

RESOLUTION NO. 2010- 139

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A FIRST AMENDED ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA (COUNTY) AND GRAHAM & COMPANY SOUTHEAST, LLC, (GRAHAM), AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AMENDED GRANT AGREEMENT ON BEHALF OF ST. JOHNS COUNTY.

RECITALS:

WHEREAS, St. Johns County, Florida (County), and Graham & Company Southeast, LLC (Graham) entered into an Economic Development Grant Agreement on February 8, 2007; and

WHEREAS, Graham, by electronic mail dated February 23, 2010, requested the first payout on their grant agreement and it was determined than an amendment to their agreement would be required; and

WHEREAS, Section 23 of the Economic Development Grant Agreement requires the County and Graham to enter into an Amendment in order to revise, replace, and/or amend any of the terms, conditions, provisions, or requirements of the Agreement; and

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

Section 1. The above Recitals are incorporated by reference into the body of this Resolution, and such Recitals are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions and requirements of the First Amended Economic Development Grant Agreement between St. Johns County and Graham & Company Southeast, LLC, and authorizes the County Administrator, or his designee, to execute the Amended Agreement on behalf of St. Johns County.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

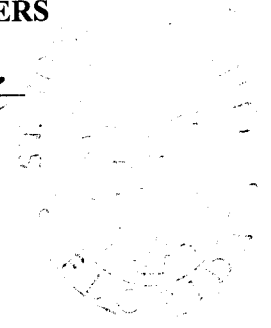
PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA this 20th day of July, 2010.

ATTEST:
Cheryl Strickland, Clerk

**ST. JOHNS COUNTY
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**
[Signature]
Chair

By: *[Signature]*
Deputy Clerk

RENDITION DATE 7/21/10



**FIRST AMENDED ECONOMIC DEVELOPMENT
GRANT AGREEMENT BETWEEN ST. JOHNS COUNTY,
FLORIDA, AND GRAHAM & COMPANY SOUTHEAST, LLC**

THIS FIRST AMENDMENT (“First Amendment”) to the **February 8, 2007, Economic Development Grant Agreement (“Agreement”)** between St. Johns County, Florida, and Graham & Company Southeast, LLC, is made and entered into on this _____ day of _____, 2010, by **St. Johns County (“County”)**, 500 San Sebastian View, St. Augustine, Florida 32084, and **Graham & Company Southeast, LLC (“Graham”)**, a Florida Limited Liability Company, located at 4500 Salisbury Road, Suite #180, Jacksonville, Florida 32216.

RECITALS:

WHEREAS, the **County** and **Graham** entered into the original **Agreement** (attached and incorporated herein) on **February 8, 2007**; and

WHEREAS, to the extent that there may have been some inconsistency with respect to the date of original Board approval of this **Agreement**, and subsequent execution by **Graham** and the **County Administrator**, the **Board of County Commissioners** accepts and ratifies the **County Administrator’s February 8, 2007**, execution of the **Agreement**, on behalf of the **County**; and

WHEREAS, by letter dated **February 23, 2010** (attached hereto, and incorporated herein), **Graham** requested that the **Agreement** be amended, in order to reflect a revised development/construction/completion timetable;

WHEREAS, Section 23 of the **Agreement** requires the **County**, and **Graham** to enter into an **Amendment**, in order to revise, replace, and/or amend any of the terms, conditions, provisions, or requirements of the **Agreement**; and

WHEREAS, it is in collective interests of both the **County**, and **Graham** to have this **First Amendment** executed by the **County**.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereby agree as follows:

Section 1. The above Recitals are hereby incorporated into the body of this **First Amendment**, and are adopted as Findings of Fact.

Section 2. Section 4 of the **Agreement** is amended, so that the existing language of Section 4 is replaced with the following:

Section 4. Duration of Agreement.

The duration of this **Agreement** runs from **February 8, 2007**, through and including **September 30, 2030**.

Section 3. Section 10 of the **Agreement** is amended, so that the existing language of Section 10 is replaced with the following:

Section 10. Amount Paid by Graham in Fees and/or Taxes Prior to Graham Submitting a Claim for Grant Payment.

Prior to the submission of any claim for Grant Payment by **Graham**, or issuance of any Grant Payment by the **County**, **Graham** will have paid to the **County**, an amount totaling **\$415,383.00 (four hundred fifteen thousand, three hundred eight-three dollars)**, in **County Impact Fees**. It is expressly understood that such **County Impact Fees** (which are associated with **Phase I of Graham's Project**) will have been paid prior to **Graham** applying for, and/or receiving a **County Grant Payment** in any eligible **County Fiscal Year**.

Prior to the submission of any claim for Grant Payment by **Graham**, or issuance of any Grant Payment by the **County**, **Graham** will have paid to the **County**, an amount totaling **\$66,880.00 (sixty-six thousand, eight hundred eighty dollars)**, in combined **County Water Unit Connection Fees, and County Sewer Unit Connection Fees**. It is expressly understood that such **County Water Unit Connection Fees and County Sewer Unit Connection Fees** (which are associated with **Phase I of Graham's Project**) will have been paid, prior to **Graham** applying for, and/or receiving a **County Grant Payment** in any eligible **County Fiscal Year**.

Prior to the submission of any claim for Grant Payment by **Graham**, or issuance of any Grant Payment by the **County**, **Graham** will have paid to the **County**, an amount totaling **\$29,275.00 (twenty nine thousand, two hundred seventy-five dollars)**, in **County Ad Valorem Taxes**. The amount referenced totals the general **County** portion of the **County Ad Valorem Taxes** paid by **Graham** in a single **County Fiscal Year**. Moreover, it is expressly understood that the above-referenced amount of **County Ad Valorem Taxes** (which are associated with **Phase I of Graham's Project**) will have been paid by **Graham** prior to **Graham** applying for, and/or receiving a **County Grant Payment** in any eligible **County Fiscal Year**.

Section 4. Section 13 of the **Agreement** is amended, so that the existing language of Section 13 is replaced with the following:

Section 13. Graham's Performance Conditions; Consequences of Non-Compliance.

In order to remain eligible for a Grant Payment, **Graham** must abide by, and comply with, the provisions set forth in this **Agreement**, and any applicable provisions of **County Ordinance 2006-99, as amended**, including any attached and incorporated Exhibits. Moreover, **Graham** must complete **Phase I of its Project, no later than May 31, 2010**. For purposes of this **Agreement**, **Phase I of Graham's Project** consists of a 202,860 square foot, 32-foot clear distribution facility.

Should the **Board** determine that **Graham** is in non-compliance with any of the performance conditions noted in this **Agreement**, then the **County Administrator**, on behalf of the **County**, shall promptly notify (and in any event, no later than thirty (30) days after the **Board** makes such a determination of non-compliance) **Graham** of such non-compliance. Thereafter, **Graham** will have an additional thirty (30) days in which to submit written information that documents **Graham's** compliance with the performance conditions noted in this **Agreement**, or documents that **Graham** has taken such corrective action necessary, in order to once again comply with the performance conditions noted in this **Agreement**. Should **Graham** remain in non-compliance thirty (30) days after notification from the **County Administrator**, then this **Agreement** may be terminated in the manner set forth elsewhere in this **Agreement**.

As for other Phases of **Graham's Project**, **Phase II** is scheduled to consist of another 203,000 square foot, 32-foot clear distribution facility.

Phase III of **Graham's Project** is scheduled to consist of a 68,000 square foot, 24-foot clear distribution facility.

In the event that either **Phase II** or **Phase III** of **Graham's Project** is completed, then **Graham** will have the ability to submit an application for a Grant Payment for an eligible **County Fiscal Year**. It is strictly understood that Grant Payments associated with **Phase II** and/or **Phase II** are not guaranteed, and are conditioned on compliance with the terms of this **Agreement**, and availability of funds.

Section 5. Section 19 of the **Agreement** is amended, so that the existing language of Section 19 is replaced with the following:

Section 19. Eligible County Fiscal Years Under this Agreement for Grant Payment Under Phase I of the Project.

For purposes of this **Agreement**, and for **Grant Payment under Phase I of the Project**, the following years represent the eligible **County Fiscal Years**: 1) 2010; 2) 2011; 3) 2012; 4) 2013; 5) 2014; 6) 2015; 7) 2016; 8) 2017; 9) 2018; and 10) 2019.

Section 6. Section 20 of the **Agreement** is amended, so that the existing language of Section 20 is replaced with the following:

If all the conditions set forth in this **Agreement**, and/or **County Ordinance 2006-99**, as amended are met by **Graham**, then **Graham** may receive a **County Grant Payment** in the amount of **\$29,275.00** (twenty nine thousand, two hundred seventy-five dollars) in each eligible **County Fiscal Year**.

In any given eligible **County Fiscal Year**, the amount of a **County Grant Payment** paid to **Graham** may be adjusted, in order to reflect an increase/decrease in property values.

Nevertheless, it is expressly noted that the total amount that **Graham** may receive in the form of one or more **County Grant Payment** shall not exceed **\$599,365.00** (five hundred ninety-nine thousand, three hundred sixty-five dollars), which amount represents the maximum incentive under **Phase I** of **Graham's Project**, unless the **Board** approves an amendment to the maximum incentive, or approves one or more **Grant Payments** associated with **Phase II** or **Phase III** of **Graham's Project**.

Section 7. If any word, phrase, sentence, part, subsection, section, or other portion of this **Amendment**, 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, or other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this **Amendment**, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force, and effect.

Section 8. Excepting the amendments and revisions noted in this **First Amendment**, in all other respects, the **Agreement** remains in full force, and effect. As for such amendments and revisions noted in this **Agreement**, such amendments and revisions have been incorporated into the **Agreement**, and shall have full force, and effect.

Section 9. The effective date for this **First Amendment** is _____, __, 2010.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

BY: _____
County Administrator

ATTEST: CHERYL STRICKLAND, CLERK

BY: _____
Deputy Clerk

LEGALLY SUFFICIENT

Deputy County Attorney

DATE: _____

WITNESSES AS TO:

GRAHAM & COMPANY SOUTHEAST, LLC

BY: _____

OR

CORPORATE SEAL

**ESTIMATES OF ECONOMIC DEVELOPMENT
GRANT CALCULATION
GRAHAM & COMPANY SOUTHEAST LLC**

Calculations based on County Ordinance 2006-99 and millage rates effective on October 1, 2005

PHASE 1

Category:	Speculative Space	Estimate (9/6/06)	Actual
POINTS AWARDED			
Size of Facility	4	Total square footage for 3 buildings = 497,432	1 Building = 202,860 sf
Use of Facility	<u>2</u>	Use is for Industrial/Warehouse	
Total Points	6		
Applicants that accumulate 5 points or higher are eligible for Expedited Permitting and an Economic Development Grant equal to 100% of fees (Impact Fees and Water/Sewer Unit Connection Fees) and four year's Ad Valorem Tax (general county portion) on capital improvements only.			

Total Value of Capital Improvements	17,450,000		per sjcpa 6,099,047
Multiplied by County Millage rate	<u>0.49300%</u>		<u>0.4800%</u>
Annual Ad Valorem Tax (general county portion)	86,029		29,275
Multiplied by # Eligible Years	<u>4</u>		<u>4</u>
Four year's Ad Valorem Tax	344,114		117,102
Total Square Footage	497,432		202,860
Impact Fee Category - Warehousing	(per 1,000 sq. ft.) <u>1,978</u>		
Impact Fee Estimate	983,920		actual 415,383
Water Unit Connection Fee	229,692		
Sewer Unit Connection Fee	<u>290,805</u>		
Total Unit Connection Fees Estimate	520,497		actual 66,880
Total Maximum Possible Incentive	1,848,531 *		* 599,365
* Total maximum possible incentive may be recalculated based on the actual fees paid.			
Payout will begin when capital improvements are recognized on the tax roll. Annual installments will not exceed the annual general county portion of the ad valorem tax and tangible personal property tax (if applicable) paid each year and are limited to a maximum of 10 years.			
Total Maximum Possible Incentive:	1,848,531		599,365
Annual Ad Valorem Tax (general county portion):	86,029		29,275
Payout will consist of 10 annual installments of (estimate):	86,029 *		* 29,275
Total Payout over 10 years (estimate):	860,290		292,750
* The annual payment is based on the general county portion of the ad valorem taxes paid each year which could fluctuate with increasing property values. The total payout will not exceed the total maximum possible incentive.			

as of 9.6.06

as of 01.21.10