

RESOLUTION NO. 09-94

1  
2  
3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE  
4 VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REAL  
5 PROPERTY; PETITION TO DISCONTINUE THE USE OF CERTAIN  
6 REAL PROPERTY AND ABANDONING A 20.00 FOOT RIGHT-OF-WAY  
7 FOR A PORTION OF LAND LYING IN SECTION 32, TOWNSHIP 55  
8 SOUTH, RANGE 40 EAST MIAMI-DADE COUNTY, FLORIDA ALONG  
9 E. GUAVA STREET NORTH OF AND PARALLEL TO THE  
10 NORTHERLY LIMITS OF SAID BLOCK 41 BETWEEN SW 97 AVENUE  
11 (FRANJO ROAD) AND SW 98 AVENUE ROAD (HOLCOMB AVENUE)  
12 AND INTERSECTING S DIXIE HIGHWAY / US-1; AND PROVIDING  
13 AN EFFECTIVE DATE.  
14

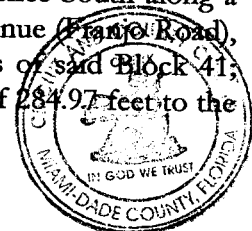
15 WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay hold title to  
16 public land in trust and have the power to discontinue the use of streets and alleys, and to vacate  
17 rights-of-way when it is in the public interest; and,  
18

19 WHEREAS, Village of Palmetto Bay acquired interest in the property through a road  
20 transfer agreement entered into on January 31, 2005, by and between Miami-Dade County, a  
21 political subdivision of the state of Florida, through its Board of Commissioners and the Village of  
22 Palmetto Bay, a municipal corporation existing under the laws of the state of Florida. Section  
23 335.0415, Florida Statutes, states, "jurisdiction and responsibility for public roads may be transferred  
24 by mutual agreement of the County and the Village; and Section 337.29(3), Florida Statutes; and,  
25

26 WHEREAS, title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall  
27 be in the government entity to which such roads have been transferred upon the recording of a  
28 right-of-way map in the public records (*See Exhibit B*); and,  
29

30 WHEREAS, the public road lying in Section 32, Township 55 South, Range 40 East,  
31 Miami-Dade County, Florida, with the following legal description:  
32

33 Begin at the northwest corner of Block 41 of "Town of Perrine" according to the Plat thereof, as  
34 recorded in Plat Book B at page 79 of the public records of Miami-Dade County, Florida; thence  
35 N63°51'10"W along a line being the westerly extension of the northerly limits of said Block 41, for a  
36 distance of 28.41 feet to a point, said point being on the northerly extension of the easterly right-of-  
37 way line of US No.1 (S. Dixie Highway), also being a point of cusp with a curve concave to the  
38 northwest, having a radius of 3,869.83 feet and to which point a radial line bears S52°57'24"E;  
39 thence northeasterly 20.36 feet along said curve, also being 50.00 feet southeasterly of and parallel to  
40 the centerline of US No.1 (S. Dixie Highway) through a central angle of 00°18'06" to a point of  
41 non-tangency, thence S63°51'10"E along a line 20.00 feet north of and parallel to the northerly  
42 limits of said Block 41, for a distance of 299.76 feet to a point, said point being on the northerly  
43 extension of the westerly right of way line of SW 97 Avenue (Franjo Road); thence South along a  
44 line being the northerly extension of the westerly right-of-way line of SW 97 Avenue (Franjo Road),  
45 for a distance of 22.28 feet to a point, said point being on the northerly limits of said Block 41,  
46 thence N63°51'10"W along the northerly limits of said Block 41, for a distance of 284.97 feet to the



11

1 Point of Beginning. Lying and being in Miami-Dade County, Florida and containing 6,131 sq. ft. and  
2 / or 0.14 acres more or less.

3  
4 **WHEREAS**, the right-of-way and road are maintained by the Village of Palmetto Bay, is not  
5 used for emergency vehicle access, and is not used as legal access to any of the properties abutting  
6 the right-of-way; and,  
7

8 **WHEREAS**, the Village Manager recommends vacating and abandoning the use of a 20.00  
9 ft. right-of-way and permanently eliminate eastbound vehicular access along this roadway segment;  
10 and,  
11

12 **WHEREAS**, all adjacent property owners have been notified in writing, by letter dated  
13 September 29, 2009, of the proposed vacated right-of-way; and,  
14

15 **WHEREAS**, in accordance with §336.10, Florida Statutes, the Village advertised a public  
16 hearing on the proposed road closing; which was advertised in The Miami Herald on October 8,  
17 2009 which is at least 14 days prior to this public hearing; and,  
18

19 **WHEREAS**, the Mayor and Village Council desire to close a 20.00 feet right-of-way along  
20 East Guava Street north of and parallel to the northerly limits of said Block 41 between US No.1 (S.  
21 Dixie Highway) and SW 97 Avenue (Franjo Road); and,  
22

23 **WHEREAS**, ordinarily pursuant to §336.09, Florida Statutes, the vacated right-of-way  
24 would be split amongst adjacent properties; and,  
25

26 **WHEREAS**, the 20.00 feet right-of-way being vacated will not be split amongst adjacent  
27 properties but will continue to be maintained by the Village of Palmetto Bay, upon discontinuance  
28 of eastbound vehicular traffic.  
29

30 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**  
31 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**  
32

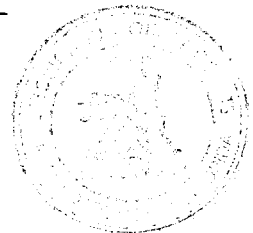
33 **Section 1.** The Whereas clauses are incorporated and made a part of this resolution.  
34

35 **Section 2.** The Village of Palmetto Bay road closure and vacating of the above-  
36 described right-of-way.  
37

38 **Section 3.** Title to the vacated right-of-way shall revert to the Village of Palmetto Bay.  
39 The lot is owned by, and more particularly described, as:  
40

41 **Lot 1-7 Village of Palmetto Bay, 9705 E Hibiscus Street**  
42 **Miami, Florida 33157; more particularly described as:**  
43

44 32 55 40 PERRINE SUB PB B-79 LOTS 1 THRU 7 BLK 41 LOT  
45 SIZE 11300 SQUARE FEET OR 19755-0471 0601 1 F/A/U 30-  
46 5032-004-3120.




1  
2  
3 **Section 4.** Notice of the closure of the described right-of-way shall be published one  
4 time within 30 days of the adoption of this resolution in The Miami Herald. A certified copy of this  
5 resolution and proof of the publications of the notice of hearing and of the adoption of this  
6 resolution shall be recorded in the public records of Miami-Dade County. The Village Clerk shall  
7 provide a copy of these documents to the Miami-Dade County Tax Assessor.  
8


9 **Section 5.** If any section, clause, sentence, or phrase of this resolution is for any reason  
10 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the  
11 validity of the remaining portions of this resolution.  
12

13 **Section 6.** All resolutions or parts of resolutions in conflict with the provisions of this  
14 resolution are repealed.  
15


16 **Section 7.** This resolution shall take effect immediately upon approval.  
17

18 **PASSED AND ENACTED** this 2<sup>nd</sup> day of November, 2009.  
19

20  
21  
22 Attest:   
23 Meghan Rader,  
24 Village Clerk  
25

  
Eugene P. Flinn, Jr.,  
Mayor



26 APPROVED AS TO FORM:  
27  
28   
29 Eve A. Boutsis,  
30 Office of Village Attorney  
31  
32

33 **FINAL VOTE AT ADOPTION:**  
34

- |                                    |               |
|------------------------------------|---------------|
| 35 Council Member Ed Feller        | <u>Absent</u> |
| 36 Council Member Howard Tendrich  | <u>YES</u>    |
| 37 Council Member Shelley Stanczyk | <u>YES</u>    |
| 38 Vice-Mayor Brian W. Pariser     | <u>YES</u>    |
| 39 Mayor Eugene P. Flinn, Jr.      | <u>YES</u>    |

EXHIBIT "B"

**ROAD TRANSFER AGREEMENT**

**Between**

**MIAMI-DADE COUNTY, FLORIDA**

**And**

**VILLAGE OF PALMETTO BAY**

THIS AGREEMENT made and entered into this 31 day of January, 2005, by and between: MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the state of Florida, (the "COUNTY"), through its Board of County Commissioners,

**AND**

The VILLAGE OF PALMETTO BAY, a Florida municipal corporation existing under the laws of the state of Florida (the "VILLAGE").

**WITNESSETH:**

WHEREAS, certain public roads on the County Road System are within the municipal limits of the VILLAGE (hereinafter referred to as "Road Segments"); and

WHEREAS, the COUNTY and the VILLAGE are desirous of transferring the underlying title and responsibility for the planning, design, construction, improvement and maintenance for the Road Segments from the COUNTY to the VILLAGE; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual Agreement of the COUNTY and the VILLAGE; and

WHEREAS, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the government entity to which such roads have been transferred upon the recording of a right-of-way map in the public records; and

WHEREAS, the COUNTY and the VILLAGE have determined that it is in the best interest of the parties that responsibility for the operation, maintenance, planning, design and construction of the Road Segments and of any future improvements thereto be transferred to the VILLAGE.



EXHIBIT "B"

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The above recitals are true and correct and incorporated herein.

2. The jurisdiction, ownership and control of all public roads within the corporate limits of the VILLAGE OF PALMETTO BAY of the "Road Segments" heretofore designated as part of the County road system prior to the effective date of this agreement are hereby transferred and conveyed to the Village road system, except for the following roads (which are hereafter referred to as "Exempt Roads"):

- (a) SW 136 Street from US-1 to Old Cutler Road east of SW 62 Avenue
- (b) SW 152 Street from US-1 to SW 67 Avenue
- (c) SW 168 Street from US-1 to Old Cutler Road
- (d) SW 184 Street from US-1 to Old Cutler Road
- (e) SW 97 Avenue from SW 184 Street to US-1
- (f) SW 87 Avenue from SW 184 Street to SW 144 Street
- (g) SW 77 Avenue from Old Cutler Road to SW 136 Street
- (h) Old Cutler Road from SW 184 Street to SW 136 Street
- (i) SW 67 Avenue from SW 152 Street to SW 136 Street

3. The right and responsibility to regulate traffic and determine appropriate measures for and provide traffic control devices such as traffic signals, signs and pavement markings, including road closures or traffic-calming devices and setting the hours and days that construction by any Department or Agency of the COUNTY in or on any public street is not transferred to the VILLAGE. The COUNTY retains jurisdiction over traffic engineering matters within the territorial area of Miami-Dade County including within municipalities, except state road rights of way.

## EXHIBIT "B"

4. The VILLAGE agrees to accept all legal rights, responsibilities and obligations with respect to the Road Segments, including but not limited to the planning, design, construction, improvement, and maintenance of the Road Segments.

5. The COUNTY shall remain responsible for the planning, design, construction, improvement, and maintenance of all stormwater drainage related functions of the Road Segments at the same level of service provided in UMSA until such time that the Miami-Dade County Board of County Commissioners approves the CITY's request for exemption (opt-out) of the Miami-Dade County Stormwater Utility.

6. The COUNTY shall remain responsible for any tort liability for any actions arising out of the COUNTY's operation and maintenance of the Road Segments prior to and up to the effective date of the transfer of such roadways.

7. The VILLAGE and the COUNTY agree that no indemnification or hold harmless agreement shall be in effect concerning any claims, demands, damages and causes of action that may be brought against either party pursuant to this Agreement. The VILLAGE and the COUNTY shall each individually defend any action or proceedings brought against their respective agencies pursuant to this Agreement and shall be individually responsible for all of their respective costs, attorneys fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees that may be entered as a result thereof.

8. The COUNTY shall provide the VILLAGE with all of the County's Engineering Division's Section Maps, which generally depict the rights-of-way.

9. The COUNTY agrees to meet with the VILLAGE regarding any issues involving completed roadway projects funded by Federal Emergency Management (FEMA) grants and Quality Neighborhood Improvement (QNIP) funds completed within 24 months of the date of this agreement and upon the Village Manager's request.

10. Upon execution of this Agreement, the County Manager and Village Manager shall determine a mutually agreeable date for the recordation and transfer of the Road Segments following the approval of this road transfer agreement by the Board of County Commissioners.

EXHIBIT "B"

11. Whenever one of the parties to this Agreement desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, certified, return receipt requested, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

George M. Burgess  
County Manager  
County Manager's Office  
Stephen P. Clark Center  
111 N.W. 1st Street, Suite 2910  
Miami, Florida 33128  
Telephone: (305) 375-5311  
Facsimile: (305) 375-4858

For the VILLAGE:

Charles Scurr  
Village Manager  
Village of Palmetto Bay  
8950 SW 152 Street  
Miami, FL 33157  
Telephone: (305) 259-1234  
Facsimile: (305) 259-1290

12. The VILLAGE and the COUNTY agree that this is the entire Agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement cannot be modified or amended without the express written consent of the parties. Accordingly, no modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity therewith.

13. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.



EXHIBIT "B"

14. The failure of either party to insist upon strict performance of any terms of this Agreement shall not be considered a waiver of any provisions set forth herein and shall not prevent enforcement of this Agreement.

15. Neither this Agreement nor any term or provision hereof or right hereunder shall be assignable by any parties and any attempt to make such assignment shall be void.

16. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

17. This Agreement shall be construed in accordance with the laws of the State of Florida and any proceedings arising in any matter pertaining to this Agreement shall, to the extent permitted by law, be held in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through the County Manager, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 2005, and the VILLAGE, signing by and through its Manager, authorized to execute same by Council action on the 8<sup>th</sup> day of September, 2004.

(Signature page follows)





EXHIBIT "B"

ATTEST:

VILLAGE OF PALMETTO BAY,  
a municipal corporation

By M. Nighan  
Village Clerk

By Charles Sauer  
Village Manager

09.16.04

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

BY [Signature]  
Village Attorney

MIAMI-DADE COUNTY  
a political subdivision of  
the State of Florida  
By Its Board of County  
Commissioners:

[Signature]  
County Manager

Date: 2/9/05

ATTEST:  
HARVEY RUVIN, CLERK

By [Signature]  
Deputy Clerk



APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By [Signature]  
County Attorney

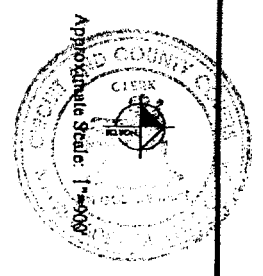
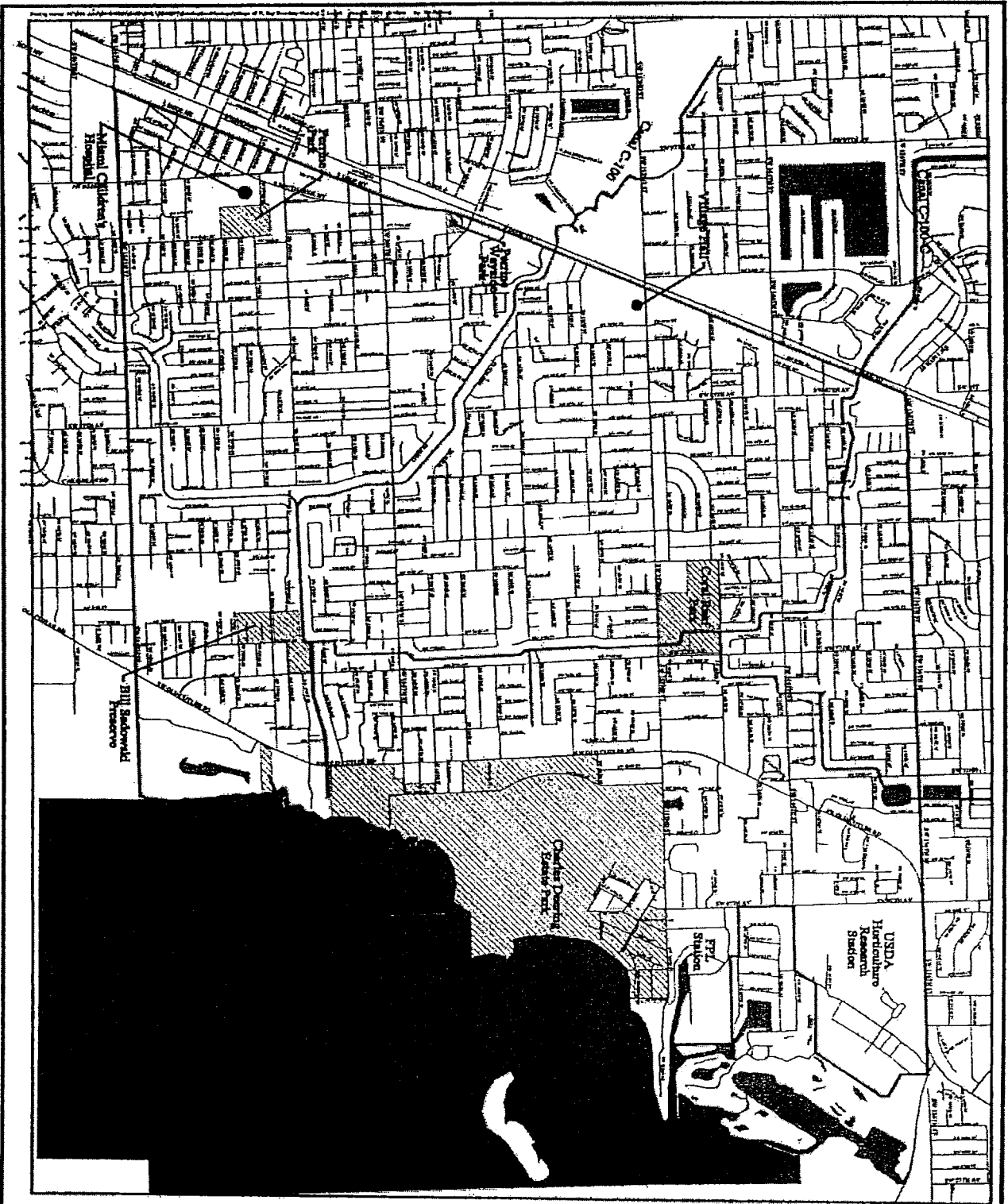


Figure I-1

Village of Palmetto Bay  
Boundary Map

Legend
Village Boundary ———



Kinley-Horn  
and Associates, Inc.

Last Revised February 04, 2003

Publication Date: 10/15/2009

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**VILLAGE OF PALMETTO BAY  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY given that the Village Council will conduct a public hearing during its regular Council Meeting on November 2, 2009, beginning at 7:00 p.m., at Deering Estate Visitor Center, 16701 S.W. 72 Avenue, Palmetto Bay, FL to consider the following matters:

- A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REAL PROPERTY, PETITION TO DISCONTINUE THE USE OF CERTAIN REAL PROPERTY AND ABANDONING A 20.00 FOOT RIGHT-OF-WAY FOR A PORTION OF LAND LYING IN SECTION 32, TOWNSHIP 55 SOUTH, RANGE 40 EAST MIAMI-DADE COUNTY, FLORIDA ALONG E. GUAVA STREET NORTH OF AND PARALLEL TO THE NORTHERLY LIMITS OF SAID BLOCK 41 BETWEEN SW 97 AVENUE (FRANJO ROAD) AND SW 98 AVENUE ROAD (HOLCOMB AVENUE) AND INTERSECTING S DIXIE HIGHWAY / US-1; AND PROVIDING AN EFFECTIVE DATE.
- AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING ORDINANCE NUMBER 09-12; AMENDING THE VILLAGES BUDGET FOR THE 2008-2009 FISCAL YEAR AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

All persons are invited to appear at this meeting, or to be represented by an agent, to express their views in writing addressed to the Village Council c/o of the Village Clerk, 8950 S.W. 152 Street, Palmetto Bay, FL 33157. The documents pertaining to these public hearings may be inspected at the office of the Village Clerk during regular working hours. Inquiries may be directed to the Clerk at (305) 259-1234. The above items may be continued at this meeting and, under such circumstances, additional legal notice would not be provided. Any person may contact the Village Clerk for information as to the status of this item as a result of the meeting.

Pursuant to Section 286.0105, Florida Statutes, if any person decides to appeal any decision by the Village Council with regard to this or any matter, he/she will need to ensure that a verbatim record of the proceedings in made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible evidence, nor does it authorizes challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than four (4) days prior to the proceedings.

Meighan Rader, CMC, Village Clerk

WITNESS my hand and Official Seal  
HARVEY RUVIN, CLERK, of Miami-Dade County Courts  
By 