

**INTERLOCAL GOVERNMENTAL AGREEMENT BETWEEN  
VILLAGE CENTER COMMUNITY DEVELOPMENT DISTRICT AND  
SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS FOR  
INDEPENDENT GEOTECHNICAL ENGINEERING SERVICES**

**THIS AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010 ("Effective Date"), by and between VILLAGE CENTER COMMUNITY DEVELOPMENT DISTRICT, a community development district created pursuant to Chapter 190, Florida Statutes, as amended (hereinafter the "District"), and SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, (hereinafter the "County").

**RECITALS**

**WHEREAS**, the District owns certain property within the jurisdictional boundaries of the County; and

**WHEREAS**, the County maintains certain property within the jurisdictional boundaries of the District; and

**WHEREAS**, geotechnical field conditions may occur from time to time which require the cooperative efforts of the District and the County; and

**WHEREAS**, it is to the mutual benefit of the District and the County to cooperate in the repair, restoration, and/or rehabilitation of geotechnical field conditions; and

**WHEREAS**, the parties agree to enter into this Interlocal Agreement to set forth the roles, responsibilities, and obligations of the parties;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, and accepting the above WHEREAS clauses as true and incorporating the same as if stated herein, the parties hereto agree as follows:

**1. SELECTION OF GEOTECHNICAL ENGINEER**

1.1 Services of a Geotechnical Engineer will be requested only after a cooperative field inspection has been completed between the District and County.

1.2 The District and the County shall mutually agree on the selection of the Geotechnical Engineer to perform the services described herein.

1.3 The mutually selected Geotechnical Engineer must not have performed work for or entered into any contractual relationship with either party for ten (10) years prior to the effective date of this Agreement.

**2. SERVICES OF GEOTECHNICAL ENGINEER**

2.1. Geotechnical engineering services may include, but are not limited to:

2.1.1. Field Evaluation

- 2.1.2. Collection and Laboratory Testing of Environmental and Materials Samples
  - 2.1.3. Laboratory Data Evaluation
  - 2.1.4. Exploratory Geotechnical Drilling
  - 2.1.5. Preparation of Engineering Reports
  - 2.1.6. Conferences and Meetings
- 2.2. In order to evaluate the cause of a field condition, it may be necessary to perform exploratory geotechnical drilling, which has the potential to result in a high cost. Unless, in the opinion of the Geotechnical Engineer, the estimated cost for repair of the field condition is significantly greater than the potential cost of exploratory geotechnical drilling, the District and the County agree that geotechnical drilling will only be conducted upon mutual consent of the District and the County.
- 2.3. The Geotechnical Engineer will be responsible for determining the allocation of costs for any engineering fees incurred. The District and the County agree to be bound by the opinion of the Geotechnical Engineer. The determination of the allocation of costs shall be based upon the origination and cause of the field condition.
- 2.4. The Geotechnical Engineer will be responsible for determining the allocation of repair, restoration and/or rehabilitation costs for a field condition. The District and the County agree to be bound by the opinion of the Geotechnical Engineer. The determination of the allocation of costs shall be based upon the origination and cause of the field condition.
- 2.5 For all purposes under this Interlocal Agreement and evaluations to be made by the Geotechnical Engineer as to the location of the origination of the field condition, the jurisdictional boundary of the County shall include all road right of ways as depicted on plats of the Public Record and property outside of the road right of way shall be considered District property.
- 2.6 The allocation of all costs by the Geotechnical Engineer shall mean that the Geotechnical Engineer shall determine that either the District or County or both are responsible for the specific costs.

### **3. GENERAL CONDITIONS**

- 3.1 The District and the County agree to act expeditiously regarding the repair or restoration of field conditions in the interest of public safety and public relations.
- 3.2 The District and the County agree that circumstances may arise where the cost for evaluating the cause of a field condition may exceed the cost of rehabilitation. In such case, the District and the County agree to negotiate an allocation of rehabilitation costs using the Geotechnical Engineer as a mediator in the determination of the cost allocation. The allocation of the costs for the geotechnical engineering services will be the same as the allocation of the rehabilitation costs. The District and the County agree to be bound by the opinion of the Geotechnical Engineer.
- 3.3 Once the Geotechnical Engineer evaluates the cause of a field condition and determines the appropriate allocation of costs, the District and the County agree to pay their portion of the costs as determined by the Geotechnical Engineer.
- 3.4 The District and the County agree that costs to correct a field condition may include the repair, restoration and rehabilitation of areas and/or facilities that may not be within the jurisdictional

boundaries or legal responsibility of either party when damage to those areas and/or facilities resulted from an event originating within the jurisdictional or legal boundaries of the parties. This may include, but is not limited to: site clean-up, debris removal, and repair/replacement of private or public property.

- 3.5 The District and the County agree that all repair and restoration activities will be performed to meet or exceed the pre-incident field condition with respect to materials, quality of work, thickness and grade of pavement, landscape materials, and other relevant conditions.
- 3.6 Neither the District nor the County will be responsible for restoration of decorative finishes that a home owner may have applied to driveways or walkways.
- 3.7 Because of the inherent inconsistencies of the color of various ages of concrete, neither the District, nor the County will be responsible for exactly matching concrete to adjacent undisturbed areas.
- 3.8 If a field condition results in fines or fees from a regulatory agency, the applicable fines or fees shall be paid based upon the allocation of costs as determined by the Geotechnical Engineer.
- 3.9 The District and the County agree to provide each other a one (1) year warranty for all repair and restoration activities performed. The warranty excludes failures which may be the result of natural disasters; or acts or events beyond the control of the responsible party; or negligence of any person other than the responsible party for the property on which the repairs and restoration activities were performed.

#### **4. TERM AND TERMINATION**

- 4.1. The term of this Agreement shall commence on the day and year first written above and continue in force through midnight on September 30, 2011. This Agreement shall automatically renew on an annual basis unless either party hereto terminates the Agreement in accordance with Paragraph 4.2 of this Agreement.
- 4.2. This Agreement may be terminated by either party upon thirty (30) days prior written notice. This Agreement may only be terminated if there are no pending or outstanding geotechnical field conditions that must be resolved under the terms of this Agreement.

#### **5. NOTICE**

- 5.1. Written notices required under this Interlocal Agreement shall be sent by regular mail, certified mail, overnight delivery or courier, and shall be deemed given when received at the parties' respective addresses shown below. Either party must notify the other party in writing of a change in address.

District  
Village Center Community Development District  
Attn: Diane Tucker, Administrative Operations Manager  
1894 Laurel Manor Drive  
The Villages, FL 32162

County  
Sumter County Board of County Commissioners  
Attn: Public Works Director  
319 E. Anderson Avenue  
Bushnell, FL 33513

**6. MISCELLANEOUS**

- 6.1. This Agreement shall not be changed or modified in whole or in part, except by an instrument in writing signed by both parties hereto, or their respective successors or assigns.
- 6.2. The District and the County agree that the prevailing party shall be entitled to reasonable attorney's fees, costs and expenses with regard to any litigation that may arise out of or from this Interlocal Agreement. Venue and jurisdiction for any dispute arising from this Agreement shall only be in Sumter County, Florida.
- 6.3. Neither the District nor County shall assign or transfer its interest in this Agreement without the prior written consent of the other party.
- 6.4. This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or verbal. If any provision of the Agreement is declared invalid or unenforceable, the remainder shall continue in full force and effect.

**IN WITNESS WHEREOF**, the parties have signed this Agreement the day and year written below their signature, but the effective date as written above.

**ATTEST:**

**VILLAGE CENTER COMMUNITY  
DEVELOPMENT DISTRICT**

By: \_\_\_\_\_

\_\_\_\_\_

By: Charles Smith, Chairman

Date Signed: \_\_\_\_\_

ATTEST:

**SUMTER COUNTY BOARD  
OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_

\_\_\_\_\_

By:

Date Signed: \_\_\_\_\_