

**CITY OF NORTH MIAMI  
ALLEYWAY WALL  
MAINTENANCE AGREEMENT**

**THIS AGREEMENT** is entered into this 12 day of May, 2015, by and between the following parties: Zuleica D. Pena, owner of the subject property (Owner) and the **CITY OF NORTH MIAMI (City)**, a Florida municipal corporation, having its principal office at 776 N.E. 125<sup>th</sup> Street, North Miami, Florida 33161, regarding the rehabilitation of an alleyway wall adjacent to the real property legally described as:

Lot 59, in Block 3, of GRIFFING BISCAZYNE PARK ESTATES, according to the Plat thereof, as recorded in Plat Book 5, at Page 83, of the Public Records of Miami-Dade County, Florida a/k/a **540 N.E. 126 Street**, North Miami, Florida. Folio# 06-2230-025-0520 (subject property);

**WITNESSETH:**

**WHEREAS**, City funds will be utilized for construction of the alleyway wall located at the rear and along the south side of the Property; and

**WHEREAS**, the Owner has agreed to the Project in accordance with the terms of this Agreement; and

**WHEREAS**, the Owner agrees to take responsibility for the ongoing maintenance and any future repairs to the alleyway wall.

**WHEREAS**, this Agreement is entered into after compliance by the parties with all applicable provisions of federal, state, and local laws, statutes, rules and regulations.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations herein contained and subject to the terms and conditions hereinafter stated, the Parties agree as follows:

1. City funds in the amount of \$36,940.00 are being utilized for the purpose of constructing the alleyway wall located in the rear and along the south side of the subject property.
2. The Scope of Services outlining the details of the Project, attached as Composite Exhibit "A", represent the scope of work and responsibilities of the City under this Agreement.
3. The Project shall be performed in accordance with the applicable codes, ordinances and statutes of the City, Miami-Dade County and the State of Florida.
4. The Owner agrees to maintain the property in good condition after the Project is completed.
5. The Owner acknowledges that the property is presently occupied as the primary residence, and agrees to continually occupy the property as the primary residence.

6. The Owner assumes sole and complete responsibility for the maintenance of the improvements made to the alleyway wall.
7. Both parties agree that by executing this Agreement all maintenance responsibilities pertaining to the alleyway wall are assigned to the Owner upon the City's issuance of the Notice of Acceptance of the Project to its contractor. The City shall not have any responsibility to maintain or repair the alleyway wall once the renovation is complete.
8. The Owner shall maintain the improvements made to the alleyway wall in accordance with all applicable codes, ordinances and statutes of the City, Miami-Dade County and the State of Florida.
9. In addition to the requirements stated above, the Owner shall conduct quarterly inspections of the alleyway wall for evidence of damage or deterioration and make all necessary repairs for the life of the alleyway wall.
10. The City may, periodically, inspect the real property for the purpose of assuring compliance with this Agreement.
11. If at any time it shall come to the attention of the City that the Owner's responsibilities as established herein are not being properly accomplished pursuant to the terms of this Agreement, the City may, at its option, issue a written notice, to notify the Owner of the maintenance deficiencies. From the date of receipt of the notice, the Owner shall have a period of thirty (30) calendar days, within which to correct the cited deficiency or deficiencies.
12. If said deficiencies are not corrected within this time period, the City may, at its option, proceed as follows:
  - a. Maintain the alleyway wall and lien the property for expenses incurred; or
  - b. Proceed with all available methods of code enforcement including but not limited to: Issuance of Civil Violation Tickets, Code Enforcement Citations, and Issuance of Orders Imposing Fine and Lien by the Code Enforcement Special Magistrate; and
  - c. All other remedies available by law or in equity.

Additionally, the City may seek civil action and penalties including court costs, attorneys' fees and reasonable administrative expenses should Owner fail to comply with the foregoing covenants and restrictions.

13. The City desires to enter into this Agreement only if by so doing the City can place a limit on its liability for any cause of action arising out of this Agreement, so that its liability never exceeds its monetary commitment of \$36,940.00. Owner expresses his willingness to enter into this Agreement with recovery from the City for any action arising out of this Agreement to be limited to the total amount of its monetary commitment of \$36,940.00, less the amount of all funds actually paid by the City pursuant to this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed on the City's liability as set forth in Section 768.28, Florida Statutes.

14. Owner shall hold harmless, indemnify and defend the City, its officers and employees from any and all obligations, liabilities, actions, claims, causes of action, suits or demands arising or accruing by virtue of this Agreement.
15. The City is a municipality, self-insured and subject to the provisions of Section 768.28, Florida Statutes, as may be amended from time to time. Nothing in this AGREEMENT shall be deemed or otherwise interpreted as waiving the CITY'S sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.
16. Owner shall not assign any interest in this Agreement.
17. This Agreement shall be governed by the laws of Florida, and venue shall be in Miami-Dade County, Florida.
18. Notices and Demands: All notices, demands, correspondence and communications between the City and Owner shall be deemed sufficiently given under the terms of this Agreement if dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the City:           City of North Miami  
                                  776 N.E. 125<sup>th</sup> Street  
                                  North Miami, Florida 33161  
                                  Attn: City Manager

With a copy to:        City of North Miami  
                                  776 N.E. 125<sup>th</sup> Street  
                                  North Miami, Florida 33161  
                                  Attn: City Attorney

If to Owner:            Zuleica D. Pena  
                                  540 N.E. 126 Street  
                                  North Miami, FL 33161

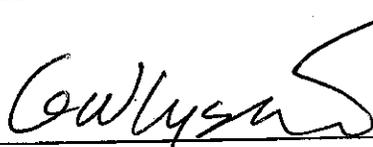
or to such address and to the attention of such other person as the City or Owner may from time to time designate by written notice to the others.

19. It is understood and agreed that all parties, personal representatives, executors, successors and assigns are bound by the terms, conditions and covenants of this Agreement.
20. Any amendments, alterations or modifications to this Agreement will be valid when they have been reduced to writing and signed by the parties.
21. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

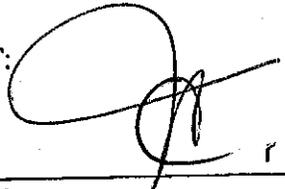
22. Should any provision, paragraphs, sentences, words or phrases contained in the Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws; or, if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

[THIS SPACE IS INTENTIONALLY LEFT BLANK.]

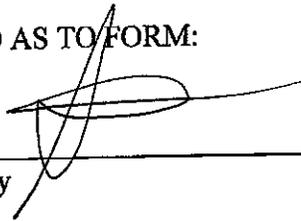
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date on which the last of the Parties initials or signs.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Zuleica D. Pena, Owner

ATTEST:   
\_\_\_\_\_  
City Clerk

CITY OF NORTH MIAMI  
By:   
\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney

**Exhibit A**

**SCOPE OF SERVICES**

CITY agrees to undertake the following work:

The prices listed below shall include the total cost to complete the Services including but not limited to materials, labor, equipment, bonds, insurances, etc, as necessary to ensure proper delivery of Services and/or products requested by the City of North Miami.

Description	Unit	Qty.	Unit Price	Extended Price
Mobilization and Demobilization	LS	1		
Obtain field survey (including ROW, and property lines) for the sites where the new walls will be located.				
Coordinate with Utility Companies for all underground work.				
Structural Construction Documents (3 sets) and Permitting	LS	1		
Demolition, Removal and Disposal of existing concrete wall, foundation, landscaping, asphalt and other clearing & grubbing items.	LS	1		
Concrete Block Wall (6' Above Grade) (180 LF Approx.) Extend 8" Below Grade. Includes material and labor, delivery, site preparation, existing site/structure protection, removal, concrete block work, reinforcement, formwork, masonry, stucco (both sides and top) and anything else required to complete the project.	LS	1		
Painting (Labor & Materials)	LS	1		
Restoration of area to either side of the newly constructed wall (4' Width Max)	LS	1		
Allowance (for permitting; special city fees, unforeseen conditions; repair of existing facilities). Payment must be justified (dollar for dollar) in order to be received.				\$5,000
SUBTOTAL				
TOTAL				

X. \_\_\_\_\_ Date \_\_\_\_\_  
Print Name: