

Scott Ellis

Clerk Of Courts, Brevard County

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Trust: 11.00 Rec: 169.00 Serv: 0.00
Excise: 0.00
Mtg: 0.00 Int Tax: 0.00

**CITY OF PALM BAY - BREVARD COUNTY
JOINT PLANNING AGREEMENT**

CFN 2005424241 12-01-2005 08:42 am
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This Joint Planning Agreement is made and entered this 1st day of November, 2005, by and between the City of Palm Bay, a Florida Municipal Corporation (hereinafter "City") and Brevard County, Florida, a charter county and political subdivision of the State of Florida (hereinafter "County").

PREAMBLE

WHEREAS, the City and the County recognize that proper intergovernmental coordination is essential for sound growth management; and

WHEREAS, the City and the County seek to have compatible land uses adjacent to their common boundary; and

WHEREAS, Section 163.3177(6)(h), Florida Statutes, requires increased intergovernmental coordination, including but not limited to, providing for a procedure to identify and implement joint planning areas, especially for the purpose of annexation and identification of infrastructure service areas; and

WHEREAS, Section 171.046(2)(a), Florida Statutes allows the expeditious annexation of enclaves by interlocal agreement with the county having jurisdiction of the enclave; and

WHEREAS, pursuant to Part II of Chapter 163, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act (the "Act"), and Chapters 9J-5 and 9J-12, Florida Administrative Code, the City and the County adopted Comprehensive Plans on September 8, 1988 (County) and October 6, 1988 (City) and have subsequently amended them from time to time (hereinafter referred to as the "Comprehensive Plan[s]"); and

WHEREAS, the State Comprehensive Plan requires local governments to direct development to those areas which have in place the land and water resources, physical abilities and service capacity to accommodate growth in an environmentally acceptable manner and use incentives and disincentives to achieve a separation of urban and rural land uses; and

WHEREAS, the State Comprehensive Plan requires local governments to protect the substantial investment in public facilities which already exists and to plan for and finance new facilities in a timely, orderly and efficient manner; and

WHEREAS, the City and the County are desirous of engaging in joint efforts to comprehensively plan certain areas within the municipal boundaries of the City and certain areas located within the boundaries of the unincorporated portion of the County, which areas are collectively and individually referred to herein as the "Joint Planning and Review Area" ("JPRA") of the Joint Planning Agreement; and

WHEREAS, the City and County have determined that this Joint Planning Agreement will foster intergovernmental coordination and cooperation, economical provision of services, and adequate utilization of existing and proposed infrastructure; and

WHEREAS, it is desirable for the City and the County to enter into such an agreement to better identify areas that will not be proposed for future municipal service and jurisdiction and to ensure better coordination of government services and reduce or eliminate substantial future non-conformities; and

WHEREAS, The City of Palm Bay, the City of Melbourne, the City of West Melbourne and Brevard County entered into a settlement agreement on August 29, 2001 with respect to utility service areas, and,

WHEREAS, the City and the County recognize the critical need for another interchange to service South Brevard; and

WHEREAS, the City and the County desire to work together to assure construction of the Palm Bay Parkway, Babcock Street and Malabar Road improvements; and

WHEREAS, the City and the County wish to agree on certain procedures for the timely exchange, review and processing of information related to annexations and development proposals within the Joint Planning Agreement; and

WHEREAS, a Joint Planning Agreement will provide a basis for the evaluation of future development applications and annexation proposals as well as for the adequate provision of public services; and

WHEREAS, the establishment of this Agreement will provide for a better defined boundary between the City and the County including the elimination of enclaves and reduce confusion to residents and service providers; and

WHEREAS, elimination of enclaves is supported by both the County and the City as a mechanism to enhance the efficiency of the provision of public services; and

WHEREAS, there is no intent for this Agreement to restrict the County's authority to amend its Comprehensive Plan, Official Zoning Map, or apply land development regulations consistent with the provisions contained herein or otherwise to make land use decisions for unincorporated areas within the Joint Planning Agreement; and

WHEREAS, there is no intent for this Agreement to restrict the City's authority to amend its Comprehensive Plan, Official Zoning Map, or apply land development regulations consistent with the provisions contained herein, or otherwise to make land use decisions for lands within the corporate boundaries of the City; and

WHEREAS, this Agreement provides the City and the County with ample opportunities to renegotiate the Agreement in response to changed circumstances, including the ability to seek refinement or expansion of the Joint Planning and Review Area; and

WHEREAS, a public hearing with due public notice has been held by the City and the County prior to approval of this Agreement and as set forth in Section 163.3171(3), Florida Statutes; and

WHEREAS, it is the intent of the City and the County that this Agreement shall be immediately applicable to any issuance of a Development Order, as defined in Article II of this Agreement, for a parcel of land located in the JPRA and submitted to the County or City after December 1, 2005; and

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree with each other to create and participate in the following Joint Planning Agreement (hereinafter referred to as the "Agreement") as follows:

ARTICLE I - INCORPORATION OF PREAMBLE

Incorporation of Preamble. The Preamble above is true and correct and is incorporated into this Agreement as if fully set forth below. This Agreement shall be considered an Interlocal Agreement pursuant to the authority within Sections 163.01, 163.3171, 163 and Chapter 171, Florida Statutes.

ARTICLE II - DEFINITIONS

1. **Act.** Means and refers to the "Local Government Comprehensive Planning and Land Development Regulation Act" set forth in Section 163.3161 *et. seq.*, Florida Statutes, as the same may be amended or superseded from time to time.

2. **Agreement.** Means and refers to this Joint Planning Agreement, as the same may be amended or supplemented as provided for herein.

3. **City.** Means the City of Palm Bay, a Florida municipal corporation.

4. **City Comprehensive Plan.** Means the comprehensive plan adopted by the City of Palm Bay pursuant to the Act, as amended from time to time.

5. **City Council.** Means the elected legislative governing board of the City of Palm Bay and referred to as the "Palm Bay City Council".

6. **County.** Means Brevard County, Florida, a political subdivision of the State of Florida.

7. **County Comprehensive Plan.** Means the comprehensive plan adopted by Brevard County pursuant to the Act, as amended from time to time.

8. **County Commission.** Means the elected legislative governing board of Brevard County referred to as the "Board of County Commissioners of Brevard County".

9. **County Maintained Roads.** Refers to those defined as local, collector, arterial, or segments thereof, along with the associated drainage facilities, which may or may not have been transferred to the County for maintenance responsibility by the State of Florida as outlined in FS 335.04, as amended or superseded from time to time.

10. **County Service Area.** (See Exhibit "B-1") Means and refers to that area that is a portion of the JPRA where the City agrees not to provide municipal or urban services including water, sewer, streets, and drainage maintenance, police and fire services, solid waste collection and other related municipal services.

11. **Development.** Shall be defined as set forth in Sections 163.3164(6) and 380.04, Florida Statutes, as amended or superseded from time to time.

12. **Development Order.** Means any determination or decision requiring either legislative, quasi-judicial, or administrative review and approval by either governing body related to annexations or pre-annexation agreements, comprehensive plan amendments, site plans (excluding those resulting in less than a fifty percent (50%) expansion of a building), development of regional impact ("DRI"), planned unit developments ("PUD"), subdivision and plat approvals, rezonings, conditional uses, special permits, infrastructure or utility improvements, binding development plans ("BDP"), making possible development of or construction upon any Parcel of Land, within the scope of the respective Governing Body's Comprehensive Plan.

13. Enclave. Means any unincorporated land which is enclosed within and bounded on all sides by: 1) the City; 2) the City and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the City.

14. Future Land Use Element. Means and refers to that section of either the City's or County's Comprehensive Plan, which includes all of the requirements of Section 163.3177(6)(a), Florida Statutes, as the same may be amended or renumbered from time to time.

15. Governing Body. Means in the case of the County, the Board of County Commissioners, and in the case of the City, the Palm Bay City Council.

16. Improved. A parcel of land having any building, or structure or paved area.

17. Infrastructure. Facilities and services needed to sustain industrial, residential, commercial and all other land use activities, including water lines, sewer lines, stormwater, streets, roads, drainage and other related public facilities.

18. Joint Planning and Review Area. Means and refers to that area depicted in Exhibit "A".

19. JPRA Map. Means and refers to the map attached hereto and incorporated herein by reference as Exhibit "A", which designates parcels of land encompassed by this Agreement.

20. Land Development Regulation. Means ordinances enacted by the City or the County for the regulation of any aspect of Development.

21. Local Planning Agency. Means the recommending agency appointed by the Board of County Commissioners or City Council to review comprehensive plan and new Land Development Regulations and amendments thereto, and designated as the "local planning agency" pursuant to Section 163.3174, Florida Statutes. The City's local planning agency is currently the City Planning and Zoning Board. The County's local planning agency is currently the County Planning and Zoning Board.

22. Local Street. Means those streets which function primarily to provide access and service to abutting properties. This includes access and service to residential, business, industrial and public uses. Exhibit C identifies roadways that are not considered local streets with the JPRA.

23. Municipal Services. Means the services and programs, except Utility Services, provided by the City, at the time of application of this definition. City acknowledges that as of the effective date of this Agreement the City does not provide ambulance (emergency medical transport) service as a Municipal Service.

24. Parcel of Land. Means any quantity of land capable of being described with such precision or exactness that its location and boundaries may be established, which is designated by the City, by the County, or by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

25. Park. Means any Parcel of Land designated by the Governing Body in its Comprehensive Plan as open space utilized for active or passive recreational use, including lands designated for conservation.

26. Pre-Annexation Agreement. Means any official recorded agreement between the City and an entity petitioning the City for, or agreeing to, annexation into the City in accordance with Chapter 171, Florida Statutes. Such agreement may contain language that binds the petitioner to develop said property in accordance with the

City's Land Development Regulations as well as other conditions that may be agreed to between the parties and contained within the Pre-Annexation Agreement.

27. Utility Service. Means the treatment and supply of potable water to and the collection, transmission and treatment of wastewater from properties through a system serving multiple properties.

ARTICLE III - PROCEDURES FOR REVIEWING AND COMMENTING ON DEVELOPMENT ORDERS

1. Joint Planning and Review Area Created. This area shall be such land as identified in Exhibit "A". It is contemplated that from time to time portions of the unincorporated JPRA shall be annexed into the City. As real property within the area depicted as unincorporated is annexed into the City, it shall be unnecessary to amend this Agreement or Exhibit "A." Notwithstanding what the Exhibit "A," or any other map attached to this Agreement shall depict, upon annexation by the City, the annexed Parcel of Land shall be regarded as a portion of the JPRA within the City's jurisdiction. No amendment of this Agreement shall be necessary for the City to annex a Parcel of Land. Either the City or the County may suggest changes to Comprehensive Plan policies to be applied within the joint planning area or adjustments to densities or intensities in zoning or Comprehensive Plan designations. Those proposals may be based on limitations or changed conditions related to growth, new development, transportation, water, sewer, infrastructure or geography. Such proposals shall be reviewed by the City and County staff and presented to the Governing Body with the jurisdiction to adopt land use, zoning and Comprehensive Plan amendments in the JPRA. The Governing Body with jurisdiction shall consider the suggested change or changes and afford representatives of the Governing Body lacking jurisdiction the opportunity to make a presentation on the suggested changes during a public meeting. After the Governing Body with jurisdiction concludes its consideration of the proposed changes that Governing Body shall either 1] instruct their staff to process the changes as formal amendments as presented or with modifications or 2] reject the proposed changes.

2. City/County Review of Development Applications within the JPRA. In addition to the evaluation and comments normally prepared by the City or County department initially accepting an application for a Development Order, any comments submitted by the department of secondary jurisdiction in their review of a copy of said Development Order application shall be considered by the department of primary jurisdiction in its review of said Development Order including examination of the relationship between the application, the City and County's Comprehensive Plans, and this Agreement.

3. Forwarding of Development Order Applications from the County to City and City to County. The City and the County shall, within five (5) calendar days of receipt of any applications or preliminary plans associated with an application for a Development Order including infrastructure or utility improvement plans within the JPRA, provide notification of such application materials to the designated office of the other party as described in Section 6, Article VII herein. The notification shall include a location description, parcel identification number, and a brief description of the proposed project, including proposed future land use, zoning designation, traffic and other studies relating to the proposed project, and, if available the number of residential units and non-

residential square footage. The City or County may request a meeting to discuss the effect of such development within the JPRA.

The primary jurisdiction shall at a minimum provide a copy of the site plan to the secondary jurisdiction within five (5) calendar days of their request, in accordance with Section 6, Article VII herein.

The staff of the secondary jurisdiction shall provide to the primary jurisdiction its comments on proposed annexations and applications for a Development Order generated within the JPRA, within ten (10) calendar days of receipt of site plan package of said applications. No final decision on such Development Orders by the primary jurisdiction shall be considered until receiving comments from the secondary jurisdiction, provided said comments are received consistent with the timeframe established pursuant to this Agreement.

If a written letter of objection is submitted by the secondary jurisdiction to the primary jurisdiction within fifteen (15) calendar days after receipt of a particular Development Order plan or application copy, then the processing of said plan or application by the primary jurisdiction shall be delayed for a period not to exceed fifteen (15) calendar days to permit time to resolve the concerns noted. The noted timeframes may be extended by mutual written consent of the County Manager and City Manager in order for the respective staffs to meet and review the objecting party's comments. The noted timeframes may also be extended by mutual written consent of the County Manager and City Manager in order for the Governing Body of secondary jurisdiction to consider such Development Order application during its regularly scheduled public meeting. If the secondary jurisdiction considers the Development Order at a public meeting, the applicants of the proposed Development Order shall be given written and telephonic notice by the secondary jurisdiction of the time, date, and location of the public meeting of the Governing Body of secondary jurisdiction. The applicant shall be given sufficient opportunity to be heard at said meeting.

Such comments may include, but may not be limited to: the existing or proposed Future Land Use or zoning designation(s) or residential density on the subject property; development standards related to signage; landscaping; land clearing; provisions for and connections to open spaces; parking; traffic volumes or traffic distribution patterns potentially generated by the proposal; access; right-of-way reservations; drainage conveyance from the proposed development; whether the development can or will be served by public sewer or private septic systems; whether the development can or will be served by private well or public water services; service inefficiencies created by unincorporated enclaves; post-annexation maintenance of adjacent rights-of-way and drainage systems.

If the City and County staffs cannot resolve the objections, the Governing Body of either party may request a joint meeting with the other Governing Body to attempt to resolve the objections. Both the County Commission and the City Council agree to convene and attend such a meeting within sixty (60) calendar days after a formal request for such a meeting has been made.

4. Development Orders within the City's portion of the JPRA. The City shall consider the comments of the County in the City's evaluation of Development Orders occurring within the City's portion of the JPRA. The final decision on a Development Order is that of the City.

5. Development Orders within the County's portion of the JPRA (including Pre-Annexation Agreements).

a) Land Development.

The County shall consider the comments of the City in the County's evaluation of Development Orders occurring within the County's portion of the JPRA. The final decision on a Development Order is that of the County.

b) Pre-Annexation Agreements.

When reviewing any Development Order plans or applications for properties within the County portion of the JPRA which are, at the same time, also bound by a City of Palm Bay Pre-Annexation Agreement, the City shall attach staff comments and forward such plans/applications directly to the County. Formal review of said plans/applications along with the permitting, inspection and issuance of Certificate of Occupancy on such properties shall then be the responsibility of the County and such properties shall be bound by any supplemental development criteria, if any, stipulated within the Pre-Annexation Agreement.

6. Municipal Services within JPRA. Areas within the County portion of the JPRA may be considered for Municipal Services. Delivery of these services shall be at the discretion of the City, in accordance with applicable ordinances, or, if contiguous to the City boundary, annexation into the City in order to receive Municipal Services. By executing this Agreement the City does not assume any obligation to provide any Municipal Services to any property outside the City's municipal boundaries limits. The City shall not seek annexation of, accept any annexation application from, or provide any Municipal Services to any Parcel of Land in the County Service Area without the consent of the County Commission.

ARTICLE IV – ANNEXATION PROVISIONS

1. Annexation.

a) Enclaves less than 10 acres and improved. The County consents to the annexation of those properties, less than ten (10) acres and improved, identified on Exhibit "B-2" attached hereto pursuant to Section 171.046, Florida Statutes upon condition that the City agrees to assume maintenance responsibilities for all local roads within the annexed area. These properties will be considered for annexation by the City of Palm Bay.

b) Annual review of enclaves. The County and the City agree to an annual review of enclaves, in January of each year, for determination of elimination of service duplications meeting the statutory requirements for annexation of enclaves in Chapter 171, Florida Statutes, and agree to the use of the mechanisms therein to eliminate these enclaves.

c) Western Annexation Area. The County consents to the annexation of those properties identified on Exhibit "B-3" attached hereto upon condition that the City agrees to assume maintenance responsibilities for all local roads within the annexed area. These properties will be considered for annexation by the City of Palm Bay.

2. City and County Joint Cooperation for Infrastructure Maintenance Responsibility Transfers from County to City. In those areas where both jurisdictions have maintenance responsibilities for the maintenance of

roadways, road rights-of-way, and drainage systems and facilities relating to the same road, the City and the County will work cooperatively, sharing expenses relating to said maintenance. These expenses will be proportioned according to the percentage of the infrastructure within the respective jurisdiction, or such other method as may be mutually agreed to by the parties.

Except for those roads provided for in Section 1(a), Article IV and in the immediately preceding paragraph above future maintenance responsibility of roads and road rights-of-way, drainage systems and facilities transfers from the County to the City of such roads and road rights-of-way, traffic control, local drainage systems and facilities, street lights, traffic signals as appropriate, shall require a separate agreement between the City and the County. Until this Agreement is modified pursuant to Article VII below, the County agrees to continue to maintain all roadways or segments thereof, traffic control, drainage systems and facilities within the JPRA currently maintained by the County. The City agrees that local roads not identified by name on Exhibit C shall be transferred to the City from the County upon annexation into the City.

ARTICLE V – UTILITY SERVICE AREAS AND POLICIES

1. Exhibit “D” identifies the current Utility Service areas for the City and the County in accordance with the settlement agreement dated August 29th, 2001.

2. The County acknowledges that the City requires annexation or Pre-Annexation Agreements as a condition of providing Utility Service in the City service area identified in Exhibit “D”.

3. The County and the City agree to coordinate the provision of Utility Service in accordance with the provisions of the settlement agreement dated August 29th, 2001.

ARTICLE VI – INFRASTRUCTURE FUNDING

1. **Interstate 95/Palm Bay Parkway Interchange.** The County and the City agree that the construction of an interchange at the approximate location shown on Exhibit “E” is supported by both the County and the City. The County and the City shall jointly support efforts to fund and construct that interchange. The County and the City shall make the required amendments to their respective Comprehensive Plans to eliminate any policy, goal or objective which may conflict or be otherwise inconsistent with this provision.

2. **Palm Bay Parkway.** The County and City agree that the construction of the Palm Bay Parkway, the approximate location of which is depicted on Exhibit “F”, is essential to the future traffic circulation in South Brevard and for the future emergency evacuation of portions of South Brevard. Both the County and the City agree to support all efforts to fund and construct that roadway. The County and the City shall make the required amendments to their respective Comprehensive Plans to eliminate any policy, goal or objective which may conflict or be otherwise inconsistent with this provision, and to adopt a Level of Service no lower than “D” for the proposed roadway. In accordance with Section 163.3177(6)(b), Florida Statutes, the County shall consider a modification to its Transportation Element of its Comprehensive Plan designating a two hundred foot (200’) transportation corridor for, at a minimum, that portion of the Palm Bay Parkway located north of the City’s municipal limits to U. S. 192, as depicted on Exhibit “F”.

3. **Babcock Street.** The City and the County agree that Babcock Street is a major roadway for the South Brevard area and supports both the incorporated and unincorporated areas. The County acknowledges that Babcock Street is a County maintained road and will remain so. The City and the County agree to participate in the planning for and funding of improvements to Babcock Street. Funding participation may include proceeds from assessment areas (see Exhibit "G"), impact fees, gas taxes and other funding sources.

4. **Minton Road.** The City agrees that the expansion of capacity of Minton Road between Emerson Drive and Malabar Road should be jointly accomplished by the County and the City.

5. **Assessment Areas.** The County agrees to participate in future assessment area projects identified on Exhibit "G" at levels which shall be mutually agreed to by the parties. At minimum, such participation may include committing impact fees from benefiting areas of the County toward funding of assessment projects. Public facilities and services included in this Agreement shall include, at a minimum, parks, libraries, drainage and roads. Other facilities and services may be included if mutually agreed upon by all parties.

ARTICLE VII - GENERAL PROVISIONS

1. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties executing this Agreement and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formally named party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon or give any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereto; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of all and shall be binding upon the parties hereto and their respective and express representatives, successors and assigns.

2. **Renegotiation.** The County or City may call for renegotiation of this Agreement by written notice to the other party at any time. Upon such written notice, for a period of 90 days thereafter, the City and the County shall attempt to renegotiate this Agreement in good faith. During that 90-day period, where either party, in its sole discretion and in good faith, determines that such renegotiations have reached an impasse, it may invoke the conflict resolution procedures set forth in Chapter 164, Florida Statutes. If no agreement is negotiated during the 90-day period or during the conflict resolution process, the terms of this Agreement shall continue to govern and remain in full force and effect. Should the City or the County seek judicial review of this Agreement, or to enforce this Agreement, the City and the County recognize that venue will be properly located in Brevard County, Florida for any action regarding this Agreement. The failure of any party to this Agreement to enforce any provision contained herein shall in no event be deemed a waiver of its rights to thereafter enforce this Agreement. Utilization of one remedy to enforce this Agreement shall not be deemed the only method by which to enforce the provisions of this Agreement.

3. **Severability, Construction and Interpretation.** In the event that any section, subsection, sentence, clause, or word of this Agreement shall be held by a court of competent jurisdiction to be partially or wholly invalid or unenforceable for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other remaining articles, sections, subsection, sentences, clauses or words of this Agreement, and this Agreement shall be read and/or applied as if the invalid, illegal, or unenforceable section, subsection,

sentence, clause, or word did not exist. This Agreement was mutually negotiated by all parties who have executed the same. Consequently, it is the intent of the parties that no provision shall be more harshly construed against either party as the drafter hereof.

4. Effective Date. Prior to this Agreement, or any amendment hereto, becoming effective, it shall be approved and executed by both parties hereto, and pursuant to Section 163.01(11), Florida Statutes, this Agreement shall become effective immediately after filing of this Agreement with the Clerk of the Circuit Court of Brevard County, Florida. This Agreement shall be recorded in the Public Records of Brevard County, Florida, and the cost thereof, if any, shall be shared equally by both Governing Bodies.

5. Termination and Amendment.

a) Termination.

1. This Agreement shall terminate automatically after five (5) years from the date of final adoption unless it is renewed for an additional five (5) year period, in writing, more than thirty (30) calendar days prior to the execution date mentioned therein.

2. Either party may terminate this Agreement by delivering written notice to the other party of its intent to terminate this Agreement at least sixty (60) calendar days prior to the intended date of termination, provided that if the Governing Body of either the City or County elect to request a joint meeting with the other Governing Body on the issue as to whether the Agreement should be terminated or amended in lieu of termination, such sixty (60) calendar day period shall not begin to run until a joint meeting between the Governing Bodies is convened and concluded. Thereupon, a written notice of termination shall be executed by both parties to this Agreement, filed with the Clerk of the Circuit Court, and recorded in the Public Records of Brevard County, Florida.

b) Amendment. This Agreement may be amended at any time provided that at least a numerical majority of the total membership of each party's Governing Body authorize said amendment.

c) Amendment or Termination of Agreement to be in Writing. Except as provided for herein, no amendment or termination of this Agreement shall be binding on either party unless a written instrument terminating or amending this Agreement is executed by the County Commission Chairman and the City Mayor after being duly authorized to do so by their respective Governing Bodies, and such termination or amendment shall not be effective until after it has been filed with the Clerk of the Circuit Court of Brevard County, Florida. Except as set forth herein, all instruments amending or terminating this Agreement shall be recorded in the Public Records of Brevard County, Florida, and the cost of recordation, if any, shall be shared by both parties.

6. Notice; Proper Form. Any notice to be delivered hereunder to either the City or the County by the other party shall be in writing and shall be deemed to be delivered when: (a) hand delivered to the official designate hereunder with receipt acknowledged in writing, or (b) upon receipt of such notice when deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith. Copies need not, but are encouraged to be sent

pursuant to the above referenced provisions. Mere delivery of copies shall not be determined to be a compliance with the requirements hereof:

COUNTY: If by mail or hand delivery:
County Manager
Brevard County Government Center
2725 Judge Fran Jamieson Way
Viera, FL 32940

CITY: If by mail or hand delivery:
City Manager
City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

Either party to this Agreement may unilaterally amend this by revising the address or designee to whom notices are to be delivered by providing notice to the other party as provided herein.

7. Rules of Construction. As used in this Agreement, the plural includes the singular, and the singular includes the plural. Use of one gender includes all genders. Subtitles or catchlines for articles, sections, or subsections herein are used for ease in reading this Agreement, and the subtitles or catchlines do not form a substantive part of this Agreement for purposes of interpretation. This Agreement shall be liberally interpreted to achieve its goals and purposes.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Chairman of the Board of County Commissioners of Brevard County, Florida and the Mayor of the City of Palm Bay, each being authorized by their respective Governing Body have set their hands and seals on the date set forth below.

DONE, ORDERED AND ADOPTED, in regular session this 1st day of Nov., 2005.

Handwritten: Planning & Zoning Brevard County

Attest: **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**

Scott Ellis
Scott Ellis, Clerk

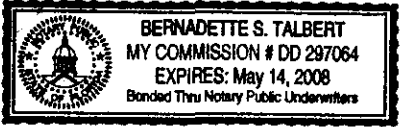
Ron Pritchard
Ron Pritchard, DPA Chairman

As approved by the Board on November 1, 2005.

**STATE OF FLORIDA
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this 1st day of November, 2005, by Ron Pritchard, who is personally known to me, as Chairman of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida.

NOTARY PUBLIC



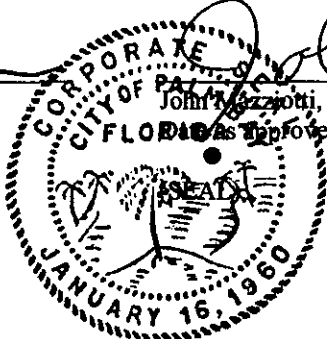
Bernadette S. Talbert

State of Florida at Large
My Commission Expires:

ATTEST:

**CITY OF PALM BAY, FLORIDA
A Florida Municipal Corporation**

Alice Passmore
Alice Passmore, City Clerk
11.15.05

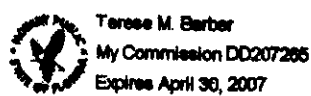


John J. Mazzioni
John J. Mazzioni, Mayor
As approved by City Council *RCM 2005-28; 10/20/05*

**STATE OF FLORIDA
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this 1st day of NOV, 2005, by JOHN J. MAZZIONI, who is personally known to me, as Mayor of the CITY OF PALM BAY, a Florida Municipal Corporation, on behalf of the municipal corporation.

NOTARY PUBLIC



Terese M. Barber

State of Florida at Large TERESE M. BARBER
My Commission Expires:

Exhibits