

RESOLUTION NO. 2012- 140

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A MEMORANDUM OF UNDERSTANDING BETWEEN ST. JOHNS COUNTY AND THE SCHOOL DISTRICT AND AUTHORIZING THE ASSISTANT COUNTY ADMINISTRATOR OF OPERATIONS TO EXECUTE THE MEMORANDUM OF UNDERSTANDING ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, St. Johns County (the "County") owns a parcel of real property used as a public park located at 405 Palencia Village Dr. (the "County Park"); and

WHEREAS, the School District for St. Johns County, Florida (the "School District") owns and is constructing an elementary school known as Elementary School "L" upon an adjacent parcel of real property located at 355 Palencia Village Dr. (the "School"); and

WHEREAS, the County has requested the use of some of the School's anticipated parking spaces for recreation programs, and the School District has requested right of access to the School through the County Park entrance and parking lot; and

WHEREAS, the County and the School District desire to enter into a Memorandum of Understanding (the "MOU"), attached hereto as Exhibit "A," incorporated by reference and made a part hereof, to set forth the terms and conditions of the requested uses; and

WHEREAS, the County Parks and Recreation Director supports the requests as stated in the Memorandum attached hereto as Exhibit "B," incorporated by reference and made a part hereof; and

WHEREAS, once the School and parking lot are fully constructed, the County and the School District will enter into a recordable Cross-Easement Agreement confirming each party's respective rights and obligations. Said Cross-Easement Agreement form is attached to the MOU.

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 County hereby approves the MOU and authorizes the Assistant County Administrator of Operations to execute the MOU on behalf of the County and

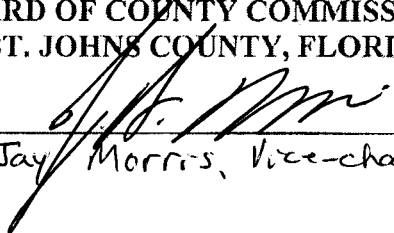
authorizes the Chair to execute the Cross-Easement Agreement once construction is completed.

Section 3. The Clerk is instructed to file the MOU in the public records of St. Johns County and record the Cross-Easement Agreement once executed by both parties.

Section 4. 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.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 15th day of May, 2012.

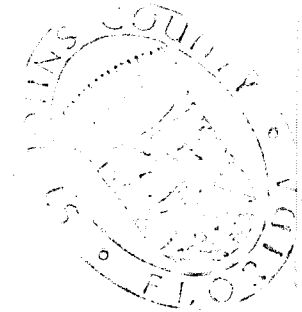
**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: 
Jay Morris, Vice-chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 5/17/12



Memorandum of Understanding

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") is entered into on the 10th day of April, 2012 by and between the School District for St. Johns County, Florida (the "School District") and the Board of County Commissioners for St. Johns County, Florida (the "County").

RECITALS

- A. The County owns a parcel of real property used as a public park which is commonly described as being located at 405 Palencia Village Dr., St. Augustine, FL 32092 (the "County Park").
- B. The School Board for St. Johns County, Florida (the "School Board") owns and is constructing an elementary school known as "Elementary School 'L'" upon an adjacent parcel of real property commonly described as being located at 355 Palencia Village Drive, St. Augustine, FL 32092 (the "School").
- C. The County has requested the use of some of the School's anticipated parking spaces for certain recreational programs, and the School District has requested right of access to the School through the County Park entrance and parking lot.
- D. The purpose of this MOU is to set forth the terms and conditions under which the School District and the County are willing to permit the requested uses described above. It is anticipated that once the School and parking lot are fully constructed, the County and School Board will enter into a recordable cross-easement confirming each party's respective rights and obligations.

NOW THEREFORE, in consideration of the mutual undertakings set forth in this MOU and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the undersigned parties (the "Parties") agree as follows:

1. **Acceptance of Recitals.** The Parties hereby affirm the statements made in the Recitals above and incorporate such intent into this Agreement.
2. **County Use of School's Parking Spaces.** Once the School District has determined that the School parking lot has been adequately improved for safe access by the public, and both Parties have executed a mutually acceptable cross-easement agreement for the intended uses, then the County shall be permitted to share use of the parking spaces in the School's back parking lot (as depicted on the Preliminary Site Plan attached and incorporated by reference) whenever such parking spaces are not needed or reserved for school operations, including extended day, special programs and events. The Parties recognize that the attached site plan is only preliminary and the final location of the parking spots may be adjusted upon completion.
3. **School Board Use of County Park's Entrance & Parking Lot.** Once the School Board has determined that the School parking lot has been adequately improved for safe access by the public and both Parties have executed a mutually acceptable cross-easement agreement for the intended uses, then the School Board shall be permitted to use the County Park's entrance and parking lot for access to the School (as depicted on the Preliminary Site Plan attached and incorporated by reference). The Parties recognize that the attached site plan is only preliminary and the final access route may be adjusted upon completion.
4. **Execution of Cross-Easement.** Once the School Board has determined that the School parking lot has been adequately improved for safe access by the public, and the Parties have mutually agreed upon the parking spaces for County use and the access route for School Board use, then the Parties shall

execute a perpetual, non-exclusive cross-easement in a substantially similar form as that attached as Exhibit "A" that shall be recorded in the public records to memorialize their rights.

5. **Use Prior to Execution of Cross-Easement.** It is anticipated that the County may request use of the School's property for parking, and the School District may request use of the County Park's entrance and parking lot for access to the School, prior to execution of the final cross-easement agreement. Permission may be granted in writing as a temporary license for such use prior to recording of the easement under substantially the same terms as the proposed cross-easement agreement.

6. **Use of School's Recreational Facilities.** The Parties have previously entered into a Joint Use Agreement to address use of various School Board facilities for County recreational purposes. Similarly, County use of this School's facilities shall be governed by the terms and conditions of the existing Joint Use Agreement as modified by a rider contemplated for each school property under that agreement.

IN WITNESS WHEREOF, the Parties hereof have executed this Agreement as of the day and year first above written.

Signed, Sealed and Delivered
in the presence of:

SCHOOL DISTRICT FOR ST. JOHNS COUNTY,
FLORIDA

Miriam Testarosa
Witness #1

By: Tim Forson
Tim Forson
Deputy Superintendent for Operations

Kichi Moody
Witness #2

"SCHOOL DISTRICT"

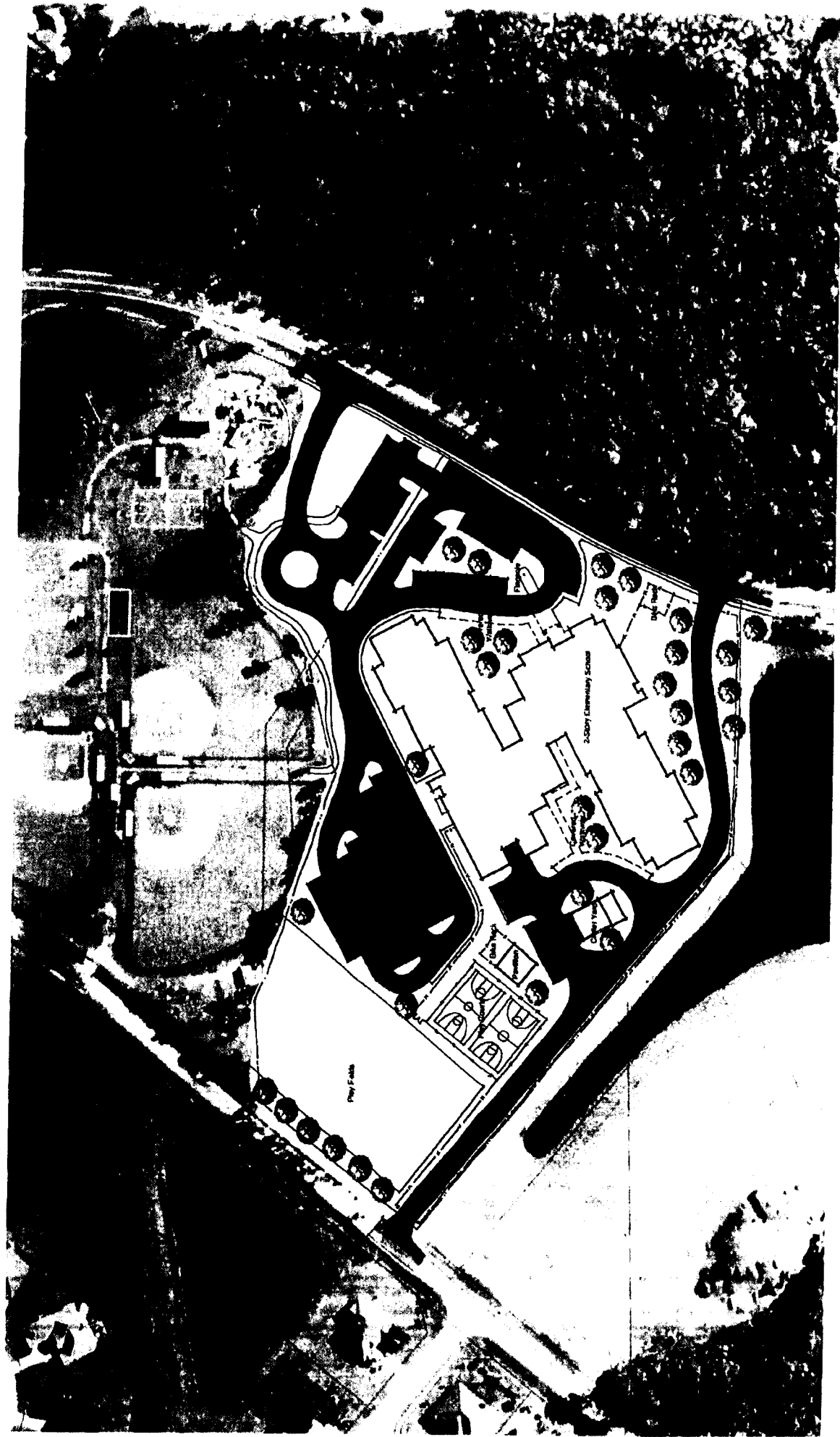
BOARD OF COUNTY COMMISSIONERS FOR
ST. JOHNS COUNTY, FLORIDA

Witness #1

By: _____
Darrell M. Locklear, P.E.
Assistant County Administrator of Operations

Witness #2

"COUNTY"



PRELIMINARY SITE PLAN
01-19-2011
1" = 50'-0"
0 50 100

ST. JOHN'S ELEMENTARY SCHOOL L

SCHENKELSHULTZ
ARCHITECTURE

Exhibit A to MOU

This Instrument Prepared Without
Opinion of Title Given or Requested
By: Michael A. Siragusa
Upchurch, Bailey and Upchurch, P.A.
Post Office Drawer 3007
St. Augustine, Florida 32085-3007
File No. 3188.907228

CROSS-EASEMENT AGREEMENT
(Parking & Access at Palencia Park)

THIS CROSS-EASEMENT AGREEMENT (the "Agreement"), executed on this 10th day of April, 2012 by and between **THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA** (the "School Board"), whose post office address is 40 Orange Street, St. Augustine, Florida, and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County"), whose post office address is 500 San Sebastian View, St. Augustine, Florida 32084.

RECITALS

A. The County owns a parcel of real property known as "Palencia Park" which commonly described as being located at 405 Palencia Village Dr., St. Augustine, FL 32092 and assigned Parcel Identification Number 072070-0009 (the "County Park"); and

B. The School Board owns an adjacent parcel of real property known as "Elementary School 'L'" which commonly described as being located at 355 Palencia Village Dr., St. Augustine, FL 32092 and assigned Parcel Identification Number 071761-0000 (the "School"); and

C. The County proposes to exchange an easement for access through the County Park's entrance and parking lot in exchange for the use of parking spaces at the School during certain County authorized recreational programs whenever such parking spaces are not needed or reserved for school operations, including extended day, special programs and events, and the School Board is willing to enter into this cross-easement agreement under the following terms and conditions.

D. For the purposes of this Agreement, the County and the School Board shall be referred to collectively as the "Parties". Furthermore, because of the nature of this cross-easement, the County may be referred to as the "grantor" and the School Board as the "grantee" of the Access Easement described in paragraph 2 below; and similarly the School Board may be referred to as the "grantor" and the County as the "grantee" of the Parking Easement described in paragraph 3 below.

AGREEMENT

THEREFORE, in consideration for the sum of Ten Dollars and No/100's (\$10.00) and other good and valuable considerations including the mutual covenants and promises set forth below, the Parties do hereby agree as follows:

1. **Acceptance of Recitals.** The Parties hereby affirm the statements made in the Recitals above and incorporate such intent into this Agreement.

2. **Grant of Access Easement Over County Park Parking Lot.** The County grants, bargains, sells and confers to the School Board a perpetual, non-exclusive easement for ingress and egress through the County Park entrance and over the parcel specified on the site plan attached as Exhibit "A" and incorporated by reference (the "Access Easement").

3. **Grant of Parking Easement on School Property.** The School Board grants, bargains, sells and confers to the County a perpetual, non-exclusive easement for shared use of those parking spots in the School's back parking lot as specified on the site plan attached as Exhibit "B" and incorporated by reference, whenever such parking spaces are not needed or reserved for school operations, including extended day, special programs and events (the "Parking Easement").

4. **Reservations from Grant.** The County and School Board each reserve from their respective grant of easement to the other Party the following rights over the servient parcel they own:

A. **Continued Use:** The right to use their servient parcel for all purposes which do not interfere with the easements granted herein; and

B. **Additional Easements:** The right to grant additional easements upon, over and within their servient parcel which does not interfere with the easements granted herein.

5. **Grantee's Covenants.** The County and School Board shall use the property rights conferred in the grant of easement for the sole purposes described in paragraphs 2 and 3 above, and in compliance with the following covenants and restrictions:

A. **Non-Disruptive Use:** The County shall under no circumstances disrupt normal School operations in exercising its parking rights.

B. **Restoration:** In the event either party, their employees, guests, invitees, licensees or agents, damage the property over which it exercises easement rights, the grantee shall restore the property to its pre-existing condition prior to the damage as soon as reasonably practicable.

6. **Indemnification.** To the extent allowed by Florida law, each grantee shall indemnify and hold the grantor, its successors and assigns, harmless from and against any and all losses, costs or damages, including without limitation, attorneys' fees and costs, occasioned by any act, omission to act, or negligence of the grantee, its agents and employees arising out of or related (directly or indirectly) to use of the property or any improvement(s) located thereon.

7. **Termination.** Either grantor shall be permitted to unilaterally terminate this Agreement as provided for by law or upon the occurrence of any one of the following events:

A. **Violation of Purpose:** If the grantee attempts to use the servient parcel for any purpose other than that described in paragraphs 2 or 3 (respectively) above;

B. **Prevention from Use:** If the grantee prevents the grantor from exercising any right reserved to grantor over the servient parcel as described in paragraph 4 above; or

C. **Non-Compliance with Covenants:** If the grantee fails to comply with any one of the covenants and restrictions described in paragraph 5 above.

8. **Entire Understanding; Binding Effect.** This Agreement represents the entire understanding between the Parties, and shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. No agreements or representations outside the express provisions of this document shall be binding upon the Parties, and no modification or change shall be binding upon the Parties unless in writing and executed by the Party or Parties to be bound thereby.

9. **Judicial Interpretation.** All Parties hereto have actively participated in the preparation of this Agreement and agree that if any provision requires judicial interpretation, for any reason, then the court so interpreting or construing same shall not strictly construe the provision or apply any presumption against one Party because it or its agent prepared drafted the agreement.

10. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida.

11. **Severability.** In the event any one or more of the provisions of this Agreement are determined to be illegal or unenforceable as to one or more of the Parties, all other provisions, nevertheless, shall remain effective and binding on the Parties hereto.

12. **Notice.** Any notice necessary under this Agreement shall be in writing and sent by U.S. or Express Mail or hand delivered to the Parties at the following addresses and shall be deemed given upon receipt:

TO SCHOOL BOARD: The School Board of St. Johns County, Florida
40 Orange Street
St. Augustine, Florida 32084

TO COUNTY: St. Johns County Board of County Commissioners
500 San Sebastian View
St. Augustine, Florida 32084

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have caused this Cross-Easement Agreement to be executed on the day and year first above written.

Signed, sealed and delivered
in the presence of:

THE SCHOOL BOARD OF ST. JOHNS
COUNTY, FLORIDA

Witness #1 _____
(type or print name)

By: _____
Its Chairperson

Witness #2 _____
(type or print name)

“SCHOOL BOARD”

STATE OF FLORIDA
COUNTY OF ST. JOHNS

THE FOREGOING instrument was acknowledged before me this _____ day of _____, 2012, by _____, as Chairperson of the School Board of St. Johns County, Florida, on behalf of the School Board, who is personally known to me or has produced driver's license no. _____ as identification.

(SEAL)

Signature of Notary

(Name of notary, typed/printed)

Commission Number:

My Commission Expires:

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

Witness #1 _____
(type or print name)

By: _____
Darrell M. Locklear, P.E.
Assistant County Administrator of
Operations

Witness #2 _____
(type or print name)

“COUNTY”

STATE OF FLORIDA
COUNTY OF ST. JOHNS

THE FOREGOING instrument was acknowledged before me this ____ day of _____, 2012, by Darrell M. Locklear as Assistant County Administrator of Operations, on behalf of the County, who () is personally known to me or () has produced driver's license no. _____ as identification.

(SEAL)

Signature of Notary

(Name of notary, typed/printed)

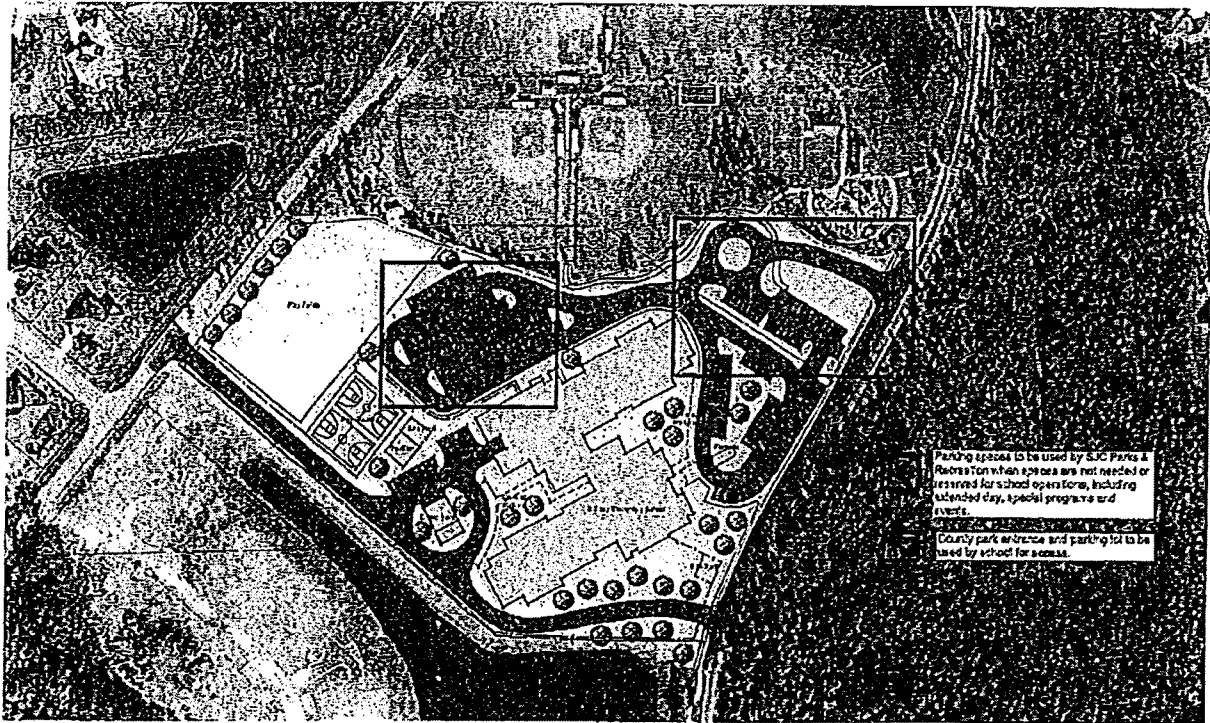
Commission Number:

My Commission Expires:

Exhibit "A"

A Part of the following described land as shown in the "boxed area" of the site plan below:

A PORTION OF TRACT "A", MARSHALL CREEK DRI UNIT ONE, ACCORDING TO MAP THEREOF RECORDED IN MAP BOOK 41, PAGES 52 THROUGH 57 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA AND A PORTION OF PARCEL "40", ACCORDING TO DEED RECORDED IN BOOK 1958, PAGE 2168 OF THE PUBLIC RECORDS OF SAID COUNTY AND A PORTION OF PARCEL "1", ACCORDING TO DEED RECORDED IN BOOK 1431, PAGE 504 OF THE PUBLIC RECORDS OF SAID COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR THE POINT OF BEGINNING COMMENCE AT THE MOST SOUTHERLY CORNER OF SAID TRACT "A"; THENCE NORTH 56°10'23" WEST, ALONG A SOUTHWESTERLY LINE OF SAID TRACT "A", 285.45 FEET; THENCE SOUTH 78°27'51" WEST, 205.75 FEET; THENCE NORTH 66°54'26" WEST, 285.00 FEET TO THE SOUTHERLY BOUNDARY OF SAID TRACT "A"; THENCE NORTH 89°59'59" WEST, ALONG SAID SOUTHERLY BOUNDARY, 120.56 FEET TO A SOUTHEASTERLY BOUNDARY LINE OF SAID PARCEL "1", THE SAME BEING THE NORTHWESTERLY BOUNDARY OF AFOREMENTIONED TRACT "A"; THENCE NORTH 38°53'53" EAST, ALONG SAID NORTHWESTERLY BOUNDARY, 641.36 FEET TO THE MOST EASTERLY CORNER OF TRACT "B", SAID MARSHALL CREEK DRI UNIT ONE; THENCE THE FOLLOWING (5) COURSES ALONG THE BOUNDARY OF SAID TRACT "B"; COURSE (1) SOUTH 51°06'07" EAST, 60.00 FEET; COURSE (2) NORTH 38°53'53" EAST, 20.00 FEET; COURSE (3) SOUTH 51°06'07" EAST, 10.00 FEET; COURSE (4) NORTH 38°53'53" EAST, 75.00 FEET; COURSE (5) NORTH 51°06'07" WEST, 75.00 FEET TO THE MOST NORTHERLY CORNER OF SAID TRACT "B", THE SAME BEING THE NORTHWESTERLY BOUNDARY OF AFOREMENTIONED TRACT "A"; THENCE NORTH 38°53'53" EAST, 189.35 FEET; THENCE SOUTH 53°26'56" EAST, 198.13 FEET; THENCE SOUTH 03°05'10" EAST, 326.19 FEET; THENCE SOUTH 51°06'07" EAST, 281.60 FEET TO THE SOUTHEASTERLY BOUNDARY OF SAID TRACT "A", THE SAME BEING THE NORTHWESTERLY RIGHT-OF-WAY LINE OF PALENCIA VILLAGE DRIVE, PER SAID PLAT OF MARSHALL CREEK DRI UNIT ONE; THENCE THE FOLLOWING (2) COURSES ALONG SAID SOUTHEASTERLY BOUNDARY; COURSE (1) IN A SOUTHERLY DIRECTION, ALONG THE ARC OF A CURVE, SAID CURVE BEING CONCAVE WESTERLY AND HAVING A RADIUS OF 850.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 22°16'58" WEST, 209.64 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE (2) SOUTH 29°21'59" WEST, 155.46 FEET TO THE POINT OF BEGINNING.



Parking spaces to be used by SJC Parks & Recreation when spaces are not needed or reserved for school operations, including extended day, special programs and events.
County park entrance and parking lot to be used by school for a game.

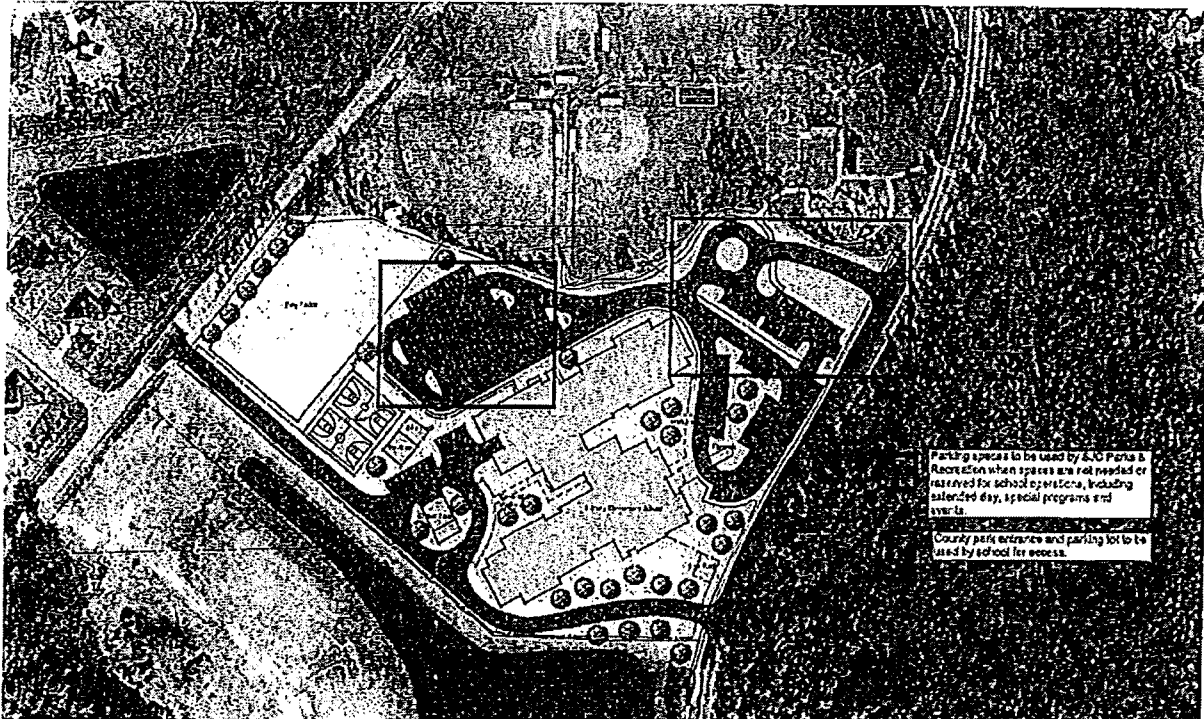
PRELIMINARY SITE PLAN
 1" = 20'
 ST. JOHNS ELEMENTARY SCHOOL I

SCHENKELSHULTZ
 SQUARE CONTRACTORS

Exhibit "B"

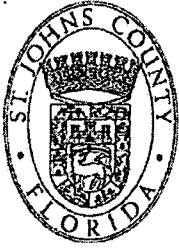
A part of the following described land as shown in the "boxed area" of the site plan below.

A PORTION OF SECTION 33, TOWNSHIP 5 SOUTH, RANGE 29 EAST AND A PORTION OF SECTION 4, TOWNSHIP 8 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR THE POINT OF BEGINNING COMMENCE AT THE SOUTHEASTERLY CORNER OF MARSHALL CREEK DRI UNIT ONE, ACCORDING TO PLAT THEREOF RECORDED IN MAP BOOK 41, PAGES 52 THROUGH 57 OF THE PUBLIC RECORDS OF SAID COUNTY, THE SAME BEING THE NORTHWESTERLY RIGHT-OF-WAY OF PALENCIA VILLAGE DRIVE (A VARIABLE WIDTH RIGHT-OF-WAY PER LAST MENTIONED PLAT, THENCE SOUTH 29°21'58" WEST, ALONG LAST MENTIONED RIGHT-OF-WAY, 252.60 FEET TO A POINT OF CURVATURE; THENCE IN A SOUTHERLY DIRECTION, ALONG THE ARC OF A CURVE, CONTINUING ALONG LAST MENTIONED RIGHT-OF-WAY, SAID CURVE BEING CONCAVE EASTERLY AND HAVING A RADIUS OF 650.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 22°13'12" WEST, 161.72 FEET TO THE NORTHEASTERLY CORNER OF LANDS DESCRIBED IN DEED RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN BOOK 2646, PAGE 115; THENCE SOUTH 90°00'00" WEST, ALONG THE NORTHERLY LINE OF LAST MENTIONED LANDS, 303.72 FEET; THENCE NORTH 50°44'45" WEST, ALONG THE NORTHEASTERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2648, PAGE 115, 635.33 FEET TO THE MOST NORTHERLY CORNER OF LAST SAID LANDS; THENCE NORTH 38°53'53" EAST, ALONG A LINE LYING 60-FOET SOUTHEASTERLY OF AND PARALLEL TO A BOUNDARY LINE AGREEMENT BETWEEN GRAN CENTRAL CORP. AND GENESIS LIMITED PARTNERSHIP AS INTENDED TO BE DESCRIBED IN SAID OFFICIAL RECORDS IN BOOK 878, PAGE 1190, 253.63 FEET TO THE SOUTHWESTERLY CORNER OF SAID MARSHALL CREEK DRI UNIT ONE; THENCE NORTH 90°00'00" EAST, ALONG THE SOUTHERLY LINE OF SAID MARSHALL CREEK DRI UNIT ONE, 120.56 FEET; THENCE SOUTH 66°54'26" EAST, ALONG THE SOUTHERLY LINE OF LANDS DESCRIBED IN DEED RECORDED IN SAID OFFICIAL RECORDS IN BOOK 2549, PAGE 1949, 285.00 FEET; THENCE NORTH 78°27'52" EAST, ALONG LAST SAID SOUTHERLY DEED LINE, 205.75 FEET TO THE SOUTHWESTERLY LINE OF SAID MARSHALL CREEK DRI UNIT ONE; THENCE SOUTH 56°10'23" EAST, ALONG LAST SAID SOUTHWESTERLY PLAT LINE, 285.45 FEET TO THE POINT OF BEGINNING.



PRELIMINARY SITE PLAN
11/13/23
ST. JOHN'S ELEMENTARY SCHOOL

SCHENKELSHULTZ

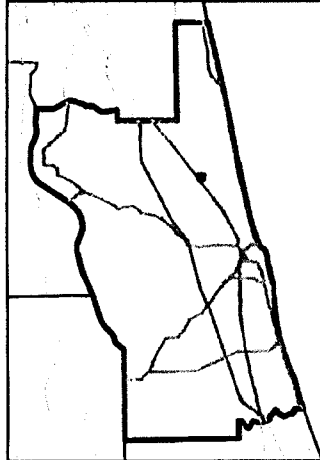
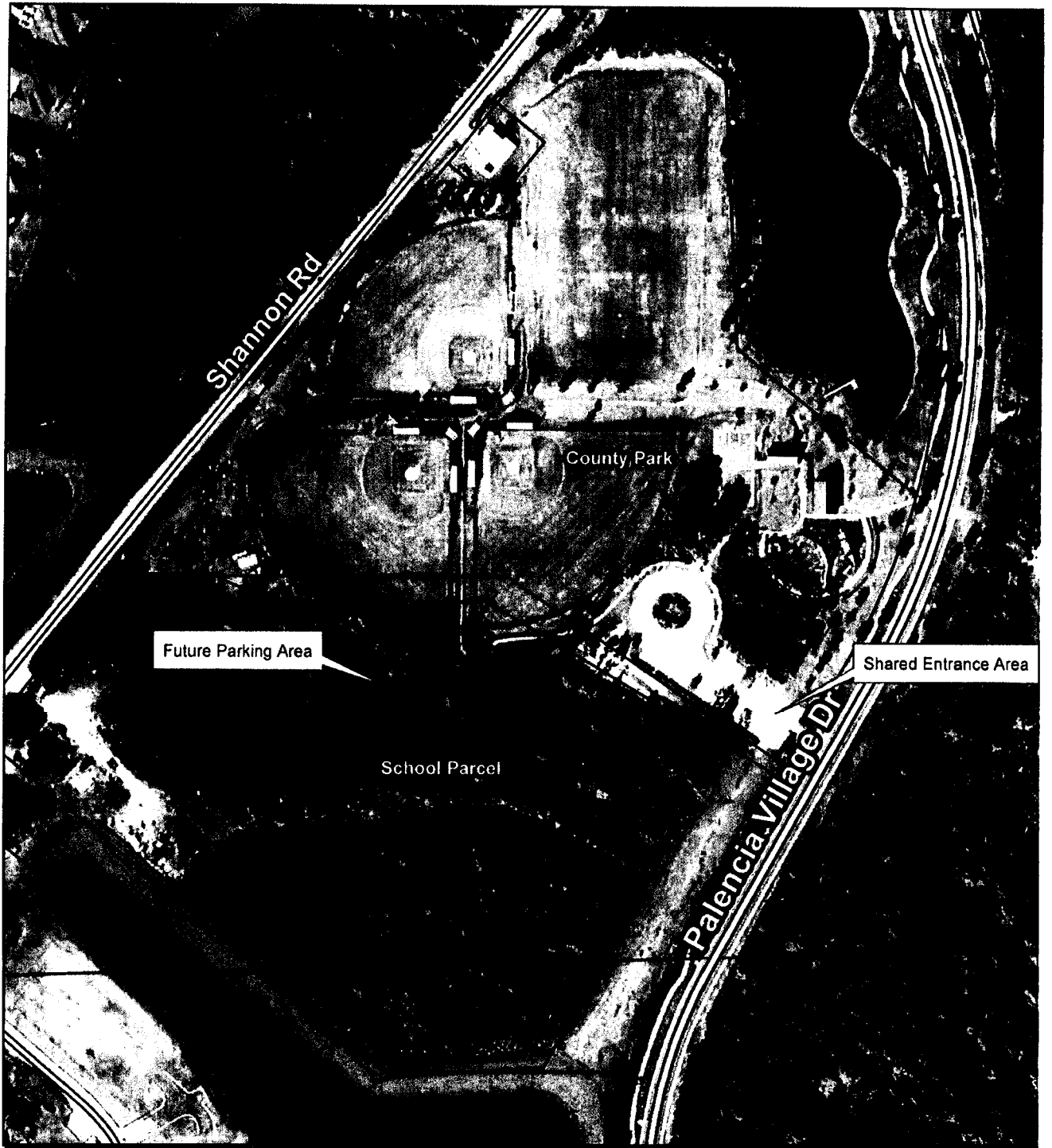


ST. JOHNS COUNTY
PARKS & RECREATION
2175 MIZELL ROAD
ST. AUGUSTINE, FLORIDA 32080-9157

I N T E R O F F I C E M E M O R A N D U M

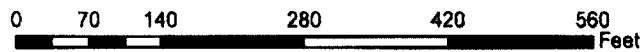
TO: Mary Ann Blount, Land Management Systems Director
FROM: Wil Smith, Interim Parks & Recreation Director *W. Smith, Interim Director*
SUBJECT: Palencia School - County Park
DATE: November 28, 2011

Please be advised that the Recreation Department is in support of the shared use between St. Johns County and the School District of the Palencia Park Entrance and a portion of the parking area of Elementary School L.



County Park at Palencia School Parcel

Memorandum of Understanding



St. Johns County
Land Mgmt Systems
Real Estate Division



Map Prepared:
September 26, 2011
(904) 209-0790



2008 Color Aerial
Imagery Map

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