

RESOLUTION NO. 03-50

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS, APPROVING AND AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE OF PALMETTO BAY FOR PARKS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, a Charter for the Village of Palmetto Bay was approved by the citizens of the Village on September 10, 2002, and

WHEREAS, the Charter provides for the County to convey to the Village Coral Reef Park, Perrine Park and Perrine Wayside Park; and

WHEREAS, the Village wishes to improve the maintenance and programming at the Parks;

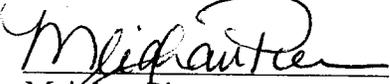
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

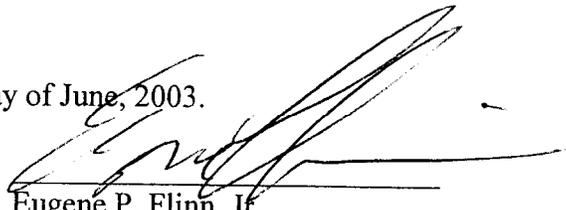
Section 1. The Village Council approves and authorizes the Village Manager to execute the attached Interlocal Agreement between Miami-Dade County and the Village of Palmetto Bay for Parks.

Section 2. This resolution shall take effect immediately upon enactment.

PASSED and ADOPTED this 2nd day of June, 2003.

Attest:


Meighan Pier
Village Clerk


Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:



Earl G. Gallop,
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>AYE</u>
Council Member Paul Neidhart	<u>AYE</u>
Council Member John Breder	<u>AYE</u>
Vice-Mayor Linda Robinson	<u>AYE</u>
Mayor Eugene P. Flinn, Jr.	<u>AYE</u>

**INTERLOCAL AGREEMENT
BETWEEN
MIAMI-DADE COUNTY AND
VILLAGE OF PALMETTO BAY**

This is an Interlocal Agreement between Miami-Dade County, a political subdivision of the State of Florida (the "COUNTY") and the Village of Palmetto Bay, a municipal corporation of the State of Florida (the "VILLAGE"), entered into this _____ day of _____, 2003 (the "Agreement").

WITNESSETH

WHEREAS, a Charter for the Village of Palmetto Bay was approved by the citizens of the Village on September 10, 2002, and the Village Council took office on November 7, 2002; and

WHEREAS, the COUNTY owns, operates and maintains local parks within the VILLAGE boundaries, including Coral Reef Park, Perrine Park and Perrine Wayside Park; and

WHEREAS, the COUNTY wishes to convey and the VILLAGE wishes to receive said local parks that are COUNTY owned (the "Parks"); and

WHEREAS, it is in the best interest of the COUNTY and the VILLAGE to provide recreational facilities and opportunities to residents of the VILLAGE and the COUNTY.

NOW, THEREFORE, IN CONSIDERATION OF THE FOLLOWING MUTUAL COVENANTS THE COUNTY AND THE VILLAGE AGREE AS FOLLOWS:

1. Transfer of Real Property

- 1.1 The COUNTY shall convey the Parks under COUNTY ownership to the VILLAGE and shall execute and deliver to the VILLAGE the attached three (3) COUNTY Deeds, incorporated herein as Exhibits "A-C."
- 1.2 Property and facilities are conveyed in an as-is condition, and subject to all easements, agreements, and restrictions.
- 1.3 The conveyance from the COUNTY to the VILLAGE shall include the conveyance of all County-owned personal property, fixtures, and equipment located at or in use at the Parks, which shall be determined during a walkthrough examination and subject to approval of staff designated by the COUNTY and the VILLAGE.

- 1.4 Equipment not owned by the County, but stored within County buildings, shall be itemized and noted but not conveyed. This includes, but is not limited to those buildings in use by volunteer organizations or contract providers. All parties will be notified and requested to attend a pre-conveyance inventory meeting.
- 1.5 Prior to the conveyance of the Parks, the COUNTY shall provide the VILLAGE with a list of all agreements for services that the COUNTY may have with vendors or organizations providing services at the Parks. Upon direction from the Village Manager, the County Manager shall either terminate the third party agreements prior to the conveyance of the Parks or execute an assignment of such agreements to the Village. Upon conveyance of the Parks, the COUNTY shall provide the VILLAGE with a copy of all permits, plans, and any other documents pertaining to the COUNTY's operation of the Parks
- 1.6 Prior to the conveyance of the Parks, the COUNTY shall transfer and/or assign any warranties or guarantees the COUNTY may have for park improvements or equipment to the VILLAGE.
- 1.7 The Village Manager and the Director of the Miami-Dade Park and Recreation Department shall mutually agree to the date of the execution and transfer of the conveyance documents to the Village, provided further that the transfer of the Parks shall occur no later than 120 days from the date of execution of this Agreement.

2. **Restrictions Related to the Village's Use of the Property**

As a condition to the acceptance of the Property, the VILLAGE agrees that:

- 2.1 The Parks shall be used in perpetuity as public parks, and the Parks shall be open to all members of the public.
- 2.2 The VILLAGE shall not discriminate against members of the public in program registration, pricing or other policies as they relate to the use of the Parks.
- 2.3 Article 6 of the Miami-Dade County Home Rule Charter shall apply to the Parks.
- 2.4 The VILLAGE shall be responsible for preserving the pine rockland area at Coral Reef Park in a natural condition, in accordance with the County's Environmental Protection Ordinance for Tree Preservation

and Protection (Article 3-Section 24-60) and the Management Plan for Coral Reef Park Pineland prepared by the Park and Recreation Department, dated March 2003, attached as Exhibit D, as may be amended.

2.5 Should the VILLAGE violate any of the restrictions or conditions listed in Sections 2.1 through 2.4 and Sections 3.1 through 3.7, the COUNTY shall provide the VILLAGE with written notice of the alleged violations including a statement that "The COUNTY will exercise its reversionary interest in the property if the violation is not cured." Within 45 days of receipt of the notice, the VILLAGE shall cure the violation. If the violation is of a type that cannot be cured within this time period, the VILLAGE shall notify the COUNTY in writing specifying the reason and the additional time required to cure the violation. However, in no event shall the time to cure exceed 90 days, unless such time period is extended by action of the COUNTY Manager. Failure of the VILLAGE to cure the violation within the specified time period shall result in the subject Park automatically reverting to the COUNTY.

3. Further conditions of conveyance

3.1 By accepting this conveyance the VILLAGE agrees that it will make every good faith effort to develop, operate and maintain the Parks in a manner that provides appropriate active and passive recreational opportunities to park users.

3.2 The Parks will be operated and maintained in a manner equal to or better than existing conditions.

3.3 The VILLAGE accepts transfer of Coral Reef Park subject to an existing lease agreement with the Jane Forman Tennis Academy, Incorporated, (the "Jane Forman Lease"), and the COUNTY assigns all its interest and obligations as Lessor and landlord under the Jane Forman Lease to the VILLAGE. Moreover, it is expressly understood that upon conveyance of Coral Reef Park to the Village, the COUNTY retains no contractual obligations contained in the Jane Forman Lease and the VILLAGE agrees to assume the position of the County in the administration of the Jane Forman Lease. The Village retains the right to approve or deny future construction in accordance with the Jane Forman Lease.

3.4 With respect to Safe Neighborhood Park Bond funds contracted by and between the Miami-Dade County Parks and Recreation Department and the County's Office of Safe Neighborhood Parks for

improvements to Perrine Park, the balance of which is \$742,000 as of February 5, 2003, the VILLAGE will agree to utilize these funds within Perrine Park to develop the park and promote juvenile crime prevention to include multipurpose courts, athletic fields, and upgrade or replacement of existing recreation center and support facilities.

- 3.5 With respect to Park Impact Fees being held by the COUNTY, the balance of which is to be determined by the County: the VILLAGE will agree to utilize these funds in accordance with the Park Impact Fee Ordinance, Chapter 33H of the COUNTY Code.
- 3.6 The VILLAGE agrees to allow the COUNTY to continue its project to connect public sanitary sewer systems to Coral Reef Park and Perrine Park. The Village agrees to allow the County to continue said work until such time as the County determines that the project is complete.
- 3.7 All permits and agreements between the COUNTY and non-profit or organizations within parks will be terminated upon conveyance

4. Indemnification

- 4.1 Prior to the date of conveyance of the Parks, the COUNTY shall provide the VILLAGE with any known claims, litigation or other proceedings that may be pending regarding the COUNTY's operation of the Parks.
- 4.2 The COUNTY warrants that: (1) it is not in breach of any contracts pertaining to the use, operation or maintenance of the Parks; (2) it is in compliance with the conditions of all permits issued by any government agency regarding the Parks; and (3) at the time of conveyance the COUNTY has no knowledge that the Parks are contaminated by hazardous wastes, hazardous substances or petroleum products, which require removal, remediation or monitoring under current county, state or federal laws.
- 4.3 To the extent permitted by law and as limited by Section 768.28, Florida Statutes, the COUNTY shall hold harmless, defend and indemnify the VILLAGE, its officers, agents and employees for any and all liability, losses or damages, including attorney's fees and costs of defense, which the VILLAGE, its officers, agents and employees may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, or relating to, or resulting solely from an alleged breach of contract or the

negligence of the COUNTY, its officers, agents or employees prior to conveyance and in the performance of this Agreement.

4.4 The VILLAGE shall hold harmless, defend, and indemnify the COUNTY and its officers, employees, agents, and instrumentalities from any and all liability, losses, or damages, including attorneys' fees and costs of defense, which the COUNTY or its officer, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the VILLAGE or its employees, agents, servants, partners, principals or subcontractors. The VILLAGE shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the COUNTY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees that may issue thereon. Provided, however, this indemnification shall only be 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 \$100,000, or any claim or judgment paid by the VILLAGE arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action, which may arise as a result of the VILLAGE's negligence.

5. Notices

All notices hereunder must be in writing and shall be deemed validly given if Sent by certified mail, return receipt requested, or by hand delivery, or by overnight delivery to the addresses as follow (or any other address that the party to be notified may have designated to the sender by like notice):

County: Miami-Dade County Manager
111 N.W. First Street, Suite 2910
Miami, Florida 33128

Copied to: County Attorney, Miami-Dade County
111 N.W. First Street, Suite 2810
Miami, Florida 33128

and Director, Miami-Dade County Parks and
Recreation Department

275 NW 2nd Street, 5th Floor
Miami, Florida 33128

Village: Village Manager,
Village of Palmetto Bay
900 Perrine Avenue
Palmetto Bay, Florida 33157

Copied to: Earl Gallop
Nagin, Gallop, Figueredo, P.A.
3225 Aviation Avenue, 3 PC
Miami, Florida 33133

6. **Entire Agreement**

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.

7. **Amendments**

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. Notwithstanding any provision herein, this agreement in no way obviates or nullifies the obligations of the VILLAGE under the VILLAGE Charter. The VILLAGE Manager and the County Manager of Miami-Dade County, or their designees may modify this Agreement in writing.

8. **Severability**

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.

9. **Assignment**

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

10. **Governing Law**

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.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf as of the date first above written.

VILLAGE OF PALMETTO BAY,
a municipal corporation

By: _____
Village Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____
Village Attorney

MIAMI-DADE COUNTY
a political subdivision of
the State of Florida

By its Board of County
Commissioners:

By: _____
County Manager

ATTEST:

By: _____
Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____
County Attorney

DRAFT

Instrument prepared under the direction of
Thomas Goldstein, Assistant County Attorney:
111 N.W. 1 Street, 28 Floor
Miami, Florida 33128-1907

Folio No. 33-5028-000-0410

COUNTY DEED

THIS DEED, made this day of , A.D. by **MIAMI-DADE COUNTY, FLORIDA**, a Political Subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 N.W. 1 Street Suite 2460, Miami, Florida 33128-1963, and the **VILLAGE OF PALMETTO BAY**, party of the second part, whose address is, 900 Perrine Avenue, Palmetto Bay, Florida 33157.

WITNESSETH:

That the said party of the first part, for no consideration and in accordance with Florida Statute 197.592(3) has granted, bargained, and conveyed as is, **Perrine Wayside Park** to the said party of the second part, his/her heirs and assigns forever, the following described land lying and being in Miami-Dade County, Florida:

LEGAL DESCRIPTION

All of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, Lying East of State Road No. 5, and the West 160 Feet of the South 330 Feet of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 28, Township 55 South, Range 40 East.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

DRAFT

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mayor

Approved for legal sufficiency: _____

The foregoing was authorized and approved by Resolution No. R-_____ of the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2003.

Draft

Instrument prepared under the direction of
Thomas Goldstein, Assistant County Attorney:
111 N.W. 1 Street, 28 Floor
Miami, Florida 33128-1907

Folio No. 33-5033-000-0660
33-5033-000-0850

Comment: legal description very complicated—metes and bounds

COUNTY DEED

THIS DEED, made this day of 2003, A.D. by **MIAMI-DADE COUNTY, FLORIDA**, a Political Subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 N.W. 1 Street Suite 2460, Miami, Florida 33128-1963, and the **VILLAGE OF PALMETTO BAY**, party of the second part, whose address is, 900 Perrine Avenue, Palmetto Bay, Florida 33157.

WITNESSETH:

That the said party of the first part, for no consideration and in accordance with Florida Statue 197.592(3) has granted, bargained, and conveyed as is, **Perrine Park** to the said party of the second part, his/her heirs and assigns forever, the following described land lying and being in Miami-Dade County, Florida:

LEGAL DESCRIPTIONS

--Main Parcel—Folio 33 5033 000 0660

South ½ of the Southeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 33, Township 55, Range 40, Less West 35 Feet

--South Parcel—Folio 33 5033 000 0850

Beginning At Northeast Corner of the Northwest ¼ of the Southwest ¼ of Section 33, Township 55, Range 40, Then South 03 DEG East 783.29 Ft.,
Then South 88 DEG West 666.47 Ft.,
Then North 03 DEG West 783.34 Ft.,
Then North 88 DEG East 668.60 Ft. To Point of Beginning

Draft

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mayor

Approved for legal sufficiency: _____

The foregoing was authorized and approved by Resolution No. R-_____ of the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2003.

D r a f t

Instrument prepared under the direction of
Thomas Goldstein, Assistant County Attorney:
111 N.W. 1 Street, 28 Floor
Miami, Florida 33128-1907

Folio: 33-5022-000-0750
Coral Reef Park

COUNTY DEED

THIS DEED, made this day of 2003, A.D. by **MIAMI-DADE COUNTY, FLORIDA**, a Political Subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 N.W. 1 Street Suite 2460, Miami, Florida 33128-1963, and the **VILLAGE OF PALMETTO BAY**, party of the second part, whose address is, 900 Perrine Avenue, Palmetto Bay, Florida 33157.

WITNESSETH:

That the said party of the first part, for no consideration and in accordance with Florida Statute 197.592(3) has granted, bargained, and conveyed as is, Coral Reef Park to the said party of the second part, his/her heirs and assigns forever, the following described land lying and being in Miami-Dade County, Florida:

LEGAL DESCRIPTION

EXHIBIT "A"

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

The party of the second part agrees to preserve the pine rockland area of Coral Reef Park in a natural condition as per a management plan prepared by Miami-Dade Park and Recreation Department, as may be amended, and in accordance with County Ordinance for Tree Preservation and Protection (Article 3-Section 24-60).

D r a f t

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mayor

Approved for legal sufficiency: _____

The foregoing was authorized and approved by Resolution No. R-_____ of the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2003.

D r a f t

EXHIBIT "A"

The Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$,
LESS the North 25 feet and the West 25 feet thereof,

AND

The Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$,
LESS the North 25 feet and the South 40 feet thereof,

of Section 22, Township 55 South, Range 40 East, Miami Dade County, Florida.

LESS

The C-100 Canal according with the South Florida Water Management Right of Way
plans.

Containing 45.4 Acres more or less.