

RESOLUTION NO. 2008- 143

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 CYPRESS LAKES PROPERTY OWNERS ASSOCIATION, INC. AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, the rights-of-way in the plat of Cypress Lakes Subdivision Phase 1 were dedicated to St. Johns County ("County"); and

WHEREAS, the Property Owners Association of Cypress Lakes, Inc., a Florida non-profit corporation ("HOA") have requested permission to install and maintain certain landscape related improvements within the certain County rights-of-way; and

WHEREAS, the County has agreed to allow the HOA to install and maintain the improvements within the right-of-way and the HOA has executed a Hold Harmless Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to indemnify and hold the County harmless from damages and expenses which may be incurred as a direct or indirect result of such installation, maintenance or construction of the improvements.

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 as findings of fact.

Section 2. The Board of County Commissioners of St. Johns County hereby approves the terms of the Hold Harmless Agreement and authorizes the County Administrator to execute said Agreement.

Section 3. The Clerk is instructed to record the original Hold Harmless Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED this 27th day of May, 2008.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: [Signature]
Thomas G. Manuel, Chairman

ATTEST: Cheryl Strickland, Clerk
[Signature]
Deputy Clerk

RENDITION DATE 5/29/08

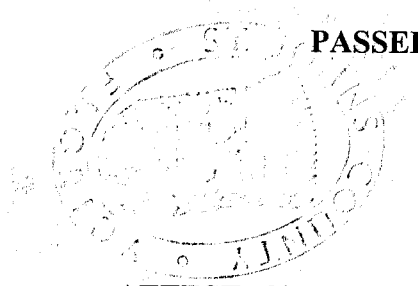


Exhibit "A" to Resolution

HOLD HARMLESS AGREEMENT

This Agreement is made and entered into this 23rd day of April, 2008, by and between:

St. Johns County, Florida, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32095 ("County"); and

Property Owners Association of Cypress Lakes, Inc., a Florida non-profit corporation, whose address is 4832 Innisbrook S. Elkton, Florida 32033 ("Cypress Lakes")

Recitals

WHEREAS, Cypress Lakes intends to install and maintain certain landscaping and related improvements which are required to be located within a portion of lands which have been dedicated to the County as right-of-way within the plat of Cypress Lakes, Phase 1, as recorded in Map Book 22, pages 1 through 5, of the public records of St. Johns County, Florida, being more particularly described as a portion of the north side of Golf Ridge Drive at its intersection with Cypress Links Boulevard, a portion of the north and south side of Legends Lane at its intersection with Cypress Links Boulevard and a portion of the north and south side of Matanzas Woods Place at its intersection with Cypress Links Boulevard, all shown on map attached hereto as Exhibit "A" incorporated by reference and made a part hereof ("County's Right-of-Way"); and

WHEREAS, the improvements which are and may be installed within the County's Right-of-Way include landscaping and other related improvements (collectively the "Right-of-Way Improvements"); and

WHEREAS, upon completion of the installation of the Right-of-Way Improvements, Cypress Lakes shall have the responsibility for their maintenance, repair and replacement; and

WHEREAS, the County has agreed to allow the Right-of-Way Improvements to be installed, constructed or maintained within the County's Right-of-Way only if Cypress Lakes 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 installation, maintenance or construction of the Right-of-Way Improvements 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 Cypress Lakes 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. Cypress Lakes may place, construct and/or maintain or cause to be placed, constructed and/or maintained the Right-of-Way Improvements in the Right-of-Way under the terms and conditions contained herein. The cost of maintenance, repair or replacement of any Right-of-Way Improvements shall be paid by Cypress Lakes. It is expressly stipulated that this permission is to be considered an agreement for permissive use only and that the placing of the landscaping and other related improvements upon public property pursuant to this permit shall not operate to create or vest any property rights to said Cypress Lakes. Moreover, whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, the alteration or relocation of all, or any portion of said County owned right-of-way, road or highway, as solely determined by St. Johns County, any or all of said landscaping and other related improvements and appurtenances authorized herein under shall be immediately removed from said road, highway and rights-of-ways for reset or relocation thereon as required by St. Johns County, and at the expense of Cypress Lakes.

Section 3. Indemnification. To the extent permitted by Florida law, Cypress Lakes agrees to protect, defend, indemnify and hold the County, its tenants, officials, officers, employees and agents, free and unharmed from and against any, and all, third party (including employees of Cypress Lakes and its contractors and subcontractors) claims, liability, losses and /or cause of action, which may arise from any negligent act or omission of Cypress Lakes' 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 Cypress Lakes, and its contractors, including ingress and egress thereto.

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. Sovereign Immunity. The County agrees that nothing in this Agreement shall constitute or be considered as a waiver of Cypress Lakes' limitation or liability contained in Section 768.28 Florida Statutes, or obligate Cypress Lakes to hold the County harmless in excess of that permitted by Florida law.

Section 6. 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 7. 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 8. Procedure for Achieving Assignment. In light of the scope and rationale for this Agreement, neither the County, nor Cypress Lakes 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 Cypress Lakes, 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 Cypress Lakes, shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 9. Amendments to Agreement. Both the County and Cypress Lakes acknowledge that this Agreement constitutes the complete agreement and understanding of both parties. Both the County and Cypress Lakes acknowledge that any amendments to this Agreement shall be in writing and shall be executed by duly authorized representatives of both the County and the Cypress Lakes.

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 Cypress Lakes have caused these presents to be executed on the day and year first written above.

Signed, sealed and delivered
in our presence as Witnesses:

(sign) _____
(print) _____

(sign) _____
(print) _____

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

By: _____
Michael D. Wanchick,
County Administrator

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, 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 or has produced _____ as identification.

Notary Public
My Commission Expires: _____

Signed, sealed and delivered
in our presence as Witnesses:

PROPERTY OWNERS
ASSOCIATION OF CYPRESS
LAKES, INC., a Florida non-
profit corporation

(sign) Cecilia Alderich
(print) CECILIA ALDERICH

By: Gerry Lord
Gerry Lord
Its: President

(sign) Laurie Ford
(print) Laurie Ford

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 23rd day of April, 2008, by Gerry Lord as President of Property Owners Association of Cypress Lakes, Inc., a Florida non-profit corporation, on behalf of the corporation. Who is personally known to me or has produced FL. Owners Inc. as identification.

Laurie Ford
Notary Public
My Commission Expires: 4-17-2012

