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

**BUILT OUT AGREEMENT**

**GRAND HAVEN DRI**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA APPROVING THE ESSENTIALLY BUILT-OUT AGREEMENT BETWEEN THE CITY OF PALM COAST, GRAND HAVEN PROPERTIES, LLC, AND THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY FOR THE GRAND HAVEN DEVELOPMENT OF REGIONAL IMPACT (FORMERLY KNOWN AS RIVER CLUB DRI); PURSUANT TO SECTION 380.06(15)(G)(4), F.S.; PROVIDING FOR THE SATISFACTION OF OBLIGATIONS OF THE MASTER DEVELOPER; PROVIDING FOR FUTURE DEVELOPMENT OR REDEVELOPMENT OF LANDS WITHIN THE DRI; PROVIDING FOR ADMINISTRATIVE FINDINGS AND INTENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR RECORDING OF THE RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on January 3, 1989, the Board of County Commissioners of Flagler County, Florida ("Flagler County"), pursuant to Section 380.06, Florida Statutes, adopted Resolution 89-6 approving a Development Order for the Development of Regional Impact known as “River Club” ("Development Order"), now more commonly known as Grand Haven DRI; and

**WHEREAS**, Resolution 89-6 was amended by Resolution Nos. 94-27 and 97-07; and

**WHEREAS**, Resolution 97-54 amended the Development Order by including an additional 122 acres to the DRI boundaries; and

**WHEREAS**, Resolution 98-65 amended the Grand Haven DRI by including an additional 143 acres to the DRI boundaries; and

**WHEREAS**, Resolution 2001-33 modified the Development Order by including an additional 352.41 acres to the DRI boundaries (DRI total = 1478.9 ac.) and increasing the permitted number of dwelling units in the DRI to 1901; and

**WHEREAS,** Ordinance 2012-06 modified the acreage in the Grand Haven DRI boundaries by deleting 5.82 acres (DRI total = 1473.13 ac.); and

**WHEREAS**, the City of Palm Coast recognizes Grand Haven Properties LLC as the master developer of the DRI pursuant to Section 380.06, Florida Statutes, and

**WHEREAS**, Grand Haven Properties LLC, as the master developer of the DRI, has applied to the City of Palm Coast to close out its rights and obligations related to the DRI through an Essentially Built-Out Agreement; and

**WHEREAS**, Grand Haven Properties LLC, City of Palm Coast, and the Florida Department of Economic Opportunity acknowledge through the Essentially Built Out Agreement satisfaction of all obligations related to the DRI; and

**WHEREAS**, affected and impacted parties have been given an opportunity to comment on the Essentially Built-Out Agreement during a duly noticed public hearing; and

**WHEREAS**, the City and Grand Haven Properties LLC, have endeavored to the greatest extent possible to preserve the entitled development rights of owners within the DRI and to reserve public facility concurrency related thereto; and

**WHEREAS**, it is the intent of the City to approve this Essentially Built Out Agreement to terminate rights and obligations under the DRI while recognizing the continuing development rights of owners (as approved by City of Palm Coast Resolution 2001-33) within the DRI and reserving public facility concurrency related thereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, Florida AS FOLLOWS:**

**SECTION 1. RECITALS.** The foregoing recitals set forth above are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution. All exhibits attached hereto are hereby incorporated herein and made a specific part hereof.

**SECTION 2.** **APPROVAL OF AGREEMENT.** The City Council of the City of Palm Coast hereby finds that the Essentially Built-Out Agreement ("Agreement") meets the criteria set forth in Section 380.06(15)(g)(4), Florida Statutes (2013), and further approves the Agreement.

**SECTION 3. AUTHORIZATION TO EXECUTE.** The Mayor is hereby authorized to execute the Agreement and to do all things necessary to effectuate the intent of this Resolution.

**SECTION 4. SEVERABILITY.** If any clause, section or other part or application of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or application in full force and effect.

**SECTION 5. CONFLICTS.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

**SECTION 6. RECORDATION**. This Resolution shall be recorded in accordance with Section 380.06(15)(f), Florida Statutes.

**SECTION 7. EFFECTIVE DATE.** This Resolution shall become effective upon adoption.

**DULY PASSED AND ADOPTED** by the City Council of the City of Palm Coast, Florida, on this \_\_\_\_ day of \_\_\_\_\_\_ 2014.

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|  | CITY OF PALM COAST, FLORIDA |
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| ATTEST: | JON NETTS, Mayor |
|  |  |
|  |
| Virginia A. Smith, City Clerk |  |

Approved as to form and legality

William E. Reischmann, Jr., Esq.

City Attorney

Attachment:

Exhibit A – Essentially Built-Out Agreement Grand Haven DRI