

**RESOLUTION NO. 2012- 248**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE CHAIR, OR DESIGNEE, TO EXECUTE A SECOND INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY AND THE SAMPSON CREEK COMMUNITY DEVELOPMENT DISTRICT AND AN ACCESS AND MAINTENANCE EASEMENT FOR THE POND EXPANSION AREA RELATED TO THE CR 210/I-95 ROADWAY IMPROVEMENT PROJECT.**

**RECITALS**

**WHEREAS**, pursuant to Florida Statute 339.2819, on November 18, 2008, the Board passed Resolution No. 2008-326, approving the Transportation Regional Incentive Program (TRIP) Agreement between the State of Florida Department of Transportation (FDOT) and St. Johns County, wherein FDOT and the County would share the cost of the CR 210 at I-95 Roadway Improvement Project; and

**WHEREAS**, additional storm water retention is required related to the roadway improvement project and the St. Johns River Water Management District indicated a preference for the pond site at the entry to the St. Johns Golf & Country Club, owned by the Sampson Creek Community Development District (Sampson Creek CDD); and

**WHEREAS**, approval of Resolution 2009-341 on December 3, 2009 approved a first Interlocal Agreement between Sampson Creek CDD and the County in which the County agreed to pay certain preliminary costs regarding design of the pond expansion (attached as Exhibit "A" to the Second Interlocal Agreement); and

**WHEREAS**, the intention of the Second Interlocal Agreement between Sampson Creek CDD and the County specifies responsibility for funding, construction, and maintenance of pond pumping facilities and a one-time payment of \$10,000.00 to cover legal and Engineering review costs, attached hereto as Exhibit "A," incorporated by reference and made a part hereof; and

**WHEREAS**, this Capital Improvement Project shall be funded jointly with FDOT TRIP funds and St. Johns County 2006 Transportation Bond; and

**WHEREAS**, it is in the best interest of the County to approve the Second Interlocal Agreement and the Access and Maintenance Easement Agreement in order to move forward with the needed roadway improvement project.

**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 Second Interlocal Agreement and the Access and Maintenance Easement Agreement and authorizes the Chair, or designee, to execute same.

**Section 3.** To the extent that there are typographical and/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.

**Section 4.** The Clerk of Circuit Court is instructed to file the Second Interlocal Agreement in the Clerk's Office and record the original Access and Maintenance Easement Agreement in the Public Records of St. Johns County, Florida.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 18 day of September, 2012.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: 

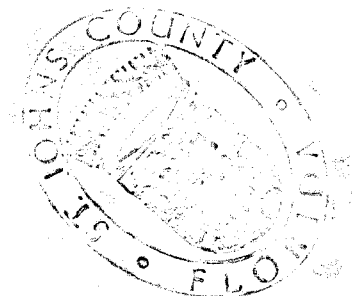
J. Ken Bryan, Chair

ATTEST: Cheryl Strickland, Clerk

By: 

Deputy Clerk

RENDITION DATE 9/20/12



**EXHIBIT "A"**

to the Resolution

**SECOND INTERLOCAL AGREEMENT BETWEEN SAMPSON CREEK  
COMMUNITY DEVELOPMENT DISTRICT AND ST. JOHNS COUNTY**

**THIS SECOND INTERLOCAL AGREEMENT** ("Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between ST. JOHNS COUNTY, a political subdivision of the State of Florida ("County"), and SAMPSON CREEK COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government ("District" and together with the County, the "Parties").

**WITNESSETH:**

**WHEREAS**, it is the purpose and intent of this Agreement to permit and authorize the County and the District to make the most efficient use of their respective powers, resources, authority and capabilities by enabling them to cooperate on the basis of mutual advantage and to achieve the results provided for in this Agreement pursuant to section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969 ("Cooperation Act"); and

**WHEREAS**, it is the purpose of the Cooperation Act to provide a means by which the County and the District may exercise their respective powers, privileges, and authority which they may have separately, but which pursuant to this Agreement and the Cooperation Act they may exercise collectively; and

**WHEREAS**, the District was created pursuant to Chapter 190, Florida Statutes ("Act"), for the purpose of delivering certain community development services and facilities within and outside the boundaries of the District; and

**WHEREAS**, all of the lands contained within the boundaries of the District are located entirely within the boundaries of the County; and

**WHEREAS**, pursuant to its authority under the Act, the District constructed or acquired various infrastructure improvements including the stormwater pond and entrance improvements located at the intersection of County Road 210 and Leo Maguire Parkway ("Pond"); and

**WHEREAS**, the Parties entered into that certain First Interlocal Agreement dated December 16, 2009 as approved by Resolution 2009-341, attached hereto as Exhibit "A," incorporated by reference and made a part hereof ("First Interlocal"); and

**WHEREAS**, pursuant to the First Interlocal, the Parties recognized that the County was to expand County Road 210 which would result in the County's need to expand the portion of County Road 210 adjacent to the Pond and the County requested the District to allow it to expand the Pond ("Pond Expansion"); and

**WHEREAS**, the Parties in the First Interlocal, and again in this Agreement, acknowledge that the Pond Expansion is for the County's sole benefit in order to provide the

the additional drainage capacity necessary for the County's County Road 210 Improvement Project ("Roadway Project"); and

**WHEREAS**, the First Interlocal provided for "Preliminary Work", as therein defined, which Preliminary Work has now been substantially completed; and

**WHEREAS**, it is the intent of this Agreement to provide the specificity with regard to the party responsible for funding, installation, operation, powering, and maintenance of the new and existing stormwater pumping facilities and other work associated with the Pond Expansion and Roadway Project; and

**WHEREAS**, the County's plans related to the Pond Expansion call for replacement of the District's existing drawdown pump and installation of two new stormwater pumps; and

**WHEREAS**, for purposes of maintenance related to the Pond Expansion and Pond, and as further described and limited herein, the District will execute a perpetual non-exclusive easement ("Easement"), over the property, attached hereto as Exhibit "B," incorporated by reference and made a part hereof.

**NOW, THEREFORE**, in consideration of the District agreeing to provide the Easement to facilitate the Pond Expansion and Roadway Project, and other good and valuable consideration as provided for herein, the Parties hereto now desire to enter into this Agreement and submit to the following terms:

**Section 1.** Incorporation of Recitals. The recitals stated above are true and correct and by this reference are incorporated as a material part of this Agreement, and said recitals are adopted as findings of fact.

**Section 2.** Pond Expansion Related Responsibilities. The following terms define the respective responsibilities of the Parties:

- a. The County shall be responsible for all costs and fees associated with the Pond Expansion, including plans, construction, appurtenant drainage improvements and costs and fees, professional and otherwise, relative to the attainment of necessary permits. The County shall be responsible for maintenance and repairs related to the three (3) new pumps consisting of periodic inspections and on-going maintenance, including the cost of electricity used to power these pumps. The District shall be in no way responsible for any of the costs, fees or related expenses of maintenance, repair or utility costs associated with such pumps.
- b. The County shall be required to return the Pond and surrounding area, including but not limited to the landscaping, hardscape and irrigation, to its previous or better condition.

The County shall provide the District a complete final plan set for review and approval, which approval shall not be unreasonably withheld. The District shall have 30 days from its receipt of the complete final plan set to provide its written comments or approval. The District's failure to provide written comments or approval within the 30-day timeframe shall be deemed an approval by the District. Following the District's approval, the plans shall be deemed final and referred to as the "Approved Plans." There shall not be any subsequent material changes made to the Approved Plans without the District's prior written consent, which consent shall not be unreasonably withheld. Should an unforeseen issue become apparent during the construction process which involves the District's land and requires a material change or deviation from the Approved Plans, the County shall coordinate with the District's Board, or Designee, for approval, and the District shall respond within seven (7) days, or be deemed an approval by the District.

- c. The County and District agree that the County shall provide a one time, lump sum payment of \$10,000.00 to the District to cover the anticipated legal and engineering fees for costs associated with the Pond Expansion. The County shall expedite said payment upon full execution of this Agreement.
- d. The District shall be responsible for maintenance of existing pumping systems, irrigation, landscaping, and related costs that were maintained by the District prior to execution of this Agreement.

**Section 3. Care of District Property.** The County shall use all due care to ensure its contractors, subcontractors and other individuals or entities providing work to the County for Pond Expansion or the Roadway Project protect the property of the District, its residents and landowners from damage. The County agrees to repair, or have repaired, any damage caused by the County, or its contractors, subcontractors or other individuals or entities providing work to the County related to such projects within a reasonable period of time and at the sole expense of the County.

**Section 4. Florida Power and Light Company Service.** In connection with the work contemplated for the Pond Expansion and Roadway Project, Florida Power and Light Company (FPL) shall provide service within the existing right-of-way and the County shall be responsible for service to the pond pump structure. The County agrees to: 1) ensure that any electric utility facilities installed shall be installed underground; and 2) ensure that, after any work is completed the District's property is returned to its original condition or better.

**Section 5. Insurance.** The County shall, at its own expense, maintain the following insurance: workers's compensation, general liability (including bodily injury, property damage, error and omissions) \$1,000,000 per occurrence/\$3,000,000 aggregate, and auto liability \$1,000,000 per occurrence.

The County shall provide the District with a certificate evidencing compliance with the above terms and naming the District and its supervisors, employees, agents and staff as additional insured. The District's name, address and point of contact for such certificate is: Sampson Creek Community Development District, 475 West Town Place, Suite 114, World Golf Village, St. Augustine, Florida 32092, c/o Jim Oliver, District Manager. The County shall provide the District with thirty (30) days notice of cancellation. At no time shall the County be without insurance in the above amounts.

**Section 6. Governing Law and Venue.** This Agreement shall be construed 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. Amendments to Agreement.** The District and St. Johns County, each political subdivisions of the State of Florida, acknowledge that this Agreement constitutes the complete agreement and understanding of both Parties. Both Parties acknowledge that any amendments to the Agreement shall be in writing, and approved by the appropriate legislative body of each entity.

**Section 8. Access to Records.** The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Florida Statutes, Chapter 119), and other applicable State or Federal law. Access to such public records may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**Section 9. Limitation on Governmental Liability.** Nothing in this Agreement shall be deemed a waiver of immunity limits of liability of the County or of the District beyond any statutory limited waiver of immunity or limits of liability contained in Florida Statute Section 768.28, as amended or other statute. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim that would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

No covenant, stipulation, obligation or agreement contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member of the governing body or agent or employee of the County or the District in its, his or their individual capacity, and neither the members of the governing body of the County or the District nor any official executing this Agreement shall be liable personally or shall be subject to any accountability for reason of the execution by the County or the District of this Agreement or any related act.

**Section 10. Enforcement.** A default by either party under this Agreement shall entitle the other party to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance.

**Section 11. Recovery of Costs and Fees.** In the event either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall

be entitled to recover from the other party all costs incurred, including reasonable attorneys' fees.

**Section 12. Notices.** All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the Parties, as follows:

If to the County:	St. Johns County Engineering Division 2740 Industry Center Road St. Augustine, Florida 32084
With a Copy to:	St. Johns County Office of County Attorney 500 San Sebastian View St. Augustine, Florida 32084 Attn: Patrick McCormack, Esq., County Attorney
If to the District:	Sampson Creek Community Development District 475 West Town Place, Suite 111 St. Augustine, Florida 32092 Attn: District Manager
With a Copy to:	Hopping, Green & Sams, P.A. 119 S. Monroe Street, Suite 300 Tallahassee, Florida 32301 Attn: Wesley S. Haber, Esq.

**Section 13. Filing.** After approval of this Agreement by the respective governing bodies of the County and the District, and its execution by the duly qualified and authorized officers of each of the Parties, the District shall cause this Agreement to be filed with the Clerk of the Circuit Court of St. Johns County, Florida, in accordance with the requirements of section 163.01(11), Florida Statutes.

**Section 14. Severability.** If any part of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable part shall be deemed severable and the remaining parts of this Agreement shall continue in full force and effect provided that the rights and obligations of the Parties are not materially prejudiced and the intentions of the Parties can continue to be effected.

**Section 15. Entire Agreement.** This instrument, and all the attached exhibits, constitutes the entire agreement between the Parties and supersedes all previous discussions, understandings, and agreements between the Parties relating to the subject matter of this Agreement, unless and except to the extent provided herein, including the First Interlocal.

IN WITNESS WHEREOF, the County and the District have each caused this Agreement to be executed and delivered as of the date indicated above.

ATTEST: Cheryl Strickland, Clerk

Board of County Commissioners,  
St. Johns County, Florida

\_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
J. Ken Bryan, Chair

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, who is personally known to me, and who as the \_\_\_\_\_ of St. Johns County, is authorized to act on its behalf.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

ATTEST:

The Sampson Creek Community  
Development District

\_\_\_\_\_  
Secretary, Board of Supervisors

By: \_\_\_\_\_  
As authorized Representative

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, who is personally known to me, and who as the \_\_\_\_\_ of the Sampson Creek Community Development District, is authorized to act on its behalf.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_



**EXHIBIT A**

to the Second Interlocal Agreement

Res 09-341

FILED

**INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY AND THE SAMPSON CREEK COMMUNITY DEVELOPMENT DISTRICT**

CLERK OF ST. JOHNS COUNTY  
ST. JOHNS COUNTY COMMISSION

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into this 16 day of December 2009, by and between ST. JOHNS COUNTY, a political subdivision of the State of Florida ("County") and SAMPSON CREEK COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government ("District").

**WITNESSETH:**

WHEREAS, it is the purpose and intent of this Agreement to permit and authorize the County and the District to make the most efficient use of their respective powers, resources, authority and capabilities by enabling them to cooperate on the basis of mutual advantage and to achieve the results provided for in this Agreement pursuant to Section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969 ("Cooperation Act"); and

WHEREAS, it is the purpose of the Cooperation Act to provide a means by which the County and the District may exercise their respective powers, privileges, and authority which they may have separately, but which pursuant to this Agreement and the Cooperation Act they may exercise collectively; and

WHEREAS, the District was created pursuant to Chapter 190, Florida Statutes ("Act"), for the purpose of delivering certain community development services and facilities within and outside the boundaries of the District; and

WHEREAS, all of the lands contained within the boundaries of the District are located entirely within the boundaries of the County; and

WHEREAS, pursuant to its authority under the Act, the District constructed various infrastructure improvements including the stormwater pond and entrance improvements located at the intersection of County Road 210 and Leo Maguire Parkway (the "Pond"); and

WHEREAS, the County is moving forward with its project to expand County Road 210 from the intersection at I-95 west past the intersection of Leo Maguire Parkway (the "County's Project"), which will result in the County needing to expand that portion of County Road 210 that is adjacent to the Pond; and

WHEREAS, the County has requested that the District allow for the expansion of the Pond for the purpose of providing drainage capacity that will be required for the Project (the "Pond Expansion"); and

WHEREAS, at the District's September 23, 2009 Board of Supervisors meeting, the Board conceptually approved the Pond Expansion and authorized District Staff, including, but not limited to, District Counsel, District Manager, Operations Manager and District Engineer, to begin the due diligence necessary to research the technical aspects of the Pond Expansion and to negotiate an interlocal agreement between the County and the District detailing each parties' obligations related to the Pond Expansion (the "Preliminary Work"); and

WHEREAS, the County acknowledges that the Pond Expansion is for the County's sole benefit in order to provide the additional drainage capacity necessary for the County's Project; and

WHEREAS, the County recognizes that the Preliminary Work is necessary for the District to be able to make a final determination whether it will agree to move forward with the Pond Expansion and enter into an agreement with the County regarding the Pond Expansion and, as set forth in more detail in Section 8 of this Agreement, agrees to reimburse District for the costs of the Preliminary Work in an amount not to exceed \$15,000.00; and

WHEREAS, the parties hereto now desire to enter into this Agreement to confirm the County's obligation to reimburse for the costs of the Preliminary Work as set forth in more detail herein.

NOW, THEREFORE, in consideration of the mutual promises and other consideration contained herein, the parties hereto agree as follows:

Section 1. Incorporation of Recitals. The recitals stated above are true and correct and by this reference are incorporated by reference as a material part of this Agreement, and said Recitals are adopted as Findings of Fact.

Section 2. Governing Law and Venue. This Agreement shall be construed 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 3. Duration of Agreement. The duration of this Agreement runs from December 15, 2009, through and until 11:59 pm on June 15, 2010.

Section 4. Extension of Agreement. Either the County or the District may request, in writing, an extension of this Agreement. If the extension request is acceptable to the other party, then such party shall approve the extension request, in writing. Both the extension request, and approval of the extension request, shall indicate the same timeframe/duration of the extension of this Agreement.

**Section 5. Procedure for Achieving Assignment; Effect of Not Following Procedure.** In light of the scope and rationale for this Agreement, neither the County, nor the District may assign, transfer, and/or sell any of the rights noted in this Agreement, or associated with this Agreement, without the express written approval of the other party. Should either the County, or the District, assign, transfer, and/or sell any of the rights of this Agreement, without such prior written approval of the other party, then such action on the part of either the County, or the District, shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

**Section 6. Amendments to this Agreement.** Both the County and District acknowledge that this Agreement constitutes the complete agreement and understanding of the parties.

Further, both the County and the District acknowledge that any change, amendment, modification, revision, or extension of this Agreement (other than termination, as noted elsewhere in this Agreement) shall be in writing, and shall be executed by duly authorized representatives of both the County, and the District.

**Section 7. Termination.** This Agreement may be terminated without cause upon either the County, or the District providing at least sixty (60) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the County or the District intends to terminate this Agreement sixty (60) days from the date of notification (unless a date greater than sixty (60) days is specified). Consistent with other provisions of this Agreement, the District shall be compensated for any services and/or expenses that are both authorized under this Agreement and that are performed and/or accrue up to the termination of this Agreement.

**Section 8. Preliminary Work.** In consideration for the District agreeing to undertake the Preliminary Work, the County hereby agrees that it shall reimburse the District for the costs of the Preliminary Work. The County and District agree that it is anticipated that the costs of the Preliminary Work shall not exceed \$15,000.00 (the "Estimated Costs"). As long as the actual total costs of the Preliminary Work do not exceed the Estimated Costs, the County agrees to reimburse the District for such costs as set forth herein without the need of further approval from the County. As the District receives invoices from its staff relating to the Preliminary Work, the District shall submit Preliminary Work Invoices to the County, which shall include copies of the District staff invoices. The County agrees to pay to the District the amount of each Preliminary Work Invoice within thirty (30) days of receipt of the invoice. Should it be necessary for the District to incur costs for the Preliminary Work that exceed the Estimated Costs, the District shall obtain written approval from the County prior to incurring such costs. The County shall provide the District written approval within five days of its receipt of a written request for approval from the District. The County acknowledges that its obligation to reimburse the District for the costs of the Preliminary Work is not contingent on the parties successfully entering into a subsequent interlocal agreement regarding the Pond Expansion and that should the parties fail to enter into such an agreement, the County shall still remain responsible to reimburse the costs of the Preliminary Work.

Section 9. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each which shall be an original and all of which shall constitute but one and the same instrument.

Section 10. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

Section 11. Limitation on Governmental Liability. Nothing in this Agreement shall be deemed a waiver of immunity limits of liability of the County or the District beyond any statutory limited waiver of immunity or limits of liability contained in Section 768.28, Florida Statutes, as amended, or other statute. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

No covenant, stipulation, obligation or agreement contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member of the governing body or agent or employee of the County or the District in its, his or their individual capacity, and neither the members of the governing body of the County or the District nor any official executing this Agreement shall be liable personally or shall be subject to any accountability for reason of the execution by the County or the District of this Agreement or any related act.

Section 12. Notices. All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows.

If to the County:	St. Johns County Engineering Division 2740 Industry Center Road St. Augustine, Florida 32084 Attention: Andrew J. Ames, P.E.
With a Copy to:	Michael D. Hunt, Deputy County Attorney St. Johns County 500 San Sebastian View St. Augustine, Florida 32084
If to the District:	Sampson Creek Community Development District 475 West Town Place, Suite 111 St. Augustine, Florida 32092 Attention: District Manager

With a Copy to:

Hopping, Green & Sams, P.A.  
119 S. Monroe Street, Suite 300  
Tallahassee, FL 32301  
Attn: Wesley S. Haber

**Section 13. Filing.** After approval of this Agreement by the respective governing bodies of the County and the District, and its execution by the duly qualified and authorized officers of each of the parties, the District shall cause this Agreement to be filed with the Clerk of the Circuit Court of St. Johns County, Florida, in accordance with the requirements of Section 163.01(11), Florida Statutes.

**Section 14. Severability.** If any part of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable part shall be deemed severable and the remaining parts of this Agreement shall continue in full force and effect provided that the rights and obligations of the parties are not materially prejudiced and the intentions of the parties can continue to be effected.

**Section 15. Entire Agreement.** This instrument and all the attached exhibits and schedules constitute the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the County and the District have each caused this Agreement to be executed and delivered as of the date indicated above:

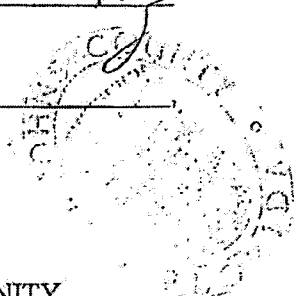
ATTEST: Cheryl Strickland, Clerk

Deputy Jam Halteman  
Clerk of the Board of County  
Commissioners of St. Johns  
County, Florida  
(SEAL)

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

Ron Sanchez  
Ron Sanchez, Chair

Date: 12/3/09



ATTEST:

J. Solim  
Secretary, Board of Supervisors

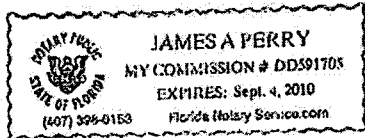
SAMPSON CREEK COMMUNITY  
DEVELOPMENT DISTRICT

Rose S. Bock  
Chairman, Board of Supervisors

STATE OF FLORIDA )  
COUNTY OF St Johns )

The foregoing instrument was acknowledged before me this 16 day of December 2009, by ROSE BOCK as the Chairman of the Board of Supervisors for the Sampson Creek Community Development District, and who has acknowledged that he executed the same on behalf of the Community Development District and that he was authorized to do so. She is personally known to me or has produced \_\_\_\_\_ as identification.

In witness whereof, I have hereunto set my hand and official seal.



James A. Perry  
Notary Public, State of Florida

Printed Name \_\_\_\_\_

**EXHIBIT B**

to the Second Interlocal Agreement  
Prepared By and Return To:

Wesley Haber, Esquire  
Hopping Green & Sams, P.A.  
119 South Monroe Street, Suite 300  
Tallahassee, Florida 32301

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**ACCESS AND MAINTENANCE EASEMENT AGREEMENT**

**THIS ACCESS AND MAINTENANCE EASEMENT AGREEMENT** ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2012 by **SAMPSON CREEK COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes ("**Grantor**"), and **ST. JOHNS COUNTY**, a political subdivision of the State of Florida ("**Grantee**") (Grantor and Grantee are sometimes together referred to herein as the "**Parties**", and separately as the "**Party**").

**WITNESSETH:**

**WHEREAS**, Grantor is the owner in fee simple of certain real property located in St. Johns County, Florida, lying within the boundaries of the Sampson Creek Community Development District (the "**Development**"), including that certain parcel of land lying within the Development being more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "**Easement Area**"); and

**WHEREAS**, the Easement Area contains a pond and related improvements which is an entrance feature into the Development of which it forms a part of and that also serves as a stormwater pond and associated pumping facilities (collectively, the "**Improvements**"); and

**WHEREAS**, Grantee has requested the Grantor grant a nonexclusive easement over the Easement Area for the construction, installation, operation, use, powering, maintenance, replacement and repair of the Improvements within the Easement Area and the Grantor is agreeable to granting such an easement on the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of Ten and No/100 Dollars (\$10.00) in hand paid by the Grantee to Grantor, the mutual covenants and agreements herein set forth and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the Parties, the Parties do hereby agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Creation of Perpetual Easement.** Grantor hereby grants to Grantee, its successors and/or assigns, a perpetual, non-exclusive easement (the "**Easement**") on, upon, over, under, across and through the Easement Area for the purpose of ingress, egress and access to and for the construction, installation, operation, use, powering, maintenance, replacement and repair of the Improvements. Grantee shall use all due care to protect the Easement Area and adjoining property of residents and other landowners from damage resulting from Grantee's use of the Easement.

3. **Maintenance.** Grantee's responsibilities, at Grantee's expense, shall be as more particularly detailed in that certain Second Interlocal Agreement between the Sampson Creek Community Development District and St. Johns County, dated \_\_\_\_\_, which responsibilities shall include maintenance, repair and replacement of three new pumps, as well as the costs of electricity, their own professional fees, etc, related to construction, installation, operation, use, powering, maintenance, replacement and repair of the same ("**Interlocal Agreement**").

4. **Damage.**

(a) In the event that Grantee, its respective employees, agents, assignees, or contractors (or their subcontractors, employees or materialmen) cause damage to the Easement Area or any of the improvements located within the Easement Area or causes damage to Grantor's other property or any improvements located thereon, in the exercise of the easement rights granted herein, Grantee, at Grantee's sole cost and expense, agrees to commence and diligently pursue the restoration of the same and the improvements so damaged to as nearly as practical to the original condition and grade, including, without limitation, repair and replacement of any landscaping, hardscaping, plantings, ground cover, roadways, driveways, sidewalks, parking areas, fences, walks, utility lines, stormwater facilities, pumping facilities, pumps and other structures, within thirty (30) days after receiving written notice of the occurrence of any such damage, and Grantee shall allow no lien to attach to the Easement Area or any improvements located on said property or Grantor's other property arising out of work performed by, for, or on behalf of Grantee.

(b) In the event that Grantor, its respective employees, agents or contractors, cause damage to the Improvements located within the Easement Area, Grantor, at Grantor's sole cost and expense, agrees to commence and diligently pursue the restoration of the improvements so damaged to as nearly as practical to the original condition, within thirty (30) days after receiving written notice of the occurrence of any such damage, and Grantor shall allow no lien to attach to the Easement Area or any improvements located thereon arising out of work performed by, for, or on behalf of Grantor.

5. **Insurance.** Grantee and/or any contractors performing work for Grantee on the Easement Area shall at all times maintain general public liability insurance to afford protection against any and all claims for personal injury, death or property damage arising directly or indirectly out of the exercise of the rights and privileges granted. Said insurance shall be issued by solvent, reputable insurance companies authorized to do business in the State of Florida, in a combined-single limit of not less than \$1,000,000.00 with respect to bodily injury or death and



property damage. Said insurance shall also be primary, and not contributory, as to any insurance coverage maintained by Grantor.

6. **Indemnity.**

(a) To the extent permissible by law, Grantor agrees to indemnify and hold the Grantee harmless from and against any and all claims, suits, judgments, demands, costs and expenses, including attorney's fees of any kind or nature whatsoever related to this Agreement arising out of or caused by any act or omission of Grantor, its agents, employees, consultants, representatives, and contractors (including their subcontractors, employees, and materialmen).

(b) To the extent permissible by law, Grantee agrees to indemnify and hold Grantor harmless from and against any and all claims, suits, judgments, demands, costs and expenses, including attorney's fees of any kind or nature whatsoever related to this Agreement arising directly out of or caused by any act or omission of Grantee, its agents, employees, consultants, representatives, and contractors (and their subcontractors, employees and materialman).

(c) Nothing in this Agreement shall constitute or be construed as a waiver of Grantee's or Grantor's sovereign immunity beyond the limitations set forth in section 768.28, Florida Statutes, and other applicable law.

7. **Liens.** Grantee shall not permit (and shall promptly satisfy or bond) any construction, mechanic's lien or encumbrance against the Easement Area in connection with the exercise of its rights hereunder.

8. **Obligations of Grantee.** Any rights granted hereunder shall be exercised by Grantee only in accordance and compliance with any and all applicable laws, ordinances, rules, regulations, permits and approvals, and any future modifications or amendments thereto, as well as pursuant to that certain Interlocal Agreement. Grantee shall not discharge into or within the Easement Area any hazardous or toxic materials or substances, any pollutants, or any other substances or materials prohibited or regulated under any federal, state or local law, ordinance, rule, regulation or permit, except in accordance with such laws, ordinances, rules, regulations and permits.

9. **Beneficiaries of Easement Rights.** The Easement set forth in this Agreement shall be for the benefit and use of Grantee and its successors, permitted assigns, agents, employees, consultants, representatives, contractors (and their subcontractors, employees and materialmen), guests and invitees and shall be binding upon the Easement Area and shall be a covenant running with the title to the Easement Area. The Easement hereby created and granted includes the creation of all incidental rights reasonably necessary for the use and enjoyment of the Easement Area for its intended purpose as expressly set forth and limited herein, including, specifically, the right of entry on, over, upon and through the Easement Area for purposes of construction, installation, operation, use, powering, maintenance, replacement and repair within the Easement Area of any improvements now or hereafter located therein, subject to the limitations set forth herein and the Interlocal Agreement.

10. **Termination.** If the Easement shall be abandoned by Grantee or terminated in any manner, all rights and privileges hereunder shall cease and the Easement privileges and rights herein granted shall revert to Grantor.

11. **Amendments and Waivers.** This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the Parties and recorded in the public records of St. Johns County, Florida. No delay or omission of any Party in the exercise of any right accruing upon any default of any Party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any Party of a breach of, or a default in, any of the terms and conditions of this Agreement by any other Party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

12. **Notices.** Any notice, demand, consent, authorization, request, approval, or other communication that any party is required, or may desire, to give to or make upon the other party pursuant to this Easement Agreement shall be effective and valid only if in writing, signed by the party giving notice and delivered personally to the other parties or sent by express 24-hour guaranteed courier or delivery service or by certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other party as follows (or to such other place as any party may by notice to the others specify):

To District: Sampson Creek Community Development District  
475 West Town Place, Suite 114  
St. Augustine, FL 32092  
Attn: Jim Oliver, District Manager

With a copy to: Hopping Green & Sams, P.A.  
119 S. Monroe Street, Suite 300  
Tallahassee, FL 32301  
Attn: Wesley Haber, Esq.

To County: St. Johns County Engineering Division  
2740 Industry Center Road  
St. Augustine, Florida 32084

With a Copy to: St. Johns County Office of County Attorney  
500 San Sebastian View  
St. Augustine, Florida 32084  
Attn: Patrick McCormack, Esq., County Attorney

Notice shall be deemed given when received, except that if delivery is not accepted, notice shall be deemed given on the date of such non-acceptance. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving notice would otherwise expire on a non-business day, the notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for

the District and counsel(s) for County may deliver Notice on behalf of the District and County, respectively.

13. **Use of Easement Area.** It is acknowledged and agreed to by the Parties that the Easement granted under this Agreement is not an exclusive easement and that Grantor shall have the right to use and enjoy the Easement Area in any manner not inconsistent with the easement rights created herein.

14. **Enforcement of Agreement.** In the event that the District or County seek to enforce this Easement Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.

15. **Effective Date.** The Effective Date of this Agreement shall be the last day that Grantor and Grantee have executed this Agreement.

16. **Public Records.** All documents of any kind provided in connection with this Agreement are public records and are treated as such in accordance with Florida law.

17. **Authorization.** By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Agreement, that the respective Parties have complied with all the requirements of law, and they have full power and authority to comply with the terms and provisions of this instrument.

18. **Third Parties.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, corporation, or entity other than the Parties any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement. The Grantor shall be solely responsible for enforcing its rights under this Agreement against any interfering third party. Nothing contained in this Agreement shall limit or impair the Grantor's right to protect its rights from interference by a third party.

19. **Assignment.** Neither of the Parties hereto may assign, transfer, or license all or any portion of its rights under this Agreement without the written consent of the other Party. Any purported assignment, transfer, or license by one of the Parties absent the written consent of the other Party shall be void and unenforceable.

20. **Controlling Law and Venue.** This Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida. The Parties agree and consent to venue in St. Johns County, Florida, for the resolution of any dispute, whether brought in or out of court, arising out of this Agreement.

21. **Severability.** The invalidity or unenforceability of any one or more provisions or part of a provision of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement or any part of this Agreement not held to be invalid or unenforceable.

22. **Binding Effect.** This Agreement and all of the provisions, representations, covenants, and conditions contained herein shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, transferees, and/or licensees.

**[SIGNATURES CONTAINED ON THE FOLLOWING PAGES]**

IN WITNESS WHEREOF, Grantor and Grantee caused this Agreement to be executed as of the day and year first written above.

WITNESSES:

“GRANTOR”

Signed, sealed and delivered  
In the presence of:

**Sampson Creek Community  
Development District**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Chairperson/Vice Chairperson

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by the Chairperson/Vice Chairperson of the Sampson Creek Community Development District, on behalf of District. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

{Notary Seal}

**"GRANTEE"**

Signed, sealed and delivered  
In the presence of:

**St. Johns County, Florida**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing was sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_,  
2012, by \_\_\_\_\_, as \_\_\_\_\_ of St. Johns County,  
Florida. He/She is personally known to me or has produced  
\_\_\_\_\_ as identification.

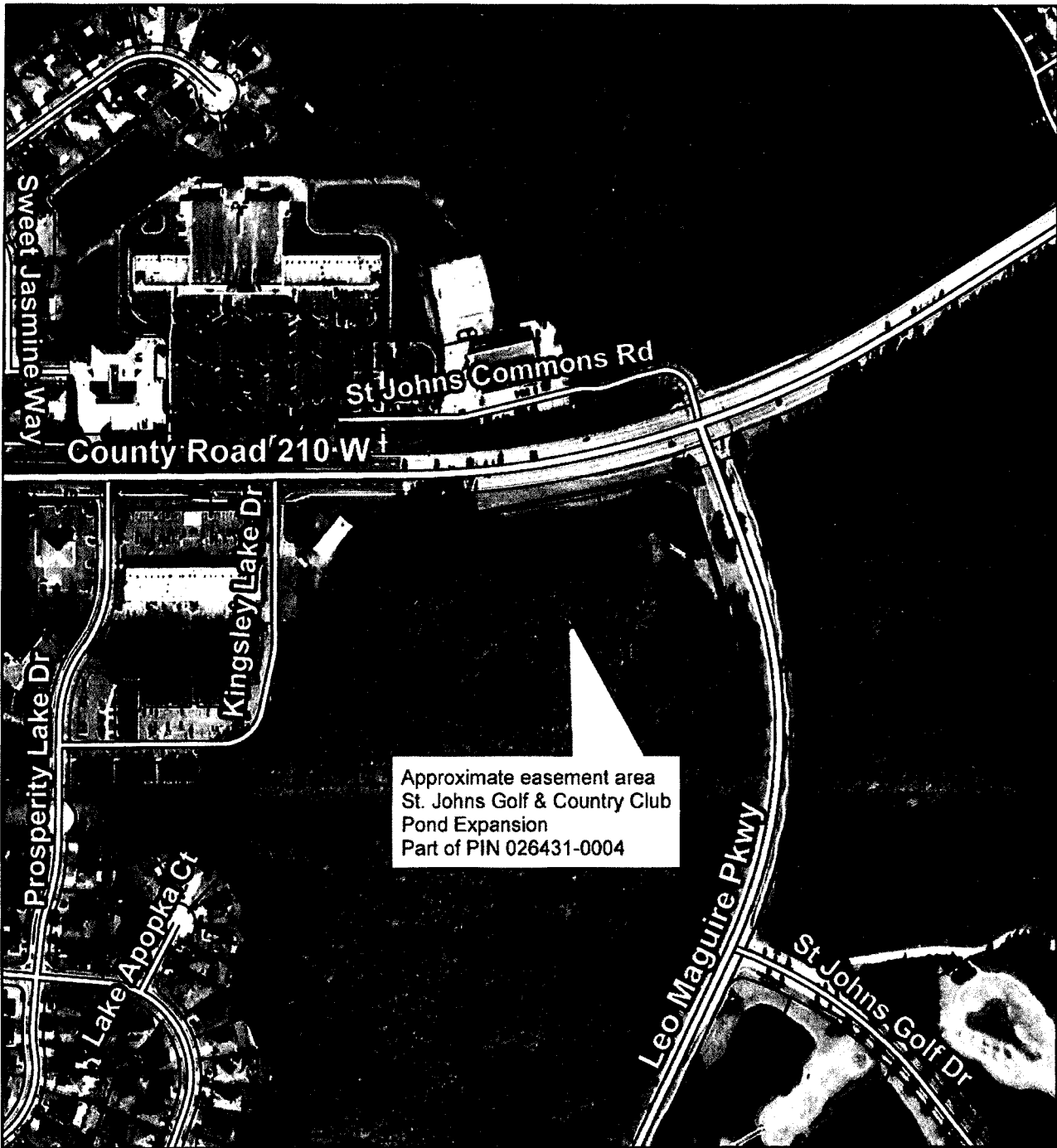
\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Typed name of Notary Public)  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

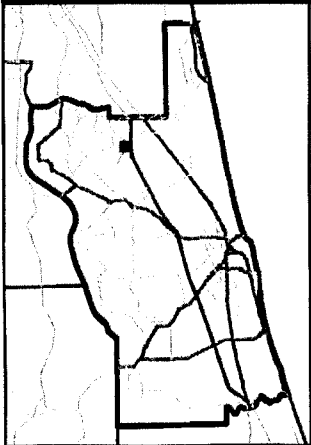
**EXHIBIT "A"**

**EASEMENT AREA**

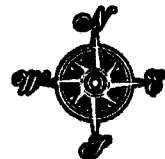
THAT PORTION OF TRACT "P" OF ST. JOHNS GOLF & COUNTRY CLUB UNIT ONE AS RECORDED IN MAP BOOK 40, PAGES 39 THROUGH 71 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA LYING NORTHERLY AND EASTERLY OF THE NORTHERLY AND EASTERLY LINE OF CONSERVATION EASEMENT NO. 1 AS RECORDED IN OFFICIAL RECORDS 2582 PAGE 1912 OF SAID PUBLIC RECORDS. TOGETHER WITH TRACT "S-1" OF SAID ST. JOHNS GOLF & COUNTRY CLUB UNIT ONE AND TOGETHER WITH A PARCEL DESCRIBED AS "0.597 ACRE CONSERVATION EASEMENT RELEASE PARCEL" AS RECORDED IN OFFICIAL RECORDS 3444 PAGE 631 OF SAID PUBLIC RECORDS.



Approximate easement area  
 St. Johns Golf & Country Club  
 Pond Expansion  
 Part of PIN 026431-0004



**Phase II - CR 210/I-95  
 Roadway Improvement Project  
 Easement for Pond Site Expansion**



**2010 Aerial Imagery**

St. Johns County  
 Land Mgmt Systems  
 Real Estate Division



Map Prepared:  
 June 6, 2012  
 (904) 209-0786

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