

RESOLUTION NO. 2006- 297

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CERTAIN MEMORANDUM OF AGREEMENT AND UNDERSTANDING BETWEEN W.S. KENNEDY AND ST. JOHNS COUNTY FOR A COUNTY PARK SITE, MUSEUM AND WILDLIFE PRESERVE.

Recital

WHEREAS, the Seller, W.S. Kennedy has executed a Memorandum of Agreement, and Understanding, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, on May 4, 2005, Resolution No. 2005-128 the Board of County Commissioners approved and accepted a certain Purchase and Sale Agreement, attached hereto as Exhibit "B", incorporated by reference and made a part hereof; and

WHEREAS, this site has been selected by The LAMP Board as a future Florida Communities Trust project for a park site, museum and wildlife preserve. This literary landmark home site is located on Lake Beluthahachee; and

WHEREAS, this site has received FCT Grant Funding, as a reimbursement purchase; and

WHEREAS, it is in the best interest of the County to approve and authorize the County Administrator to execute this Memorandum of Agreement and Understanding for a clear clarification by both parties.

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 of County Commissioners hereby approves and authorizes the County Administrator to execute the Memorandum of Agreement and Understanding and to proceed to close the transaction according to the terms of the Purchase and Sale Agreement.

Section 3. The Clerk is instructed to file and record the original Memorandum of Agreement and Understanding in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 5 day of September, 2006.

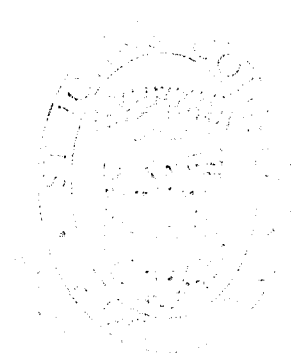
BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY FLORIDA

By: James E. Bryant
James E. Bryant, Chair

ATTEST: Cheryl Strickland, Clerk

By: Patricia DeGrade
Deputy Clerk

RENDITION DATE 9-7-06



MEMORANDUM OF AGREEMENT AND UNDERSTANDING

THIS AGREEMENT dated this ____ day of _____, 2006 between ST. JOHNS COUNTY FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and W. S. KENNEDY, a/k/a STETSON KENNEDY, whose address is 1523 State Road 13 North, Jacksonville, Florida 32259 ("Seller").

W I T N E S S E T H:

WHEREAS, Buyer and Seller are parties to that certain Purchase and Sale Agreement dated May 6, 2005 as amended by First Amendment and Statement of Clarification dated February 14, 2006; and

WHEREAS, closing of the transaction is pending and is expected to be consummated forthwith; and

WHEREAS, the parties wish to confirm that certain uses, rights and responsibilities will survive the closing.

NOW, THEREFORE, it is mutually agreed as follows:

1. The subject Property sold by Seller to Buyer will be used for a park site, museum and wildlife preserve.
2. The Buyer will be responsible for the maintenance and security of the homesite and the contents therein and the preservation of Beluthahatchee as a Literary Landmark and Historic Site and an "as is" museum commemorating Stetson Kennedy's lifework and that of his late wife, Joyce Ann Kennedy.
3. The homesite located on the Property shall remain structurally intact and all artifacts remaining within the homesite shall be preserved as a component of

Beluthahatchee Park, established by St. Johns County with the assistance of the Florida Community Trust Fund's "Florida Forever" program, in conformity with the Contract and Management Plan entered into by St. Johns County and the Florida Community Trust Fund.

4. The above-referenced provisions will survive the closing of the sale of the Property.

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

BUYER:
ST. JOHNS COUNTY, FLORIDA

By: _____
BEN W. ADAMS, JR.
County Administrator

SELLER:

W. S. KENNEDY, a/k/a STETSON KENNEDY

EXHIBIT "B" TO RESOLUTION

RESOLUTION NO. 2005- 128

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA. APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT TO PURCHASE PROPERTY TO BE USED FOR A COUNTY PARK, MUSEUM, AND WILDLIFE PRESERVE

RECITALS

WHEREAS, W. Stetson Kennedy owner of property located at 1523 State Road 13 North, Jacksonville, Florida 32259 has executed and presented to the County a Purchase and Sale Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, this site has been selected by The LAMP Board as a future Florida Communities Trust project for a park site, museum and wildlife preserve. This literary landmark home site is located on Lake Beluthahachee see attached map referenced as Exhibit "B", which delineates the site; and

WHEREAS, the purchase of this property is contingent upon the FCT Grant Funding; and

WHEREAS, it is in the best interest of the County to acquire this for a County Park, County Museum and Wildlife Preserve.

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 of County Commissions hereby approves the terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute the Purchase and Sale Agreement and proceed with due diligence requirements and to close the transaction according to the terms of the Agreement.

Section 3. The Clerk is instructed to file the original Purchase and Sale Agreement.

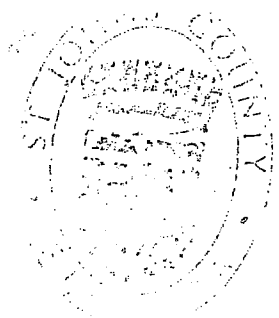
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 4th day of MAY, 2005.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: *Bruce Maguire*
Bruce Maguire, Chairman

ATTEST: Cheryl Strickland, Clerk
By: *Cheryl Strickland*
Deputy Clerk

RENDITION DATE 5-5-05



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of MAY 6, 2005, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and **W. S. KENNEDY** whose address is 1523 State Road 13 North, Jacksonville, Florida 32259 ("Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing property 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 approximately 2 acres plus or minus for a County Park, Museum, and/or Wildlife Preserve. The property is described in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property")

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

- (a) The purchase price ("Purchase Price") is **\$350,000.00** for the compensation for the property which is needed as a County Park, Museum, and/or Wildlife Preserve. The Purchase Price shall be based on the purchase price or appraised value whichever is greater and paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(I) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within fifteen (15) days of Commission Approval (hereinafter defined)	\$1,000.00
(See Item 27 of Contract)	Additional Binder	\$5,000.00
(ii) Cash to Close	Closing Day	\$344,000.00
TOTAL PURCHASE PRICE		\$350,000.00

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 all reasonable action to obtain within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property; and

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 day 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 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 and receiving a return of the Deposit.

3. Identity and Obligation of Escrow Agent.

(a) **Land Title of America Group** 3700 US 1 South, St. Augustine, Florida 32086, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final

determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

4. 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 the Escrow Agent, Land Title of America Group, 3700 US 1 South, St. Augustine, Florida 32086, on or after 18 months from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE. (See Item number 9) Closing Date.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2005 taxes at the highest allowable discount.

6. 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.

7. 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, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. of this agreement. 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 reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

8. 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. Seller shall pay for property taxes on said parcel prorated to day of closing.

9. Closing Date. This transaction shall close within 18 months from date of FCT approval.

10. 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.

11. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for ninety (90) 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 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

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

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

19. 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.

20. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall 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: **W. S. Kennedy**
1523 S.R. 13 N.
Jacksonville, Florida 32259

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

Escrow Agent: **Land Title of America Group**
3700 US 1 South
St. Augustine, Florida 32086

21. 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.

22. 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.

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

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

25. Effective Date. The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties.

26. Contingency. This sale is contingent upon St. Johns County obtaining FCT grant funding in the amount applied for by St. Johns County within 365 days from date of application.

27. Additional Binder Deposit. St. Johns County will deposit an additional binder deposit in the amount of \$5,000.00 within 30 days from the date of FCT Grant approval.

28. Life Estate. W. Stetson Kennedy shall retain a Life Estate in subject property, and shall remain in said cottage for the duration of his life. St. Johns County shall pay for any and all repairs that may be needed on said structure during W. Stetson Kennedy Life Estate in said structure.

29. Artifacts and Homesite. Homesite shall remain structurally intact and all artifacts remaining within the homesite shall be preserved, so that such artifacts may be viewed now and later in a museum, which may include the homesite itself.

30. Dam. No portion of dam shall be included in this Sale. Any said portion of dam shall be excluded from parent track and shall not be deeded to St. Johns County. Survey shall show the exclusion as not being included in said sale.

31. Stetson Kennedy Foundation. St. Johns County will own the site and properties thereon, are responsible for the maintenance and security of same, and its preservation as a Literary Landmark and Historic Site. The Stetson Kennedy Foundation will conduct programs and events on the property, in keeping with this multi-functional role as parkland, nature preserve, museum, archive, venue for educational, environmental, and cultural activities, workshop and retreat. The Foundation will also be a key partner with St. Johns County in developing the Florida Communities Trust management plan.

32. Ingress and Egress. This sale is contingent upon there being deeded Ingress and Egress to said sites from S.R. 13 North.

33. Park Name. Park shall be named Beluthahatchee.

34. CDD Assessment. The CDD assessment must be paid by seller. The assessment shall be collected and paid at closing and therefore paid out of sellers proceeds.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparties.

**SELLER:
W. S. KENNEDY**

Robin S. Robbins
Witness Name Robin S. Robbins
Sandra A. Parks
Witness Name SANDRA A. PARKS

By W. S. Kennedy Date: 4/13/05
Title: Homeowner

**BUYER:
ST. JOHNS COUNTY, FLORIDA**

Sarah Cone
Witness Name: Sarah Cone
Laura S. Taylor
Witness Name: Laura S. Taylor

Ben W. Adams, Jr. Date: 5-6-05
**Ben W. Adams, Jr.
County Administrator**

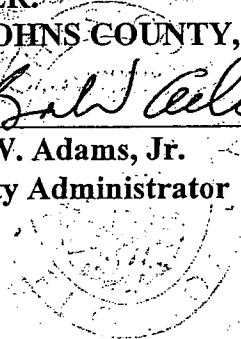


EXHIBIT "A"

The exact legal description and boundaries of "the property" will be mutually agreed to by the seller and buyer, and will be further defined by a Boundary Survey to be provided.

Parcel -003050-0000

Excluding the dam and the portion of the parcel highlighted in red on Exhibit "A-1"

See Attached Map

Exhibit "A-1"

1ST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS 1ST AMENDMENT TO PURCHASE AND SALE AGREEMENT, Dated _____ (“1st Amendment”) by and between **St. Johns County, Florida**, a political subdivision of the State of Florida, (“Buyer”), and **W.S. Kennedy**, whose address is 1523 State Road 13 North, Jacksonville, Florida 32259, (“Seller”)

Recitals

WHEREAS, the County entered into a Purchase and Sale Agreement attached hereto as Exhibit “A”, incorporated by reference and made a part hereof with W.S. Kennedy, owner of the property, to be a County Park, Museum, and or/or Wildlife Preserve; and

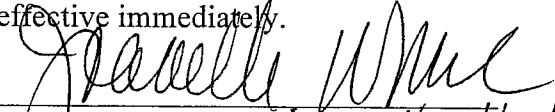
WHEREAS, Section 11 in the due diligence portion of the Purchase and Sale Agreement needs to be extended due to time delay’s related to appraisals; and

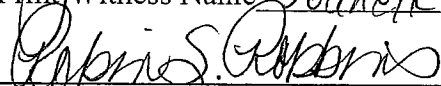
WHEREAS, the seller agrees to extend this portion of the Purchase and Sale Agreement to be October 6, 2006 for the date of adjustment in this amendment.

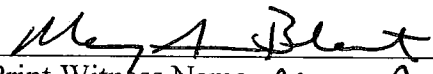
NOW THEREFORE, the parties hereby agree as follows:

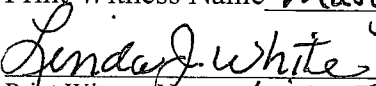
1. The above recitals are incorporated by reference and made a part hereof.
2. Seller agrees to extend the due diligence portion of this Agreement to be October 6, 2006 as the date of adjustment in this amendment.
3. All other provisions and agreements of the Purchase and Sale Agreement shall remain in full force.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment effective immediately.

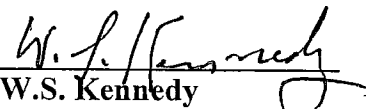

Print Witness Name Joanne Mulrain


Print Witness Name Robin Robbins

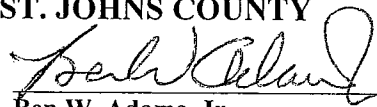

Print Witness Name Mary Ann Blount


Print Witness Name Linda J. White

Seller:


W.S. Kennedy

Buyer:

ST. JOHNS COUNTY

Ben W. Adams, Jr.
County Administrator