

RESOLUTION NO. 2019- 250

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR A TEMPORARY CONSTRUCTION EASEMENT FOR A SEWER FORCE MAIN TO BE LOCATED OFF STATE ROAD 13 NORTH.

RECITALS

WHEREAS, Pyramid Investments, LLC has executed and presented to the County a Purchase and Sale Agreement for a Temporary Construction Easement, attached hereto as Exhibit "A," incorporated by reference and made a part hereof, for a sewer force main line to be located off State Road 13 North; and

WHEREAS, Pyramid Investments, LLC has requested \$9,000 as compensation for allowing St. Johns County to remove curbing, landscaping and fencing from their parking lot to create temporary ingress/egress to the homes lying along the dirt road for three (3) months during construction of the sewer force main line; and

WHEREAS, the St. Johns County Utility Department is preparing to decommission the 40-year old Fruit Cove Wastewater Treatment Facility; and

WHEREAS, due to the decommissioning of the Fruit Cove WWTP, the St. Johns County Utility Department is preparing to construct a sewer force main line to connect the existing facility to the current sewer system located along State Road 13 North, subsequently transferring the wastewater to JEA for treatment; and

WHEREAS, it is in the best interest of the County to acquire this Temporary Construction Easement 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 authorizes the County Administrator to execute the Purchase

and Sale Agreement, accept the Temporary Construction Easement, 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 Temporary Construction Easement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 6th day of August, 2019.

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

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

ATTEST: Hunter S. Conrad, Clerk

By: Sam Halteem
Deputy Clerk

RENDITION DATE 8/8/19



**PURCHASE AND SALE AGREEMENT FOR A
TEMPORARY CONSTRUCTION EASEMENT**

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 between **MARK SPIVAK and ALISA SPIVAK**, his wife, whose address is 1633 Inkberry Lane, Saint Johns, Florida 32259, and **PYRAMID INVESTMENTS, LLC.**, a Florida limited liability company, whose address is 9259 Jaybird Circle West, Jacksonville, Florida 32257 ("Sellers").

WITNESSETH:

WHEREAS, the County is desirous of purchasing a Temporary Construction Easement over property owned by the Sellers and Sellers are desirous of selling a Temporary Construction Easement upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire a 20-foot wide Temporary Construction 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. The purchase price ("Purchase Price") for the Temporary Construction Easement is Nine Thousand Dollars (**\$9,000.00**). The Purchase Price shall be in cash or other immediately available funds.

Said Temporary Construction Easement shall contain substantially the same terms and conditions as set forth on the Temporary Construction Easement 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 Sellers 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 ninety (90) days from the date of this Agreement ("Closing Date"), **TIME BEING OF THE ESSENCE.**

4. Seller's Representations. Sellers represent 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, Sellers shall deliver or cause to be delivered to Buyer a Temporary Construction Easement conveying interest to the Easement Area, subject only to the Permitted Encumbrances.

(b) At the Closing, Buyer shall deliver the cash to close, to Sellers, in accordance with Section 2. Buyer shall execute and deliver to Sellers such consents and authorizations as Sellers 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, Sellers and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Sellers 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 Temporary Construction Easement, including documentary stamps, and Sellers will pay any taxes due. Each party shall bear the expense of its own legal counsel.

7. 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 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. Sellers hereby give Buyer the right to enter upon, test and inspect the Easement Area at Buyer's sole cost and risk. Sellers agree 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 property. Buyer agrees to provide Sellers 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 Sellers 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. Default.

(a) Default by Sellers. If Sellers default by performance of any of Sellers' obligations in this Agreement or breaches any warranty or representation, then at its option Buyer 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 Sellers' default or the termination of this Agreement pursuant to the specific provisions hereof, Sellers 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.

9. 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 Utility Easement.

10. 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.

11. 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 Sellers and Buyer.

12. 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.

13. 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 Sellers 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.

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

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

16. 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.

17. 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: **Mark Spivak and Alisa Spivak**
1633 Inkberry Lane
Saint Johns, Florida 32259

Pyramid Investments, LLC
9259 Jaybird Circle West
Jacksonville, Florida 32257

Buyer: **St. Johns County, Florida, a political subdivision**
Of the State of Florida
500 San Sebastian View
St. Augustine, Florida 32084

18. 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.

19. 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.

20. Commission Dues. There are not any real estate commissions due as a result of this transaction.

21. 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.

22. 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.

23. 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.)

24. 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.

25. 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.

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

WITNESSES:

SELLER:

[Signature]
Signature Date

[Signature]
Mark Spivak Date

Steven Torres
Print Name

STATE OF FLORIDA
COUNTY OF ST. JOHNS
The foregoing instrument was acknowledged before
me on 10/28/19 by Mark Spivak
Type of ID produced Fl. Drivers Lic.
Chelsea L. McCallie
NOTARY PUBLIC

[Signature]
Signature Date

John Bert
Print Name

Chelsea L. McCallie
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG329049
Expires 4/30/2023

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

WITNESSES:

[Signature]
Signature Date

STEVEN TOMAS
Print Name

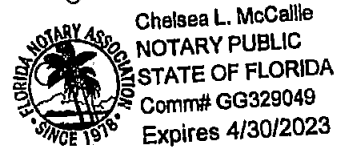
[Signature]
Signature Date

John Bush
Print Name

SELLER:

Alisa Spivak
Alisa Spivak Date

STATE OF FLORIDA
COUNTY OF ST. JOHNS
The foregoing instrument was acknowledged before me on 06/25/19 by Alisa Spivak
Type of ID produced FL. D.I.P.
Chelsea L. McCallie
NOTARY PUBLIC



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

WITNESSES:

[Signature] 06-25-19
Signature Date

John Bush
Print Name

[Signature] 06-25-19
Signature Date

James Conte
Print Name

SELLER:

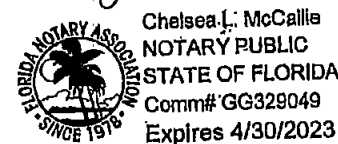
PYRAMID INVESTMENTS, LLC

Mark Slavin 06/25/2019
Signature Date

MARK SLAVIN
Print Name

MGRM
Title

STATE OF FLORIDA
COUNTY OF ST. JOHNS
The foregoing instrument was acknowledged before me on 06-25-19 by MARK SLAVIN
Type of ID produced FL. Drivers Lic.
Chelsea L. McCallie
NOTARY PUBLIC



WITNESSES:

Signature Date

Print

Signature Date

Print

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk

BUYER:

ST. JOHNS COUNTY, FLORIDA

A political subdivision of the State of Florida

By: _____
Michael D. Wanchick Date

County Administrator

Legally Sufficient:

By: _____
County Attorney

Date: _____

EXHIBIT "A"

EASEMENT AREA

The Southerly 20 feet of Tract "A", Fruit Cove Forest, according to plat thereof recorded in Map Book 13, Pages 7 and 8, of the public records of St. Johns County, Florida.

EXHIBIT "A" TO PURCHASE AND SALE AGREEMENT

Prepared by:
St. Johns County
500 San Sebastian View
St. Augustine, FL 32084

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT made this 25th day of June, 2019, by and between **MARK SPIVAK and ALISA SPIVAK**, his wife, whose address is 1633 Inkberry Lane, Saint Johns, Florida 32259, and **PYRAMID INVESTMENTS, LLC.**, a Florida limited liability company, whose address is 9259 Jaybird Circle West, Jacksonville, Florida 32257, as grantors and **ST. JOHNS COUNTY**, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, grantee.

WITNESSETH, that for and in consideration of the sum of **\$10.00 (Dollars)** and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, the grantors hereby give, grant, bargain and release to the grantee, a Temporary Construction Easement to enter upon and use the grantors' property located in St. Johns County, Florida, described below, for ingress/egress through the parking lot and construction of a 20 foot temporary access to the adjacent dirt road.

Temporary Construction Easement is over the following described property:

The Southerly 20 feet of Tract "A", Fruit Cove Forest, according to plat thereof recorded in Map Book 13, Pages 7 and 8, of the public records of St. Johns County, Florida.

It is understood and agreed by the parties hereto that the rights granted herein shall be effective three (3) consecutive months during the year 2020, and the County shall provide Grantors 14-day notice prior to commencing construction. The easement area will be put back to its original condition when the project is complete, including but not limited to, refilling any holes or trenches in a proper and workmanlike manner, and restoration of sod, landscaping, planting, pavement, curb, fencing, or other surface improvements which are required to be removed in order create a temporary access road.

To the extent allowed by Florida law, and subject to the limitations set forth in Section 768.28, Florida Statutes, St. Johns County shall indemnify, defend, and hold harmless the property owner from, and against all claims, losses, costs, suits, administrative actions, or arbitration from, incident to, connected with, or growing out of St. Johns County's direct or indirect negligent or intentional acts or omissions. Nothing in this Temporary Construction Easement shall be construed to operate as a waiver of St. Johns County's sovereign immunity.

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

Signed, sealed and delivered in
Our presence as Witnesses.

Witness Signature: [Signature]
Print Witness Name: Mr. But

Witness Signature: [Signature]
Print Witness Name: James Cook

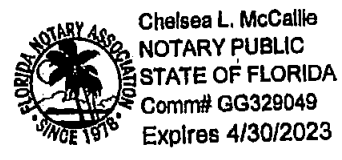
PYRAMID INVESTMENTS, LLC

By: Mark Slavin
Print Name: MARK SLAVIN
Title: MGRM

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 25th day of JUNE, 2019,
by MARK SLAVIN, who is personally known
to me, or has produced FLORIDA DRIVERS LIC. as identification.

Chelsea L. McCalle
Notary Public



Signed, sealed and delivered in
Our presence as Witnesses:

Witness Signature: Diane Brown
Print Witness Name: DIANE BROWN

By: Mark Spivak
Mark Spivak

Witness Signature: [Signature]
Print Witness Name: STEVEN TURNS

STATE OF FLORIDA
COUNTY OF St. Johns

The foregoing instrument was acknowledged before me this 28th day of June, 2019,
by Alisa + Mark Spivak, who is personally known
to me, or has produced FL. Drivers Lic as identification.



Chelsea L. McCallie
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG329049
Expires 4/30/2023

Chelsea L. McCallie
Notary Public

Signed, sealed and delivered in
Our presence as Witnesses:

Witness Signature: Diane Brown
Print Witness Name: DIANE BROWN

By: Alisa Spivak
Alisa Spivak

Witness Signature: [Signature]
Print Witness Name: STEVEN TURNS

STATE OF FLORIDA
COUNTY OF St. Johns

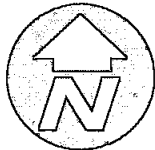
The foregoing instrument was acknowledged before me this 28th day of June, 2019,
by Alisa + Mark Spivak, who is personally known
to me, or has produced FL. Drivers Lic as identification.



Chelsea L. McCallie
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG329049
Expires 4/30/2023

Chelsea L. McCallie
Notary Public




 2016 Aerial Imagery
 0 150 300

 Feet
 July 2, 2019

**Temporary Construction
Easement**

FRUIT COVE

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.

