

## MINUTES OF MEETING

*Each person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.*

### SOUTHAVEN COMMUNITY DEVELOPMENT DISTRICT

The **regular** meeting of the Board of Supervisors of Southaven Community Development District was held on **Wednesday, September 17, 2014 at 1:30 p.m.** at the Marshall Creek CDD Recreation Center located at 625 Palencia Club Drive, St. Augustine, FL. 32095.

Present and constituting a quorum:

Walter O'Shea	<b>Board Supervisor, Chairman</b>
Lane Gardner	<b>Board Supervisor, Vice Chairman</b>
Naomi Lumley	<b>Board Supervisor, Assistant Secretary</b>
Dan Jones	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Melissa Dobbins	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Katie Buchanan	<b>District Counsel, Hopping Green &amp; Sams</b>
Kim Shine	<b>Hines</b>
Preston Doub	<b>District Engineer, England-Thims &amp; Miller</b>

#### **FIRST ORDER OF BUSINESS**

#### **Call to Order**

Ms. Dobbins called the meeting to order at 1:41 p.m. and read roll call.

#### **SECOND ORDER OF BUSINESS**

#### **Audience Comments on Agenda Items**

There were no comments on agenda items.

#### **THIRD ORDER OF BUSINESS**

#### **Consideration of the Minutes of the Board of Supervisors' Regular Meeting held August 20, 2014**

On a motion by Mr. Gardner, seconded by Mr. Jones, with all in favor, the Board approved the minutes of the Board of Supervisors' regular meeting held August 20, 2014 for Southaven Community Development District.

**FOURTH ORDER OF BUSINESS**

**Staff Reports**

- A. District Counsel  
Ms. Buchanan presented a non-exclusive construction and maintenance agreement (Exhibit "A").

After discussion, the Board of Supervisors approved the agreement in substantial form and authorized the Chairman to approve in final form.

On a motion by Mr. Jones, seconded by Mr. Gardner, with all in favor, the Board approved the agreement in substantial form and authorized the Chairman to approve in final form for Southaven Community Development District.

- B. District Engineer  
Mr. Doub updated the Board of Supervisors that they are moving everything forward to start the request for construction bids.
- C. District Manager  
Ms. Dobbins noted that the Tax Collector was contacted to draft an agreement with Southaven CDD to have in place when the District is ready to collect via the tax roll.

**FIFTH ORDER OF BUSINESS**

**Consideration of Audit Committee Recommendation**

The Audit Committee met prior to the onset of this meeting and reviewed proposals received for auditing services. After tabulation, the Committee recommends awarding the contract for auditing services to Grau & Associates.

On a motion by Mr. O'Shea, seconded by Mr. Jones, with all in favor, the Board accepted the audit committee recommendation and awarded the contract for auditing services to Grau & Associates for Southaven Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2014-34, Setting the Date, Time and Location of the Regular Meetings**

After discussion, the Board of Supervisors amended Exhibit "A" to change the October 7<sup>th</sup> meeting to October 22<sup>nd</sup> and authorized the Chairman to confirm with District Staff if an October meeting is necessary.

On a motion by Mr. O'Shea, seconded by Mr. Gardner, with all in favor, the Board amended Exhibit "A" to change the October 7<sup>th</sup> meeting to October 22<sup>nd</sup> and authorized the Chairman to confirm with District Staff if an October meeting is necessary for Southaven Community

Development District.

**SEVENTH ORDER OF BUSINESS**

**Audience Comments and  
Supervisor Requests**


There were no audience comments.

There were no supervisor comments.

**EIGHTH ORDER OF BUSINESS**

**Adjournment**

On a motion by Mr. Gardner, seconded by Mr. Jones, with all in favor, the Board adjourned the Board of Supervisors' Meeting at 2:01 p.m. at for Southaven Community Development District.

  
\_\_\_\_\_  
Secretary/Assistant Secretary

  
\_\_\_\_\_  
Chairman/Vice Chairman

# Exhibit “A”

This space reserved for use by the  
Clerk of the Circuit Court

This instrument was prepared by  
and upon recording should be returned to:

Katie S. Buchanan, Esq.  
HOPPING GREEN & SAMS, P.A.  
119 South Monroe Street, Suite 300 (32301)  
Post Office Box 6526  
Tallahassee, Florida 32314

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**NON-EXCLUSIVE CONSTRUCTION AND MAINTENANCE AGREEMENT**

**THIS NON-EXCLUSIVE CONSTRUCTION AND MAINTENANCE AGREEMENT** (“**Agreement**”) is made and entered into this \_\_\_ day of \_\_\_\_\_ 2014, by and between:

**Southaven Land Associates, LLC**, a foreign limited liability company and a landowner in the District (hereinafter “**Landowner**”) with an address of 605 Palencia Club Drive, St. Augustine, Florida 32095; and

**Southaven Community Development District**, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, and located in St. Johns County, Florida (hereinafter “**District**,” and together with Landowner referred to herein as the “**Parties**,” and each separately as a “**Party**”).

**WITNESSETH:**

**WHEREAS**, the Southaven Community Development District (the “**District**”) was established pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “**Act**”) and is validly existing under the Constitution and laws of the State of Florida; and

**WHEREAS**, the Act authorizes the District to plan, finance, construct, operate and/or maintain public improvements and community facilities for lands within the District; and

**WHEREAS**, the District has adopted its Improvement Plan dated August 20, 2014 (the “**Improvement Plan**”), which report is incorporated by reference herein, for the planning, design, acquisition, construction, and installation of various infrastructure improvements and facilities within the boundaries of the District (the “**Improvements**”); and

**WHEREAS**, Landowner is the owner in fee simple of certain real property located in St. Johns County, Florida lying within the boundaries of the District, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference, upon which the

Improvements are being constructed, as well as the lands adjacent thereto which are reasonably necessary for construction access to the Improvements (collectively, the “**Easement Area**”); and

**WHEREAS**, the District has requested that Landowner grant to the District a non-exclusive easement over the Easement Area for the construction and installation of the Improvements, and Landowner is agreeable to granting such an easement on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration and the mutual covenants of the Parties, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and by this reference are incorporated as a material part of this Easement Agreement.

2. **Grant of Easement.** Landowner hereby grants to the District a non-exclusive easement over, upon, under, through, and across the Easement Area for ingress and egress and the construction and installation of the Improvements (the “**Easement**”). Landowner agrees to convey, or cause to be conveyed, to the District at no cost, by quit claim deed or special warranty deed in the District’s discretion, the lands upon which the Improvements are or will be constructed, together with a permanent access easement over the lands adjacent thereto as necessary for maintenance access to the Improvements (the “**District Lands**”), or to provide such other property interest as the parties may agree upon. Landowner warrants and affirms its intent and ability to convey, or cause to be conveyed, the District Lands (or other interest therein as may be acceptable to the District) to the District by quit claim deed or special warranty deed in the District’s discretion and a metes and bounds or other acceptable description of the Improvements. Landowner and District agree to make any necessary modifications to the descriptions of the Easement Area and/or the District Lands as modifications to the District’s Improvement Plan are approved or required by any regulatory body with jurisdiction over the District, the District Lands, or the Easement Area.

3. **Inconsistent Uses.** Landowner agrees and covenants that it shall not grant or exercise any rights in the Easement Area inconsistent with, or which interfere with, the rights herein accorded to the District.

4. **Term.** This Easement shall run until such time as all of the Improvements to be located within the Easement Area are completed. The District agrees to cause a termination of the Easement thereafter to be recorded upon request by Landowner. The District also agrees to execute partial releases of this Easement upon the request of Landowner as to any portion of the Easement Property within which the Improvements are completed. In addition, this Easement shall terminate automatically as to residential lots or as to any real property dedicated to St. Johns County at such time as residential lots are platted or lands are dedicated pursuant to plat at the time of filing of such plat. This Easement shall also terminate automatically as to any lands conveyed in fee to any utility providers for purposes of providing utilities to any portion of the Easement Area. This Easement shall also automatically terminate as to any lands subjected to a conservation easement in favor of the St. Johns River Water Management District (the “Water

Management District”) at such time as a conservation easement is granted to the Water Management District and recorded. If not sooner terminated, the Easement shall terminate on or before \_\_\_\_\_.

**5. Indemnity.**

- A. Landowner agrees to indemnify and hold the District harmless from and against any and all damages, losses, or claims, including but not limited to, legal fees and expenses, to the extent that such damages, losses, or claims are attributable to actions, omissions or negligence in the use of the Easement Property by Landowner, its agents, employees, or independent contractors.
- B. To the extent allowed by law, the District agrees to indemnify and hold Landowner harmless from and against any and all damages, losses, or claims, including but not limited to, legal fees and expenses, to the extent that such damages, losses, or claims are attributable to actions, omissions or negligence in the use of the Easement Property by the District, its agents, employees, or independent contractors.
- C. Landowner agrees that nothing contained in this Easement Agreement shall constitute or be construed as a waiver of the District’s limitations on liability set forth in Section 768.28, Florida Statutes, and other law.

6. **Liens.** District shall not permit (and shall promptly satisfy) any construction, mechanic’s lien or encumbrance against the Easement Area or other Landowner property in connection with the exercise of its rights hereunder.

7. **Exercise of Rights.** The rights and Easement created by this Agreement are subject to the following provisions:

- A. District shall install the Improvements in a sound, professional manner and shall have sole responsibility for obtaining any necessary permits or regulatory approvals for the Improvements installation. Any rights granted hereunder shall be exercised by District only in accordance and compliance with any and all applicable laws, ordinances, rules, regulations, permits and approvals, and any future modifications or amendments thereto. District 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.
- B. District shall be fully responsible for all maintenance of traffic obligations during installation of the Improvements. In connection with the exercise of the rights granted pursuant to this Agreement, District covenants and agrees that District shall not, during regular business hours, close or block or cause to

be closed or blocked any of the roadways (“**Roadways**”) that constitute all or a portion of the Easement Area, without the prior consent of the Landowner. District shall not add Improvements, nor shall it allow Improvements to remain within the Roadways, which in any way impede the line of sight for drivers and/or pedestrians.

- C. Landowner makes no representation that the Easement Area is suitable for installation of the Improvements. District acknowledges that there are or may be existing facilities located within the Easement Area. District shall not interfere with or cause interruption in the day to day operation of all existing facilities in the Easement Area.
  
- D. District shall use all due care to protect the Easement Area and adjoining property from damage resulting from District’s use of the Easement Area. In the event that District, its respective employees, agents, assignees, contractors (or their subcontractors, employees or materialmen), or representatives cause damage to the Easement Area or to adjacent property or improvements in the exercise of the easement rights granted herein, District, at District’s sole cost and expense, agrees to promptly commence and diligently pursue the restoration of the same and the improvements so damaged to, as nearly as practical, 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 or improvements of any kind.

8. **Default.** A default by the Landowner or District under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of actual damages, injunctive relief, and specific performance.

9. **Enforcement of Agreement.** In the event that the Landowner or District seeks to enforce this 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.

10. **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 Agreement shall be effective and valid only if in writing 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):

- A. **If to District:** Southaven Community Development District  
2806 N. Fifth Street, Unit 403  
St. Augustine, Florida 32084  
Attn: District Manager



**With a copy to:** Hopping Green & Sams, P.A.  
119 S. Monroe Street, Suite 300  
Tallahassee, Florida 32301  
Attn: Katie S. Buchanan

**B. If to Landowner:** Southaven Land Associates, LLC  
605 Palencia Club Drive  
St. Augustine, Florida 32095  
Attn: Walter O'Shea

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

**11. Third Parties.** This Agreement is solely for the benefit of the Landowner and District, 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 Landowner and District any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement. The Landowner 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 Landowner's right to protect its rights from interference by a third party.

**12. Assignment.** Neither of the Parties hereto may assign, transfer, or license all or any portion of its rights under this Agreement without the prior 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.

**13. 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.

**14. 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.

**15. 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.

16. **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.

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. **Amendments.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the Landowner and District.

19. **Entire Agreement.** This instrument shall constitute the final and complete expression of the agreement between the Parties relating to the subject matter of this Agreement.

20. **Effective Date.** The Effective Date of this Agreement shall be the date first written above.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute one and the same agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

**IN WITNESS WHEREOF**, Landowner and District caused this Agreement to be executed, to be effective as of the day and year first written above.

**WITNESSES:**

Signed, sealed and delivered  
in the presence of:

**Southaven Community Development  
District**

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

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by the Chairperson/Vice Chairperson of the Southaven 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}

Signed, sealed and delivered  
in the presence of:

**Southaven Land Associates, LLC,**  
a foreign limited liability company

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

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

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

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

The foregoing was sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, as \_\_\_\_\_ of Southaven Land Associates, LLC. 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

October 4, 2013  
IGP- Francis Road

Work Order No. 13-190.00  
File No. 123A-22.00A

### **CDD Parcel**

All of the West one-half of the West one-half of Section 13, together with a portion of Section 14, all lying in Township 6 South, Range 28 East, St. Johns County, Florida, being more particularly described as follows:

For a Point of Beginning, commence at the corner common to Sections 14 and 23, and Section 38, the Antonio Huertas Grant, said Township and Range; thence Northeasterly and Northwesterly along the Easterly and Northerly lines of said Section 38 the following two courses: Course One, thence North  $19^{\circ}37'31''$  East, 3555.09 feet; Course Two, thence North  $72^{\circ}29'22''$  West, 937.57 feet to its intersection with the Easterly right of way line of North Francis Road, a 64.50 foot right of way as monumented; thence Northerly along said Easterly right of way line the following three courses: Course One, thence North  $21^{\circ}31'00''$  East, 238.72 feet to the point of curvature of a curve concave Westerly, having a radius of 648.39 feet; Course Two, thence Northerly along the arc of said curve, through a central angle of  $21^{\circ}04'12''$ , an arc length of 238.44 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $10^{\circ}58'54''$  East, 237.10 feet; Course Three, thence North  $00^{\circ}26'48''$  East, 1184.49 feet to a point lying on the Southerly right of way line of International Golf Parkway, also known as Nine Mile Road, a 66 foot right of way as monumented; thence North  $89^{\circ}35'44''$  East, along said Southerly right of way line, 1327.60 feet to an angle point in said Southerly right of way line; thence North  $89^{\circ}12'28''$  East, continuing along said Southerly right of way line, 1392.59 feet to an intersection with the Easterly line of said West one-half of the West one-half of Section 13, as monumented, said line also being the Westerly line of those lands described and recorded in Official Records Book 1568, page 482 of the public records of said county; thence South  $00^{\circ}10'32''$  West, along said Easterly line, 5261.16 feet to a point lying on the Northerly line of Section 24, said Township and Range; thence South  $89^{\circ}19'05''$  West, along said Northerly line and along the Northerly line of said Section 23, a distance of 3146.00 feet to the Point of Beginning.

Containing 314.34 acres, more or less.