

RESOLUTION NO. 2004- 272

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR WATER SERVICE FOR OLD CITY DEVELOPMENT LOCATED ON US #1 SOUTH AND ACCEPTING A BILL OF SALE CONVEYING ALL PERSONAL PROPERTY ASSOCIATED WITH THE WATER SYSTEM.

RECITALS

WHEREAS, Old City Development, LLC, a Florida limited liability company, has executed and presented to the County an Easement for Utilities, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for water service to Old City Development located on US #1 South; and

WHEREAS, Old City Development, LLC, has also executed and presented the Bill of Sale conveying all personal property associated with the water system and is attached hereto as Exhibit "B", incorporated by reference and made a part hereof; and

WHEREAS, St. Johns County Utility Department has reviewed and approved the documents mentioned above, as stated in a memo attached hereto as Exhibit "C", incorporated by reference and made a part hereof; and

WHEREAS, it is in the best interest of the County to accept this Easement for the health, safety and welfare of the citizens in that 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 above described Easement for Utilities attached and incorporated hereto, is hereby accepted.

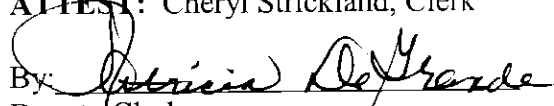
Section 3. The Clerk of the Circuit Court is instructed to record the original Easement for Utilities and file the Bill of Sale in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 6th day of October, 2004.

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

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 10-7-04



Exhibit "A" to Resolution

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

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this 17th day of June, 2004, by OLD CITY DEVELOPMENT, LLC., a Florida Limited Liability Company, with an address of 3433 U.S. 1 South, St. Augustine, Florida 32086, hereinafter called "Grantor", to ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, hereinafter called the "Grantee".

WITNESSETH:

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

(1) Grantor does hereby grant, bargain, sell, alien, 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 water distribution system and other equipment and appurtenances as may be necessary or convenient for the operation of the underground water utility service (hereinafter referred to as "Utility Lines and Associated Equipment") over and upon the real property described on Exhibit "A" attached hereto (the "Easement Area"); together with rights of ingress and egress on and over the Easement Area as necessary for the use and enjoyment of the easement herein granted. This easement is for water utility services only and does not convey any right to install other utilities such as cable television service lines.

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

(b) All Water Lines and Associated Appurtenances will be installed, operated and maintained at all times 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. Provided, however, the Associated Equipment that is customarily installed above ground may be above ground subject to the right of Grantor, consistent with good engineering practices to approve the location of such above ground installation in its reasonable discretion.

(c) The easement granted by this instrument may be relocated to a location acceptable to the Grantee at any time upon the Grantor's request provided that Grantor bears the cost of relocating the underground water utility lines and facilities located within the Easement Area. At Grantor's request, and upon relocation of such lines at 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.

(d) 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.

(2) The Grantor shall retain ownership of the gravity sewer lines, sewer force mains and lift station, including the operation and maintenance of the entire system.

(3) 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.

(4) After any installation, construction, repair, replacement or removal of any utility lines or equipment 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, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or other surface improvements or structures. 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.

(5) This Grant of Easement shall insure to the benefit of and be Binding upon Grantee and its successors and assigns.

(6) For the purpose of the terms and conditions of this Grant of Easement, "Grantor" means the owner from time to time of the Easement Area or any part thereof.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized officers as of the day and year first above written.

Signed and Sealed in Our Presence as Witnesses:

OLD CITY DEVELOPMENT, LLC.,
a Florida Limited Liability Company

(sign) Dorothy G. Maronel
(print) _____

Michael A. Piesco
By: Michael A. Piesco
Its: Managing Member

(sign) Dorothy G. Maronel
(print) _____

Donna M. Kelly
By: Donna M. Kelly
Its: Managing Member

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 17 day of June, 2004, by Michael A. Piesco and Donna M. Kelly, as Managing Members of Old City Development, LLC., a Florida Limited Liability Company, on behalf of the company. They are personally known to me or have produced P 203-541-52454-0 as identification.

Dorothy G. Maronel
Notary Public
My Commission expires: _____


 Dorothy G. Maronel
MY COMMISSION # DD124674 EXPIRES
July 26, 2006
BONDED THRU TROY FAIR INSURANCE, INC.

EXHIBIT "A" to Easement

DESCRIPTION BY SURVEYOR

AN INGRESS/EGRESS AND UTILITY EASEMENT SITUATED IN SECTION 48, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 48; THENCE N 49°42'30" E ALONG THE SOUTH LINE OF SAID SECTION 48 A DISTANCE OF 948.78 FEET; THENCE N 00°35'00" W ALONG THE EAST LINES OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 890, PAGE 372 AND OFFICIAL RECORDS BOOK 777, PAGE 1482 ALL OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY 287.69 FEET TO THE POINT OF BEGINNING FOR THE HEREIN DESCRIBED EASEMENT; THENCE CONTINUE N 00°35'00" W ALONG THE EAST LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 777, PAGE 1482 A DISTANCE OF 625.46 FEET; THENCE N 88°01'26" E ALONG THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 692, PAGE 672 OF SAID PUBLIC RECORDS 689.08 FEET TO THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE S 10°22'35" E ALONG SAID WEST RIGHT-OF-WAY LINE 167.87 FEET; THENCE S 88°06'06" W ALONG THE NORTH LINE OF THOSE LANDS DESCRIBED IN DEED BOOK 164, PAGE 462 OF SAID PUBLIC RECORDS 83.47 FEET; THENCE N 01°55'45" W, 131.96 FEET; THENCE S 88°01'26" W, 130.09 FEET; THENCE S 81°11'01" W, 81.72 FEET; THENCE S 87°58'34" W, 317.14 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 88°35'46", AN ARC LENGTH OF 77.31 FEET, A CHORD LENGTH AND BEARING OF 69.84 FEET, S 42°15'30" W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 77.31 FEET; THENCE S 00°35'00" E 506.50 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 64°46'23", AN ARC LENGTH OF 33.92 FEET, A CHORD LENGTH AND BEARING OF 32.14 FEET, S 32°58'11" E; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 33.92 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 283°42'00", AN ARC LENGTH OF 198.06 FEET AND A CHORD LENGTH AND BEARING OF 49.42 FEET, S 76°29'37" W; THENCE SOUTHERLY, WESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE 198.06 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 23°09'58", AN ARC LENGTH OF 12.13 FEET AND A CHORD LENGTH AND BEARING OF 12.05 FEET, N 26°45'38" E; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 12.13 FEET; THENCE S 89°27'04" W, 28.71 FEET TO THE POINT OF BEGINNING.

THE AFOREDESCRIBED EASEMENT CONTAINS 1.72 ACRES MORE OR LESS. THE BASIS OF BEARING FOR THE AFOREDESCRIBED EASEMENT IS THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 WHOSE ASSUMED BEARING BEARS S 10°22'35" E.

BILL OF SALE

**UTILITY IMPROVEMENTS
FOR ANCIENT CITY PLAZA
4425 U.S. 1 SOUTH**

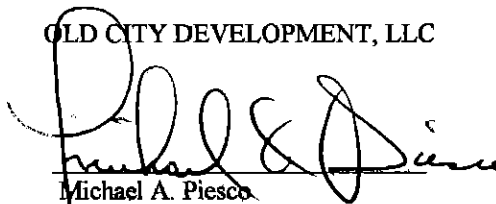
OLD CITY DEVELOPMENT, LLC a Florida Limited Liability Corporation, and located in St. Johns County, Florida, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, transfers, and delivers to ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is c/o Clerk of the Courts, Post Office Drawer 349, St. Augustine, FL 32085, the following personal property:

The personal property, fixtures and equipment comprising the potable water distribution system for improvements within the project. All of the improvements are included on the approved construction plan drawings prepared by Logan Engineering Company, titled Ancient City Plaza issued for construction on March 19, 2002, and marked approved by St. Johns County on March 18, 2003 (the "plans"). All of the utility improvements, personal property, fixtures and equipment, lying within and being more particularly bounded and described on the attached Schedule A.

Old City Development, LLC does, for itself and its successors and assigns, covenant to and with St. Johns County, and its successors and assigns, that it is the lawful owner of said personal property; that the personal property is free of all encumbrances, that it has good right to sell the same; and will warrant and defend the sale of the personal property against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, Old City Development, LLC, has caused this instrument to be duly executed and delivered by its duly authorized officer on this 17th day of August, 2004.

OLD CITY DEVELOPMENT, LLC



Michael A. Piesco
Its Managing Member

SCHEDULE A to bill of sale

LEGAL DESCRIPTION:

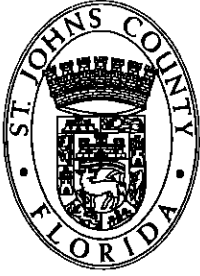
DESCRIPTION BY SURVEYOR

A PARCEL OF LAND SITUATED IN SECTION 48, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 48; THENCE N 49°42'30" E ALONG THE SOUTH LINE OF SAID SECTION 48 A DISTANCE OF 948.78 FEET TO THE POINT OF BEGINNING FOR THE HEREIN DESCRIBED PARCEL; THENCE N 00°35'00" W ALONG THE EAST LINES OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 890, PAGE 372 AND OFFICIAL RECORDS BOOK 777, PAGE 1482 ALL OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY 913.15 FEET; THENCE N 88°01'28" E ALONG THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 892, PAGE 672 OF SAID PUBLIC RECORDS 888.91 FEET TO THE WEST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 1 AS IT CURRENTLY EXIST (200-FOOT RIGHT-OF-WAY); THENCE S 10°22'35" E ALONG THE SAID WEST RIGHT-OF-WAY LINE 187.87 FEET; THENCE S 88°08'08" W ALONG THE NORTH LINE, AND ITS EASTERLY EXTENTION, OF THOSE LANDS DESCRIBED IN DEED BOOK 184, PAGE 462 OF SAID PUBLIC RECORDS 258.70 FEET; THENCE S 01°53'18" E ALONG THE WEST LINE OF SAID LANDS DESCRIBED IN DEED BOOK 184, PAGE 462 OF SAID PUBLIC RECORDS 105.49 FEET; THENCE S 88°08'58" W ALONG THE NORTH LINE OF THOSE LANDS DESCRIBED IN DEED BOOK 33, PAGE 157 A DISTANCE OF 278.95 FEET; THENCE S 00°48'22" E ALONG THE WEST LINE OF SAID LANDS DESCRIBED IN DEED BOOK 33, PAGE 157 A DISTANCE OF 493.87 FEET TO SAID SOUTH LINE OF SAID SECTION 48; THENCE S 49°42'30" W ALONG SAID SOUTH LINE OF SECTION 48 A DISTANCE OF 239.27 FEET TO THE POINT OF BEGINNING.

THE AFOREDESCRIBED PARCEL CONTAINS 8.18 ACRES MORE OR LESS.

THE BASIS OF BEARING FOR THE AFOREDESCRIBED PARCEL IS THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 WHOSE BEARING BEARS S 10°22'35" E.



ST. JOHNS COUNTY
UTILITY DEPARTMENT
2175 Mizell Road
P.O. Drawer 3006
St. Augustine, Florida 32085-3006

I N T E R O F F I C E M E M O R A N D U M

TO: Nanette Bradbury, Real Estate Coordinator
FROM: Herbert A. Van Der Mark
Construction Manager of Utilities
SUBJECT: Old City Development - US-1 South
DATE: August 31, 2004

A handwritten signature in black ink, appearing to read "H. Van Der Mark", is written over a diagonal line that extends from the signature area towards the bottom right of the page.

Please be informed that the Utility Department has reviewed and approved the above subject Utility Easement for Old City Development - US-1 South.

Please present the Utility easement documents and Bill of Sale to the Board of County Commissioners for final approval and acceptance.

Your support and cooperation as always are greatly appreciated.