

RESOLUTION NO. 2011-36

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT OF EASEMENT TO PERFORM WORK AS PART OF SEGMENT III OF THE VOLUSIA STREET/FOUR MILE ROAD IMPROVEMENT PROJECT.

RECITALS

WHEREAS, Segment III of the Volusia Street-Four Mile Road Improvement Project includes construction of improvements to widen a 1.3 mile section of No. Volusia St. to 24 feet, add sidewalks and construct a roundabout at Volusia St. and Four Mile Road; and

WHEREAS, the consulting Transportation Engineers, Reynolds, Smith & Hills, has identified the need for a Permanent Drainage Easement to make improvements and for future maintenance on property located along Four Mile Road; and

WHEREAS, Queenie M. Flannory Watters has executed and presented to the County a Purchase and Sale Agreement of Easement, attached hereto as Exhibit "A" , incorporated by reference and made a part hereof; and

WHEREAS, the owner has agreed to sell a permanent easement for \$2,750.00; and

WHEREAS, this is a Capital Improvement project funded by Impact Fees Roads Zone C fund; and

WHEREAS, it is in the best interest of the County to acquire this Easement in order to make the needed road improvements and for future maintenance.

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 of Easement and authorizes the County Administrator, or

designee, to execute same on behalf of the County, and take necessary action to facilitate and close the purchase in accordance with the terms of said agreement.

Section 3. To the extent that there are typographical and/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.

Section 4. The Clerk of Circuit Court is instructed to record the Drainage Easement in the Public Records of St. Johns County, Florida and file the Purchase and Sale Agreement of Easement in the Clerk's Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 15th day of February, 2011.

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

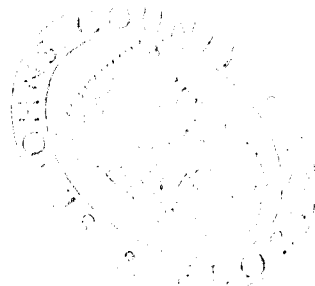
BY: _____

J. Ken Bryan
J. Ken Bryan, Chair

ATTEST: Cheryl Strickland, Clerk

By: _____

Pam Halterman
Deputy Clerk



RENDITION DATE 2/16/11

Legally Sufficient:

By: _____

Michael D. Hill
Deputy County Attorney

2/16/11
Date

Exhibit "A"

to

the Resolution

PURCHASE AND SALE AGREEMENT OF EASEMENT

THIS PURCHASE AND SALE AGREEMENT OF EASEMENT ("Agreement") is made and effective as of _____, 2011, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is, 500 San Sebastian View, St. Augustine, Florida 32084 ("Buyer") and **QUEENIE M. FLANNORY WATTERS**, ("Seller"), whose address is 206 Cooper Drive, SE, Rome, Georgia 30161.

WITNESSETH:

WHEREAS, the County is desirous of purchasing a Drainage Easement over property owned by Seller and Seller is desirous of selling a Drainage Easement upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire a 10-foot wide Drainage Easement, 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. The above Recitals are incorporated into the body of this Agreement, and such Recitals are adopted as Findings of Fact.

2. Purchase Price and Deposit.

(a) The purchase price for the Drainage Easement ("Purchase Price") is **TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND 00/100 (\$2,750.00)**. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Amount</u>
TOTAL AMOUNT PAID	\$2,750.00

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

Said Drainage Easement shall contain substantially the same terms and conditions as set forth on the Drainage Easement Outline attached hereto as Exhibit "B" and by this reference incorporated herein. If the Easement Property does not have physical and legal access to a dedicated public road, street or highway, then Seller shall provide Buyer with an easement for physical and legal access to the Easement Property from a dedicated public road, street, or highway, to facilitate Buyer's inspection rights under the Conservation Easement, which access is insurable under the title policy called for in Section 2 herein.

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 St. Johns County, 500 San Sebastian View, St. Augustine, Florida 32084 or before ninety (90) 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 2010 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 Drainage Easement conveying the Drainage Easement interest to the Property, subject only to the Permitted Encumbrances.

(b) At the Closing, Seller 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 recording the Drainage Easement, documentary stamps, and Seller will pay any taxes due. Each party shall bear the expense of its own legal counsel.

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. 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, if one has been made, 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, if there is one, 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.

12. 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 Drainage Easement.

13. 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.

14. 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.

15. 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.

16. 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. If such notice is timely given, the Deposit shall be returned if there is one, to Buyer, and upon such return, this Agreement shall terminate.

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: **Queenie M. Flannory Watters**
206 Cooper Drive, SE
Rome, Georgia 30161

Buyer: **St. Johns County, Florida, a political subdivision**
Of the State of Florida
500 San Sebastian View
St. Augustine, Florida 32084

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(5), 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 Inspection Termination Date and the Closing Date, without such referenced further action of the Board. This accommodation extends only to the Inspection Termination Date and the Closing Date. 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. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement/Contract shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes). Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

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

WITNESSES:

 Signature Tammy Henson Date 1-13-10

 Print TAMMY HENSON

 Signature Kathy Gaston Date _____

 Print Kathy Gaston

SELLER:

 Signature Queenie M. Flannory Watters Date _____

 Print Queenie M. Flannory Watters Date JAN 13th / 2011

WITNESSES:

 Signature _____ Date _____

 Print _____

 Signature _____ Date _____

 Print _____

BUYER:

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

By: _____
 Michael D. Wanchick Date _____
 County Administrator

ATTEST: Cheryl Strickland, Clerk

Legally Sufficient:

By: _____
Deputy Clerk

By: _____
Deputy County Attorney

Date: _____

EXHIBIT "A"

**THE WESTERLY 10 FEET OF THE FOLLOWING DESCRIBED
PROPERTY:**

**LOTS 29 AND 30, BLOCK 90, OF THE AFRO-AMERICAN
SUBDIVISION OF THE DANCY TRACT, AS RECORDED IN MAP
BOOK 4, PAGE 28, OF THE PUBLIC RECORDS OF ST. JOHNS
COUNTY, FLORIDA.**

EXHIBIT "B"

Prepared by:
Cecelia Aldrich
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

DRAINAGE EASEMENT

THIS INDENTURE, made this ____ day of _____, 2011, between **QUEENIE M. FLANNORY WATTERS**, whose address is 206 Cooper Drive, SE, Rome, Georgia 30161, hereinafter called **GRANTOR**, and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter called **GRANTEE**.

WITNESSETH: That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to them, in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed to the Grantee, his successors and assigns, an ingress and egress easement with the right, privilege, and authority to said Grantee, its successors and assigns, to enter and maintain the drainage of surface waters either above or below the surface of the ground, together with the right to install and maintain drainage facilities, on, along, over, through, across, or under the following described land situate in St. Johns County, Florida to wit:

THE WESTERLY 10 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

LOTS 29 AND 30, BLOCK 90, OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT, AS RECORDED IN MAP BOOK 4, PAGE 28, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

TO HAVE AND TO HOLD, unto Grantee, his successors and assigns for the purposes aforesaid.

IN WITNESS WHEREOF, the said Grantor has hereunto set hand and seal the day and year first above written.

**Signed and Sealed in Our
Presence as Witnesses:**

(Sign) _____
(Print) _____

Queenie M. Flannory Watters

(Sign) _____
(Print) _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by **QUEENIE M. FLANNORY WATTERS** who is personally know to me or has produced _____ as identification.

Notary Public

My Commission Expires: _____