

**COVENANT FOR MAINTENANCE OF LANDSCAPING WITHIN RIGHT-OF-WAY  
BETWEEN THE CITY OF DORAL AND MIAMI-DADE COUNTY**

A. Miami-Dade County, a political subdivision of the State of Florida, through its Public Works and Waste Management Department (the "County") will install the landscaping and irrigation system in the medians (the "Landscape Work") within the right-of-way of NW 74 Street between NW 114 Avenue and NW 107 Avenue (the "Project Limits"), along with the roadway improvements for NW 74 Street (the "Highway Project"); and

B. The City of Doral (the "City") shall be solely responsible for the maintenance and preservation of the Landscape Work within the Project Limits.

In consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. Upon completion of the Landscape Work by the County, and in accordance with Paragraph 9, the City shall, at its sole cost and expense, maintain, repair and/or replace, as necessary, the irrigation system, the sod and all landscaping, in a like or similar manner as that installed by the County in the medians within the Project Limits. The maintenance by the City shall further include, but not be limited to, the following:

- a) Mow, cut and/or trim and edge the grass or turf in accordance with the latest edition as of the date of this Covenant, of the State of Florida "Guide for Roadside Mowing" and the latest edition as of the date of this Covenant, of the "Maintenance Rating Program";
- b) Properly prune all plants, which include plant and tree trimmings, in accordance with the latest edition as of the date of this Covenant, of the "Maintenance Rating Program", and prune, trim and/or edge such parts thereof which may present a visual or other safety hazard for those using or intending to use the right-of-way;
- c) Keep plants as free as possible from disease and harmful insects; remove and properly dispose of dead, diseased or otherwise deteriorated plants in their entirety, and replaced those that fall below original Landscape Work standard;
- d) Properly remove and dispose of all undesirable vegetation including but not limited to weeding of plant beds and removal of invasive exotic plant materials;
- e) Properly mulch all plant beds;
- f) Water and fertilize all plants properly;
- g) Remove and dispose of all trimmings, roots, branches, litter, etc., resulting from the activities described above;
- h) Ensure that the irrigation system is fully functional by performing routine and regular observations of irrigation performance; identify damage and/or malfunctions; repair and/or replace broken or missing irrigation equipment; and adjust spray heads to eliminate overspray of water onto paved areas. All costs associated with water use will be the responsibility of the City. In the

event that the City shall require a well-water irrigation system, the City shall be responsible for the maintenance of the pump system and electrical meter.

2. The City shall be responsible for performing the work described in Paragraph 1 with a minimum frequency of twelve (12) times per year. The work shall include any additional conditions that the County, or the authority having jurisdiction over the right-of-way, may impose.

3. The County shall be only responsible for replacing damaged trees for reasons other than maintenance as natural disasters, storm events, and traffic accidents.

4. If the County, or the authority having jurisdiction over the right-of-way, determines that the City is not accomplishing or complying with its responsibilities and/or duties under this Covenant, the County shall provide the City with a written notice, stating any deficiency or deficiencies that require correction. The City shall have thirty (30) calendar days, from the date of the receipt of the notice, to correct the cited deficiency or deficiencies.

In the event that the City has not corrected the deficiency or deficiencies for which notice is given or, if the deficiencies are of a nature that cannot be corrected within that time period and the City does not commence to correct the deficiencies within the time period stipulated, then the County shall maintain, repair, replace or otherwise correct the deficiency or deficiencies, and all costs and expenses shall be invoiced to the City. The City must pay the invoice in full, within thirty (30) calendar days of the receipt of the invoice by the City.

Any notices to be provided hereunder shall be in accordance with the provisions of Paragraph 11.

In the event of any default of the City in the payment of the invoice and/or its failure to comply with its maintenance responsibilities under this Covenant, the County or the authority having jurisdiction over the right-of-way, may, at its election and option, remove the Landscape Work from the medians within the Project Limits.

5. It is understood and agreed that all landscaping, irrigation system and sod covered by this Covenant may be removed, relocated, or adjusted, at any time in the future, as found necessary by the County or the authority having jurisdiction over the right-of-way, in order that the adjacent public right of way be widened, altered or otherwise changed and maintained to meet with future criteria or planning by the County or the authority having jurisdiction over the right-of-way. In such an event, the maintenance responsibilities of the City shall survive any such relocation or adjustments, so long as the materials or facilities remain with the Project Limits.

6. Subject to the provisions of 768.28, Florida Statutes, the City does hereby agree to indemnify and hold harmless the County, or the authority having jurisdiction over the right-of-way, from any and all damages and/or liability which may arise by virtue of the County installing the landscaping and irrigation system within the public right of way, and/or from any act or omission of the City related to the maintenance and preservation thereof, including any and all work to be performed within the public right-of-way, pursuant to this Covenant.

7. This Covenant and the rights hereunder may be assigned by the County to the authority having jurisdiction over the right-of way. The provisions and conditions herein stated shall remain in full force and effect until such time as this obligation has been cancelled by instrument filed in the Public Records of Miami-Dade County, Florida by an authorized representative of the County, or by an authorized representative of the authority having jurisdiction over the right-of-way.

8. This Covenant only pertains to the Landscape Work, as herein defined, of NW 74 Street medians, as further depicted on the landscape plans, attached as Exhibit "A".

9. This covenant is subject to termination under any one of the following conditions:

- a) By the County, or the authority having jurisdiction over the right-of-way, if the City fails to perform its duties under Paragraph 1, following thirty (30) days written notice.
- b) If mutually agreed to by the parties, with a six (6) month prior written notice.

10. This Covenant shall become effective upon completion of the roadway construction of NW 74 Street, within the Project Limits, and upon issuance by the County to the City of a written Notice to Proceed letter from the Miami-Dade County Director of Public Works.

11. All notices, requests, demands, consents, approvals and other communications which are required to be served or given hereunder shall be in writing, and hand delivered, or sent by certified U.S. Mail, return receipt requested, postage prepaid, addressed to the party to receive such notices, or at such other address that the authority having jurisdiction over the right-of-way may provide:

To the County:

To the City:

12. This Covenant is the entire understanding and agreement as relates to the subject matter herein, and may only be modified or amended by written mutual consent of the parties.

13. This agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of this Agreement shall lie exclusively in a state court of appropriate jurisdiction in Miami-Dade County, Florida.

Signed, sealed, executed and acknowledged on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**CITY OF DORAL**

By: Yvonne S. McKinley  
Name: Yvonne S. McKinley  
Title: CITY MANAGER

**MIAMI-DADE COUNTY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: Barbara Herrera  
Name: Barbara Herrera  
Title: CITY CLERK

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Legal Review:

City Attorney

By: Jimmy Morales  
Name: Jimmy Morales

County Attorney

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