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RESOLUTION NO. 2016-44

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; APPROVING THE BUILDING BETTER COMMUNITIES INTERLOCAL AGREEMENT BETWEEN THE VILLAGE OF PALMETTO BAY AND MIAMI-DADE COUNTY FOR THE DOWNTOWN STREETScape PROJECT AND ALLOCATING \$7,500,000 TO THE PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE INTERLOCAL AGREEMENT AND OTHER RELATED DOCUMENTS AS REQUIRED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Palmetto Bay previously submitted a grant application to the Miami-Dade County Board of County Commission (BCC) for infrastructure improvements in the Village's future downtown area under the Building Better Communities General Obligation Bond; and,

WHEREAS, the Village Council adopted Resolution No. 2015-12 authorizing the submittal of the grant application and urging the BCC to allocate recaptured funding for the Village's project; and,

WHEREAS, the Village is poised to receive \$7,500,000 in recaptured funds from the BCC and is required to submit an executed Interlocal Agreement to the county for consideration and approval by the BCC.

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

Section 1. The Village Council hereby approves the Interlocal Agreement between the Village of Palmetto Bay and Miami-Dade County, included herewith as Exhibit A, which allocates \$7,500,000 from the Building Better Communities General Obligation Bond program to the Village's Downtown Streetscape Project, as more specifically described on the attached Exhibit.

Section 2. The Village Manager is authorized to execute the Interlocal Agreement and other related documents and transmit same to Miami Dade County for consideration and approval by the Board of County Commissioners.

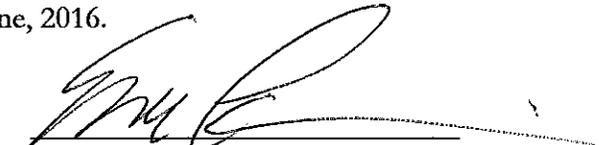
Section 3. This Resolution shall become effective immediately.

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PASSED and ADOPTED this 6th day of June, 2016.

Attest:


Meighan Alexander
Village Clerk


Eugene Flinn
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:


Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham	<u>YES</u>
Council Member Tim Schaffer	<u>YES</u>
Council Member Larissa Siegel Lara	<u>YES</u>
Vice-Mayor John DuBois	<u>NO</u>
Mayor Eugene Flinn	<u>YES</u>

**BUILDING BETTER COMMUNITIES
INTERLOCAL AGREEMENT
BETWEEN
Village of Palmetto Bay, FLORIDA
AND
MIAMI-DADE COUNTY, FLORIDA**

**Economic Development Fund
Downtown Palmetto Bay Development Project
GOB Project Number 124**

THIS INTERLOCAL AGREEMENT (the "Agreement") by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), through its governing body, the Board of County Commissioners of Miami-Dade County, Florida (the "Board") and the **Village of Palmetto Bay**, Florida, a municipal corporation organized under the laws of the State of Florida, through its governing body, the Mayor and Council of the Village of Palmetto Bay, Florida (the "Village") is entered into this _____ day of _____, 2016.

WITNESSETH:

WHEREAS, on July 20, 2004, the Board enacted Resolution Nos. R-912-04, R-913-04, R-914-04, R-915-04, R-916-04, R-917-04, R-918-04 and R-919-04 authorizing the issuance of \$2.926 billion in general obligation bonds for capital projects and on November 2, 2004, a majority of those voting approved the bond program (the "BBC GOB Program"); and

WHEREAS, Resolution No. R-914-04 was one of those resolutions and it approved the issuance of general obligation bonds in the aggregate principal amount of \$352,162,000 "to construct and improve walkways, bikeways, bridges and access to the Seaport, and other municipal and neighborhood infrastructure improvements to enhance quality of life" in accordance with the projects listed on Appendix A to the Resolution ("Appendix A"); and

WHEREAS, one of the projects listed on Appendix A was Project 124 entitled "Economic Development Fund" with a project description of "provide infrastructure improvements to spur economic development and attract new businesses to the community in order to create jobs" ("Project 124"); and

WHEREAS, the Board in Resolution No. R-334-15 adopted on April 21, 2015 approved an allocation not to exceed \$7,500,000.00 ("Funding Allocation") to the Village from Project 124 for certain public infrastructure improvements described in Exhibit A to this Agreement ("Project") in connection with the revitalization of its Downtown District in the southwestern area of the Village in an effort to spur economic development in the immediate and adjacent areas; and

WHEREAS, the County anticipates funding the full amount of the Funding Allocation (\$7,500,000.00) in Fiscal Year 2017-2018 in accordance with the requirements in Section 2 and the funding plan in Section 4; and

WHEREAS, the County and the Village wish to enter into this Agreement to set forth the terms pursuant to which the County will disburse the Funding Allocation to the Village; and

WHEREAS, both the Village and County have authorized, by resolution, the execution and delivery of this Agreement,

NOW THEREFORE, the parties agree as follows:

Section 1. Parties, Effective Date and Term. The parties to this Agreement are the Village and the County. The County Mayor has delegated the responsibility of administering this Agreement to the County's Office of Management and Budget or its successor or assigns ("OMB").

This Agreement shall take effect upon the date written above upon its execution by the authorized officers of the County and the Village and shall terminate upon the satisfaction and completion of all the terms and conditions by the County and the Village.

Section 2. Funding Requirements and Reimbursement Schedule. Subject to the availability of GOB bond/note proceeds ("Funds"), the requirements in this Section 2, the funding plan in Section 4 and the terms of this Agreement, the County agrees to make disbursements to the Village, as soon as is practical, from available Funds, after receipt of invoices from the Village for eligible capital costs incurred in connection with the Project. With each request for reimbursement, the Village shall also provide a written statement that (a) the Village is not in default pursuant to the provisions of this Agreement; (b) the Project has not been materially altered without the County's approval; (c) all requirements of the funding plan in Section 4 have been met; and (d) the reimbursement is in compliance with the IRC Reimbursement Rules defined below in this Section 2.

All Funds shall be disbursed on a reimbursement basis in accordance with the County's BBC GOB Administrative Rules which are attached as Attachment 1 ("Administrative Rules") and incorporated in this Agreement by reference. Other than the Funding Allocation pursuant to this Agreement, the County has no obligation to provide the Village with any financial support in excess of the Funding Allocation. Cost overruns are the sole responsibility of the Village. The Village understands and agrees that reimbursements to the Village shall be made in accordance with federal laws governing the BBC GOB Program, specifically the Internal Revenue Code of 1986 and the regulations promulgated under it. Any reimbursement request by the Village for eligible Project expenses shall be made no later than eighteen (18) months after the latter of (a) the date the original expenditure is paid, or (b) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid by the Village (the "IRC Reimbursement Rules").

It is anticipated that the Project shall be placed in service by June 2018 which is the expected completion date of the Downtown Palmetto Bay Project. For purposes of this Agreement, "placed in service" shall mean the date on which the Project is certified as completed by the Village of Palmetto Bay. Any significant delay in completion may impact the County's ability to reimburse the Village due to the IRC Reimbursement Rules.

The County shall only be obligated to reimburse the Village provided the Village is not in breach of this Agreement and from available Funds and no other revenues of the County. The Funding Allocation shall be reduced by the amount of Funds disbursed from time to time pursuant to this Agreement. The County shall administer, in accordance with the Administrative Rules, available Funds as authorized by Board Resolutions.

Section 3. Project Description. The Project scope includes the revitalization of Palmetto Bay's Downtown District in the southwestern area of the Village in an effort to spur economic development in the immediate and adjacent areas, as described in Resolution No. R-334-15 adopted by the Board. The Project plans to transform Franjo Road, downtown's future Main Street, into a pedestrian-friendly street, create lateral roads to enhance connectivity, and build a multimodal transit station on Village-owned land. The Project will be divided into two phases; Phase 1; the Downtown Streetscape project, involves the transformation of Franjo Road into a pedestrian-friendly street, and the construction of new lateral roads. Phase 2; the Transit Station, involves the construction of a transit station with ground retail and upper level parking.

If the Village wishes to revise the Project for the purpose of completing the Project and such revisions substantially alter the Project, the Village shall notify OMB in writing. OMB shall submit the request to the Mayor and/or Board for consideration as soon as it is practical. It is understood that the review process may take up to ninety days (90).

Section 4. Funding Plan. The total cost of Phase I of the Project is approximately \$12,440,000.00. Of that amount, the Village is responsible for approximately \$4,940,000.00 (39.71%) from its own funds and the County will fund \$7,500,000.00 (60.29%) from the Funding Allocation. The Funding Allocation shall only reimburse the Village for expenses set forth in Exhibit A which include eligible soft costs up to 17% of the Funding Allocation and eligible capital costs of the Project. No portion of the Funding Allocation shall be used to reimburse the Village for working capital expenses i.e. security, traffic control. The Village shall demonstrate that its share (approximately \$4,940,000.00) of the total Project costs (approximately \$12,440,000.00) is available before the County makes its initial disbursement to the Village from the Funding Allocation. Each invoice from the Village submitted to the County for reimbursement shall include evidence that the Village funded an amount of capital costs from Village funds equal to 39.71% of the invoice amount being submitted to the County for reimbursement and for which the Village is not seeking reimbursement from the County (e.g. on a \$1 million invoice, the County reimburses \$602,900 or 60.29% to the Village and the Village invests \$397,100 or 39.71%).

Section 5. Compliance with Laws. Each party agrees to abide by and be governed by all Applicable Laws necessary for the development and completion of the Project. "Applicable Law" means any applicable law (including, without limitation, any environmental law), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any governmental authority, political subdivision, or any division or department thereof, now existing or hereinafter enacted, adopted, promulgated, entered, or issued. Notwithstanding the foregoing, "Applicable Laws" and "applicable laws" shall expressly include, without limitation, all applicable zoning, land use, DRI and Florida Building Code requirements and regulations, all applicable impact fee requirements, all requirements of Florida Statutes, specifically including, but not limited to, Section 255.05

related to payment and performance bonds, Section 255.20 related to contractor selection and Section 287.055 related to competitive selection of architects and engineers, all requirements of Chapters 119 and 286 of the Florida Statutes, Section 2-11.15 of the Code (Art in Public Places), and all other applicable requirements contained in this Agreement and Exhibit 1, which is hereby incorporated in this Agreement by this reference.

Section 6. Village Obligations. All records of the Village and its contractors pertaining to the Project shall be maintained in Miami-Dade County and, upon reasonable notice shall be made available to representatives of the County. In addition, the Office of Inspector General of Miami-Dade County shall have access thereto for any of the purposes provided in Section 2-1076 of the Code of Miami-Dade County.

The Village shall cause each contract to include a provision that contractor shall comply with all requirements of Section 2-1076, and that contractor will maintain all files, records, accounts of expenditures for contractor's portion of the work and that such records shall be maintained within Miami-Dade County's geographical area and the County shall have access thereto as provided in this Agreement.

The Village shall comply with the requirements of Florida Statutes related to retainage of funds due a contractor and shall include appropriate language in its construction contracts and shall require the contractor to include such language in its subcontracts.

All applicable County Rules, Regulations, Ordinances, Resolutions, Administrative Orders, and the County Charter referenced in this Agreement are posted on the County's website: "miamidade.gov".

Section 7. Accounting, Financial Review, Access to Records and Audits. The Village shall maintain adequate records to justify all charges, expenses, and costs incurred which represent the funded portion of the Project for at least three (3) years after completion of the Project. The County shall have access to all books, records, and documents as required in this section for the purpose of inspection or auditing during normal business hours.

Pursuant to Section 2-1076 of the Miami-Dade County Code, the County shall have the right to engage the services of an Independent Private-Sector Inspector General ("IPSIG") to monitor and investigate compliance with the terms of this Agreement. THE MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL ("OIG") shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions, and contracts such as this Agreement for improvements some cost of which is funded with County funds.

As such, the OIG may, on a random basis, perform audits on this Agreement throughout the duration of said Agreement (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County.

The OIG shall have the power to retain and coordinate the services of an IPSIG who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Village and contractor and their respective officers, agents and employees, lobbyists,

subcontractors, materialmen, staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The OIG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Village (and any affected contractor and materialman) from OIG, the Village (and any affected contractor and materialman) shall make all requested records and documents available to the OIG for inspection and copying.

The OIG shall have the power to report and/or recommend to the Board whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The OIG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The OIG is authorized to investigate any alleged violation by a contractor of its Code of Business Ethics, pursuant Miami-Dade County Code Section 2-8.1.

The provisions in this Section shall apply to the Municipality, its contractors and their respective officers, agents and employees. The Village shall incorporate the provisions in this Section in all contracts and all other agreements executed by its contractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from the Municipality, its contractors or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of the Municipality. This provision shall survive the early termination and/or the expiration of this Agreement.

Section 8. Relationship of the Parties. The parties agree that the Village is an independent entity responsible solely for the Project and not an agent or servant of the County. No party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other party, nor to have been authorized to incur any expense on behalf of any other party, nor to act for or to bind any other party, nor shall an employee claim any right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service or other employee rights or privileges granted by operation of law or otherwise, except through and against the entity by whom they are employed.

Section 9. Liability. The parties to this Agreement shall not be deemed to assume any liability for the negligent or wrongful acts, or omissions of the other party. Nothing contained herein shall be construed as a waiver, by either party, of the liability limits established in Section 768.28 of the Florida Statutes. The Village acknowledges that the County, its employees, Commissioners and agents are solely providing funding assistance for the Project and are not involved in the design, construction, operation or maintenance of the Project.

Section 10. Breach, Opportunity to Cure and Termination.

(a) Each of the following shall constitute a default by the Village:

- (1) If the Village uses all or any portion of the Funding Allocation for costs not associated with the Project (i.e., ineligible costs), and the Village fails to cure its default within thirty (30) days after written notice of the default is given to the Village by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Village commences diligently and thereafter continues to cure.
 - (2) If the Village shall breach any of the other covenants or provisions in this Agreement other than as referred to in Section 10(a)(1) and the Village fails to cure its default within thirty (30) days after written notice of the default is given to the Village by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Village commences diligently and thereafter continues to cure.
 - (3) If the Village fails to complete the Project within three (3) years of the effective date of this Interlocal Agreement'
- (b) The following shall constitute a default by the County:
- (1) If the County shall breach any of the covenants or provisions in this Agreement and the County fails to cure its default within thirty (30) days after written notice of the default is given to the County by the Village; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences diligently and thereafter continues to cure.
- (c) Remedies:
- (1) Upon the occurrence of a default as provided in Section 10(a)(1) and such default is not cured within the applicable grace period, in addition to all other remedies conferred by this Agreement, the Village shall reimburse the County, in whole or in part as the County shall determine, all funds provided by the County hereunder.
 - (2) Either party may institute litigation to recover damages for any default or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy).

- (3) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.
 - (4) Any failure of a party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that party of any claim for damages it may have by reason of the default.
- (d) Termination:
- (1) Notwithstanding anything herein to the contrary, either party shall have the right to terminate this Agreement, by giving written notice of termination to the other party, in the event that the other party is in material breach of this Agreement.
 - (2) Termination of this Agreement by any Party is not effective until five (5) business days following receipt of the written notice of termination.
 - (3) Upon termination of this Agreement pursuant to Section 9(d)(1) above, no party shall have any further liability or obligation to the other party except as expressly set forth in this Agreement; provided that no party shall be relieved of any liability for breach of this Agreement for events or obligations arising prior to such termination.

Section 11. Litigation Costs/Venue. In the event that the Village or the County institutes any action or suit to enforce the provisions of this Agreement, each party in such litigation shall be responsible for its own costs and legal expenses, including attorney's fees, in connection with such action or suit. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The County and the Village agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

Section 12. Naming Rights and Advertisements. It is understood and agreed between the parties hereto that the Village is funded by Miami-Dade County. Further, by acceptance of these funds, the Village agrees that Project(s) funded by this Agreement shall recognize and adequately reference the County as a funding source. In the event that any naming rights or advertisement space is offered on a facility constructed or improved with BBC GOB Program funds, then Miami-Dade County's name, logo, and slogan shall appear on the facility not less than once and equal to half the number of times the most frequent sponsor or advertiser is named, whichever is greater. Lettering used for Miami-Dade County will be no less than 75% of

the size of the largest lettering used for any sponsor or advertiser unless waived by the Board. The Village shall ensure that all publicity, public relations, advertisements and signs recognize and reference the County for the support of all Project(s). This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions and stationery. In particular, the Village must include the following credit line in all promotional marketing materials related to this funding including web sites, news and press releases, public service announcements, broadcast media, programs, and publications: "THIS PROJECT IS SUPPORTED BY THE BUILDING BETTER COMMUNITIES BOND PROGRAM AND THE MAYOR AND BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY." The use of the official County logo is permissible for the publicity purposes stated herein. The Village shall submit sample of mockup of such publicity or materials to the County for review and approval. The Village shall ensure that all media representatives, when inquiring about the Project(s) funded by the Agreement, are informed that the County is its funding source.

Section 13. Notice. Any notice, consent or other communication required to be given under this Agreement shall be in writing, and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein), one (1) business day after being sent by reputable overnight carrier or three (3) business days after being mailed by certified mail, return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other party):

The County:
County Mayor
Miami-Dade County, Stephen P. Clark Center
111 NW 1 Street, Suite 2910
Miami, Florida 33128

The Village:
Village Manager
Village of Palmetto Bay
9705 East Hibiscus Street
Miami, Florida 33157

With a copy to:
Director, Office of Management and Budget
111 NW 1 Street, Suite 2210
Miami, Florida 33128

With a copy to:
The County Attorney,
111 NW 1 Street, Suite 2800
Miami, Florida 33128

Section 14. Modification and Amendment. Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equal dignity herewith.

Section 15. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

Section 16. Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

Section 17. Waiver. There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement. Waiver by any party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

Section 18. Representation of the Village. The Village represents that this Agreement has been duly authorized by the Mayor and Council, as the governing body of the Village, and the Village Manager or designee, has been granted the required power and authority to execute this Agreement. The Village agrees to: (a) maintain the Project for a minimum of 25 years; (b) keep the Project open safely and properly maintained for all Miami-Dade County residents; and (c) accept and comply with the Administrative Rules as stated in Attachment 1 and as may hereafter be amended.

Section 19. Representation of the County. The County represents that this Agreement has been duly approved, executed and delivered by the Board, as the governing body of the County, and it has granted the Miami-Dade County Mayor or Mayor's designee the required power and authority to execute this Agreement. Subject to the conditions set forth in this Agreement, the County agrees to provide the Funding Allocation to the Village for the purpose of developing and improving the Project in accordance with each of the attached Exhibit Forms, incorporated herein as Exhibits A-J of Attachment 1 (Administrative Rules). In addition to the other conditions set forth in this Agreement, Miami-Dade County shall only be obligated to reimburse the Village provided the Village is not in breach of this Agreement and the Village has demonstrated that it has adequate funds to complete the Project. The County shall administer, in accordance with the appropriate regulations, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of the County shall be fully subject to and contingent upon the availability of funding from the County for the specific purpose contained herein. The Village shall be solely responsible for submitting all documentation, as required by the specific Administrative Rules incorporated herein as Attachment 1, to the County Mayor or his designee for this purpose.

Section 20. Invalidity of Provisions, Severability. Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

Section 21. Indemnity. The Village does hereby agree to indemnify and hold harmless the County to the extent and within the limitations of Section 768.28 Florida Statutes, subject to the provisions of that Statute, whereby the Village shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgments or portions thereof, which when totaled with all other occurrences, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the Village. However, nothing herein shall be deemed to indemnify the County from any liability or claim arising out of the negligent performance or failure of performance of the County or any unrelated third party.

The County does hereby agree to indemnify and hold harmless the Village to the extent and within the limitations of Section 768.28 Florida Statutes, subject to the provisions of that Statute, whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgments or portions thereof, which when totaled with all other occurrences, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed to indemnify the Village from any liability or claim arising out of the negligent performance or failure of performance of the Village or any unrelated third party.

Section 22. Assignment. The Village may not assign all or any portion of this Agreement without the prior written consent of the County.

Section 23. Entirety of Agreement. This Agreement, and the attachments thereto, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

IN WITNESS THEREOF, the parties through their duly authorized representatives hereby execute this AGREEMENT with an effective date of _____, 2016.

Village of Palmetto Bay, Florida

By: [Signature] 6/8/16
Village Manager Date

Attest:

By: Melissa Alexander 6/8/16
Village Clerk Date

MIAMI-DADE COUNTY, FLORIDA

By: _____
County Mayor

HARVEY RUVIN, CLERK

Attest:

By: _____
Deputy Clerk Date

Approved by County Attorney as
to form and legal sufficiency. _____