

RESOLUTION No. 16-191

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AN AGREEMENT WITH THE FAIRCHILD TROPICAL AND BOTANICAL GARDEN, SUBJECT TO FORM AND LEGAL SUFFICIENCY BY THE CITY ATTORNEY, TO PARTICIPATE IN THE MILLION ORCHID PROJECT AND FOR THE PROVISION OF APPROXIMATELY 15,000 PLANTS OF THREE NATIVE ORCHID SPECIES TO BE INSTALLED WITHIN CITY'S PUBLIC CANOPY AND FOR TRAINING AND GUIDANCE SERVICES, IN AN AMOUNT NOT TO EXCEED \$15,000.00 PER YEAR WITH A TWO (2) YEAR TERM AND UP TO THREE (3) ONE YEAR OPTIONAL RENEWALS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, like much of Miami-Dade County, the City of Doral (the "City") continues to experience urban growth, and the City wishes to implement an alternative program that contributes to our "Green Goals" as established in the City's Green Master Plan ("GMP") for sustainable growth; and

WHEREAS, the City desires to further one of the stated Goals of the GMP—specifically to conserve natural resources and replenish degraded natural resources; and

WHEREAS, the Fairchild Tropical and Botanical Garden (Fairchild) has established the "The Million Orchid" Project in an effort to repopulate south Florida with wild orchids that were depleted from their natural canopy upon the introduction and construction of railroads, which fomented plucking and their shipment to areas up north; and

WHEREAS, the City desires to enter into an agreement, substantially in the form provided in Exhibit "A" (the "Agreement"), which is incorporated herein and made a part hereof by this reference, with Fairchild to participate in the One Million Orchid Project and

for the provision of 15,000 orchids (in three varieties), training, and assistance to City staff for installation and maintenance of the orchids on City's right-of-way, and parks, for an amount of \$15,000 per year for an amount not to exceed of \$75,000 over the five year period (funded from the Public Works Professional Service Account No. 001.8005.500310); and

WHEREAS, the City Council finds that entering into the Professional Service Agreement with Fairchild Tropical Botanical Garden is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval. The Agreement with the Fairchild Tropical Botanical Garden for the provision of the orchid plants and training to conduct yearly plantings in the City's public right-of-ways and parks in an amount of \$15,000 per year, for an amount not to exceed \$75,000 over the five year period, is hereby approved.

Section 3. Authorization. The City Manager is hereby authorized to execute the Agreement, subject to approval by the City Attorney as to form and legal sufficiency, and to expend budgeted funds in furtherance hereof.

Section 4. Implementation. The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Rodriguez who moved its adoption. The motion was seconded by Councilmember Ruiz and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Yes
Councilman Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Sandra Ruiz	Yes

PASSED AND ADOPTED this 14 day of September, 2016.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



WEISS, SEROTA, HELEMAN, COLE & BIERMAN, P.L.
CITY ATTORNEY

EXHIBIT “A”



City of Doral
Professional Services Agreement

THIS AGREEMENT made and entered into on the ___ day of _____, 2016 by and between:

City of Doral
8300 NW 53rd Street, Suite 100
Doral, Florida 33166
(Hereinafter referred to as “the City”)

AND

Fairchild Tropical Botanic Garden
10901 Old Cutler Road
Coral Gables, FL 33156
(Hereinafter referred to as “Fairchild”)

WITNESSETH:

In consideration of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE I

I. **THE AGREEMENT DOCUMENTS**

I.1 This Agreement consists of the “The Million Orchid Project Partnership Agreement”, submitted by Fairchild detailing the elements agreed upon with the City of Doral.

ARTICLE 2

2. **SCOPE OF SERVICES**

- 2.1 Fairchild will provide the City with 15,000 seedlings to accommodate on the City's canopy in public areas and at City parks. Fairchild will provide over a two year period with the option to extend for three (3) on a one (1) year bases, contingent on the existence of adequate number of seedlings to propagate three rare orchid species native to South Florida as part of the goal of The Million Orchid Project. The intent is to facilitate the introduction of at least one million orchids into the South Florida urban landscape.

Consultant is not responsible for the installation and maintenance of the seedlings. Consultant will train and provide guidance to City's Public Works Department Staff on the installation and maintenance.

Consultant will provide a small number of seedlings for a 'ceremonial planting'. City understands that because of the time required to grow the orchids, there will be a growing period.

ARTICLE 3

3. **AGREEMENT SUM**

- 3.1 The City will make payments to Fairchild of \$15,000 for two (2) years with the option of three (1) year extensions in accordance with this agreement document with an amount not to exceed of \$75,000.

ARTICLE 4

4. **AGREEMENT TIME**

- 4.1 The work to be performed under this Agreement is subject to authorized adjustments, shall be complete in five years and ready for final payment by September of 2020.

ARTICLE 5

5. **INVOICING AND PAYMENT**

- 5.1 The Consultant will issue an invoice once a year for the orchids delivered, the City Manager's or his/her designee determines that the orchids are in accordance with what has been specified in the invoice and then the City shall process payment of such invoice within 30 days.

- 5.2 The Consultant's invoice shall show a complete breakdown of the project components, the quantities completed and the amount due, and any other

supporting documentation as may be required by the City to document for approval.

ARTICLE 6

6. INDEMNIFICATION

6.1 The Consultant shall indemnify, defend, save and hold harmless the City, its officers, employees, and agents from any and all losses, claims, damages, liabilities, and expenses, direct, indirect or consequential due to any claim arising from or out of the agreementwork.

ARTICLE 7

7. ASSIGNMENT

7.1 This Agreement shall not be assignable by the Consultant.

ARTICLE 8

8. PROHIBITION AGAINST CONTINGENT FEES

8.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or any other consideration, continent upon or resulting from the award or making of this Agreement unless approved by the City Manager of the City of Doral.

ARTICLE 9

9. TERMINATION

9.1 This Agreement may be terminated by the City upon ten days' written notice with or without cause and by the Consultant upon 30 days' written notice with or without cause. If this Agreement is terminated, the Consultant shall be paid in accordance with the provisions of Articles 4 and 5 of this Agreement for all acceptable work performed up to the date of termination.

ARTICLE 10

10. NON-EXCLUSIVE AGREEMENT

- 10.1 The services to be provided by the Consultant pursuant to this Agreement shall be non-exclusive and nothing herein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City within the City's sole and absolute discretion. Usage of the branded term "The Million Orchid Project," is restricted to the Consultant's work only and cannot be used by any other provider the City may employ or for another consultant that may appear to do similar work.

ARTICLE 11

11. ENTIRE AGREEMENT

- 11.1 This Contract, together with all pertinent documentation shall constitute the entire agreement which may only be amended or modified upon written agreement between the parties.

ARTICLE 12

12. ATTORNEY'S FEES

- 12.1 In connection with any litigation arising out of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. This provision shall exclude all litigation resolved by agreement of the parties.

ARTICLE 13

13. NONDISCRIMINATION

- 13.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, national origin, and agrees to abide by all Federal and State laws regarding nondiscrimination.

ARTICLE 14

14. OWNERSHIP AND ACCESS TO RECORDS AND AUDITS

14.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City. The City Manager or his designee shall, during the term of this Agreement, have access in connection with any litigation arising out of this Contract; the prevailing party shall be entitled to recover reasonable attorney's fees and costs. This provision shall exclude all litigation resolved by agreement of the parties.

ARTICLE 15

15. INDEPENDENT CONTRACTOR

15.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

ARTICLE 16

16. COMPLIANCE WITH LAWS

16.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to services provided hereunder.

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ARTICLE 17

17. NOTICES

17.1 All notices and communications to the City shall be in writing and shall be deemed to have been properly given if transmitted by registered or certified mail or hand delivery. All notices and communications shall be effective upon receipt. Notices shall be addressed as follows:

City: Edward Rojas
City Manager
City of Doral
8401 NW 53 Terrace
Doral, Florida 33166

With a copy to: Daniel A. Espino.
City Attorney
City of Doral
8401 NW 53 Terrace
Doral, Florida 33166

Connie Diaz
City Clerk
City of Doral
8401 NW 53 Terrace
Doral, Florida 33166

Consultant: Dr. Carl Lewis
Director
Fairchild Tropical Botanic Garden
10901 Old Cutler Road
Coral Gables, FL 33156

ARTICLE 18

18. **GOVERNING LAW**

18.1 This Agreement shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms and conditions above stated on the day and year first above written.

Consultant:
Dr. Carl Lewis, Director
Fairchild Tropical Botanic Garden
10901 Old Cutler Road
Coral Gables, FL 33156

City:
Edward Rojas
City of Doral
8401 NW 53rd Terrace
Doral, FL 33166

By:

FTBG – Director

By:

City Manager

City Clerk

City Attorney