

RESOLUTION NO. 2013- 266

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF A MAINTENANCE AGREEMENT BETWEEN THE SAWGRASS RESORT AND ST JOHNS COUNTY FOR THE SAWGRASS RESORT WATERWAYS AND CHANNELS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Sawgrass owns and operates an oceanfront resort style, private country club, featuring a 27-hole championship golf course, which attracts residents, guests and tourists from around the world to the County; and

**WHEREAS**, the golf course is situated near the Guana Tolomato Matanzas National Estuarine Research Reserve, and shares interrelated channels and waterways with the Guana Basin; and

**WHEREAS**, as part of the Guana Basin Master Plan, the County, from time to time harvests nuisance aquatic vegetation to increase flow to the waterways and channels, and to reduce the occurrence of flooding in residential neighborhoods within the Guana Basin; and

**WHEREAS**, since such harvesting has taken place, increased levels of sediment deposits have been detected in the golf course waterways and channels, thereby reducing flow; and

**WHEREAS**, neither the County nor Sawgrass is able to determine whether harvesting the nuisance aquatic vegetation, caused or contributed to the increased sediment levels, however both parties seek to cooperatively work to ameliorate the condition; and

**WHEREAS**, undertaking such work serves the interests of local citizens and visitors of the County.

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

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

**Section 2.** The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the attached Maintenance Agreement between Sawgrass Resort, and St. Johns County, Florida, and authorizes the County Administrator, or designee, to execute the Agreement, on behalf of the County.

**Section 3.** The Board of County Commissioners authorizes the County Administrator, or designee, to execute any other paperwork associated with, or necessary to accomplish, the overall goal set forth in the Agreement.

**Section 4.** 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 of the Board of County Commissioners.

**Section 5.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 3<sup>rd</sup> day of December, 2013.

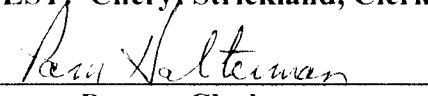
**BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA**

BY: \_\_\_\_\_

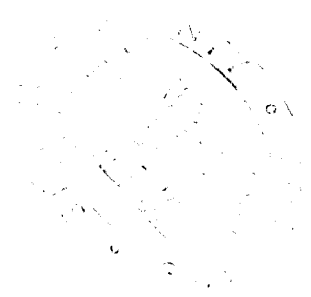
  
**John H. Morris, Chair**

**ATTEST:** Cheryl Strickland, Clerk

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

  
**Deputy Clerk**

**RENDITION DATE** 12/5/13



THIS **MAINTENANCE AGREEMENT** for sediment removal (“Agreement”) made on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, shall be the complete and binding agreement by and between St. Johns County (“County”), a political subdivision of the State of Florida, with mailing address 500 San Sebastian View, St. Augustine, Florida, 32084, and Sawgrass Country Club, Inc. (“Sawgrass”), a non-profit corporation authorized to operate in the State of Florida, with mailing address 10034 Golf Club Drive, Ponte Vedra, Florida, 32082.

### **RECITALS**

**WHEREAS**, Sawgrass owns and operates an oceanfront resort style, private country club, featuring a 27-hole championship golf course, which attracts residents, guests and tourists from around the world to the County; and

**WHEREAS**, the golf course is situated near the Guana Tolomato Matanzas National Estuarine Research Reserve, and shares interrelated channels and waterways with the Guana Basin; and

**WHEREAS**, as part of the Guana Basin Master Plan, the County, from time to time harvests nuisance aquatic vegetation to increase flow to the waterways and channels, and to reduce the occurrence of flooding in residential neighborhoods within the Guana Basin; and

**WHEREAS**, since such harvesting has taken place, increased levels of sediment deposits have been detected in the golf course waterways and channels, thereby reducing flow; and

**WHEREAS**, neither the County nor Sawgrass is able to determine whether harvesting the nuisance aquatic vegetation, caused or contributed to the increased sediment levels, however both parties seek to cooperatively work to ameliorate the condition; and

**WHEREAS**, undertaking such work serves the interests of local citizens and visitors of the County.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and promises herein contained, the sufficiency of which is acknowledged, the County and Sawgrass agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are true and correct and are hereby incorporated into the body of this Agreement by reference.

2. **Term and Extension.** The term of this Agreement shall begin on October 1, 2013 (“Effective Date”), and shall continue through and until September 30, 2033 (“Expiration Date”). Either the County or Sawgrass may request, in writing, an extension of this Agreement. If the extension request is acceptable to the other party, then an authorized representative of such party shall approve the extension in writing. It is expressly understood that the County is under no obligation to extend this Agreement beyond the Expiration Date.

3. **Termination.** Either party hereto may terminate this Agreement without cause by providing the other party at least ninety (90) days prior notice of such intent to terminate this Agreement. If the County terminates this Agreement prior to September 30, 2018, it will make a termination payment to Sawgrass equal to \$150,000 less any amounts paid prior to the termination date.

4. **Duties and Responsibilities.**

a. **The County**, subject to an annual appropriation of funds by the Board of County Commissioners will:

- i. Pay to Sawgrass thirty thousand dollars (\$30,000) each County Fiscal Year, beginning on the first day of County Fiscal Year 2014 and ending on the first day of County Fiscal Year 2023.
- ii. Thereafter, the County will pay to Sawgrass fifteen thousand dollars (\$15,000) each County Fiscal Year, beginning on the first day of County Fiscal Year 2024 and ending on the first day of County Fiscal Year 2033. Acceptance of the final payment by Sawgrass shall constitute a release of all claims against the County arising from, or by reason of, this Agreement.
- iii. Beginning in County Fiscal Year 2019, the amount due will escalate via the Consumer Price Index for all Urban Consumers Not Seasonally Adjusted Annual amount for Urban South.

b. **Sawgrass** will:

- i. Use all funds from the payments by the County described herein solely for the purpose of removing the increased sediment deposits detected in the golf course channels and waterways. It is recognized that Sawgrass may be spending money prior to the actual payment from the County.
- ii. Comply with all applicable local, state and federal laws, rules, regulations, orders and policies in conducting the removal of sediment deposits in the golf course channels and waterways.
- iii. At its sole expense and to the extent required, secure and maintain any licenses, permits and/or approvals necessary to conduct removal of sediment deposits in the golf course channels and waterways.

5. **Indemnity.** Sawgrass shall indemnify, defend and hold the County harmless from and against all claims and reasonable costs associated with Sawgrass' performance under this Agreement.
6. **Access to Records.** The access to, disclosure, non-disclosure or exemption of records associated with the 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.
7. **Review of Records.** As a condition of entering into this Agreement, and to ensure compliance as it relates to any applicable law, rule or regulation, Sawgrass authorizes the County to examine, review, inspect and/or audit all records associated with this Agreement. It is specifically noted that Sawgrass is under no duty to provide review of records not related to this Agreement, and is otherwise protected by local, state or federal law.
8. **Relationship of County and Sawgrass.** This Agreement shall not be deemed or construed to create any agency relationship, partnership (limited or otherwise), association or joint venture between the County and Sawgrass.
9. **No third Party Beneficiaries.** Both the County and Sawgrass explicitly agree, and this Agreement explicitly provides that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.
10. **Severability.** If any provision of this Agreement or application thereof is declared void, unconstitutional or invalid for any reason, then such provision shall be severable and the remaining provisions of this Agreement shall remain in full force and effect.
11. **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.
12. **Assignment.** In light of the scope and rationale for this Agreement, neither the County nor Sawgrass may assign, transfer and/or sell any of the rights noted herein, without the express prior written approval of the other party. Assignment, transfer and/or sale of the rights noted herein without the express prior written consent of the other party shall constitute cause for termination of this Agreement.

13. **Amendment.** Both the County and Sawgrass acknowledge that this Agreement constitutes the complete agreement and understanding of the parties. Any change, amendment, modification, revision or extension of this Agreement shall be in writing and shall be executed by duly authorized representatives of each party.
14. **Notices.** All official notices to the County shall be delivered either by hand (receipt of delivery required), or by first class mail to:

St. Johns County Engineering Division  
2740 Industry Center Road  
St. Augustine, FL 32084  
Attn: Press Tompkins, P.E., County Engineer

With a copy to:

Patrick McCormack, County Attorney  
500 San Sebastian View  
Saint Augustine, Florida 32084

All official notices to Sawgrass shall be delivered either by hand (receipt of delivery required), or by first class mail to:

Sawgrass Country Club, Inc.  
10034 Golf Club Drive  
Ponte Vedra, Florida, 32082  
Attention: General Manager

All other correspondence, not classified as official notice, may be delivered, disseminated or submitted by any means acceptable to both parties.

15. **Authority to Execute.** Each party covenants to the other party that it has lawful authority to enter into this Agreement, and consents to the execution of this Agreement by the party's authorized representative.
16. **Execution on Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

St. Johns County

Sawgrass

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