

RESOLUTION NO. 2005- 126

A 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 FROM BANK OF ST. AUSTINE FOR PROPERTY NEEDED FOR THE KENTON MORRISON/STATE ROAD 16 IMPROVEMENT PROJECT.

RECITALS

WHEREAS, the owner of property on Woodlawn Road 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, Bank of St. Augustine has agreed to sell their property and execute a Temporary Construction Easement, attached hereto as Exhibit "B", incorporated by reference and made a part hereof, for the property needed for the alignment with Kenton Morrison; and

WHEREAS, this project is part of the CIP and is funded from the Transportation Trust Fund Bond Project; and

WHEREAS, it is in the best interest of the County to acquire this property for the safety improvements needed for the Kenton Morrison/State Road 16 Improvement Project.

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

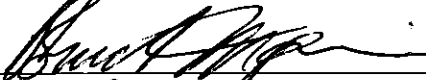
Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

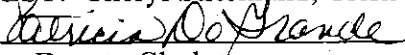
Section 2. The Board of County Commissioners hereby approves the terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute the Purchase and Sale Agreement and move forward to close this transaction.

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

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 A. Maguire, Chairman

ATTEST: Cheryl Strickland, Clerk
By: 
Deputy Clerk

RENDITION DATE 5-5-05

EXHIBIT "A" TO RESOLUTION

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 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 BANK OF ST. AUGUSTINE whose address is 120 SR 312 West, St. Augustine, Florida 32086 ("Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing a portion of the 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 approximately .12 acre located on Woodlawn Road for road improvements to Woodlawn Road. The property is described 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 \$63,100.00 this price includes compensation for the property, Temporary Construction Easement and improvements. 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)	\$6,310.00
(ii) Cash to Close	Closing Day	\$56,790.00
TOTAL PURCHASE PRICE		\$63,100.00

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 Perpetual Easement a policy of title insurance in the amount of

the Purchase Price, insuring Buyer's easement rights 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) **Independent Title**, 2676 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, **Independent Title** 2676 US 1 South, St. Augustine, Florida 320865, on or before 90 days from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE.

5. 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.

6. 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 Perpetual Easement conveying easement rights 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 easement rights 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.

7. Closing Expenses. Seller shall pay the cost of the title policy issued pursuant to the Commitment, the deed and all of the expenses in connection with recording fees. Each party shall bear the expense of its own legal counsel.

8. 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.

9. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for sixty (60) 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

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

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

17. 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.

18. 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: **Bank of St. Augustine**
 120 SR312 West
 St. Augustine, Florida 32086

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

Escrow Agent: **Action Title Services**
 3670 US 1 South
 St. Augustine, Florida 32145

19. 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.

20. 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.

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

22. 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.

23. 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.

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

**SELLER:
BANK OF ST. AUGUSTINE**

Coleen K. Rush
Witness Name Coleen K. Rush
Robert Blackburn
Witness Name Rob Blackburn

By: H. J. Bell Date: 3-14-05
Print Name and Title: Harry J. Bell
President

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

Witness Name: _____

Witness Name _____

Date: _____
Ben W. Adams, Jr.
County Administrator

EXHIBIT "A"

PARCEL A (NORTHWEST QUADRANT)

A PART OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD AS NOW ESTABLISH WITH THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. 16 AS NOW ESTABLISHED AS A 216 FOOT RIGHT OF WAY, SAID POINT ALSO BEING THE SOUTHEASTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 1857, PAGE 1108 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 89°38'16" WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF AFOREMENTIONED STATE ROAD NO. 16, A DISTANCE OF 45.11 FEET TO A POINT OF CUSP, SAID POINT LYING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY, ALONG AND WITH THE ARC OF SAID CURVE, A CHORD BEARING OF NORTH 44°30'31" EAST AND A CHORD DISTANCE OF 35.43 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 00°37'13" WEST, PARALLEL WITH AND 20 FEET PERPENDICULAR TO THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD, A DISTANCE OF 222.53 FEET; THENCE NORTH 88°36'53" EAST, ALONG THE NORTHERLY LINE OF THOSE AFOREMENTIONED LANDS AS DESCRIBED IN OFFICIAL RECORDS 1857, PAGE 1108, A DISTANCE OF 20.00 FEET; THENCE SOUTH 00°37'13" EAST, ALONG THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD, A DISTANCE OF 248.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.12 ACRES, MORE OR LESS.

EXHIBIT "B" TO RESOLUTION

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this ____ day of _____, 2005, by and between BANK OF ST. AUGUSTINE, whose address is 120 SR312 West, St. Augustine, Florida 32086, grantor and ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, grantee.

WITNESSETH, that for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, the grantor hereby gives, grants, bargains and releases to the grantee, a Temporary Construction Easement to enter upon and use the grantor's property as described below for such purposes as required for the Kenton Morrison SR16 Improvement Project and other uses as is reasonably necessary to enable the grantee to complete the road project, on Woodlawn Road. This Easement is over the land in St. Johns County, Florida, described as follows:

ATTACHED HERETO AS EXHIBIT "A"

It is understood and agreed by the parties hereto that the rights granted herein should terminate fourteen (24) months from the date this document is executed.

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

Signed, sealed and delivered in
Our presence as Witnesses:

BANK OF ST. AUGUSTINE

Print Name: _____

By: _____
Its: _____

Print Name: _____

State of Florida

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2005 by _____ of BANK OF ST.AUGUSTINE who has produced _____ as identification or is personally known to me.

Notary Public

EXHIBIT "A"

10 FOOT TEMPORARY CONSTRUCTION EASEMENT (NORTHWEST QUADRANT)

A PART OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD AS NOW ESTABLISH WITH THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. 16 AS NOW ESTABLISHED AS A 216 FOOT RIGHT OF WAY, SAID POINT ALSO BEING THE SOUTHEASTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 1857, PAGE 1108 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH $89^{\circ}38'16''$ WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF AFOREMENTIONED STATE ROAD NO. 16, A DISTANCE OF 45.11 FEET TO A POINT OF CUSP, SAID POINT LYING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY, ALONG AND WITH THE ARC OF SAID CURVE, A CHORD BEARING OF NORTH $71^{\circ}04'26''$ EAST AND A CHORD DISTANCE OF 15.92 FEET TO A POINT ON SAID CURVE AND THE POINT OF BEGINNING; THENCE NORTH $00^{\circ}37'13''$ WEST, PARALLEL WITH AND 30 FEET PERPENDICULAR TO THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD, A DISTANCE OF 242.40 FEET; THENCE NORTH $88^{\circ}36'53''$ EAST, ALONG THE NORTHERLY LINE OF THOSE AFOREMENTIONED LANDS AS DESCRIBED IN OFFICIAL RECORDS 1857, PAGE 1108, A DISTANCE OF 10.00 FEET; THENCE SOUTH $00^{\circ}37'13''$ EAST, PARALLEL WITH AND 20 FEET PERPENDICULAR TO THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF WOODLAWN ROAD, A DISTANCE OF 222.53 FEET TO A POINT OF TANGENCY OF A CURVE; SAID CURVE BEING CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY, ALONG AND WITH THE ARC OF SAID CURVE, A CHORD BEARING OF SOUTH $25^{\circ}56'41''$ WEST AND CHORD DISTANCE OF 22.36 FEET TO A POINT ON SAID CURVE AND THE POINT OF BEGINNING. CONTAINING 0.05 ACRES, MORE OR LESS.