

RESOLUTION NO. 2009- 218

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF AN OPTION AGREEMENT FOR ACQUISITION OF PROPERTY FOR CONSTRUCTION OF COUNTY ROAD 2209 BETWEEN COUNTY ROAD 210 AND INTERNATIONAL GOLF PARKWAY AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE OPTION AGREEMENT.**

**RECITALS**

**WHEREAS**, the developers of Silverleaf Plantation Development of Regional Impact ("Sellers") have executed and presented the County an Option Agreement to acquire the right-of-way ("ROW") needed for construction of County Road 2209, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

**WHEREAS**, the purchase price of the ROW will be determined by an appraisal performed in full compliance with the Federal Highway Administration and Florida Department of Transportation acquisition procedures and compliance with the Uniforms Standards of Professional Practice; and

**WHEREAS**, per the Agreement, the County's exercise of the Option and closing on the purchase of the CR 2209 ROW will be contingent on obtaining complete funding of the design, permitting, right-of-way acquisition and construction through the Federal Economic Stimulus Program and the purpose of this Option Agreement is to provide a "shovel ready" project; and

**WHEREAS**, if and when the Sellers decide to complete clearing and grading of CR 2209 in accordance with the DRI the Sellers shall pay all applicable fees for the clearing and grading permit as a condition of its release for construction; and

**WHEREAS**, it is in the best interest of the County to approve the Option Agreement since it is of vital importance to the County's transportation network for construction of County Road 2209 between County Road 210 and International Golf Parkway; and

**WHEREAS**, to the extent that there are typographical, or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**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 of St. Johns County hereby approves the terms and conditions of the Option Agreement and authorizes the County Administrator, or designee, to execute said Option Agreement in substantially the form attached hereto..

Section 3. The Clerk of the Courts of St. Johns County is instructed to file the original Option Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 18<sup>th</sup> day of August, 2009.

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

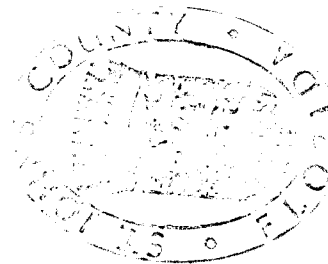
BY: 

Ron Sanchez, Vice Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Halteman  
Deputy Clerk

RENDITION DATE 8/20/09



**Exhibit "A" to Resolution**

**OPTION AGREEMENT**

THIS OPTION AGREEMENT to purchase real property is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2009 ("the Effective Date"), by and between ST. JOHNS COUNTY ("County"), a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084 ("Buyer") and WHITE'S FORD TIMBER AND INVESTMENT COMPANY, LTD. ("White's Ford"), SJP, L.L.C. ("SJP"), VCP-REAL ESTATE INVESTMENTS, LTD. ("VCP") and FREE SILVER, LLC ("Free Silver") (collectively, the "Sellers"), whose address is 3030 Hartley Road, Suite 300, Jacksonville, Florida 32257.

RECITALS:

A. Construction of County Road 2209 between County Road 210 and International Golf Parkway is of vital importance to the County's transportation network and the County desires to obtain an option to purchase real property for the County Road 2209 right-of-way, including pond sites, and drainage rights-of-way necessary to construct County Road 2209 in accordance with the design standards, specifications, and plans set forth in the SilverLeaf Plantation Development of Regional Impact adopted by Resolution 2006-65 on March 8, 2006, as modified in Resolution 2006-338 and in the PUD MDP Map ("MDP") recorded in PUD Drawing Book 18, at Page 1 (the "CR 2209 ROW").

B. Each of the Sellers owns a portion of the CR 2209 ROW and collectively, the Sellers own all of the CR 2209 ROW.

C. The Sellers' property is subject to the SilverLeaf Development of Regional Impact Development Order contained in Resolution 2006-65, as modified by Resolution 2006-338 (the "SilverLeaf DRI"), and is subject to the SilverLeaf Plantation PUD as set forth in Ordinance 2006-117 (the "SilverLeaf PUD").

D. The Sellers are willing to grant to the County an option to purchase real property for the CR 2209 ROW on the terms and conditions set forth in this Option Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings set forth in this Option Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Option. Sellers hereby grant to County an option to purchase real property for the CR 2209 ROW (the "Option") on the terms and conditions set forth in this Option Agreement during a term that shall commence upon the Effective Date and that shall end three (3) years after commencement (the "Original Option Term").

2. Purchase Price. The purchase price for the CR 2209 ROW and the mitigation identified on the attached Exhibit "B" to offset the wetland impacts described in Section 9 shall be determined by appraisal in full compliance with the Uniform Standards of Professional Practice and all applicable rules and regulations and in full compliance with the Federal Highway Administration and Florida Department of Transportation

acquisition procedures, including Florida Statute Chapter 73 and the Uniform Relocation Act or other acceptable methods.

3. Permits, Plans, and Specifications. Prior to the date of this Option Agreement, the Sellers have engaged the engineering firm of England-Thims & Miller, Inc. ("ETM") to design CR 2209 within the CR 2209 ROW and to produce certain plans and specifications for CR 2209 (the "ETM Plans"), and the Sellers have obtained an Environmental Resource Permit from the St. Johns River Water Management District (the "District") permitting the construction of CR 2209 (the "ERP"), and have obtained a Dredge/Fill Permit from the United States Army Corps of Engineers allowing construction of CR 2209 (the "ACOE Permit"). At closing of the purchase of the CR 2209 ROW, the County shall also purchase from Sellers the ETM Plans for an amount equal to \$1,486,500.00 and the Sellers shall assign to the County the rights and obligations under the ERP and ACOE Permit that relate to construction of CR 2209 within the CR 2209 ROW, and shall assign to the County all rights that it has in the ETM Plans. ETM plans shall be in a stage of completion that could be used for a design build project.. At closing, Sellers shall provide the County a release and affidavit from ETM stating that they have been fully paid for the ETM Plans.

4. Completion of County Permitting If and when the Sellers decide to complete clearing and grading of CR 2209 in accordance with the DRI, the ERP and the ACOE Permit, the Sellers shall pay all applicable fees for the clearing and grading permit as a condition of its release for construction.

5. Funding of CR 2209 Acquisition. The Sellers understand that the County's exercise of the Option and closing on the purchase of the CR 2209 ROW will be contingent on obtaining complete funding of the design, permitting, right-of-way acquisition and construction through the Federal Economic Stimulus Program adequate to fulfill the terms of this Option Agreement and construct the transportation facility per the design of the ETM Plan and the County shall use good faith efforts to obtain such funding.

6. Survey and Legal Description. The CR 2209 ROW is depicted on the attached Exhibit "A." Immediately upon execution of this Option Agreement, the Sellers shall advise ETM and Robert M Angas Associates, Inc. (the "Surveyor") to cooperate with the County and to provide the County all information in their files about the CR 2209 ROW, the ERP, and the ACOE Permit to enable the County to fulfill its obligations under the Option Agreement. Upon the exercise of this Option, the County shall be responsible for the cost of preparing a legal description of the CR 2209 ROW and for obtaining a boundary survey of the CR 2209 ROW, including fee simple parcels and easement parcels (including conservation easement parcels for the mitigation described on Exhibit "B") to be acquired pursuant to the terms of this Option Agreement.

7. Appraisal of CR 2209 ROW. Within 120 days of the Effective Date of this Option Agreement, the County shall obtain separate appraisals of the CR 2209 ROW (as defined in Recital A above) and the mitigation identified on Exhibit "B" to offset the wetland impacts described in Section 9 in conformance with Section 2 of this agreement and deliver an offer to the Sellers. With regard to the mitigation, the appraisal and offer shall include a price per functional gain unit determined in accordance with the Uniform Mitigation Assessment Methodology to facilitate adjustment under Section 9. If the

Sellers, retaining all rights afforded by the acquisition procedures in Section 2, agree to the purchase price for the CR 2009 ROW, and mitigation identified on Exhibit "B" to offset the wetland impacts and the funding stipulations in Section 5 are met, the County will exercise the Option to purchase the CR 2209 ROW and mitigation identified on Exhibit "B" to offset the wetland impacts.

8. Exercise of Option and Purchase of CR 2209 ROW. To exercise the Option, the County must, during the Original Option Term, provide a notice of exercise to the Sellers, personally or by certified mail, accompanied by a deposit equal to \$50,000.00, and a proposed purchase and sale agreement. The purchase and sale agreement shall contain a purchase price determined in accordance with Section 2 and a closing date not later than six (6) months after the exercise of the Option. The purchase and sale agreement shall limit the County's remedies to specific performance and the Sellers' remedies to liquidated damages in the amount of the Deposit. The deposit shall be paid to the Sellers in the event the County fails to close on the purchase for any reason other than the Sellers' failure to deliver good and marketable title to the CR 2209 ROW. The purchase and sale agreement shall provide for the reservation of easements by the Sellers for ingress, egress, utilities and drainage over the CR 2209 ROW and for the reservation of easements for drainage and landscaping over the portions of the CR 2209 ROW depicted in brown on Exhibit "A." The CR 2209 ROW includes the Sellers' rights and obligations under that certain easement from the Marshall E. Wolfe, Jr. and Margaret Greer Edmiston, Co-trustees to SJP recorded in Official Records Book 3058, Page 713 (the "Wolfe Easement") over the portion of the Wolfe Easement area depicted on Exhibit "A."

9. Mitigation. Construction of CR 2209 will require wetland mitigation in accordance with the requirements of the ERP and ACOE Permit. Prior to commencement of construction, the County shall purchase from the Sellers the mitigation identified on Exhibit "B" required under the ERP and ACOE Permit for construction within the CR 2209 ROW at a price determined by appraisal under the procedures in Section 7. The Sellers own the mitigation credits and mitigation areas currently identified in the ERP and ACOE Permit and the purchase of such mitigation would ensure the CR 2209 project would be "shovel ready." Buyer and Sellers understand the required mitigation may increase or decrease and that the final determination of the required mitigation will be made by the District. Exhibit "B" depicts the approximate quantity of required mitigation as 48.28 functional gain units determined in accordance with the Uniform Mitigation Assessment Methodology.

10. Median Openings and Access Points. Median openings and access points shall be provided in accordance with the SilverLeaf DRI and the ETM Plans, except for any changes required by relocation of the Outer Beltway. In any event, there shall be no fewer median openings and access points than are depicted on the ETM Plans.

11. No Further Encumbrances. During the Original Option Term, the Sellers shall not further encumber the CR 2209 ROW without the written consent of the County. The County shall not withhold consent unreasonably. The sale or conveyance by the sellers of right of way for the outer beltway to the FDOT where the outer beltway crosses the CR 2009 ROW shall not be deemed a violation of this Section 11 or this Option Agreement.

12. Integration. This document is the entire and complete understanding of the parties with respect to its subject matter and supercedes and replaces all prior and contemporaneous agreements, understandings, representations, and statements both written and oral, whether between the parties or their representatives.

13. Modification. This Option Agreement may only be modified by a written modification executed by the Sellers and the County.

14. Counterparts. This Agreement may be executed in counterparts and each executed counterpart shall be construed to be an original.

15. 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 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.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first above written.

**SELLERS:**

**WHITE'S FORD TIMBER AND INVESTMENT COMPANY, LTD.,** a Florida limited partnership

By: WFGP, LLC, a Florida limited liability company, as its general partner

\_\_\_\_\_  
Witness: \_\_\_\_\_

\_\_\_\_\_  
Witness: \_\_\_\_\_

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, the \_\_\_\_\_ of WFGP, LLC, a Florida limited liability company, the general partner of White's Ford Timber and Investment Company, Ltd., a Florida limited partnership, and is personally known to me or provided \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary  
State of Florida, At Large

**SJP, L.L.C.**, a Florida limited liability company

\_\_\_\_\_  
Witness: \_\_\_\_\_

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

\_\_\_\_\_  
Witness: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, the \_\_\_\_\_ of SJP, L.L.C., a Florida limited liability company, and is personally known to me or provided \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary  
State of Florida, At Large



**VCP-REAL ESTATE INVESTMENTS, LTD.,**  
a Florida limited partnership

\_\_\_\_\_  
Witness: \_\_\_\_\_

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

\_\_\_\_\_  
Witness: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, the \_\_\_\_\_ of VCP-Real Estate Investments, Ltd., a Florida limited partnership, who is personally know to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary  
State of Florida, At Large

**FREE SILVER, LLC**, a Florida limited liability company

By: **WHITE'S FORD TIMBER AND INVESTMENT COMPANY, LTD.**, a Florida limited partnership, its Co-Managing Member

By: **WFGP, LLC**, a Florida limited liability company, its General Partner

\_\_\_\_\_  
Witness: \_\_\_\_\_

\_\_\_\_\_  
Witness: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, the \_\_\_\_\_ of WFGP, LLC, a Florida limited liability company, the general partner of White's Ford Timber and Investment Company, Ltd., a Florida limited partnership, its Co-Managing Member of Free Silver, LLC, a Florida limited liability company and is personally known to me or provided \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary  
State of Florida, At Large

**BUYER:**

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

\_\_\_\_\_  
Witness: \_\_\_\_\_

By: \_\_\_\_\_  
**Chair**

\_\_\_\_\_  
Witness: \_\_\_\_\_

**STATE OF FLORIDA  
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, Chair of the Board of County Commission, and is personally known to me.

\_\_\_\_\_  
Notary

**ATTEST: Cheryl Strickland, Clerk**

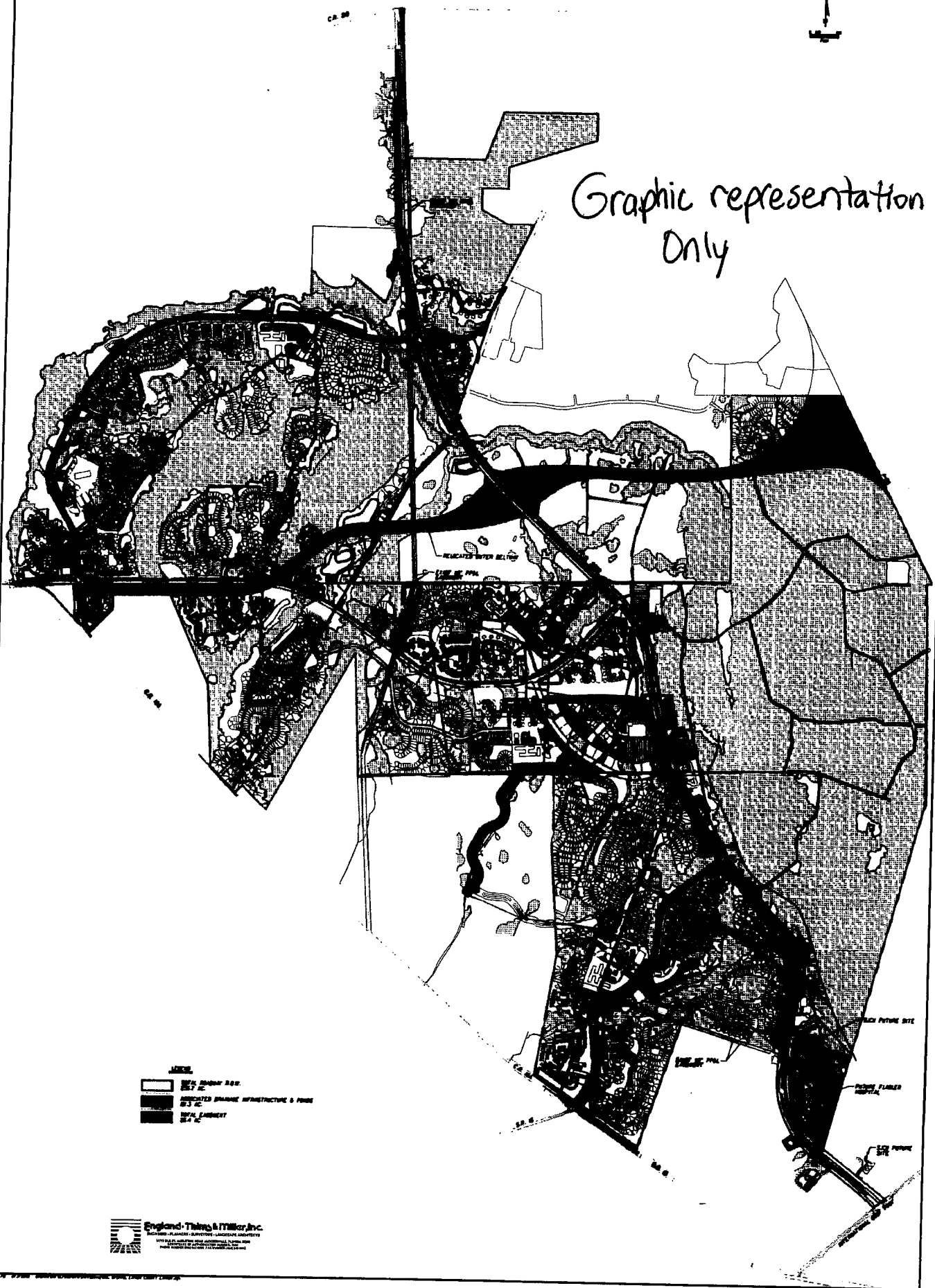
By: \_\_\_\_\_  
Deputy Clerk

**Attachments:**

Exhibit "A" – Depiction of Fee Simple and Easement Parcels of CR 2209 ROW  
Exhibit "B" - Mitigation Identified to offset Wetland Impacts of CR 2209



Graphic representation  
Only



AREA	
[Hatched pattern]	NEW BRIDGE PARK 257 AC
[Hatched pattern]	INDICATED DRAINAGE INFRASTRUCTURE & POND 8.3 AC
[Hatched pattern]	TOTAL LANDMARK 265.3 AC

Exhibit "B" to Agreement

