

RESOLUTION NO. 2005- 382

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A DRAINAGE EASEMENT AND ACCEPTING AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT BETWEEN CATHLEEN SELLERS AND ST. JOHNS COUNTY FOR A DRAINAGE EASEMENT IN HIDDEN CREEK ESTATES SUBDIVISION

RECITALS

WHEREAS, Cathleen Sellers has executed and presented to the County a Purchase and Sale Agreement and Drainage Easement, attached hereto as Exhibits "A" and "B", incorporated by reference and made a part hereof; and

WHEREAS, acquisition of this Easement is required to install underground drainage facilities and is critical to alleviate drainage issues in this area; and

WHEREAS, upon execution of the Purchase and Sale Agreement and Drainage Easement, the owner grants to the County a 15-foot easement for access, installation and maintenance of drainage facilities; and

WHEREAS, acceptance of this easement will better serve the health, safety and welfare of the citizens in this 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 of St. Johns County hereby authorizes the execution of a Purchase and Sale Agreement and accepts the Drainage Easement in the form attached hereto.

Section 3. The Clerk is instructed to file the original Purchase and Sale Agreement in the Clerk's Office and to record the original Drainage Easement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 13th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA.

BY: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk
Patricia DeGrande
Deputy Clerk

RENDITION DATE 12-15-05

EASEMENT 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 ("Grantee") and **CATHLEEN SELLERS**, whose address is 6737 Hidden Creek Boulevard, St. Augustine, Florida 32086 ("Grantor").

WITNESSETH:

WHEREAS, the County is desirous of purchasing a perpetual easement on a portion of the property owned by the Grantor and Grantor is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Grantee to acquire easement rights set out in the Easement attached hereto as Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Easement") for installation of an underground concrete drainage pipe; and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price.

(a) The purchase price ("Purchase Price") is **Nine Thousand dollars and 00/100 (\$9,000.00)**, subject to the prorations hereinafter provided. 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)	\$ 900.00
(ii) Cash to Close	Closing Day	\$ 8,100.00
TOTAL PURCHASE PRICE		\$ 9,000.00

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

2. Title Examination.

(a) Grantee shall have 60 days to examine Grantor's title to the property contained in said Easement to determine if it wants to acquire said Easement; and

(b) Grantee shall notify Grantor in writing ("Title Notice") within 10 days after Grantee's receipt of the Commitment or a denial thereof, if 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 Grantee in the Title Notice shall be deemed to have been waived by Grantee. In the event

the Commitment discloses any defect or denial and such is timely noted in a Title Notice, Grantor, at Grantor's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect or denial (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Grantor has not cured title defects or denial, then in such event, Grantee's remedies shall be limited solely to either (x) accepting such title to the Property as Grantor 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) FIRST AMERICAN TITLE, 1690 US 1, Suite F, St. Augustine, Florida 32084, shall be Escrow Agent, at no additional charge to Grantor or Grantee 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. The closing of the sale of the Property ("Closing") shall take place at the offices of the Escrow Agent, FIRST AMERICAN TITLE, 1690 US 1, Suite F, St. Augustine, Florida 32084, on or before sixty days (60) from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE.

5. Grantor's Representations. Grantor represents to Grantee 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 Grantee, Grantor shall deliver or cause to be delivered to Grantee the following:

(i) a full executed Easement (“Easement”) in the form attached hereto as Exhibit “A” conveying the easement rights to the Property;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number “FIRPTA” affidavit to be signed by Grantor.

(b) At the Closing, Escrow Agent shall deliver the Deposit and Grantee shall deliver the cash to close, to Grantor, in accordance with Section 1. Grantee shall execute and deliver to Grantor such consents and authorizations as Grantor may reasonably deem necessary to evidence the authority of Grantee to purchase the Property and to consummate all other actions required to be taken by Grantee under this Agreement.

(c) At the Closing, Grantor and Grantee shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Grantor and Grantee shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

7. Closing Expenses. Grantee shall pay all closing costs. Each party shall bear the expense of its own legal counsel.

8. Survey and Legal Description. Between this date and Closing, Grantee shall have the Property surveyed (if applicable). Grantee shall provide written notice (“Survey Notice”) to Grantor within 10 days after Grantee’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 Grantor shall be deemed to have been waived by Grantee.

9. Condition of Property and Grantee’s Right of Inspection. Grantee 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 Grantee’s intended purpose. Grantor hereby gives Grantee the right to enter upon, test and inspect the Property at Grantee’s sole cost and risk. Grantor agrees to provide Grantee any documents, tests, easements,

wetland assessments, environmental assessments, surveys, etc., within their possession that would help Grantee make a suitability decision regarding the property. Grantee agrees to provide Grantor with copies of all reports conducted on the Property. If Grantee determines that the Property is unsuitable for any reason, Grantee shall give written notice to Grantor 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 Grantee, and upon such return, this Agreement shall terminate.

10. Default. (a) Default by Grantor. If Grantor defaults by performance of any of Grantor's obligations in this Agreement or breaches any warranty or representation, Grantee may receive an immediate refund of the Deposit, as Grantee's sole and exclusive remedy for any such default. (b) Default by Grantee. If Grantee defaults in the performance of any of Grantee's obligations in this Agreement for any reason, other than the Grantor's default or the termination of this Agreement pursuant to the specific provisions hereof, Grantor will be entitled to receive the Deposit as Grantor's sole and exclusive remedy for any such default, Grantor hereby waiving any rights they 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 Grantor and Grantee.

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 Grantor or Grantee 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.

Grantor: **Cathleen Sellers**
6737 Hidden Creek Boulevard
St. Augustine, FL 32086

Grantee: **St. Johns County, Florida, a political subdivision
Of the State of Florida**
4020 Lewis Speedway
St. Augustine, Florida 32084

Escrow Agent: **First American Title**
1690 US 1
Suite F
St. Augustine, Florida 32084

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. (Not applicable to this transaction.)

22. 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 Grantee.

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.

WITNESSES:

Kiccie Love
Signature

Diane Love
Print

Cecilia Aldrich
Signature

CECELIA ALDRICH
Print

WITNESSES:

Signature

Print

Signature

Print

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

GRANTOR:

By: Cathleen M. Sellers 11/29/05
Cathleen Sellers Date

GRANTEE:

ST. JOHNS COUNTY, FLORIDA

A political subdivision of the
State of Florida

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

Exhibit "A"

THE SOUTH FIFTEEN (15) FEET OF THE FOLLOWING DESCRIBED PROEPRTY:

LOT 2, HIDDEN CREEK ESTATES, RECORDED IN PLAT BOOK 24, PAGES 52-55, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AS REPLATTED IN PLAT BOOK 25, PAGES 71 THROUGH 74, OF SAID RECORDS.

SUBJECT TO COVENANTS, RESTRICTIONS, EASEMENTS AND DOCUMENTS OF RECORD, THE MENTION OF WHICH SHALL NOT OPERATE TO REIMPOSE THE SAME.

PARCEL ACCOUNT NO. 183626 0020

Exhibit "B" to the Resolution

Prepared by:
St. Johns County
4020 Lewis Speedway
St. Augustine, Florida 32084

DRAINAGE EASEMENT

THIS INDENTURE, made this 13 day of dec., 2005, between **CATHLEEN SELLERS**, whose address is 6737 Hidden Creek Blvd., St. Augustine, FL 32086, hereinafter called **GRANTOR**, and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, 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 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 SOUTH FIFTEEN (15) FEET OF THE FOLLOWING DESCRIBED PROEPRTY:

LOT 2, HIDDEN CREEK ESTATES, RECORDED IN PLAT BOOK 24, PAGES 52-55, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, AS REPLATTED IN PLAT BOOK 25, PAGES 71 THROUGH 74, OF SAID RECORDS.

SUBJECT TO COVENANTS, RESTRICTIONS, EASEMENTS AND DOCUMENTS OF RECORD, THE MENTION OF WHICH SHALL NOT OPERATE TO REIMPOSE THE SAME.

PARCEL ACCOUNT NO. 183626 0020

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:

Grantor:

Signature

Cathleen Sellers

Print

Signature

Print

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

The foregoing instrument was acknowledged before me this 13 day of December, 2005, by CATHLEEN SELLERS, who is personally known to me or has produced _____ as identification.

Notary Public

My Commission Expires: _____



15 ft. Easement

Hidden Creek Blvd

Irma Way

Veronica Ct



2005 COLOR AERIAL IMAGERY MAP



Map Prepared: 12/1/2005
*Depicts General Project Boundary

Drainage Easement For Hidden Creek Estates Subdivision

File:



Enter Agency Here
Enter Division Here
Enter Department Here