

RESOLUTION NO. 2019- 107

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR AN EASEMENT FOR RECLAIMED WATER TRANSMISSION MAIN ON BEHALF OF THE COUNTY, AND ACCEPTING AN EASEMENT FOR RECLAIMED WATER TRANSMISSION MAIN TO BE LOCATED OFF SOLANA ROAD.

RECITALS

WHEREAS, a property owner has executed and presented to the County a Purchase and Sale Agreement for an Easement for Reclaimed Water Transmission Main, attached hereto as Exhibit "A," incorporated by reference and made a part hereof, for a reclaimed water transmission main to be located off Solana Road; and

WHEREAS, the property owner has agreed for St. Johns County to purchase the easement for \$10,000, which is the appraised value provided by Lampe, Roy & Associates, Inc.; and

WHEREAS, the St. Johns County Utility Department is preparing to construct a new wastewater facility near the west end of The Players Club (TPC) parking lot. This facility will consolidate three existing wastewater treatment plants (WWTP), the Players Club, the Innlet Beach, and the Sawgrass WWTP. The new facility will be a 100% reclaimed water facility providing highly treated reclaimed water to serve irrigation needs for the Players Club, Dye's Valley, and Sawgrass golf courses; and

WHEREAS, due to the decommissioning of the Innlet Beach WWTP which now serves the Oak Bridge golf course, the St. Johns County Utility Department is preparing to design and construct a new reclaimed water transmission main to serve the Oak Bridge golf course from the Utility's Marsh Landing WWTP for irrigation needs; and

WHEREAS, it is in the best interest of the County to acquire this Easement for Reclaimed Water Transmission Main for the health, safety and welfare of the citizens located within this service 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 approve the terms of the Purchase and Sale Agreement and authorize the County Administrator to execute the Purchase and Sale Agreement, accept the Easement for Reclaimed Water Transmission Main, and move forward to close this transaction.

Section 3. To the extent that there are typographical, scrivener 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.

Section 4. The Clerk of the Court is instructed to file the Purchase and Sale Agreement and record the original Easement for Reclaimed Water Transmission Main in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 2nd day of April, 2019.

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

By: Paul M. Waldron
Paul M. Waldron, Chair

ATTEST: Hunter S. Conrad, Clerk

By: Sam Salterman
Deputy Clerk

RENDITION DATE 4/4/19

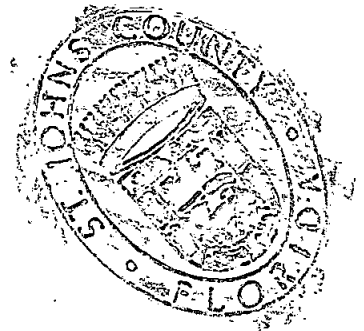


EXHIBIT "A" TO RESOLUTION

**PURCHASE AND SALE AGREEMENT FOR AN
EASEMENT FOR RECLAIMED WATER TRANSMISSION MAIN**

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and effective as of _____, 2019 by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084 (“Buyer”) and **CONSOLIDATED RESISTANCE COMPANY OF AMERICA, INC.**, a New York corporation, whose address is 42-08 Bell Boulevard, Bayside, New York 11361 (“Seller”).

WITNESSETH:

WHEREAS, the County is desirous of purchasing an Easement for Reclaimed Water Transmission Main over property owned by the Seller and Seller is desirous of selling an Easement upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire an easement, described in Exhibit “A”, attached hereto, incorporated by reference and made a part hereof, (hereinafter “Easement Area”); and

NOW THEREFORE, it is mutually agreed as follows:

1. Recitals. The above Recitals are incorporated into the body of this Agreement, and such Recitals are adopted as Findings of Fact.
2. Purchase Price. In consideration for an Easement for Reclaimed Water Transmission Main, the Buyer shall pay a Purchase Price as follows, subject to the prorations hereinafter provided.

<u>Property Owner</u>	<u>Purchase Price</u>
Consolidated Resistance Company of America, Inc. 42-08 Bell Boulevard, Bayside, NY 11361	\$10,000
TOTAL PURCHASE PRICE	\$10,000

Said Easement for Reclaimed Water Transmission Main shall contain substantially the same terms and conditions as set forth on the Easement for Reclaimed Water Transmission Main attached hereto as Exhibit “B” and by this reference incorporated herein. If the Easement Area does not have physical and legal access to a dedicated public road, street or highway, the Seller shall provide Buyer with an easement for physical and legal access to the Easement Area from a dedicated public road, street, or highway.

3. Closing. Unless extended by the terms of Section 24, or other provisions hereof, the closing of the sale of the Easement Area ("Closing") shall take place at the offices of St. Johns County, 500 San Sebastian View, St. Augustine, Florida 32084, on or before two hundred ten (210) days from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE.

4. Seller's Representations. Seller represents to Buyer that they own fee simple title to the Easement Area and have full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

5. 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 an Easement for Reclaimed Water Transmission Main conveying the easement interest to the Easement Area, subject only to the Permitted Encumbrances.

(b) At the Closing, Buyer shall deliver the cash to close, to Seller, in accordance with Section 2. 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 Area 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.

6. Closing Expenses. Buyer shall pay the cost of recording the Easement for Reclaimed Water Transmission Main, including documentary stamps. Buyer shall bear the expense of its own legal counsel and the reasonable expense of legal counsel representing Seller. All legal fees and costs shall be paid directly to Seller's legal counsel within sixty (60) days of receipt of invoice, subject to execution of the Purchase and Sale Agreement. In the event the Easement Area is found to be unsuitable for the intended purpose, Buyer shall bear the reasonable expense of legal counsel for Seller up to and including the date of termination of the Agreement.

7. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for one hundred eighty (180) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Easement Area for the purpose of physically inspecting the Easement Area 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 Easement Area's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Easement Area at Buyer's sole cost and risk. Seller agrees to provide Buyer any documents, tests, easements, wetland assessments, environmental assessments, surveys, etc., within their possession that would help Buyer make a suitability decision regarding the Easement Area. Buyer agrees to provide Seller with copies of all reports conducted on the Easement Area. If Buyer determines that the Easement Area is unsuitable for any reason, 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, this Agreement shall terminate.

8. Repair/Replacement. Buyer shall, at Buyer's sole cost and expense, restore, to the extent practical, areas within the Easement Area to the condition which existed prior to any testing or inspection activities, including but not limited to revegetation, resodding, repaving, or removal of debris or dirt caused by or resulting from such activities.

9. Default.

(a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breach any warranty or representation, then at its option, Buyer either may terminate this Agreement and 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 hereby waives 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.

10. 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 Easement for Reclaimed Water Transmission Main.

11. 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.

12. 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.

13. 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.

14. Termination of Contract. If Buyer for any reason determines that the Easement Area is unsuitable for the Buyer's intended use, or that there are other circumstances that negatively affect the Buyer's intended use, then 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. If such notice is timely given, this Agreement shall terminate.

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: **See Item No. 2 Above**

Buyer: **St. Johns County, Florida, a political subdivision
Of the State of Florida
500 San Sebastian View
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. There are not any real estate commissions due as a result of 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 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.

24. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over a period of time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. (Section 404.056(5), F.S.)

25. Amendment. Notwithstanding any other provision contained in this Agreement, the closing date may be extended by the County, and the Seller, without further action of the Board of County Commissioners of St. Johns County. As a result, the County Administrator may execute an extension of the Inspection Termination Date and Closing Date, without such referenced further action of the Board. This accommodation extends only to extension of the Inspection Termination Date and the Closing Date. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

26. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement/Contract shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes). Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

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

WITNESSES:

BUYER:
ST. JOHNS COUNTY, FLORIDA
A political subdivision of the State of Florida

Signature Date

By: _____
Michael D. Wanchick Date

Print

County Administrator

Signature Date

Print

ATTEST: Hunter Conrad, Clerk

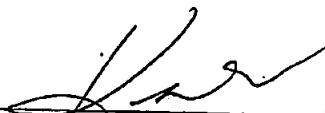
Legally Sufficient:

By: _____
Deputy Clerk

By: _____
County Attorney

Date: _____

WITNESSES:


Signature _____ Date March 8 2019

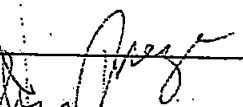
Kelly Gonzales
Print Name _____


Signature _____ Date 3-8-19

Shelby Tabb
Print Name _____

SELLER:

CONSOLIDATED RESISTANCE
COMPANY OF AMERICA, INC.


Signature _____ Date 3/8/19

Joel P. Berger
Print Name _____

CEO
Its _____

EXHIBIT "A"

EASEMENT AREA

A part of Lot 13 and the Northerly 5 feet of Lot 14 of Belvedere Place as recorded in Map Book 41, Pages 81-82 of the public records of St. Johns County, Florida. The easement is more specifically described as follows: 10 feet on either side of the centerline of the proposed reclaimed water transmission line to be located within the existing 30 foot Beaches Energy Easement recorded at OR 580, PG 535 of said public records.

EXHIBIT "B" TO PURCHASE AND SALE AGREEMENT

EASEMENT FOR RECLAIMED WATER TRANSMISSION MAIN

THIS EASEMENT executed and given this ____ day of _____, 2019 by **CONSOLIDATED RESISTANCE COMPANY OF AMERICA, INC.**, a New York corporation, whose address is 42-08 Bell Boulevard, Bayside, New York 11361, hereinafter called "Grantor" to **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter called "Grantee".

WITNESSETH:

WHEREAS, Grantor owns in fee simple certain real property in St. Johns County, Florida, more particularly described in Exhibit "A", attached hereto and incorporated by this reference ("The Easement Area"); and

WHEREAS, That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor agrees as follows:

1. Grantor does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee a non-exclusive permanent easement and right-of-way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground reclaimed water transmission main and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground reclaimed water utility services (hereinafter referred to as "Reclaimed Water Transmission Main") over and upon the Easement Area; together with rights of ingress and egress to access the Easement Area as necessary for the use and enjoyment of the easement herein granted. This easement is for reclaimed water utility services only and does not convey any right to install other utilities such as cable television, telephone, gas, or other public utility.

TO HAVE AND TO HOLD, unto Grantee and his successors for the purposes aforesaid. Said Grantor is lawfully seized of said Easement Area and thereby has the authority to grant said easement.

2. The easement herein granted is subject to covenants, restrictions, easements, liens and encumbrances of record.

(a) Grantee, by acceptance of this Easement, will install a reclaimed water transmission main within the Easement Area, and at all times the reclaimed water transmission main shall be beneath the surface of the Easement Area provided that the same may be temporarily exposed or removed to the surface when necessary or desirable for the purpose of repairing and/or replacing the same.

(b) Grantee, by acceptance of this Easement, reserves unto the Grantor the right and privilege to use the herein described Easement Area for purposes which do not interfere with or are not inconsistent with the use, occupation, maintenance or enjoyment of the Easement Area granted to Grantee. However, no portion of the described Easement Area shall be excavated or obstructed, and no buildings, structures, obstructions or other improvements shall be located, constructed, maintained or operated over, under, upon or across the described Easement Area; and further reserving unto the Grantor the rights of ingress and egress across such described Easement Area to and from Grantor's remaining adjoining land.

(c) Grantee, by acceptance of this Easement, hereby agrees to operate and maintain the reclaimed water transmission main located within the Easement Area. The Grantee or Grantee's successors shall be responsible for the maintenance of such reclaimed water transmission main. Grantee hereby specifically indemnifies and holds Grantor harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of reclaimed water transmission main.

(d) Upon the request of Grantor, the easement granted by this instrument may be relocated to a location acceptable to the Grantee at any time provided that Grantor bears the cost of relocating the underground reclaimed water utility line and facilities located within the Easement Area. At Grantor's request, and upon relocation of such line and facilities at the Grantor's expense, Grantee and Grantor shall execute an instrument in recordable form relocating the easement hereby granted to the new Easement Area designated by and in the title of the Grantor.

(e) Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with use and occupancy of residential or commercial improvements constructed upon the adjacent property owned by Grantor.

3. After any installation, construction, repair, replacement or removal of the reclaimed water transmission main as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal. In addition, Grantee shall be responsible for restoration of sod, landscaping, planting, pavement or other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of the reclaimed water transmission main.

4. To the extent permitted by law, Grantee shall be responsible for damages caused by Grantee's negligence in direct correlation to the installation, construction, repair, replacement or removal of the reclaimed water transmission main. This provision shall not operate as a waiver of Grantee's limitation of liability under Section 768.28, Florida Statutes or of Grantee's sovereign immunity.

5. Grantee shall ensure that utilities will not be installed on the east side of Belvedere Place in the areas specifically described in the Conservation Easement entered into between The Palms at Ponte Vedra, LLC and St. Johns River Water Management District, recorded in official records OR 3822 page 1330, and the Grant of Easement for Electric and Natural Gas Facilities entered into between The Palms at Ponte Vedra, LLC and the City of Jacksonville Beach, recorded in official records OR 4001 page 1059.

6. This Grant of Easement shall inure to the benefit of and be binding of and be binding upon Grantee and its successors.

7. For the purposes of the terms and conditions of this Grant of Easement, "Grantor" means the owners from time to time of the Easement Area or any part thereof.

8. The Grantee shall not conduct any activity on or use of the property described in Exhibit A that is inconsistent with the purpose of this Grant of Easement.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties have caused this Easement for Reclaimed Water Transmission Main to be executed on the day and year indicated below.

Signed, sealed and delivered
In the presence of:

Witness Signature

Print Name

Witness Signature

Print Name

CONSOLIDATED RESISTANCE
COMPANY OF AMERICA, INC.

By:

Print Name:

Its:

42-08 Bell Boulevard
Bayside, NY 11361

STATE OF FLORIDA
COUNTY OF ST JOHN'S

The foregoing instrument was acknowledged before me this 8th day of March, 2019, by Joel P. Berger as CEO on behalf of the corporation, who is personally known to me or who has produced Personally Known as identification.

(Notary Seal)



Notary Public:

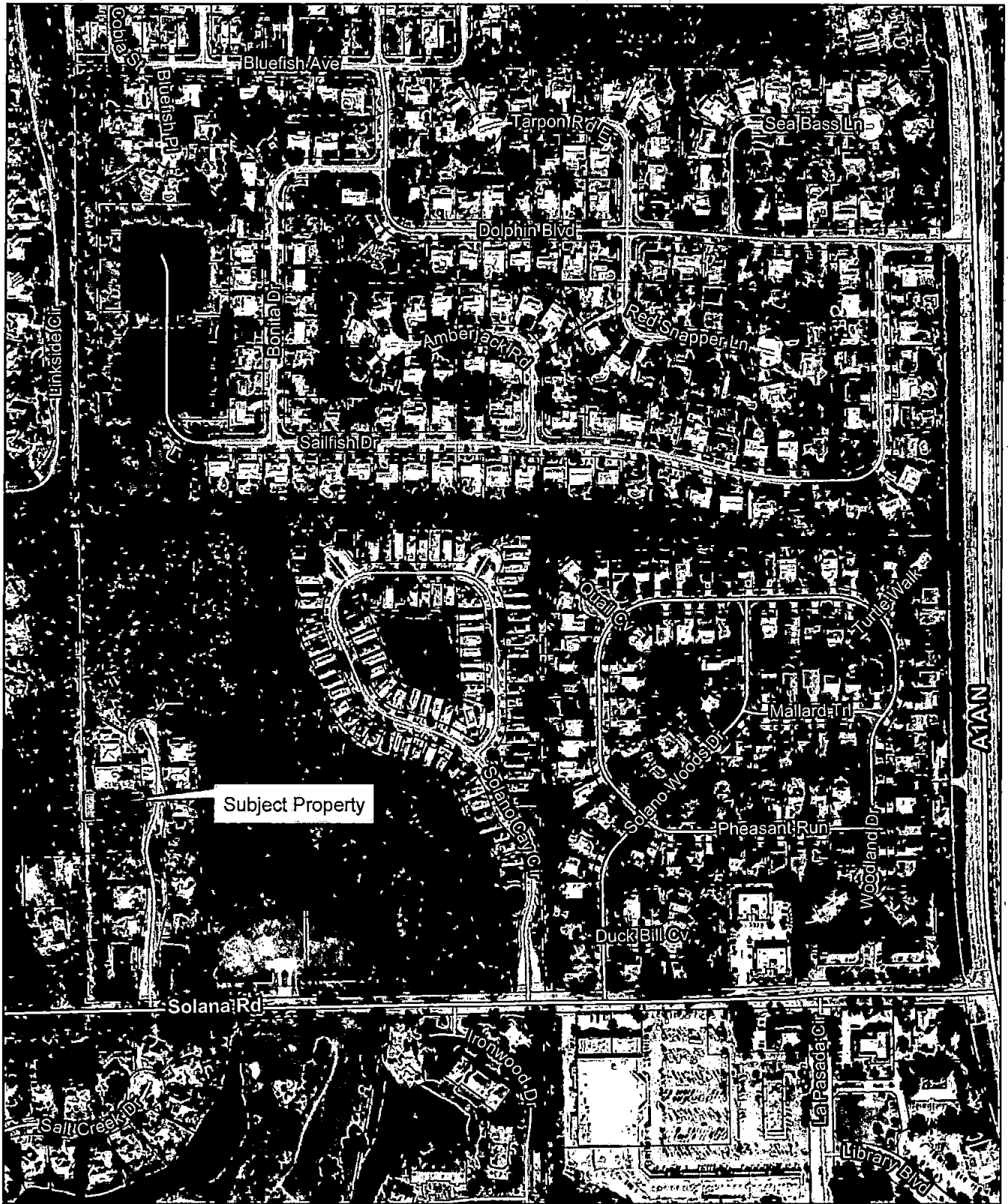
My Commission Expires:

9/13/19

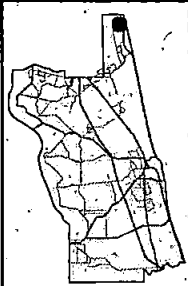
EXHIBIT "A"

EASEMENT AREA

A part of Lot 13 and the Northerly 5 feet of Lot 14 of Belvedere Place as recorded in Map Book 41, Pages 81-82 of the public records of St. Johns County, Florida. The easement is more specifically described as follows: 10 feet on either side of the centerline of the proposed reclaimed water transmission line to be located within the existing 30 foot Beaches Energy Easement recorded at OR 580, PG 535 of said public records.



Subject Property



2013 Aerial Imagery
 0 150 300
 Feet
 March 7, 2019

Easement for Reclaimed
 Water Transmission Main

Belvedere Place

Land Management
 Systems
 Real Estate
 Division
 (904) 209-0764

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.

