

RESOLUTION NO. 2005 - 103

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, AND THE BALMASEDA HOMEOWNERS ASSOCIATION WHEREBY ST. JOHNS COUNTY WILL OWN AND MAINTAIN THE STREET AND RIGHTS-OF-WAY LYING WITHIN THE BALMASEDA ISLE SUBDIVISION NAMED "ISLE WAY LANE", AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE, ON BEHALF OF THE COUNTY, ANY AGREEMENTS, DOCUMENTS, OR OTHER PAPERWORK NECESSARY TO ACCOMPLISH THAT PURPOSE

RECITALS

WHEREAS, Balmaseda Isle Homeowners Association Inc., ("Balmaseda Isle") has requested that St. Johns County, a political subdivision of the State of Florida, accept the street ("Isle Way Lane") and associated rights-of-way located within the Balmaseda Isle Subdivision; and

WHEREAS, St. Johns County has inspected the pavement and drainage system within the rights-of-way and found it to be adequate and not currently in need of repair; and

WHEREAS, St. Johns County will agree to accept the rights-of-way, street and the 5' non-access Easement named Tract "B" in the Balmaseda Isle Plat, as recorded in Map Book 33, Pages 87-93, providing Balmaseda Isle agrees to the terms and conditions set forth in the Agreement attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, A copy of the executed Warranty Deed conveying that certain right-of-way named "Isle Way Lane", which is a total of 1.95 acres, more or less, and the 5' non-access easement named Tract "B", which is a total of 0.1 acres, more or less, is attached as Exhibit "B", incorporated by reference and made apart hereof; and

WHEREAS, The County has determined that acceptance of the rights-of-way, street, and 5' non-access easement is in the interest of the County, and serves a public purpose.

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

Section 1. The above recitals are incorporated by reference into the body of this resolution and such recitals are adopted as findings of fact.

Section 2. The Board hereby approves the Agreement in the form attached hereto and authorizes the County Administrator to execute said Agreement, and any other necessary paperwork necessary to accomplish the purpose set forth in this Resolution.

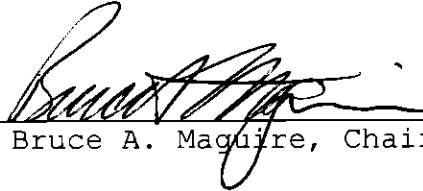
Section 3. The Clerk is instructed to file the original Agreement and mail executed copies of this Resolution and the Agreement to Balmaseda Isle Homeowners Association, Inc., President, 225 Isle Way Lane, Ponte Vedra Beach, Florida 32082.

Section 4. Upon acceptance of this Resolution by the Board of County Commissioners, the Warranty Deed is hereby accepted in the form of that which is attached hereto as Exhibit "B" and the Clerk of Courts is instructed to record the original, executed Warranty Deed in the public records of St. Johns County, Florida.

PASSED and ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 20th day of April, 2005.

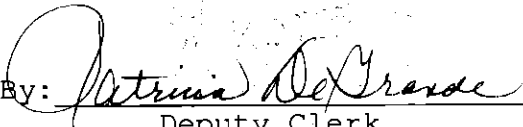
**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: _____


Bruce A. Maguire, Chairman

ATTEST: Cheryl Strickland, Clerk

By: _____


Deputy Clerk

RENDITION DATE 4/21/05

Exhibit "A"

AGREEMENT

THIS AGREEMENT dated as of the _____ day of _____, 2005 by Balmaseda Isle Homeowners Association, Inc., (hereinafter "Homeowners Association") and St. Johns County, Florida, a political subdivision of the State of Florida (hereinafter "County").

RECITALS

WHEREAS, the Homeowners Association has requested the County accept the street and rights-of-way, named Isle Way Lane, as shown on the plat of Balmaseda Isle, according to the plats thereof recorded in Map Book 33, Pages 87-93, public records of St. Johns County, Florida, (hereinafter "right-of-way"); and

WHEREAS, the County has inspected the drainage system within the right-of-way and has found it to be adequate and not currently in need of repair; and

WHEREAS, the County has inspected the pavement in the right-of-way and has found it to be adequate and not currently in need of repair; and

WHEREAS, the County has determined that the 5' non-access easement named "Tract B", as shown on the plat of Balmaseda Isle, according to the plats thereof recorded in Map Book 33, Pages 87-93, public records of St. Johns County, Florida, (hereinafter "Tract B") should be accepted with the road and cease to be a non-access easement, thereby insuring the opportunity for future interconnectivity and the possible reduction of future driveways on Ponte Vedra Boulevard; and

WHEREAS, the Homeowners Association have persevered in their request that the County accept the right-of-way of Balmaseda Isle Subdivision and the County Engineer has inspected and verified that the roads will meet County standards as outlined in St. Johns County Ordinance 86-4.

NOW THEREFORE it is agreed:

1. The above recitals are incorporated by reference and made a part hereof.

2. The County will accept fee simple title to the right-of-way, Tract B and the drainage facilities located within the rights-of-way, free and clear of all encumbrances, from the current owners.

3. The Homeowners Association acknowledges that St. Johns County will accept the 5' non-access easement known as "Tract B" as additional right-of-way and further acknowledges that access will no longer be prohibited on the basis of the existence of "Tract B", as it will no longer be a non-access easement, but rather a part of the rights-of-way.

4. The Homeowners Association hereby grants St. Johns County, Florida the right to drain stormwater collected in the dedicated streets and roads over, under, across and through those easements named "Unobstructed Drainage and Access Easement", "Unobstructed Access and Drainage Easement" and "Unobstructed Drainage Easement", as shown on the plat of Balmaseda Isle, according to the plats thereof recorded in Map Book 33, Pages 87-93, public records of St. Johns County, Florida.

5. The Homeowners Association will maintain all other drainage facilities not located within the rights-of-way and all drainage ways, ponds, lakes and tracts together with all easements for conservation, water, sewer, drainage, maintenance, cable television and telephone service and other easements as dedicated to them in the plats of Balmaseda Isle recorded in Map Book 33, Page 87-93; the Declaration of Easements, Covenants and Restrictions recorded in Official Records Book 1343, Page 963-1026; and the Grant of Easement from the Homeowners Association as recorded in Official Records Book 1406, Page 1375-1376, public records of St. Johns County, Florida, (hereinafter "HOA Easements") and will insure that drainage from the Road Rights-Of-Way will have positive outfall through the drainage easements to the lakes. Should Homeowners Association not satisfactorily maintain said HOA Easements, the County may, at its election, enter said HOA Easements for the purpose of conducting necessary maintenance. If the County so elects, it shall first give the Homeowners Association 30 days written notice in which time the Homeowners Association may correct or complete the necessary

maintenance. In any event, the Homeowners Association shall be responsible for all costs associated with said maintenance. The County will in no way become responsible for any membership, activity or payment as specified in the aforementioned agreements.

6. The Homeowners Association acknowledges that St. Johns County will not accept ownership of the lakes or any other drainage feature outside of the rights-of-way. The Homeowners Association agrees to indemnify and hold harmless St. Johns County, to the extent permitted by law, from any claim, action, demand, loss, damage, cost, expense or liability resulting from any lakes, ponds or other drainage features in Balmaseda Isle. Nothing herein should waive either the County or the Home Owner Association's limitations on liability pursuant to Section 768.28 (5), Florida Statutes, or other law.

7. The Homeowners Association must reimburse the County **one thousand, eight hundred fifty dollars (\$1,850.00), plus the cost of a title opinion and title insurance policy that is secured for the rights-of-way parcel. Such reimbursement must occur prior to the County assuming ownership of the rights-of-way. The reimbursement of the \$1,850.00 is to cover costs associated with a Phase 1 Environmental Site Assessment performed on the site.**

8. The Homeowners Association will be responsible for all Property Taxes incurred before the County accepts the road rights-of-way.

9. The Homeowners Association will be responsible for all mowing and landscaping of the rights-of-way. The Homeowners Association will insure that mowing, edging, sweeping, tree trimming, fertilizing and litter removal will be at least to the minimum County standards for subdivision rights-of-way and that landscaping shall not interfere with the sight-distance requirements pertaining to intersections and driveways. The County may, at its discretion, remove, trim, or mow said landscaping for any reason deemed necessary for the County's normal utilization of the right-of-way without regard to the aesthetics, health, or survival of the landscape materials.

10. The Parties acknowledge that this Agreement will allow the County to permit future utility installation and repair work on the rights-of-way, at the County's discretion.

11. The Homeowners Association will be responsible for the maintenance of the street lighting in the rights-of-way, and the operation and expense of said street lighting.

12. The Homeowners Association acknowledges it is the owner of the masonry sign wall structures on both sides of Isle Way Lane, at the intersection with Ponte Vedra Boulevard, and that St. Johns County will not accept ownership of the sign walls. The Homeowners Association also agrees that St. Johns County may remove one, or both, said sign walls for any reason that may become necessary for the public's use of the public rights-of-way at the Homeowners Association's expense without penalty from or compensation to the Homeowners Association or any other party. If the County determines it is necessary to remove one or both of the sign walls, then 30 days written notice will be given to the Homeowners Association during which time the Homeowners Association may remove or demolish the wall or walls in question. After the 30 days notice, if the wall or walls specified in the notice have not been removed the County may demolish and/or remove them in any manner deemed appropriate by the County and be reimbursed for any reasonably related expenses within 30 days of the demolition and/or removal.

13. The Homeowners Association agrees to indemnify and hold harmless St. Johns County, to the extent permitted by law, from any claim, action, demand, loss, damage, cost, expense or liability as a result of the sign walls being installed and retained in the right-of-way of Isle Way Lane at said property. Nothing herein should waive either the County or the Home Owner Association's limitations on liability pursuant to **Section 768.28 (5) F.S.**, or other law.

14. The Homeowners Association agrees to indemnify and hold harmless St. Johns County, to the extent permitted by law, from any claim, action, demand, loss, damage, cost, expense or liability resulting from or arising out of any negligent act performed by the Homeowners Association or its officers, employees, or agents in the performance of any of the duties required of the Homeowners Association according to this Agreement.

15. This Agreement may be amended in writing executed with the same formalities as the original.

16. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Jurisdiction and venue for any dispute hereunder shall be in the Circuit Court of St. Johns County.

17. The executed original of this Agreement shall be filed with the Clerk of the Board of County Commissioners of St. Johns County, and each party shall receive a certified copy of the recorded agreement.

18. This Agreement shall be effective upon approval by the Board of County Commissioners authorizing the execution of the agreement by the County Administrator, executed by all parties hereto.

19. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

20. If any section, phrase, sentence or portion of the Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

21. Nothing in this Agreement shall be construed as transferring to the County ownership of any other tract depicted in the Balmaseda Isle plat recorded in Map Book 33, Pages 87-93, except the right-of-way for Isles Way Lane and Tract B.

22. Notices or correspondence related to this Agreement shall be sent to the following:

For Balmaseda Isle Homeowners Association, Inc.

Balmaseda Isle Homeowners Association, Inc.
C/O Edwin Seda, President
125 Greencrest Drive
Ponte Vedra Beach, FL 32082

For St. Johns County

Ben W. Adams Jr., County Administrator
P. O. Drawer 349
St. Augustine, FL 32085-0349

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written above.

Signed, sealed and delivered
In the presence of

Balmaseda Isle Homeowners
Association

By: _____

Witness _____

Edwin Seda

President
225 Isle Way Lane
Ponte Vedra, FL 32082

(Type or print name)

Witness _____

(Type or print name)

Witness: _____

St. Johns County, Florida

(Type or print name)

By: _____

Ben W. Adams, Jr.
County Administrator
P. O. Drawer 349
St. Augustine, FL 32085-

Witness: _____

0349

(Type or print name)

Exhibit "B"

Prepared By:
St. Johns County
4020 Lewis Speedway
St. Augustine, Florida 32084

WARRANTY DEED

THIS WARRANTY DEED made and executed the ____ day of _____, 2005, by BALMASEDA ISLE HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, whose address is 225 Isle Way Lane, Ponte Vedra Beach, Florida 32082, hereinafter called the Grantor, to ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, hereinafter called the Grantee:

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH: That the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee all that certain land situate, lying and being in St. Johns County, State of Florida, described as follows:

A portion of Section 11, Township 4 South, Range 29 East, St. Johns County, Florida, being more particularly described as follows:

That certain right-of-way known as "Isle Way Lane" and that certain 5' non-access easement known as "Tract B" as set forth in Balmaseda Isle Subdivision plat as recorded in Map Book 33, Pages 87-93, public records of St. Johns County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except easements, restrictions and reservations of record, if any, and taxes accruing subsequent to December 31, 2004.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed sealed and delivered
in the presence of:

**BALMASEDA ISLE HOMEOWNERS
ASSOCIATION, INC.**
a Florida non-profit corporation

Witness

By: Edwin Seda, President

Witness

STATE OF FLORIDA
COUNTY OF ST JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2005, by Edwin Seda, President of Balmaseda Isle Homeowners Association, Inc., a Florida non-profit corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Notary Public

My Commission Expires: _____



St. Johns County
 Real Estate Division
 (904) 823-2745
 April 7, 2005

Isle Way Lane Right-of-Way



DISCLAIMER
 This map is for reference use only.
 Data provided are derived from multiple
 sources with varying levels of accuracy.

