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**RESOLUTION NO. 02-28**

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING AND PERMITTING; APPROVING A MEMORANDUM OF AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE; AUTHORIZING THE COUNTY TO PROVIDE COMPREHENSIVE PLANNING, ZONING, BUILDING PERMIT AND OTHER DEVELOPMENT REVIEW SERVICES TO THE VILLAGE ON AN INTERIM BASIS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Village of Palmetto Bay commenced its municipal existence on September 11, 2002; and,

WHEREAS, the Village does not currently have comprehensive planning, zoning and building permit processing, review, hearing and administration capabilities (collectively referred to as administration capabilities), and a number of applications for land development permits are pending, and other applicants desire to file applications; and,

WHEREAS, Miami-Dade County is willing to provide planning, zoning and building permit administration capabilities and the Village desires to obtain such services on an interim basis; and,

WHEREAS, the attached Memorandum of Agreement is legally sufficient in form and content.

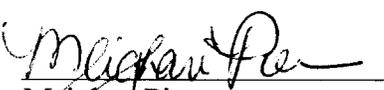
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

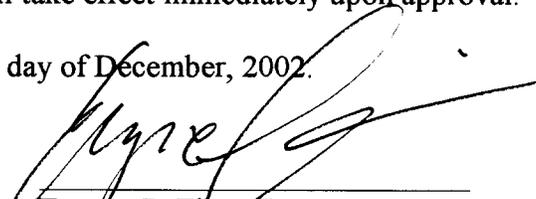
Section 1. The mayor is authorized to execute and to deliver to the county manager a Memorandum of Agreement between Miami-Dade County and the village that is substantially similar in its terms and conditions as the draft agreement which is annexed to this resolution. The county shall provide comprehensive planning, zoning and building permit administrative services until: (1) a subsequent comprehensive interlocal agreement is executed by the parties or (2) upon the expiration of 30 days after the Village delivers a transfer notice or resolution terminating service to the county manager.

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

PASSED and ADOPTED this 2<sup>nd</sup> day of December, 2002.

Attest:

  
Meighan Pier  
Village Clerk

  
Eugene P. Flinn, Jr.  
Mayor

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APPROVED AS TO FORM:

*Earl G. Gallop*

Earl G. Gallop,  
Village Attorney

FINAL VOTE AT ADOPTION:

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

**MEMORANDUM OF AGREEMENT  
FOR BUILDING AND ZONING SERVICES**

This agreement is entered into this \_\_\_ day of December, 2002, by and between the Village of Palmetto Bay and Miami-Dade County.

**WITNESSETH:**

WHEREAS, the village charter became effective on September 11, 2002 and the first village council was seated on November 7, 2002; and

WHEREAS, both the County and the Village desire to enter into an agreement for the county to continue to provide zoning and building permit processing, review, hearing and administration services (collectively referred to as administration services) to the Village during a transitional period and until the parties enter into a interlocal agreement; and,

NOW THEREFORE, in consideration of the above and other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged, the parties agree as follows:

A. Zoning administrative services.

The Miami-Dade County Department of Planning and Zoning shall provide administrative services on applications for zoning hearings and administrative determinations, as described below.

1. Processing of zoning applications. The county Department of Planning and Zoning shall receive and process applications for zoning district changes, amendments to the zoning map, unusual uses, nonconforming uses,

variances, sign variances, administrative variances, administrative site plan approvals, and other land development permits as provided by chapter 33 of the Miami-Dade County code (county zoning code), make substantial compliance determinations, and issue zoning clearance letters in connection with applications for building permits for new construction, alterations, or improvements on real property within the Village in accordance with the county zoning code and the current practice of the department, including the use of county forms and inspection procedures, for the unincorporated area of the County. The department will also receive, process and issue certificates of use, as provided by the county zoning code.

a. Applications. All zoning applications shall be made at the offices of the Department of Planning and Zoning at Stephen P. Clark Center, located at 111 N.W. 1<sup>st</sup> Street, 11<sup>th</sup> Floor, Miami, Florida.

b. Applications for zoning public hearings.

(1) Pending applications. The department shall give the Village written notice of all applications for zoning public hearings ("zoning applications") that were pending on September 11, 2002. The department shall process and schedule hearings on pending zoning applications as provided below..

(2) New zoning applications. The department shall accept and process new zoning applications for land located in the Village. All zoning applications and supporting documents shall be furnished to the Village Manager

or designee within three days of the determination that the application is bona fide and complete.

c. Processing pending and new applications. All pending and new zoning applications that are not yet scheduled and noticed for hearing shall be processed and noticed by the department for public hearing by the Village at a time and place determined by the Village. The time and place shall be furnished to the department in adequate time to prepare and publish appropriate notice. The processing of zoning applications by the department shall include one or more reports providing a complete analysis, including site data and historical background, and shall include the department's recommendations, including a recommendation whether the zoning application is consistent with the comprehensive plan. All zoning analyses shall be furnished to the Village five days in advance of the public hearing on the respective zoning applications.

d. Substantial compliance determinations and administrative site plan approvals. The Village shall make all substantial compliance determinations in connection with plans previously approved at public hearing by the County and subsequently approved by the Village Council. The Village shall also make determinations on requests for administrative site plan review. Applications for substantial compliance determinations and requests for administrative site plan review shall be referred by the department to the Village Manager. The department shall provide its recommendations with the transmission of these items. The Village Manager will make recommendations to the Village Council.

- e. Administrative variances. The department shall receive, process and determine applications for administrative variances from site development criteria for single family, duplex and town house developments.
- f. Modifications. Any modifications to the physical elements of the site plan (i.e., building footprint, parking lot, or landscaping) shall be reviewed and approved by the Village Manager or designee.
- g. Certificate of use. The department shall not issue a certificate of use for any existing development where a change in use is requested unless and until the requested certificate is approved by the Village in accordance with the same review procedures described for other development activity.
- h. Legal counsel. The county attorney shall continue to provide legal services regarding applications for zoning public hearings, including rendering legal opinions and advice, reviewing department reports and recommendations, and attending public hearings. The Village will provide legal counsel to defend any claims arising out of final actions by the Village on the applications.
- B. Building permit administrative services.
- The Miami-Dade County Building Department shall provide administrative services on applications for the issuance of building permits, and issue permits, as described below.
1. Processing applications for building permits. The county Building Department shall receive and process applications for building initial and

subsidiary building permits, perform inspections, and issue certificates of completion and, or, certificates of occupancy for new construction, alterations, or improvements on real property within the Village as provided by chapter 8 of the Miami-Dade County code (building code), other provisions of the county code and the current practice of the department, including the use of county forms and inspection procedures, for the unincorporated area of the County.

2. Applications. All applications shall be made at the offices of the Building Department located at 11805 S.W. 26<sup>th</sup> Street, Miami, Florida.

3. Review by the Village.

a. Initial building, accessory and land improvement permits.

Prior to the issuance of the initial building permit (or renewal of an expired permit), or any accessory or land improvement permit by the department for any development activity, the department shall transmit one copy of the permit application and three copies of the site plan to the Village Manager for the Village's approval. As part of that transmittal, the department shall provide the Village with a zoning compliance statement on or affixed to the site plans. The statement shall demonstrate the findings of the Department of Planning and Zoning, if required, regarding compliance with applicable zoning regulations, including, but not limited to, setbacks, building height, floor area ratio, minimum landscaping requirements and other zoning criteria, final action on applications for zoning public hearings, and covenants. The Village will, within five working days of receipt of the documents from the department, expeditiously review the

documents for the purpose of determining that the proposed use shown on the permit application is permitted in the applicable zoning district and that the department's statement regarding zoning compliance has been duly affixed to the site plans. If the Village finds that the use is permitted and the department zoning compliance statement has been duly affixed to the site plans, the Village shall indicate its approval by use of a stamp or mark on the signed plans signed or initialed by the individual making such review on the Village's behalf. This approval stamp or mark on the site plans shall authorize the department to issue the permit applied for, if other applicable regulations have been satisfied. One copy of the approved site plans shall be retained by the Village. The other two copies shall be returned to the department as "job" and "office" sets.

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b. Subsidiary permits. The department shall process and issue subsidiary permits as currently provided under the building code. The Village shall not review nor provide prior approval for applications for subsidiary permits. Subsidiary building permits include, but are not limited to, electrical, plumbing, mechanical, window, shutter and roofing permits.

c. Certificates of occupancy. The department shall not issue a certificate of occupancy for any existing development where a change in use is requested unless and until the requested certificate is approved by the Village in accordance with the same review procedures described for other development activity.

C. Plat approval administrative services.

The Miami-Dade County Public Works Department shall provide administrative services on applications for plat approval and waiver of plat requirements, as described below.

1. Processing applications for plat approval and waiver of plat. The county Public Works Department shall receive and process applications for tentative and final plat approval and for waiver of plat requirements on real property located within the Village as provided by chapter 28-L of the Miami-Dade County code (subdivision regulations), other provisions of the county code and the current practice of the department, including the use of county forms and inspection procedures, for the unincorporated area of the County.
2. Applications. All applications shall be made at the offices of the Division of Land Development Regulation at the Public Works Department at the Stephen P. Clark Center, located at 111 N.W. 1<sup>st</sup> Street, Miami, Florida.
3. Review by the Village. Upon receipt of an application for approval of a tentative plat, final plat or application for waiver of plat, the department shall transmit one copy of the application and three copies of the plat, or, in the case of an application for waiver of plat, site map to the Village Manager. Upon completion of the review and processing, the department shall submit all final plats and waivers of plat to the Village for approval by the Village Council.

D. Comprehensive Development Master Plan.

1. The Village acknowledges, pursuant to art. VIII, sec. 8.3 of the village charter, that the Miami-Dade County Comprehensive Development Master Plan (CDMP) is the controlling master plan for the Village until the Village prepares and adopts its own comprehensive plan in accordance with Florida Statutes, ch. 163.

2. Unless, or until this MOA is amended or the Village enters into an interlocal agreement with the County to provide for processing amendments to the CDMP, the department shall not accept or process applications to amend the CDMP or the future land use map for property located within the Village.

3. The department shall provide notice to the Village, in accordance with the Intergovernmental Coordination Element of the CDMP, of any proposed amendments to the plan or map for areas adjacent to the Village.

E. County reports.

The Planning and Zoning Department, Building Department and Public Works Department will maintain records in accordance with current practice for the unincorporated area and shall provide the Village, within <sup>5</sup>~~10~~ days after the end of each month, a monthly activity report of all permitting services provided during the preceding 30-day period, in a format approved by the Village.

F. Enforcement. [Left blank, awaiting information by Building Department attorney. Include provision for enforcement of building permit, inspection requirements and permit violations beyond term of MOA].

G. Transfer of powers.

The responsibilities of the County to perform under this MOA shall expire upon the commencement of the term of any interlocal agreement between the Village and the County relating to zoning, building and platting administrative services, or upon the receipt by the county manager, or his designated representative, of a transfer notice. The transfer notice shall identify the specific services under this MOA that the Village assumes. The notice shall be given to the county manager not less than 15 days before the effective date of the transfer of responsibility to the Village. A courtesy copy of the transfer notice shall be given by the Village to the department head.

H. Fees.

The County and the Village agree that the County will charge the applicant and other third parties fees for the Departments of Building, and Planning and Zoning services as provided in County Administrative Order 4-63A, as amended. These fees, plus fees collected for other Miami-Dade County departments for related activities will be retained by the County as compensation for services performed.

I. Amendments.

This agreement may be modified only by an agreement in writing signed and sealed by the Mayor of the Village and the County Manager.

J. Indemnification.

1. The Village shall indemnify and save harmless the County from any and all claims, liability, losses, and causes of action which may arise out of actions

of the Village in fulfillment of this agreement to the extent allowable by law. The Village, directly or through its insurance carrier shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the County, when applicable, and shall pay all costs and judgments which may issue thereon.

2. The County shall also indemnify and save harmless the Village from any and all claims, liability, losses and causes of action which may arise out of actions of the County in fulfillment of this agreement to the extent allowable by law. The County shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the Village, when applicable, and shall pay all costs and judgments which may issue thereon.

K. Effective date.

The effective date of this MOA shall be the later of the date on which this agreement is approved by the Board of County Commissioners, Miami-Dade County, Florida, or the effective date of an amendment to Miami-Dade County Code §2-8.7, which, in the opinion of the Miami-Dade County Attorney's Office, would not prohibit the consummation of the agreement. This agreement shall expire May 5, 2003 unless renewed as provided herein. The Village shall pay to the County any outstanding payments due the County under this agreement and the County shall cease providing municipal services and performing any other provisions of this agreement.

L. Law.

This agreement shall be construed in accordance with the laws of the State of Florida. The venue for any lawsuit arising out of this agreement shall be Miami-Dade County, Florida.

M. Severability.

Should any provision, paragraph, sentence, word or phrase contained in this 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 provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then same shall be deemed severable, and in this agreement, shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seal the day and year first above written.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY: MIAMI-DADE COUNTY, a political subdivision of the State of Florida:

\_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_  
Steve Shiver, County Manager



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

ATTEST:

VILLAGE OF PALMETTO BAY,  
a municipal corporation

By: \_\_\_\_\_  
Meighan Pier  
Village Clerk

By: \_\_\_\_\_  
Eugene P. Flinn, Jr.  
Mayor

APPROVED:

By: \_\_\_\_\_  
Earl G. Gallop  
Village Attorney

ATTEST:

HARVEY RUVIN, CLERK

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

By: \_\_\_\_\_

By: its Board of County Commissioners

By: \_\_\_\_\_  
County Manager

Approved:

(SEAL)

\_\_\_\_\_  
County Attorney