ATTEST: \_\_\_\_\_  
Maria Luisa Navia Lobo Secretary

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

By: \_\_\_\_\_  
Carlos Zaldivar, General Counsel

**EXHIBIT "A"**  
**Scope of Services/Special Provisions**

**Refer to attached pdf titled "Beautification Master Plan, Town of Miami Lakes"**