

**RESOLUTION NO. 2010- 265**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A LICENSE TO USE/HOLD HARMLESS AGREEMENT FOR VILANO SPRINGS RESORT TO USE A TEN FOOT STRIP OF COUNTY RIGHT OF WAY FOR PEDESTRIAN ACCESS TO THE PROPOSED FOOD COURT WHICH WILL BE PART OF THE RESORT FROM VILANO ROAD AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.**

**WHEREAS,** Vilano Springs Resort, LLC, (hereinafter "Vilano Springs") has requested a License to Use/Hold Harmless Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for use of a ten foot strip of County right-of-way for pedestrian access to Vilano Springs Resort from Vilano Road; and

**WHEREAS,** this License will allow the public pedestrian access to the proposed Food Court which will be connected to the Resort on Vilano Road. The License to Use/Hold Harmless Agreement is one of the requirements to comply with the current Non DRC Site Plan application for the proposed Food Court. The proposed Food Court will be adjacent to the existing sidewalk in the right-of-way on Vilano Road; and

**WHEREAS,** approving the terms of the License, and executing said License will serve the overall interests of the County; and

**WHEREAS,** to the extent that there are typographical, 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:

Section 1. The above recitals are incorporated by reference into the body of this Resolution and such recitals are adopted as findings of fact.

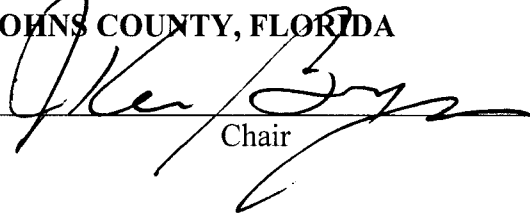
Section 2. The Board of County Commissioners hereby approves the terms of the License to Use/Hold Harmless Agreement and authorizes the County Administrator to execute said agreement on behalf of the County.

Section 3. The Clerk is instructed to record the License to Use/Hold Harmless Agreement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 7th day of December, 2010.

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

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

  
Chair

**ATTEST: Cheryl Strickland, Clerk**

By: Pam Halterman  
Deputy Clerk

RENDITION DATE 12/15/10



## Exhibit "A" to Resolution

### LICENSE TO USE/HOLD HARMLESS AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, 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

Vilano Springs Resorts, LLC, a Florida limited liability company, (property owner) and Sunrise 2010 Management, LLC, a Florida limited liability company, (property manager) whose address is c/o Growing Well Partners LLC 60 State Street Suite 700, Boston MA 02109 ("Vilano Springs") (Hereinafter collectively known as "Vilano Springs.")

#### Recitals

WHEREAS, Vilano Springs will install improvements utilizing ten feet of the right-of-way next to the existing sidewalk for pedestrian access to the Resort which is located adjacent to certain County right-of-way known as Vilano Road located in St. Johns County, Florida, ("County's Right-of-Way"); and

WHEREAS, the County has agreed to allow Vilano Springs to use the County's right-of-way only if Vilano Springs agrees to indemnify and hold the County harmless, to the extent permitted by Florida law, from damages and expenses which may be incurred as a direct or indirect result of such use of the County's right-of-way and certain other conditions.

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 County and Vilano Springs 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. Right-of-Way Utilization. Vilano Springs may use the County right-of-ways for pedestrian access.

Section 3. Indemnification. To the extent permitted by Florida law, Vilano Springs Resorts agrees to protect, defend, indemnify and hold the County, its tenants, elected officials, officers, employees and agents, free and unharmed from and against any, and all, third party (including employees of Vilano Springs Resorts and its contractors and subcontractors) claims, liability, losses and /or cause of action, which may arise from any negligent act or omission of the Vilano Springs Resorts staff, employees or agents (including court costs and reasonable attorneys' fees) associated with or connected with the use of the County's right-of-way by the pedestrian access.

Section 4. Covenant with Land. This Agreement shall touch and concern the land and shall be a covenant running with the fee interest underlying the County's Right-of-Way, whether in existence on the date hereto or constructed in the future.

Section 5. 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 6. 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.

Section 7. Procedure for Achieving Assignment. In light of the scope and rationale for this Agreement, neither the County, nor Vilano Springs may assign, transfer and/or sell any of the rights noted in this Agreement without the express written approval of the other party. Should either County or Vilano Springs, assign, transfer or sell any the rights of the Agreement without such prior express written approval of the other party, then such action on the part of either the County or Vilano Springs, shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 8. Amendments to Agreement. Both the County and Vilano Springs acknowledge that this Agreement constitutes the complete agreement and understating of both parties. Both the County and Vilano Springs acknowledge that any amendments to this Agreement shall be in writing and shall be executed by duly authorized representatives of both the County and Vilano Springs.

Section 10. Access to Records. The access to, disclosure, non-disclosure or exemption of records, data, documents and materials associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes).

IN WITNESS WHEREOF, the County and Vilano Springs 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 C. Wanchick  
County Administrator

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

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Michael C. 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 or has produced \_\_\_\_\_ as identification.

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

Signed, sealed and delivered  
in our presence as Witnesses:

Vilano Springs Resorts, LLC  
Sunrise 2010 Management, LLC

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

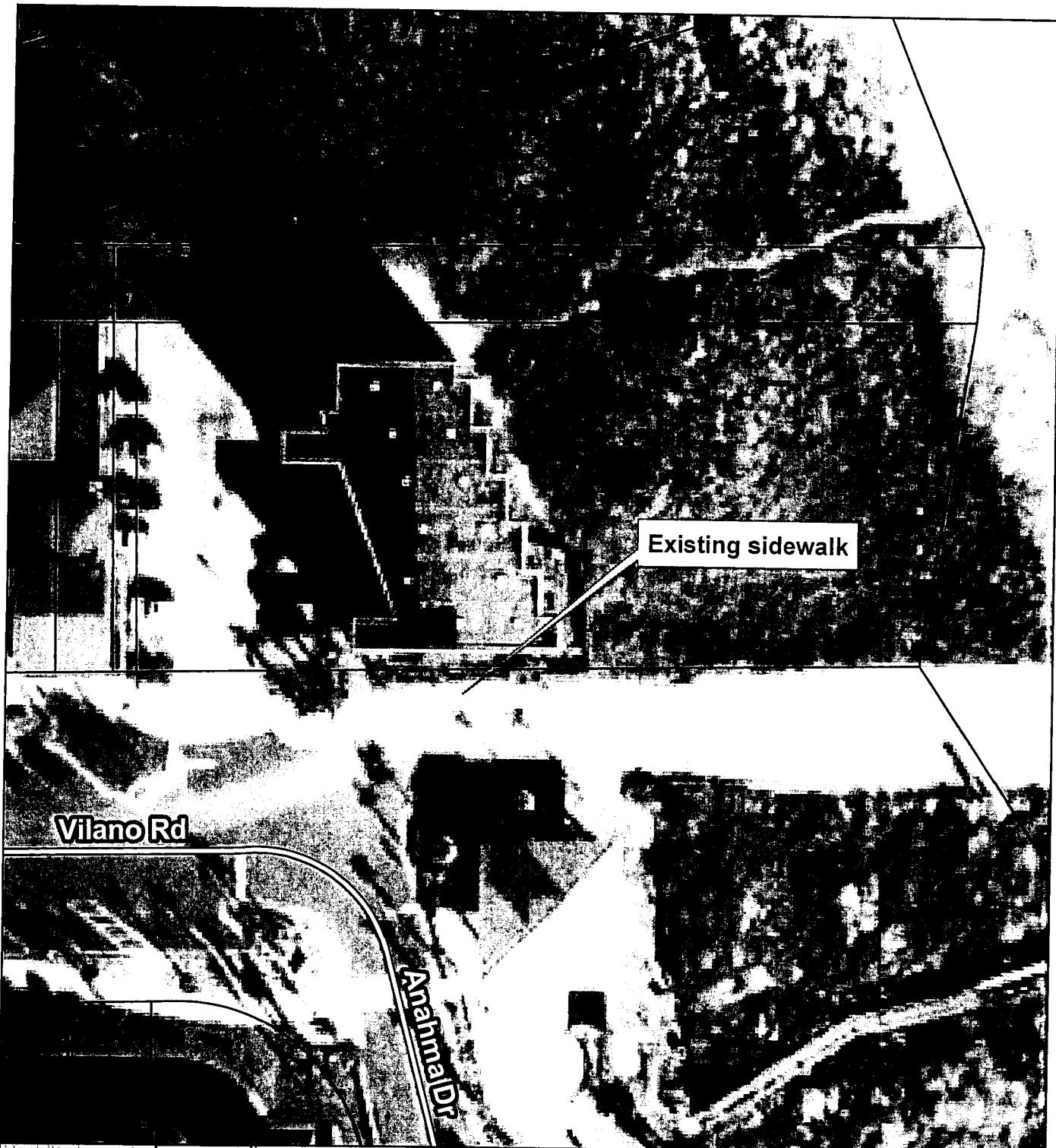
By: \_\_\_\_\_  
Its \_\_\_\_\_

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

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Rolando Rabines as \_\_\_\_\_ of Vilano Springs Resorts, LLC and Sunrise 2010 Mangement, LLC, on behalf of the companies, who is personally known to me or has produced \_\_\_\_\_ as identification.

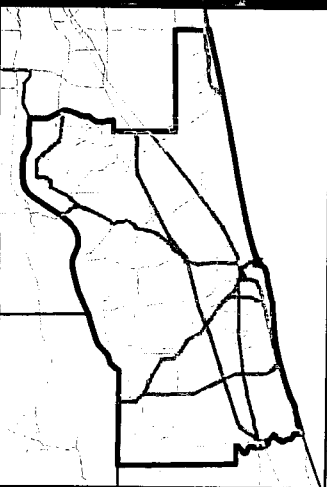
\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



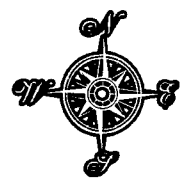
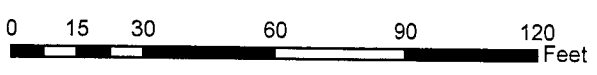
Existing sidewalk

Vilano Rd

Anahma Dr



### Vilano Springs Resort License to Use/Hold Harmless Agreement



St. Johns County  
Land Mgmt Systems  
Real Estate Division



Map Prepared:  
November 3, 2010  
(904) 209-0788

**DISCLAIMER.**  
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy.