

RESOLUTION NO. 2005- 301

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ACCEPTING AN EASEMENT AGREEMENT FROM THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA, FOR THE CONSTRUCTION AND MAINTENANCE OF A DRAINAGE SWALE ALONG COWPEN BRANCH ROAD.**

**RECITALS**

**WHEREAS**, The School Board of St. Johns County, Florida executed Resolution No. 2005-09 on July 12, 2005 and an Easement Agreement , attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for authorization of the grant of a non-exclusive maintenance of a fifteen foot (15') drainage swale adjacent to South Woods Elementary School in the southwest portion of the County.; and

**WHEREAS**, the construction and maintenance of this drainage swale along Cowpen Branch Road is intended to benefit the drainage in the area of South Woods Elementary School in the southwest portion of the County; and

**WHEREAS**, it is in the best interest of the County to accept this Easement to ensure proper drainage for the health, safety and welfare of the citizens in that area.

**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 and authorizes the Chairman of the Board to execute the Easement Agreement.

Section 3. The Clerk of the Circuit Court is instructed to record the original Easement Agreement in the Official Records of St. Johns County, Florida.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 18<sup>th</sup> day of October, 2005.

ATTEST: Cheryl Strickland, Clerk

By:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA

By:   
Bruce A. Maguire, Chairman

RENDITION DATE 10-20-05

Exhibit "A" To Resolution

SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA  
RESOLUTION NUMBER 2005-09

A RESOLUTION BY THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE EXECUTION OF A FIFTEEN FOOT (15') DRAINAGE EASEMENT TO ST. JOHNS COUNTY, FLORIDA, FOR THE CONSTRUCTION & MAINTENANCE OF A DRAINAGE SWALE ALONG COWPEN BRANCH ROAD.

WHEREAS, at its regular meeting held on 7/12/05, duly noticed and convened under law, the School Board of St. Johns County, Florida considered the grant of a non-exclusive fifteen foot (15') drainage easement to St. Johns County, Florida, for construction and maintenance of a drainage swale intended to benefit South Woods Elementary School in the southwest portion of the County.

WHEREAS, by a majority vote, it was resolved by the School Board of St. Johns County, Florida, as follows:

1. The School Board's Chairman, Diane Lovell, is hereby authorized to execute the easement, the form and content of which are hereby approved by the Board.
2. A copy of this resolution shall be recorded in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED by the School Board of St. Johns County, Florida this 12<sup>th</sup> day of July, 2005.

SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA

By: Diane Lovell  
Diane Lovell  
Its Chairperson

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. 9-05-129

**EASEMENT AGREEMENT**  
**(Drainage Adjacent to South Woods Elementary School)**

THIS EASEMENT AGREEMENT, executed on this 12<sup>th</sup> day of July, 2005, by THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA (the "Grantor"), whose post office address is 40 Orange Street, St. Augustine, Florida, and ST. JOHNS COUNTY, a political subdivision of the State of Florida (the "Grantee"), whose post office address is 4020 Lewis Speedway, St. Augustine, Florida 32084, Real Estate Division.

**RECITALS**

A. Grantee seeks to obtain an easement over a parcel of real property owned by Grantor for the purpose of drainage; and

B. Grantor is willing to grant such easement in return for receiving certain valuable considerations and covenants regarding Grantee's use of the property.

**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, Grantor and Grantee do hereby agree as follows:

1. **Grant of Easement.** The Grantor grants, bargains, sells and confers to Grantee, its successors, legal representatives and assigns, a non-exclusive easement for the sole purposes of constructing, laying, maintaining, improving and/or repairing, either above or below the surface of the ground, a drainage swale (the "Grant of Easement") upon the following described parcel of real property located in St. Johns County, Florida:

**SEE EXHIBIT "A" ATTACHED HERETO AND BY  
REFERENCE MADE A PART HEREOF (the "Property")**

2. **Reservations from Grant.** Grantor hereby reserves from the Grant of Easement the following rights:

A. **Continued Use:** The right to use the Property for all purposes which

do not interfere with the easement granted herein; and

- B. Additional Easements: The right to grant additional easements upon, over and within the Property which do not interfere with the easement granted herein.

3. Grantee's Covenants. Grantee shall use the Property conferred in the Grant of Easement for the sole purpose described in paragraph 1 above and in compliance with the following covenants and restrictions:

- A. Non-Disruptive Use: Grantee shall provide Grantor with at least twenty-four (24) hours written notice prior to performing any installation, construction, repair or maintenance of improvements upon, over or within the Property, and Grantee shall ensure that such installation, construction, repair or maintenance is not disruptive to Grantor's normal business operations. Further, Grantee shall whenever possible arrange to perform such installation, construction, repair or maintenance after normal school business hours.
- B. Restoration: Immediately upon completing any installation, construction, repair or maintenance of improvements upon, over or within the Property, Grantee shall restore the Property to its pre-existing condition prior to the installation, construction, repair or maintenance.
- C. Maintenance: Grantee shall continue to maintain all improvements constructed or installed by Grantee upon, over or within the Property at Grantee's sole expense.
- D. No Other Persons: Grantee shall not allow any other person or entity to utilize the Property for any purpose whatsoever, or to install thereon any improvement or facility of any kind or nature, without first obtaining Grantor's written consent.

4. Indemnification. Grantee, to the extent allowed by Florida law, shall indemnify and hold 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 the use, construction, installation, operation, repair or maintenance of the Property or any improvement(s) located thereon.

5. **Termination.** Grantor shall be permitted to unilaterally terminate this Grant of Easement as provided for by law or upon the occurrence of any one of the following events:

- A. **Violation of Purpose:** Grantee attempts to use the Property for any purpose other than that described in paragraph 1 above;
- B. **Prevention from Use:** Grantee prevents Grantor from exercising any right reserved to Grantor in paragraph 2 above;
- C. **Non-Compliance with Covenants:** Grantee fails to comply with any one of the covenants and restrictions described in paragraph 3 above;  
or
- D. **Failure to Provide Services:** Grantee fails to repair or maintain the Property for a period of two (2) years.

6. **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.

7. **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.

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

9. **Severability.** Should any one or more of the provisions of this Easement Agreement be 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.

10. **Other Provisions.** Venue for any legal action arising under this Agreement shall be in St. Johns County, Florida.

11. **Notice.** Any notice necessary under this Easement 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 GRANTOR:** The School Board of St. Johns County, Florida  
40 Orange Street  
St. Augustine, Florida 32084  
Attn: Dr. Joseph Joyner, Superintendent

**TO GRANTEE:** St. Johns County, Real Estate Division  
4020 Lewis Speedway  
St. Augustine, Florida 32084

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

Signed, sealed and delivered  
in the presence of:

**GRANTOR:**  
**THE SCHOOL BOARD OF ST. JOHNS  
COUNTY, FLORIDA**

Laura J. Cooper  
Witness LAURA F. COOPER  
(type or print name)

By: Joseph Joyner  
Dr. Joseph Joyner  
Its Superintendent

Patricia Hoey  
Witness Patricia Hoey  
(type or print name)

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

\_\_\_\_\_  
Witness \_\_\_\_\_  
(type or print name)

By: \_\_\_\_\_  
**Bruce A. Maguire**  
Chairman of the Board of County Commissioners

\_\_\_\_\_  
Witness \_\_\_\_\_  
(type or print name)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

THE FOREGOING instrument was acknowledged before me this 12<sup>th</sup> day of July, 2005, by Joseph Joyner, as Superintendent of the School Board of St. Johns County, Florida, on behalf of the school district, who  is ~~personally known to me~~ or  has produced driver's license no. \_\_\_\_\_ as identification.

(SEAL)

Marcia A. Henderson  
Signature of Notary

MARCIA A. HENDERSON  
(Name of notary, typed/printed)  
Commission Number:  
My Commission Expires:

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

THE FOREGOING instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by Bruce A. Maguire as Chairman of the Board of County Commissioners, who is personally known to me.

(SEAL)

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
(Name of notary, typed/printed)  
Commission Number:  
My Commission Expires:

EXHIBIT "A"

THE EAST 15 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

A PORTION OF PARCEL 2 OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1204, PAGE 323, AS RECORDED IN THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, SAID LANDS LYING IN SECTION 10, TOWNSHIP 9 SOUTH, RANGE 28 EAST, OF SAID COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA, SAID CORNER BEING A 4" BY 4" CONCRETE MONUMENT, NO IDENTIFICATION; THENCE SOUTH  $89^{\circ}02'05''$  WEST, ALONG THE SOUTHERLY LINE OF SAID SECTION 10, A DISTANCE OF 2,674.90 FEET TO THE SOUTHWESTERLY CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 10; THENCE NORTH  $01^{\circ}01'48''$  WEST, DEPARTING SAID SOUTHERLY LINE AND ALONG THE WESTERLY LINE OF SAID SOUTHWEST QUARTER OF LEGAL DESCRIPTION: ST. JOHNS COUNTY SCHOOL BOARD PROPOSED SCHOOL SITE "AM"

THE SOUTHEAST QUARTER, A DISTANCE OF 36.74 FEET TO THE INTERSECTION OF SAID WESTERLY LINE AND THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. 206 (A 100.00 FOOT WIDE RIGHT OF WAY AS NOW ESTABLISHED), SAID INTERSECTION BEING THE POINT OF BEGINNING; THENCE NORTH  $01^{\circ}01'48''$  WEST, DEPARTING SAID NORTHERLY RIGHT OF WAY LINE AND CONTINUING ALONG SAID WESTERLY LINE, A DISTANCE OF 826.52 FEET; THENCE NORTH  $85^{\circ}23'25''$  EAST, DEPARTING SAID WESTERLY LINE, A DISTANCE OF 318.94 FEET; THENCE NORTH  $83^{\circ}43'44''$  EAST, A DISTANCE OF 268.37 FEET; THENCE NORTH  $85^{\circ}14'05''$  EAST, A DISTANCE OF 153.35 FEET, THENCE NORTH  $85^{\circ}18'05''$  EAST, A DISTANCE OF 579.73 FEET TO THE WESTERLY LINE OF COWPEN BRANCH ROAD AS DESCRIBED IN DEED BOOK 52 PAGES 121 AND 122 OF SAID PUBLIC RECORDS; THENCE SOUTH  $01^{\circ}03'13''$  EAST, ALONG SAID WESTERLY LINE OF COWPEN BRANCH ROAD, A DISTANCE OF 724.16 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD NO. 206; THENCE SOUTH  $89^{\circ}14'12''$  WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1317.45 FEET TO THE POINT OF BEGINNING.

- (1) INV=23.30
- (2) INV=22.33
- 36" CMP
- 36" CMP
- (1) INV=22.93
- (2) INV=23.07

COMPEN BRANCH ROAD  
 40.00' EASEMENT FOR ROAD PURPOSES  
 (SEE BOOK 52, PAGES 121 AND 122  
 REED BOOK 52, GRADED)

