

RESOLUTION NO. 2015- 355

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF AN EASEMENT ENCROACHMENT AGREEMENT AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.**

**RECITALS**

**WHEREAS**, St. Johns County ("County") is the owner and holder of a 10 foot easement dedicated on the plat of St. Augustine Shores, Unit Six, recorded in Map Book 14, pages 40-46, Official Records St. Johns County, that runs along the front of Tract A of said plat; and

**WHEREAS**, Robert A. Carmines and Michele C. Carmines, Trustees of the Carmines Living Trust u/t/a February 26, 1997, ("Owner") own a portion of Tract A and desire to construct, use and maintain a fence over a portion of the easement as described above; and

**WHEREAS**, Owner seeks consent from the County to enjoy the Encroachment; and

**WHEREAS**, the County is willing to grant consent strictly in accordance with the terms and conditions of the Easement Encroachment Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, which owner has agreed upon and executed.

**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 conditions of the Easement Encroachment Agreement and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County.

Section 3. The Clerk is instructed to record the original Easement Encroachment Agreement in the public record of St. Johns County, Florida.

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 1 day of December, 2015.

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

By: [Signature]  
Jeb S. Smith, Chair

ATTEST: Hunter S. Conrad, Clerk

By: [Signature]  
Deputy Clerk

REVISION DATE 12/3/15



**THIS EASEMENT ENCROACHMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between St. Johns County ("County"), a political subdivision of the State of Florida, with administrative offices located at 500 San Sebastian View, St. Augustine, Florida 32084, and Robert A. Carmines and Michele C. Carmines, Trustees of the Carmines Living Trust u/t/a February 26, 1997, whose address is 168 Marine Street, St. Augustine, FL 32084 ("Owner").

WITNESSETH THAT

WHEREAS, the County is the owner and holder of an easement ("Easement"), recorded in Map Book 14 at Pages 40-46, Official Records, St. Johns County, and located on a parcel of land in St. Augustine Shores Unit Six, Tract A, as more specifically described in Exhibit A, attached hereto and incorporated herein ("Property"); and

WHEREAS, Owner desires to construct, use and maintain a fence over a portion of the Easement as depicted in Exhibit B, attached hereto and incorporated herein ("Encroachment"); and

WHEREAS, Owner seeks consent from the County to enjoy the Encroachment; and

WHEREAS, the County is willing to grant such consent strictly in accordance with the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Agreement, County and Owner agree as follows:

1. To the extent that the County has the right to do so, the County hereby grants consent to Owner to construct, use and maintain the Encroachment on a portion of the Easement as described herein, subject to the following conditions:
  - a. Owner hereby assumes all risks for damages, injuries or any other loss to persons or property, caused by, or arising out of, or resulting from, or in any way associated with the installation, construction, use, maintenance, repair or replacement of the Encroachment.
  - b. The consent granted herein is limited exclusively to the Encroachment upon the Property over the Easement described herein.
  - c. Owner shall at all times conduct all activities over the Easement in such a manner as not to interfere with or impede whatsoever the County's operation and maintenance of any infrastructure facilities on or at the Property.

- d. With the exception of the Encroachment, Owner shall not construct, plant or create additional improvements of any kind, including but not limited to, fences, sheds, irrigation or drainage systems, utilities, decking, parking lots, roadways, pools, ponds, trees or shrubs with the confines of the Easement without express written approval by the County.
    - e. Owner understands and agrees that County may not have the authority to grant owner permission to construct the Encroachment over the Easement. This Agreement merely defines the terms by which the County will not object, and that Owner will obtain permission for the Encroachment from the underlying fee owner of the Property or third parties having an interest in the Property. The consent granted by this Agreement shall not constitute or be construed as a subordination, merger, assignment, conveyance or relinquishment of any of the rights, title and interest of the County under the provisions of any easement agreement.
2. Owner agrees that the Encroachment, along with any additional improvements approved by the County, shall be constructed or installed over the Easement in accordance with applicable land use, zoning and building requirements, and completed at the sole expense of the Owner.
3. Owner shall indemnify, defend and hold harmless the County and its officers, agents and employees from and against any and all actions or causes of actions, claims, demands, liabilities, loss, damage, injury, suit, proceeding, judgment, cost or expense of whatever kind or nature, including but not limited to reasonable attorney's fees, caused by, or arising out of, or resulting from, or in any way associated with: (a) installation, construction, use, maintenance, repair or replacement of the Encroachment; or (b) the installation, operation, use, maintenance, repair or replacement of any utilities facility by the County; except where such loss, cost, liability or expense is proximately caused solely by the County's gross negligence.
4. The consent granted by the County to the Owner(s) contained in this Agreement is made with the express condition that neither the Owner nor the Owner's heirs, successors, assigns or any person claiming under or through the Owner shall acquire any right superior to the County's right in such easement whether by lapse of time or otherwise.
5. Unless mutually agreed in writing, this Agreement shall remain in force and effect only so long as the present Encroachment remains in its present form and that, upon removal, demolition, destruction or replacement thereof, all rights of the Owner(s) under this Agreement shall cease.

6. At its sole discretion, the County may provide the Owner no less than thirty (90) days prior written notice that this Agreement is terminated. In such event, Owner shall have no rights under this Agreement whatsoever. Upon such notice, the Owner shall, within thirty (90) days of the dated of the notice, remove the Encroachment and any other improvements from the Easement at Owner's sole expense.
7. Notices to the Owner shall be in writing, and provided via U.S. mail to the address above. Owner has the duty to provide the County with any changes in address in which to provide written notices.
8. Above-ground maintenance of the Easement including, but not limited to, grass mowing and erosion control, shall be the sole responsibility, and at the sole expense of, the Owner.
9. The effective date of this Agreement shall be the date this document is fully executed by the County and the Owner. This Agreement shall have no force or effect whatsoever until the effective date.
10. This Agreement shall inure to the benefit of and be binding upon the Owner and its successors and assigns and shall run with the land herein described until released by the County or until the said Easement is vacated or abandoned.
11. It is expressly understood and agreed that this Agreement sets forth all the covenants, agreements, terms and conditions between the parties and that there are no other oral or written agreements between them. It is further understood that no subsequent amendments, alterations or additions to this Agreement shall be binding upon the parties hereto unless reduced to writing and executed by duly authorized representatives of each party.
12. If any word, phrase, sentence, part, subsection, section, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.
13. It is explicitly noted that the following provisions of this Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal.

14. Each party covenants to the other party/parties that it has the lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative.
15. This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.
16. If any word, phrase, sentence, part, subsection, section or other portion of this Agreement is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, subsection or other portion shall be severable and the remaining portions of this Agreement not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

COUNTY

\_\_\_\_\_  
Signature

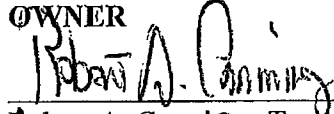
\_\_\_\_\_  
Printed Name & Title

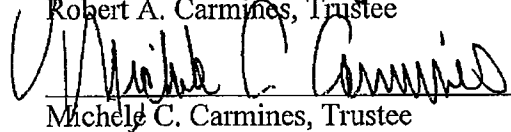
\_\_\_\_\_  
Date of Execution

Legal Review by:

\_\_\_\_\_  
Senior Assistant County Attorney

OWNER

  
\_\_\_\_\_  
Robert A. Carmine, Trustee

  
\_\_\_\_\_  
Michele C. Carmine, Trustee

November 11, 2015  
\_\_\_\_\_  
Date of Execution

EXHIBIT A

Public Records of St. Johns County, FL Clerk # 2006067427, O.R. 2778 PG 1657, 09/07/2006 at 03:38 PM REC. \$5.00 SUR. \$5.00 Doc. D \$1575.00

Barbara G. Sweet  
Crossland Title Services, LLC  
1563 Alford Place, Suite 1  
Jacksonville, FL 32207  
(904)858-9501

Parcel ID Number: 284168-0006

### Special Warranty Deed

This Indenture, Made this 6th day of September, 2006 Between **WATSON RD. LLC**, a Florida limited liability company, grantor, and **Robert A. Carmines and Michele C. Carmines Trustees of The Carmines Living Trust u/t/a February 26, 1997** whose address is: 168 Marine Street, Saint Augustine, FL 32084, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10), and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of St. Johns, State of Florida to wit:

THAT CERTAIN PARCEL OF LAND, LYING IN AND BEING A PART OF TRACT "A" OF ST. AUGUSTINE SHORES UNIT SIX ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGES 40 THROUGH 46, INCLUSIVE, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT "A"; THENCE RUN S00°38'33"E, ALONG THE WEST BOUNDARY LINE OF SAID TRACT "A", FOR A DISTANCE OF 275.05 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREINAFTER DESCRIBED; THENCE CONTINUE S00°38'33"E, ALONG THE SAID BOUNDARY LINE, FOR A DISTANCE OF 274.97 FEET; THENCE LEAVING SAID BOUNDARY LINE, RUN N89°21'00"E FOR A DISTANCE OF 360.12 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SHORES BLVD. AS SHOWN ON SAID PLAT OF ST. AUGUSTINE SHORES UNIT SIX; THENCE RUN N00°39'00"W, ALONG SAID RIGHT-OF-WAY LINE FOR A DISTANCE OF 274.97 FEET; THENCE, LEAVING SAID RIGHT-OF-WAY LINE, RUN S89°21'00"W FOR A DISTANCE OF 360.9 FEET TO THE POINT OF BEGINNING.

Subject to covenants, restrictions and easement of record and taxes subsequent to December 31, 2005.

Together with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenant with said grantee that grantor is lawfully seized of said land in fee simple; that grantor has good right and lawful authority to sell and convey said land; that grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all person claiming by, through or under grantor.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

**WATSON RD. LLC,**  
a Florida limited liability company

Witness

*Barbara G. Sweet*  
Printed Name: BARBARA G. SWEET

By:

*Thomas J. Purdie* (Seal)  
Thomas J. Purdie, Manager  
P.O. Address: 2024 Herschel St. Jacksonville, FL 32204

Witness

*Mikdred J. Elmore*  
Printed Name: MIKDRED J. ELMORE

STATE OF Florida

COUNTY OF Duval The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of September, 2006 by Thomas J. Purdie, Manager of WATSON RD. LLC, a Florida limited liability company he is personally known to me or he has produced his Florida driver's license as identification.

*Barbara G. Sweet*  
Notary Public  
My Commission Expires:

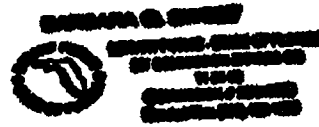
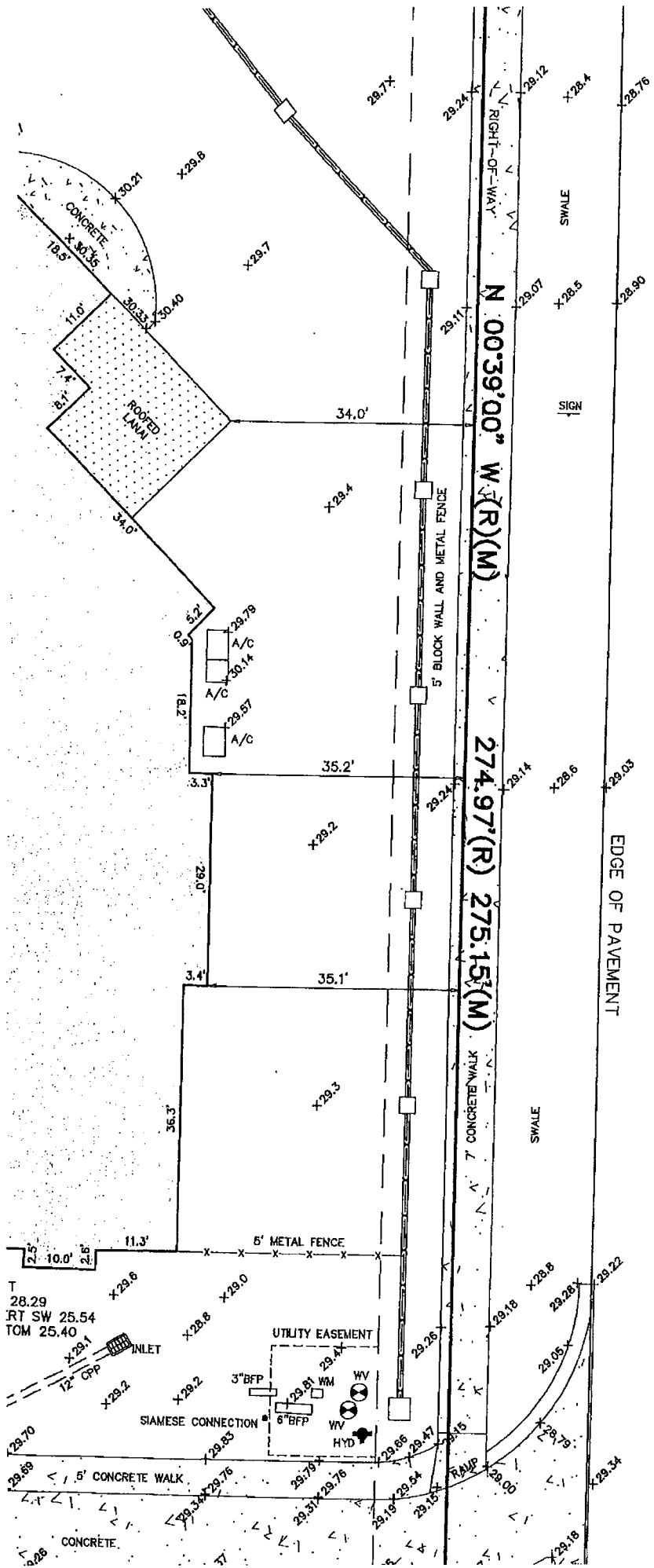


EXHIBIT B



N 00°39'00" W (R)(M)  
 274.97'(R) 275.15'(M)

# SHORES BOULEVARD

100' R/W - PAVED

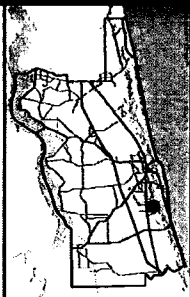
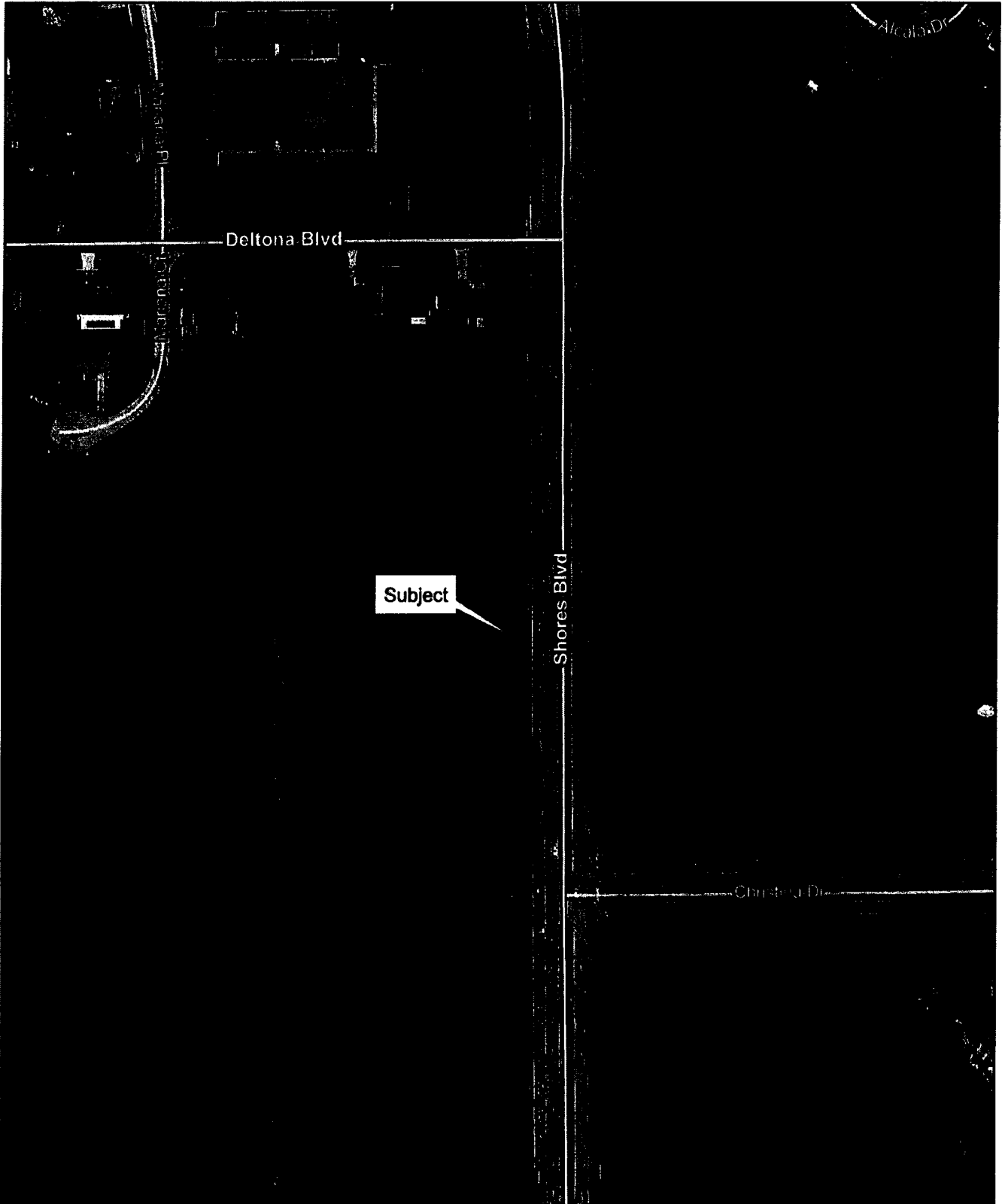
EDGE OF PAVEMENT


GRASS MEDIAN

EDGE OF PAVEMENT

EDGE OF PAVEMENT





  
 2013 Aerial Imagery  
 0 50 100  
 Feet  
 January 6, 2015

**Easement Encroachment Agreement**  
*Part of Tract A,  
 St. Augustine Shores Unit Six*

**Land Management Systems Real Estate Division**  
 (904) 209-0790  
Disclaimer:  
 This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy. The St. Johns County Real Estate Division disclaims all responsibility for the accuracy or completeness of the data shown hereon.

