

RESOLUTION NO. 2009- 298

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A HOLD HARMLESS AGREEMENT BETWEEN ST. JOHNS COUNTY AND A PROPERTY OWNER AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.**

**WHEREAS**, in 1995 the County constructed a regional stormwater drainage system, (the "System") along CR A1A "Old Beach Boulevard" and along 16<sup>th</sup> Street; and

**WHEREAS**, as part of the construction of the System, property owners, ("Owners"), granted St. Johns County a Drainage Easement, dated February 14, 1995 recorded in Official Records Book 1099 Page 865 of the public records of St. Johns County, Florida over a pond located on the Owners property; and

**WHEREAS**, the Owners have requested that the County grant a Hold Harmless Agreement attached hereto as Exhibit "A", incorporated by reference and made a part hereof, from damages and expenses which may be incurred as a direct or indirect result of any environmental conditions, maintenance or access to the drainage pond as a result of the ponds interconnection to the outfall system; and

**WHEREAS**, to the extent that there are typographical, scrivener or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**, as follows:

1. The above Recitals are incorporated by reference into the body of this Resolution and adopted as findings of fact.
2. The Board of County Commissioners hereby approves the terms of the Hold Harmless Agreement and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County.
3. The Clerk of Court is instructed to file the Hold Harmless Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED this 20th day of October, 2009.

**BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA**

By: Cyndi Stevenson  
Cyndi Stevenson, Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Halterman  
Deputy Clerk

RENDITION DATE 10/22/09



Exhibit "A" to Resolution

**HOLD HARMLESS AGREEMENT**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between:

St. Johns County, Florida, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084 ("County"); and

Timothy C. Poffenbarger and Joanna Poffenbarger Flittler, whose address is 715 16<sup>th</sup> Street, St. Augustine, Florida 32080 ("Owners")

**Recitals**

WHEREAS, in 1995 the County constructed a regional stormwater drainage system, (the "System") along CR A1A "Old Beach Boulevard" and along 16<sup>th</sup> Street; and

WHEREAS, as part of the construction of the System, property owners, ("Owners"), granted St. Johns County a Drainage Easement, dated February 14, 1995 recorded in Official Records Book 1099 Page 865 of the public records of St. Johns County, Florida over a pond located on the Owners property, as further described in Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the Owners have requested that the County indemnify and hold the Owners harmless, to the extent permitted by Florida law, from damages and expenses which may be incurred as a direct or indirect result of any environmental conditions, maintenance or access to the drainage pond as a result of the ponds interconnection to the outfall system.

NOW, THEREFORE, based upon good and valuable consideration and mutual covenants of the parties, the receipt of which and sufficiency of which is hereby acknowledged, the Owners and the County agree as follows:

Section 1. Recitals. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

Section 2. Indemnification. To the extent permitted by Florida law, the County agrees to indemnify and hold the Owners free and unharmed from and against any, and all, third party claims, liability, losses and /or cause of action, which may arise as a result of the ponds interconnection to the outfall system.

Section 3. Covenant with Land. This Agreement shall touch and concern the land and shall be a covenant running with the fee interest underlying the Owners property whether in existence on the date hereto or constructed in the future.

Section 4. Severability. If any word, phrase, sentence, part, subsection, section or other portion of this Agreement , or any application thereof, to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion or the proscribed application thereof, shall be severable, and the remaining portion of this Agreement, and all applications thereof, not having been declared void, unconstitutional or invalid shall remain in full force and effect.

Section 5. Governing Law and Venue. This Agreement shall be constructed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

IN WITNESS WHEREOF, the County and the Owners have caused these presents to be executed on the day and year first written above.

Signed, sealed and delivered  
in our presence as Witnesses:

ST. JOHNS COUNTY, a political  
subdivision of the State Florida

(sign) \_\_\_\_\_  
(print) \_\_\_\_\_

By: \_\_\_\_\_  
Michael D. Wanchick  
County Administrator

(sign) \_\_\_\_\_  
(print) \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by Michael D. Wanchick as County Administrator of St. Johns County, Florida, a political subdivision of the State of Florida, on behalf of the County, who is personally known to me.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Signed, sealed and delivered  
in our presence as Witnesses:

(sign) \_\_\_\_\_  
(print) \_\_\_\_\_

\_\_\_\_\_  
Timothy C. Poffenbarger

(sign) \_\_\_\_\_  
(print) \_\_\_\_\_

\_\_\_\_\_  
Joanna Poffenbarger Flittler

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009 by Timothy C. Poffenbarger and Joanna Poffenbarger Flittler, who is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

DRAINAGE EASEMENT

Bill Co -  
Rec-13.00  
Sur-2.00  
Inlet-BCC Secty -  
Pat. Degraide

THIS GRANT OF EASEMENT is made as of February 14, 1995, by and between Garland Poffenbarger and Una Poffenbarger, his wife, whose address is 715 16th Street St. Augustine Beach, Florida 32084-5927, ("Grantors"); and THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, whose address is P. O. Box 349, St. Augustine, Florida, 32085-0349, Attn: County Administrator, ("Grantee").

W I T N E S S E T H :

Grantors, in consideration of a credit to be applied to the allowable percentage of the capital improvement portion of the annual stormwater drainage assessment for perpetuity, to be assessed against the herein described property, the receipt of which is hereby acknowledged, hereby grant to Grantee, its successors and assigns, a non-exclusive perpetual easement and right to construct, install, operate, maintain, repair and improve underground drainage pipes and a water surface control and outfall structure into and through the lake situate on the property owned by the Grantors more particularly described in Exhibit A, attached hereto, incorporated by reference and made a part hereof.

TOGETHER, with the right of said Grantee, its successors and assigns, of ingress and egress to and over said above described premises, and for doing anything necessary or useful or convenient, or removing at any time any and all of said improvements upon, over, under or in said lands together also with the right and easements, privileges, and appurtenances in and to said land which may be required for the enjoyment of the rights herein granted.

Grantors reserve for themselves and their successors and assigns the right to use the easement area for all purposes that do not interfere with the easement rights granted herein. By acceptance of this Drainage Easement Grantee agrees for itself and its successors and assigns to promptly restore the land to its condition existing prior to any construction, maintenance or repair by Grantee. Grantee further agrees to diligently complete any construction or maintenance activities so as to minimize the interference with Grantor's use of the easement area and adjacent property. Grantee's agree to raise the existing dock should the flow computations provided by the engineer for St. Augustine Beach indicate flood conditions based on a 25 year storm event would raise the water level above the dock.

Recorded in Public Records St. Johns County, FL  
Clerk # 95007024 O.R. 1099 PG 865 02:26PM 03-14-95  
Recording 13.00 Surcharge 2.00

IN WITNESS WHEREOF, the Grantors have duly executed this Agreement on the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTORS

(sign) Mary Ann Blount  
(print) Mary Ann Blount

Garland Poffenbarger  
Garland Poffenbarger

(sign) Stuart C. Craig  
(print) STUART CRAIG

Una Poffenbarger  
Una Poffenbarger

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

I am a notary public of the State of Florida, and my commission expires: Dec. 21, 1998.

THE FOREGOING INSTRUMENT was acknowledged before me on February 14, 1995, by Garland and Una Poffenbarger who are personally known to me or who has produced \_\_\_\_\_ as identification and did / did not take an oath.

Mary Ann Blount  
Notary Public, State of Florida

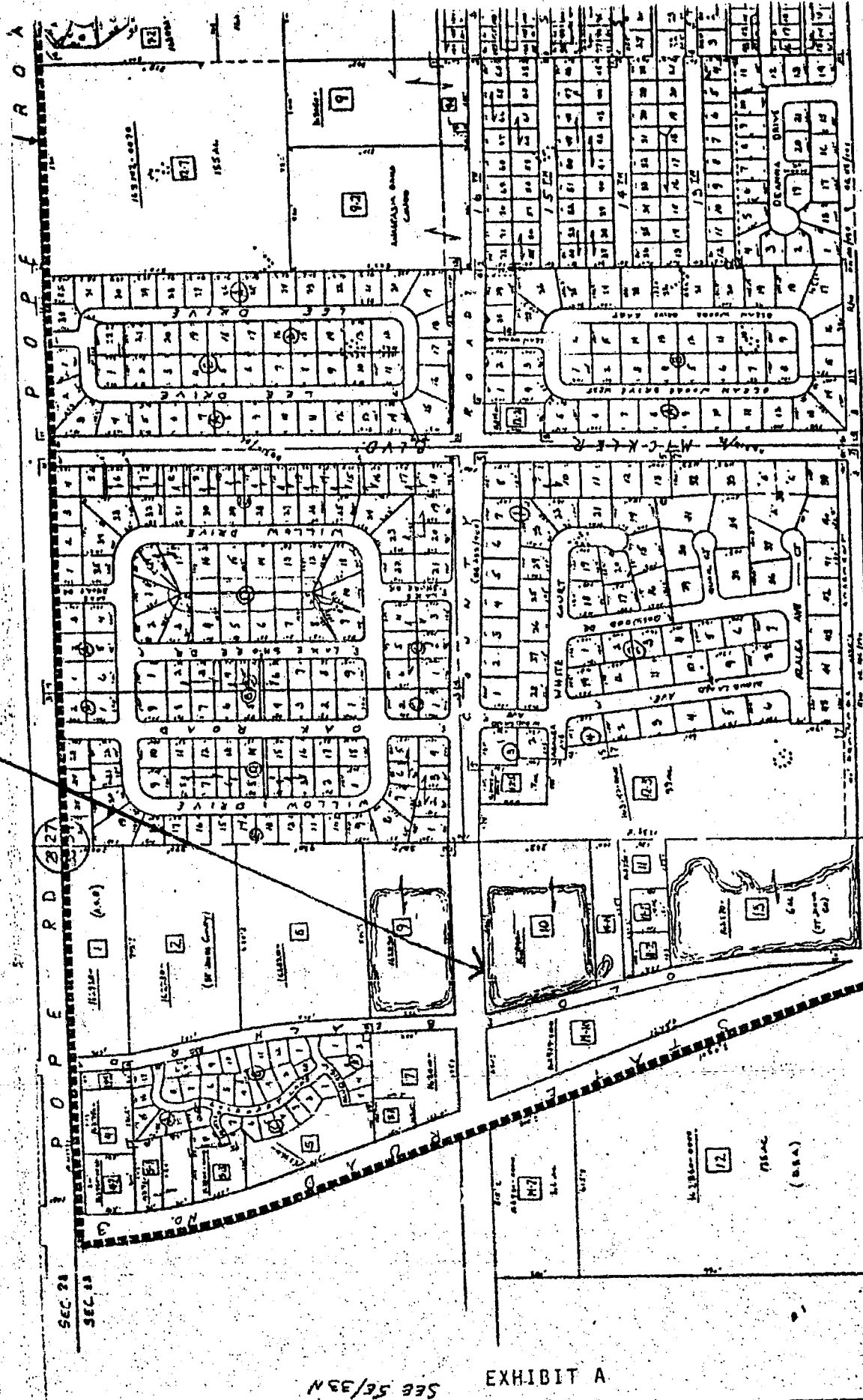
Seal



MARY ANN BLOUNT  
Notary Public, State of Florida  
My comm. expires Dec. 21, 1998  
Comm. No. CC 428448

Print Name: Mary Ann Blount

The North 412 feet of NE 1/4 of SE 1/4 lying East of the right-of-way of Old Beach Rd. and recorded in the Public Records of St. Johns County, Florida OR 474/289



543/25 335  
O. R. 1099 PG 0867

MEMO: Legibility of writing, typing or printing unsatisfactory in this document.

SEE 54/33N EXHIBIT A

SEC. 28  
SEC. 29  
SUB. (ANASTASIA PARA (S. J. ST. JOHN) (SEE 54/33N) SEABOAST BEACH LOT 174 1/2