

RESOLUTION NO. 99- 57

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING A UTILITY EASEMENT FOR ACCESS, INSTALLATION AND MAINTENANCE OF UNDERGROUND UTILITY LINES AND FACILITIES LOCATED WITHIN THE SOUTHWOOD PUD, COMMERCIAL PARCEL SOUTH.

WHEREAS, Modern Properties of St. Augustine, Inc., a Florida corporation, has executed and presented to St. Johns County an easement for utilities, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for the purpose of access, installation and maintenance of underground utility lines and facilities located within the Southwood PUD, Commercial Parcel South; and

WHEREAS, the St. Johns County Utility Department has approved the easement for the purposes mentioned herein; and

WHEREAS, acceptance of this easement better serves the health, safety and welfare of the citizens.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The Utility Easement from Modern Properties of St. Augustine, Inc., a Florida Corporation to St. Johns County, attached hereto as Exhibit "A", is hereby accepted.

Section 2. The Clerk is instructed to record the Utility Easement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED this 13 day of April, 1999, by the Board of County Commissioners of St. Johns County, Florida.

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

BY: Marc A. Jacalone
Marc A. Jacalone, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Patricia DeStefano
Deputy Clerk

This Instrument Prepared By:
Katherine G. Jones
Upchurch, Bailey and Upchurch, P.A.
Post Office Drawer 3007
St. Augustine, Florida 32085-3007
FN. 6-98-284

UTILITY EASEMENT

THIS EASEMENT is executed and delivered this ___ day of February, 1999, by MODERN PROPERTIES OF ST. AUGUSTINE, INC., a Florida corporation, ("Grantor") and ST. JOHNS COUNTY, a Political Subdivision of the State of Florida, whose post office address is c/o Clerk of the Court, Post Office Drawer 349, St. Augustine, Florida 32085 ("Grantee").

WITNESSETH:

THAT for and in consideration of the sum of Ten Dollars and No/100's (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain and sell to Grantee, its successors, legal representatives and assigns forever, a non-exclusive easement to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground water distribution system and sewer collection system, (including lift stations if applicable) and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer utility services (the "Underground Utility Lines and Facilities") on and under real property located in St. Johns County, Florida, and more particularly described on Exhibit "A" attached hereto (the "Easement Property"), together with the right of ingress and egress over the Easement Property for purposes of installing and maintaining the Underground Utility Lines and Facilities.

GRANTOR reserves the right and privileges:

(i) to use and occupy and to grant to others the right to use and occupy the surface and air space over the Easement Area for the purpose which is consistent with the rights herein granted to Grantee;

(ii) to use and occupy and to grant to others the right to use and occupy the subsurface of the Easement Area for other utility services or other purposes which do not interfere with the rights herein granted to Grantee, including without limitation, the right to install, construct, operate, maintain, repair, replace and remove telecommunications, telephone, telegraph, electric, gas and drainage facilities and foundations, footing and/or anchors for surface improvements;

(iii) to use and occupy and to grant to others the right to use and occupy the Easement Property for all purposes which will not interfere with the non-exclusive easement granted herein and further reserves the right to grant easements to other parties on, over and under the Easement Property. Provided, any additional utilities to be installed within the Easement Property shall be installed in accordance with applicable state regulations; and

(iv) to relocate the easement granted herein at any time, provided Grantor pays all cost of relocating the Underground Utility Lines and Facilities located within the Easement Property. At Grantor's request, and upon relocation of the Underground Utility Lines and Facilities at Grantor's expense, Grantee shall execute and deliver to Grantor an instrument in recordable form relocating the easement granted herein to the new location designated by Grantor.

GRANTEE, by its acceptance of this easement, hereby agrees:

(i) at its expense, to maintain the Underground Utility Lines and Facilities installed within the Easement Property. The Grantee shall maintain all water mains and other elements of the water distribution system up to and including the water meter or meters. Grantor or Grantor's successors and assigns shall be responsible for maintaining any water lines between the water meter and the improvements served by the utility system. Grantee's responsibility for maintenance of gravity sewer lines shall extend "manhole to manhole" but shall not include responsibility for maintenance of sewer service laterals, which shall be the responsibility of the Grantor or Grantor's successors and assigns. Grantor hereby specifically indemnifies and holds Grantee harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of sewer service laterals;

(ii) to indemnify and hold Grantor, its successors and assigns, to the extent allowed by Florida law, harmless from and against any and all liability, loss or damage, excluding attorneys' fees, occasioned by any negligent act or omission of Grantee, its agents and employees, arising out of or related to Grantee's use of the Easement Property and/or the construction, installation, operation and maintenance of Underground Utility Lines and Facilities located therein; and

(iii) after the installation, construction, repair, replacement or removal of any Underground Utility Lines and Facilities, to refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or other similar surface improvements. Grantor or Grantor's successors and assigns shall be solely responsible for replacement of any such sod, landscaping, planting, pavement or

other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. Nothing in this section shall, however, relieve Grantee of liability for damage caused to improvements by Grantee's negligence.

This easement shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, successors and assigns. In the event Grantor assigns its rights hereunder to an Association of owners of the lands served by this utility easement, then Grantor shall be released of all obligations and liabilities hereunder.

IN WITNESS WHEREOF, the Grantor has caused this Easement to be executed on the day and year first above written.

Signed, sealed and delivered
in the presence of:

MODERN PROPERTIES OF ST.
AUGUSTINE, INC., a Florida corporation

Alison Solomon
Witness Alison Solomon
(type or print name)

By: Perry Robins
Perry Robins
Its President

Wai Hui
Witness Wai Hui
(type or print name)

(CORPORATE SEAL)

ST. JOHNS COUNTY, a Political
Subdivision of the State of Florida

Witness _____
(type or print name)

By: _____
Print Name: _____
Title: _____

Witness _____
(type or print name)

STATE OF NEW YORK
COUNTY OF NEW YORK

THE FOREGOING instrument was acknowledged before me this 17TH day of February, 1999, by Perry Robins, as President of Modern Properties of St. Augustine, Inc., a Florida corporation, formerly known as Robins Properties of St. Augustine, Inc., on behalf of the corporations, who () is personally known to me or () has produced Florida/New York driver's license number _____ as identification.

Harriet Schacht
Signature of Notary

HARRIET SCHACHTMAN
NOTARY PUBLIC, State of New York
No. 4896577
(Name of Notary typed or printed) Qualified in Kings County
Commission number: 4896577
Commission expires: 5/26/99

STATE OF FLORIDA
COUNTY OF ST. JOHNS

THE FOREGOING instrument was acknowledged before me this ___ day of February, 1999, by _____, as _____ of St. Johns County, a Political Subdivision of the State of Florida, on behalf of the corporation, who () is personally known to me or () has produced Florida driver's license number _____ as identification.

Signature of Notary

(Name of Notary typed or printed)
Commission number: _____
Commission expires: _____

LEGAL DESCRIPTION

(Utility and Access Easement)

UTILITY AND ACCESS EASEMENT OVER A PORTION OF SECTION 18, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA.

BEING MORE FULLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF SAID GOVERNMENT LOT 9 AND THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO.1; THENCE NORTH 08°27'33" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 1191.20'; THENCE NORTH 81°32'27" EAST, 302.44' TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 81°32'27" EAST, 50.00' TO A POINT LYING IN A CURVE BEING CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 71.61', DELTA OF 46°58'12" AND ARC LENGTH OF 58.70'; THENCE SOUTH 15°01'33" WEST, ALONG THE CHORD OF SAID CURVE, 57.07' TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 38°30'39" WEST, 125.00' TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 75.00', DELTA OF 46°58'12", AND ARC LENGTH OF 61.48'; THENCE SOUTH 15°01'33" WEST, ALONG THE CHORD OF SAID CURVE, 59.78' TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 08°27'33" EAST, 322.49'; THENCE SOUTH 81°32'27" WEST, 48.00'; THENCE NORTH 08°27'33" WEST, 300.22' TO A POINT LYING IN A CURVE BEING CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 125.00', DELTA OF 36°42'25" AND ARC LENGTH OF 80.08'; THENCE NORTH 20°09'27" EAST, ALONG THE CHORD OF SAID CURVE 78.72' TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 38°30'39" EAST, 125.00' TO THE POINT OF CURVATURE OF A CURVE, BEING CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 21.61', DELTA OF 46°58'12", AND ARC LENGTH OF 17.71'; THENCE NORTH 15°01'33" EAST, ALONG THE CHORD OF SAID CURVE, 17.22' TO THE POINT OF BEGINNING.

CONSENT AND JOINDER

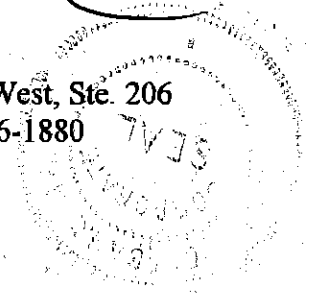
NationsBank, N.A., a national banking association, as holder of that certain Mortgage and Security Agreement recorded in Official Records Book 1258, Page 324 of the public records of St. Johns County, Florida encumbering the real property described on that attached Exhibit "A", has caused this instrument to be signed by its duly authorized officer solely in evidence of its consent and joinder in and to the easement.

Signed, sealed and delivered
in the presence of:

NATIONSBANK, N.A., a national banking
association

Crystal R. Pettway
Witness CRYSTAL R. PETTWAY
(type or print name)

By: [Signature]
Michael Fritsch
Senior Vice President
8130 Baymeadows Circle West, Ste. 206
Jacksonville, Florida 32256-1880



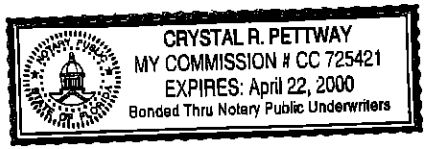
Karen L. Osborne
Witness Karen L. Osborne
(type or print name)

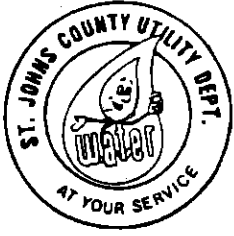
STATE OF FLORIDA
COUNTY OF DUVAL

THE FOREGOING instrument was acknowledged before me this 17th day of February, 1999, by Michael Fritsch, as Senior Vice President of NationsBank, N.A., a national banking association, on behalf of the corporation, who () is personally known to me or () has produced Florida driver's license number _____ as identification.

Crystal R. Pettway
Signature of Notary

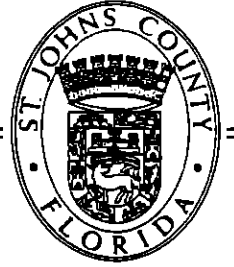
(Name of Notary typed or printed)
Commission number: _____
Commission expires: _____





ST. JOHNS COUNTY, FLORIDA


Board of County Commissioners



P.O. Box 3006
St. Augustine, Florida 32085-3006
Phone: (904) 471-2161 • Fax: (904) 461-7619

IOM

TO: Mary Ann Blount, Real Estate Officer
Laurie Braddock, Assistant Real Estate Officer

FROM: Herbert A. Van Der Mark
Construction Manager of Utilities 

DATE: March 17, 1999

SUBJECT: **Utility Easement, including Restoration Agreement for the First South Bank Parcel within the Southwood PUD, Commercial Parcel South**

Please be informed that a portion of the infrastructure for water and sewer to serve the Southwood PUD - Commercial Parcel South will be located within the First South Bank Property.

The applicable portions of the Utility Easement as prepared by Katherine G. Jones, Upchurch, Bailey and Upchurch, P. A., FN 6-98-284 is approved by the St. Johns County Utility Department.

Please be aware that additional easements will be required as Future Land Sales and Development occur within the Southwood PUD - Commercial Parcel South Development.