**RESOLUTION 2014-\_\_\_\_\_**

**MITIGATION AGREEMENT**

**SCHOOL CONCURRENCY RESERVATION FEES**

**COUNTRY CLUB COVE - A REPLAT**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A MITIGATION AGREEMENT WITH THE FLAGLER COUNTY SCHOOL BOARD AND THE OWNER(S) OF COUNTRY CLUB COVE – A REPLAT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Applicant is the fee simple owner of that certain tract of land located in the City of Palm Coast, Florida, as more particularly described in the Mitigation Agreement attached hereto as Exhibit “A” and incorporated herein (hereinafter “the Property”); and

**WHEREAS**, the Property is subject to a pending application for approval of 54 platted lots (“the Application”); and

**WHEREAS,** under Section 15 (d), of the Interlocal Agreement for Public School Facility Development between the City of Palm Coast, the School District acting through its School Board, Flagler County and the City of Bunnell (the “Interlocal Agreement”), the School District shall review a concurrency application and report in writing to the local government whether adequate school capacity exists for each level of school, based on the standards set forth in the Interlocal Agreement; and

**WHEREAS,** such determination of capacity is valid for 30 days; and

**WHEREAS**, the School District has determined that there is adequate capacity available to serve the projected students from the Application as provided in the Mitigation Agreement; and

**WHEREAS,** on or before the 30th day a reservation fee must be paid or the capacity determination is null and void; and

**WHEREAS,** concurrency reservation fess shall, at a minimum, be equal to the school impact fees unless a legally binding mitigation agreement states otherwise; and

**WHEREAS**, the City and the School Board have determined that the terms and the Mitigation Agreement attached to this Resolution meet all requirements of the City of Palm Coast Public School Facilities Element of the City Comprehensive Plan (“PSFE”), and the Interlocal Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. APPROVAL OF INTERLOCAL AGREEMENT.** The City Council hereby approves the terms and conditions of the Mitigation Agreement with the Flagler County School Board and the Owner(s) of Country Club Cove - A Replat, as attached hereto and incorporated herein by reference as Exhibit “A.”

**SECTION 2. AUTHORIZATION TO EXECUTE.** The Mayor is hereby authorized to execute the Mitigation Agreement as depicted in Exhibit "A."

**SECTION 3. Severability.** If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

 **SECTION 4. Conflicts.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

**Section 5. IMPLEMENTING ACTIONS.** The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

**SECTION 6.** **EFFECTIVE DATE.** This Resolution shall take effect immediately upon adoption by the City Council.

 **DULY PASSED AND ADOPTED** by the City Council of the City of Palm Coast, Florida, on this 1st day of July 2014.

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|  | **CITY OF PALM COAST, FLORIDA** |
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| *ATTEST:* | Jon Netts, Mayor |
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| Virginia A. Smith, City Clerk |  |

Attachment: Exhibit “A” – Mitigation Agreement for School Concurrency Reservation Fees

Approved as to form and legality

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William E. Reischmann, Esq.

City Attorney