

RESOLUTION NO. 2008- 135

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR ACQUISITION OF PROPERTY NEEDED FOR THE CONSTRUCTION OF STATE ROAD 9-B EXTENSION.

RECITALS

WHEREAS, the property owner, Taylor Woodrow Communities at St. Johns Forest, LLC, has executed a Purchase and Sale Agreement for their property needed for the construction of State Road 9-B Extension hereto attached as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the owner has agreed to sell his property for the appraised value of \$5,712,900.00 for approximately 88.46 acres; and

WHEREAS, the property is needed for construction of State Road 9-B Extension which is the planned connection to the existing CR2209; and

WHEREAS, the 9-B Extension is shown on the Northwest Sector Overlay Map in the St. Johns 2000-2015 Traffic Circulation Plan as an area that needs to be reserved as future right-of-way. Florida Department of Transportation (FDOT) representatives have indicated there are six proposed 9-B Extension alignments that all travel through this property and will impact the property either partially or completely; and

WHEREAS, the State Road 9-B Extension is a critical improvement that will provide an alternative north/south travel corridor between St. Johns County and Duval County and will allow traffic leaving St. Johns County to connect to I95 further north in Duval County helping to alleviate the pressure on the CR210/I95 interchange; and

WHEREAS, it is possible that the entire acreage will not be needed for right-of-way for the State Road 9-B Extension and its connection to CR2209, but any excess property will be useful to St. Johns County to provide borrow areas, stormwater retention areas and environmental mitigation; and

WHEREAS, it is in the best interest of the County to acquire the property for the appraised value to construct State Road 9-B Extension.

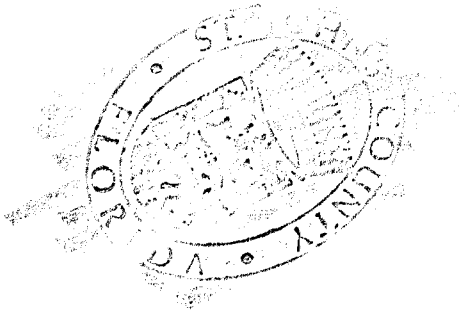
NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

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 the terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute the original Purchase and Sale Agreement taking all steps necessary to move forward to close this transaction.

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

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 13th day of May, 2008.



BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Thomas G. Manuel*
Thomas G. Manuel, Chair

ATTEST: Cheryl Strickland, Clerk

By: *Pam Halterman*
Deputy Clerk

RENDITION DATE 5/14/08

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2008, 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 **TAYLOR WOODROW COMMUNITIES AT ST. JOHNS FOREST, LLC**, a Florida limited liability company ("Seller"), whose address is 8430 Enterprise Circle, Suite, 100, Bradenton, Florida 34202.

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 88.46 acres, the property is shown in **Exhibit "A"**, attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is **\$5,712,900.00** subject to the prorations hereinafter provided. The Purchase Price shall be 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 thirty (30) days of Commission Approval (hereinafter defined)	\$571,290.00
(ii) Cash to Close	Closing Day	\$5,141,610.00
TOTAL PURCHASE PRICE		<u>\$5,712,900.00</u>

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

2. Title Evidence.

Conditions and Limitations

- (a) Seller is responsible for all taxes due on the property up to, but not including, the day of closing. Seller is responsible for delivering marketable title to Buyer. marketable title shall be determined according to applicable title standards adopted by the Florida Bar in accordance with Florida Law subject only to those

exceptions that are acceptable to Buyer. Seller shall be liable for any encumbrances not disclosed in the public records or arising after closing as a result of actions of the Seller.

- (b) Seller shall maintain the property described in **Exhibit "A"** of this agreement until the day of closing. The property shall be maintained in the same condition existing on the date of this agreement, except for reasonable wear and tear.
- (c) Any occupancy of the property described in **Exhibit "A"** of this agreement by Seller extending beyond the day of closing must be pursuant to a lease from Buyer to Seller.
- (d) The property described in **Exhibit "A"** of this agreement is being acquired by Buyer for transportation purposes under threat of condemnation pursuant to **Section 337.25 Florida Statutes**.
- (e) Pursuant to **Rule 14-10.004, Florida Administrative Code**, Seller shall deliver completed **Outdoor Advertising Permit Cancellation Form(s), Form Number 575-070-12**, executed by the outdoor advertising permit holder(s) for any outdoor advertising structure(s) described in Section I of this agreement and shall surrender, or account for, the outdoor advertising permit tag(s) at closing.
- (f) Seller agrees that the real property described in **Exhibit "A"** of this agreement shall be conveyed to Buyer by conveyance instrument(s) acceptable to Buyer.
- (g) Seller and Buyer agree that a real estate closing pursuant to the terms of this agreement shall be contingent upon delivery by Seller of an executed Public Disclosure affidavit in accordance with **Section 286.23, Florida Statutes**.
- (h) Seller and Buyer agree that this agreement represents the full and final agreement for the herein described sale and purchase and no other agreements or representations, unless incorporated into this agreement, shall be binding on the parties.
- (i) **Other:** Title and survey review to be completed and determination of permitted exceptions under Section 2(b) to be completed on or before the Inspection Termination Date.

3. Identity and Obligation of Escrow Agent.

(a) Action Title Services whose address is 3670 US 1 South, Suite 100 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, Action Title Services, 3670 US 1 South, Suite 110, St. Augustine, Florida 32086, after (thirty) 30 days and before one hundred (100) days from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2007 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. 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 and the cost of recording the deed, documentary stamps, and any other affiliated recording fees or closing cost excluding property taxes. Seller will pay for property taxes prorated to the day of closing.

9. 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.

10. 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. Seller agrees to provide Buyer any documents, tests, easements, wetland assessments, environmental assessments, surveys, etc., within their possession that would help Buyer make a suitability decision regarding the property. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable for any reason, 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.

11. Termination of Contract. If Buyer for any reason determines that the Property is unsuitable for the Buyer's intended use, **or that there are other circumstances that negatively affect the Buyer's intended use**, then 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 is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate. If the notice of termination is not delivered on or before the Inspection Termination Date then the Deposit shall become non-refundable except in the event of a default by Seller. This sale is contingent upon St. Johns County and FDOT entering into a Joint Project Agreement that will provide partial funding for this purchase on or prior to the Inspection Termination Date.

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: **Taylor Woodrow Communities at St. Johns Forest, LLC**
8430 Enterprise Circle, Suite 100
Bradenton, Florida 34202-4108

Buyer: **St. Johns County, Florida, a political subdivision
Of the State of Florida**
4020 Lewis Speedway
St. Augustine, Florida 32084

Escrow Agent: **Action Title Services**
3670 US 1 South, Suite 100
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.** Seller agrees to pay any 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 St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

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. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over a period of time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. (Section 404.056(8), F.S.)

27. **Amendment.** Notwithstanding any other provision contained in this Agreement, the closing date may be extended by the County, and the Seller, without further action of the Board of County Commissioners of St. Johns County. As a result, the County Administrator may execute an extension of the closing date, without such referenced further action of the Board. This accommodation extends only to extension of closing dates. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

28. **Final Agency Acceptance:** Seller and Buyer hereby acknowledge and agree that their signatures as Seller and Buyer below constitute their acceptance of this agreement as a binding real estate contract. It is mutually acknowledged that this Purchase Agreement is subject to Final Agency Acceptance by Buyer pursuant to **Section 119.0711(2), Florida Statutes.** A closing shall not be conducted prior to 30 days from the date this agreement is signed by Seller and Buyer to allow public review for the transaction. Final Agency Acceptance shall not be withheld by Buyer absent evidence of fraud, coercion, or undue influence involving this agreement. Final Agency Acceptance shall be evidenced by the signature of Buyer in **Section 29** of this Agreement.

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

WITNESSES:

SELLER:

TAYLOR WOODROW COMMUNITIES AT. ST. JOHNS FOREST, LLC

Signature

Print

Signature

By: _____

Print Name: _____

Title: _____

29. **Final Agency Acceptance:** The Buyer has granted Final Agency acceptance this _____ day of _____, 2008.

By: _____

Print Name: _____

This document delivered by Dekhi Singh Date: 4-27-08

This Document received by John G. Metcalf Date: 4-24-08

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

WITNESSES:

BUYER:
ST. JOHNS COUNTY, FLORIDA
A political subdivision of the
State of Florida

Signature

Print

Signature

Print

By: _____
Michael D. Wanchick Date
County Administrator

ATTEST: Cheryl Strickland, Clerk
By: _____
Deputy Clerk

Deposit received by _____, (Escrow Agent), which the Escrow Agent agrees to return in accordance with the terms and conditions within the Agreement.

ESCROW AGENT
By: Action Title Services
Name: _____
Title: _____
Date: _____

“Exhibit A”

The exact configuration and boundaries of “The Property” will be mutually agreed to by the SELLER and BUYER, and will be further defined by Boundary Survey to be provided as set forth in Paragraph 9, and by reference made a part hereof. In the event, the SELLER and BUYER cannot mutually agree upon the exact configuration and boundaries of “The Property” this contract will be deemed null and void, and SELLER and BUYER shall be relieved of and from any and all further obligation to one another.