

Prepared by and after recorded mail to:

Jan Albanese Carpenter, Esq.
Latham, Shuker, Eden & Beaudine, LLP
Post Office Box 3353
Orlando, Florida 32802-3353

**SECOND AMENDMENT TO INTERLOCAL AGREEMENT
between
LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT
and
LAKE ASHTON II COMMUNITY DEVELOPMENT DISTRICT**

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT AND LAKE ASHTON II COMMUNITY DEVELOPMENT DISTRICT (the "Second Amendment"), made effective May 11, 2015 (the "Effective Date"), is made by and between LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT, a Florida community development district ("Ashton CDD") and LAKE ASHTON II COMMUNITY DEVELOPMENT DISTRICT, a Florida community development district ("Ashton II CDD") and amends that INTERLOCAL AGREEMENT BETWEEN LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT AND LAKE ASHTON II COMMUNITY DEVELOPMENT DISTRICT dated January 3, 2006 and recorded at Official Records Book 8174, Page 0040 in the Public Records of Polk County, as amended by that certain First Amendment to Interlocal Agreement Between Lake Ashton Community Development District and Lake Ashton II Community Development District, dated effective October 1, 2011 and recorded December 27, 2011 in Official Records Book 8544, Page 785, of the Public Records of Polk County, Florida (collectively, the "Interlocal Agreement").

WHEREAS, Ashton CDD and Ashton II CDD are parties to the Interlocal Agreement relating to the development, maintenance, operation and reciprocal use of certain real property and facilities within the respective boundaries of each of the parties thereto, as more particularly described therein; and

WHEREAS, the Interlocal Agreement is currently in full force and effect; and

WHEREAS, in accordance with Section 12 of the Interlocal Agreement, the parties thereto may amend the Interlocal Agreement if such amendment is reduced to writing and is executed by both parties; and

WHEREAS, both Ashton CDD and Ashton II CDD have determined it to be in the best interest of each of the parties to modify and amend the Interlocal Agreement in accordance with the terms set forth below; and

WHEREAS, Ashton CDD and Ashton II CDD desire to execute this Second Amendment in order to memorialize such amendment to the Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual benefits to be realized by the parties upon the execution hereof and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated by reference as terms.

2. Amendment to Exhibits and Definitions of the Interlocal Agreement. Exhibit A, Exhibit B, Exhibit C and Exhibit D to the Interlocal Agreement are hereby deleted in their entirety and replaced with the following definitions:

- (a) "Amenities" shall include, without limitation, roadways and related appurtenances, trails and paths, sidewalks, clubhouses, recreation centers, swimming pools, racquet courts and other public improvements and facilities, and shall include the "Ashton CDD Property and the Ashton II Property, as applicable to each.
- (b) "Ashton CDD Boundaries" shall mean the boundaries of the Ashton CDD as adopted in any ordinance adopted by the City or other applicable jurisdiction establishing or amending the boundary of the Ashton CDD.
- (c) "Ashton II Boundaries" shall mean the boundaries of the Ashton II CDD as adopted in any ordinance adopted by the County or other applicable jurisdiction establishing or amending the boundary of the Ashton II CDD.
- (d) "Ashton CDD Property" shall mean the real property, improvements and Amenities owned and/or operated by the Ashton CDD, including future Amenities which shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton CDD, without need for further amendment.
- (e) "Ashton II CDD Property" shall mean the real property, improvements and Amenities owned and/or operated by the Ashton II CDD, including future Amenities which shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton II CDD, without need for further amendment.

3. Amendment to Paragraph 2: "Ashton CDD Granting of Use Rights." Paragraph 2(a) of the Interlocal Agreement, including Exhibit E referenced therein," shall hereby be deleted in its entirety and replaced with the following:

(a) **Right to Use Roadways.** The non-exclusive right to use the roadways owned by the Ashton CDD and located within the Ashton CDD boundaries, for the purpose of pedestrian and vehicular access. The Ashton CDD "roadways" described in this Agreement shall include all current and future roadways and appurtenances owned by the Ashton CDD and located within the Ashton CDD boundaries, and shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton CDD, without need for further amendment.

Paragraph 2 of the Interlocal Agreement shall hereby be amended to add the following additional subsection as set forth below:

(c) **Description of Ashton CDD Property, Roadways and Amenities.** Any and all roadways, Amenities and other similar property owned and/or operated by Ashton CDD shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton CDD, without need for further amendment; and

4.. Amendment to Paragraph 3, Ashton II CDD Granting of Use Rights. Paragraph 3(a) of the Interlocal Agreement, including **Exhibit F** referenced therein," shall hereby be deleted in its entirety and replaced with the following:

(a) **Right to Use Roadways.** The non-exclusive right to use the roadways owned by the Ashton II CDD and located within the Ashton II CDD boundaries, for the purpose of pedestrian and vehicular access. The Ashton II CDD "roadways" described in this Agreement shall include all current and future roadways and appurtenances owned by the Ashton II CDD and located within the Ashton II CDD boundaries, and shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton II CDD, without need for further amendment; and

Paragraph 3 of the Interlocal Agreement shall hereby be amended to add the following additional subsection as set forth below:

(c) **Description of Ashton II CDD Property, Roadways and Amenities.** Any and all roadways, Amenities and other similar property, owned and/or operated by Ashton II CDD shall automatically become subject to this Interlocal Agreement as of the date of acquisition or control by the Ashton II CDD, without need for further amendment.

5. Amendment to Paragraph 6, Construction and Maintenance of Roadways. Paragraph 6 of the Interlocal Agreement shall hereby be deleted in its entirety and replaced with the following:

(a) **Construction and Maintenance of Roadways.** Ashton CDD and Ashton II CDD shall each be responsible for the construction, installation, maintenance, operation and repair of any and all roadways located on the Ashton CDD Property and Ashton II CDD Property, respectively ("Roadway Costs"). Ashton CDD and Ashton II CDD shall each reimburse the other for prior Roadway Costs paid under the Interlocal Agreement to the other district; all such reimbursements, without interest, shall be made within one (1) year of the Effective Date, unless a written agreement between both parties is entered prior to such date extending the time for payment.

6. Amendment to Paragraph 9, Notices. Paragraph 9 of the Interlocal Agreement shall be amended as below, as if originally set forth therein:

All notices, demands, approvals, requests, and other communication required or permitted under this Agreement (Interlocal Agreement) shall be in writing and shall be deemed delivered and received upon the earlier of: (i) actual receipt, (ii) receipt of written confirmation if transmitted by facsimile or email; (iii) one day following its deposit with an overnight courier; or (iv) the third day following its deposit in a regularly maintained receptacle for the United States Mail, as certified mail, return receipt requests, postage fully prepaid, addressed to the addressee at its address set forth below, or at such other address as such

addressee may have specified by notice delivered in accordance with this section and actually received by the addressee:

If to Ashton CDD: Lake Ashton Community Development District
c/o Governmental Management Services – South Florida, LLC
5385 N. Nob Hill Road
Sunrise, Florida 33351
Phone: (954) 721-8681
Facsimile: (954) 721-9202
Email: rhans@govmgtsvc.com

If to Ashton II CDD: Lake Ashton II Community Development District
c/o Governmental Management Services
135 West Central Boulevard, Suite 320
Orlando, Florida 32801
Phone: (407) 841-5524
Facsimile: (407) 839-1526
Email: gflint@gmscfl.com

7. Severability. If any provision of this Second Amendment or the Land Use Restriction Agreement, as amended hereby, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof or thereof shall in no way be affected or impaired, nor shall such holding of invalidity, illegality or unenforceability affect the validity, legality or enforceability of such provision under other dissimilar facts or circumstances.

8. Remaining Provisions Unaffected. That, except as specifically supplemented, modified and/or amended herein, all covenants, terms, obligation and provisions of the Interlocal Agreement shall remain unaffected and in full force and effect.

9. Recording and Filing; Covenants to Run With the Land. This Second Amendment shall run with the land and shall bind the parties hereto, and their successors and assigns.

10. Counterparts. In order to facilitate execution, this Second Amendment may be executed in as many counterparts as may be required, and it shall not be necessary that the signature of, or on behalf of, each party appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each party appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

11. Attorneys' Fees. If either party hereto institutes an action or proceeding for a declaration of the rights of the parties Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of, the Agreement, or in the event any party hereto is in default of its obligations pursuant hereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting or prevailing party shall be entitled to its actual attorneys' fees and to any court costs and expenses incurred, in addition to any other damages or relief awarded.

12. Sovereign Immunity.

Nothing in this Second Amendment shall be deemed as a waiver of immunity or limits of liability of the District, including its supervisors, commissioners, officers, agents or employees, beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

13. Dispute Resolution.

The parties agree to resolve disputes related to the interpretation or performance of this Second Amendment pursuant to the requirements of the Florida Governmental Conflict Resolution Act, as set forth in Florida Statutes, Section 164.101, et seq. (the "Resolution Act"), the provisions of which are incorporated into this Agreement. Notwithstanding the foregoing, upon a failure to resolve a dispute as provided in the Resolution Act, parties may avail themselves of all other available legal rights and remedies.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO
SECOND AMENDMENT TO INTERLOCAL AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed on their behalf by duly authorized representatives as of the date first set forth above.

WITNESSES:

Tricia L. Adams
Print: Tricia L. Adams

Gail Spence
Print: Gail Spence

LAKE ASHTON COMMUNITY
DEVELOPMENT DISTRICT,
a Florida community development district

By: Carol Pontious
Print: Carol Pontious
Title: Chairperson

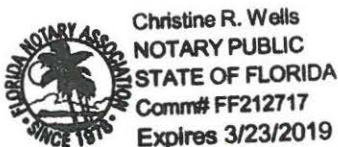
STATE OF FLORIDA)
COUNTY OF Polk)

The foregoing instrument was acknowledged before me this 11th day of June, 2015, by Carol Pontious, as Chairman of the Board of Supervisors of the LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT, who is [X] personally known to me or [] has produced _____ as identification.

Christine R. Wells
Notary Public

SEAL

Christine R. Wells
Printed Name



Commission Number: FF 212717

My commission expires: 3/23/19

**COUNTERPART SIGNATURE PAGE TO
SECOND AMENDMENT TO INTERLOCAL AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed on their behalf by duly authorized representatives as of the date first set forth above.

WITNESSES:

Tricia L. Adams
Print: Tricia L. Adams

Gail Spence
Print: Gail Spence

LAKE ASHTON II COMMUNITY
DEVELOPMENT DISTRICT,
a Florida community development district

By: G Douglas Robertson
Print: G Douglas Robertson
Title: Chairperson

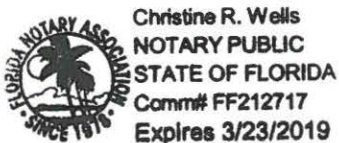
STATE OF FLORIDA)
COUNTY OF POLK)

The foregoing instrument was acknowledged before me this 11th day of June, 2015, by Douglas Robertson, as Chairman of the Board of Supervisors of the LAKE ASHTON II COMMUNITY DEVELOPMENT DISTRICT, who is [X] personally known to me or [] has produced _____ as identification.

Christine R. Wells
Notary Public

SEAL

Christine R. Wells
Printed Name



Commission Number: FF212717

My commission expires: 3/23/19