

RESOLUTION NO. 2002- 51

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS OF TWO PURCHASE AND SALE AGREEMENTS FOR THE ACQUISITION OF PROPERTY FOR THE CONSTRUCTION OF THE RACETRACK ROAD TRANSPORTATION PROJECT.

WHEREAS, the owners of certain property located on Racetrack Road have executed and presented to the County the Purchase and Sale Agreements, attached hereto as Exhibit "A" and Exhibit "B", incorporated by reference and made a part hereof, agreeing to sell to the County portions of their property for the right-of-way required for the Racetrack Road Transportation Project; and

WHEREAS, the purchase price is based on their offer to sell for an amount higher than the appraised value; and

WHEREAS, it is determined to be in the best interest of the County to purchase the property for the construction of the Race Track Road Transportation Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

1. The Board hereby approves the Purchase and Sale Agreements and authorizes the County Administrator to execute said Agreements and take action to close and complete the purchases according to Section 125.355 Florida Statutes.
2. The Clerk is instructed to file the original Purchase and Sale Agreements and mail executed copies of this Resolution and the Agreements to the Sellers as identified in the Agreements.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 26th day of March, 2002.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: Marc A. Jacalone
Marc A. Jacalone, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Cheryl Strickland
Deputy Clerk

RENDITION DATE 03-28-02

EXHIBIT "A"

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2002, by and between ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32095 ("Buyer") and JAMES D. HINSON and SHIRLEY M. HINSON, his wife, whose address is 3635-A Race Track Road, Jacksonville, Florida 32259 ("Seller").

WITNESSETH:

WHEREAS, the Buyer is desirous of purchasing a portion of the properties owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of the property, described in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property") for the acquisition of the additional right-of-way for the Race Track Road Transportation Project; and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is \$109,000.00 subject to the prorations hereinafter provided. The Purchase Price is inclusive of the land and the cost to relocate the gate and electric, as well as the loss of the tree barrier, asphalt paving, driveway cuts and other landscaping. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(I) Cash to Close	Closing Day	<u>\$109,000.00</u>
TOTAL PURCHASE PRICE		\$109,000.00

Payment of the Purchase Price shall be in cash or other immediately available funds.

2. Title Evidence.

(a) Buyer agrees, at its sole option and expense, to take whatever action it deems necessary to obtain a title guarantee commitment ("Commitment") insuring Buyer's title to the property.

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 days after Buyer's receipt of the Commitment if the Commitment cannot be obtained or it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment cannot reasonably be obtained or it discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement.

3. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of Associated Land Title Inc., 93 Orange St., St. Augustine, Florida 32084 on or before 60 days from the effective date of this Agreement, ("Closing Date"), TIME BEING OF THE ESSENCE.

4. Prorations. Any real property taxes shall be prorated on the basis of the 2001 taxes at the highest allowable discount.

5. Seller's Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

6. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a general warranty deed ("Deed") conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are appropriate or necessary to consummate the transaction as herein contemplated.

7. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the deed, all of the expenses in connection with recording fees. Each party shall bear the expense of its own legal counsel and appraisals.

8. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

9. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for forty-five (45) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests or assessments including but not limited to Phase 1 Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the Property.

If Buyer in its sole discretion determines that the Property is unsuitable, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

10. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

11. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

13. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

14. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

15. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

16. Time. Time is of the essence of all provisions of this Agreement.

17. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

18. Notices. Any notice hereunder must be in writing and delivered personally or by United State Mail, Registered or Certified, Return Receipt Requested; United State Express Mail; or Federal Express or equivalent courier service, and shall not be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: James D. Hinson and Shirley M. Hinson
3635-A Race Track Road
Jacksonville, Florida 32259

Buyer: St. Johns County
Ben W. Adams, Jr., County Administrator
4020 Lewis Speedway
St. Augustine, FL 32095

19. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.

20. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

21. Commission Dues. Buyer and Seller agree that there are no real estate commissions that may be owed as a result of this transaction.

22. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

23. Transportation Roadway Plans. Buyer agrees to incorporate into the design and have constructed a left turn directional median break in front of the property and two driveway entrances or curb cuts, with one curb cut located at the entrance to each of the two parcels.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date first above written.

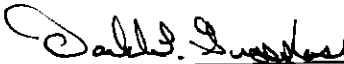
BUYER:
ST. JOHNS COUNTY, FLORIDA

Witness Name _____

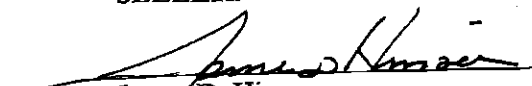
Ben W. Adams, Jr.
County Administrator

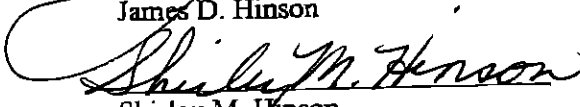
Witness Name _____

SELLER:




Witness Name Donald L. Grossglass



James D. Hinson


Shirley M. Hinson



Witness Name G. CHRISTOPHER GRAY

EXHIBIT "B"

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2002, by and between ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, FL 32095 ("Buyer") and WILLIAM THOMAS BELL, JR. and WILLIE HAZEL BELL, his wife, whose address is 3701 Race Track Road, Jacksonville, Florida 32259 ("Seller").

WITNESSETH:

WHEREAS, the Buyer is desirous of purchasing a portion of the properties owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of the property, described in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property") for the acquisition of the additional right-of-way for the Race Track Road Transportation Project; and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is \$50,000.00 subject to the prorations hereinafter provided. The Purchase Price is inclusive of the land and the cost to relocate the gate and electric, as well as the loss of the tree barrier, asphalt paving and other landscaping. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(I) Cash to Close	Closing Day	<u>\$50,000.00</u>
TOTAL PURCHASE PRICE		\$50,000.00

Payment of the Purchase Price shall be in cash or other immediately available funds.

2. Title Evidence.

(a) Seller agrees, at its sole option and expense, to take all reasonable action to obtain within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 days after Buyer's receipt of the Commitment if the Commitment cannot be obtained or it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment cannot reasonably be obtained or it discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement.

3. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of Associated Land Title, Inc., 93 Orange St. St. Augustine, Florida 32084 on or before 60 days from the effective date of this Agreement. ("Closing Date"), TIME BEING OF THE ESSENCE.

4. Prorations. Any real property taxes shall be prorated on the basis of the 2001 taxes at the highest allowable discount.

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6. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a general warranty deed ("Deed") conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may

reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

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7. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the deed, all of the expenses in connection with recording fees. Each party shall bear the expense of its own legal counsel and appraisals.

8. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

9. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for forty-five (45) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests or assessments including but not limited to Phase I Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the Property.

If Buyer in its sole discretion determines that the Property is unsuitable, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

10. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and

this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

11. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

13. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

14. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

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16. Time. Time is of the essence of all provisions of this Agreement.

17. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

18. Notices. Any notice hereunder must be in writing and delivered personally or by United State Mail, Registered or Certified, Return Receipt Requested; United State Express Mail; or Federal Express or equivalent courier service, and shall not be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: William Thomas Bell, Jr. and Willie Hazel Bell
3701 Race Track Road
Jacksonville, Florida 32259

Buyer: St. Johns County
Ben W. Adams, Jr., County Administrator
4020 Lewis Speedway

St. Augustine, FL 32095

19. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.

20. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

21. Commission Dues. Buyer and Seller agree that there are no real estate commissions that may be owed as a result of this transaction.

22. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

23. Transportation Roadway Plans. Buyer agrees to incorporate into the design and have constructed a full median cut in front of the existing driveway and one driveway entrance or curb cut at the location of the existing driveway.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date first above written.

BUYER:
ST. JOHNS COUNTY, FLORIDA

Ben W. Adams, Jr.
County Administrator

Witness Name _____

Witness Name _____

SELLER:

William Thomas Bell, Jr.

Willie Hazel Bell

Witness Name Joshua Taylor Bell

Witness Name Joshua Taylor Bell