

RESOLUTION NO. 2009- 297

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR WATER SERVICE TO MCDONALDS RESTAURANT AT ST. AUGUSTINE COMMONS LOCATED OFF STATE ROAD 207 AND ACCEPTING A BILL OF SALE CONVEYING ALL PERSONAL PROPERTY ASSOCIATED WITH THE WATER SYSTEM.

RECITALS

WHEREAS, Weingarten I-4 St. Augustine EV, 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 McDonalds Restaurant at St. Augustine Commons located off State Road 207; and

WHEREAS, McDonald's USA, LLC, a foreign limited liability company, has executed a Bill of Sale and schedule of values conveying all personal property associated with the water system which 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, to the extent that there are typographical, 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.

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 and Bill of Sale attached and incorporated hereto, are hereby accepted by the Board of County Commissioners.

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

PASSED AND ADOPTED this 20th day of October, 2009.

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

By: Cyndi Stevenson
Cyndi Stevenson, Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Hatterman
Deputy Clerk

RENDITION DATE 10/22/09



Public Records of
St. Johns County, FL
Clerk # 2009045271,
O.R. 3236 PG 258-265
09/03/2009 at 11:35 AM,
REC. \$33.00 SUR. \$36.50
Doc. D \$70

St. Augustine, FL
US Hwy 207
L/C: 009-2401
File # 44214
Prepared by: Elizabeth D. Santis, Esq.
After recording, return to: Angie Coombs
McDONALD'S CORPORATION
One McDonald's Plaza
Oak Brook, Illinois 60523

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this 1 day of September, 2009 by Weingarten I-4 St. Augustine EV, LLC, a Florida limited liability company, with an address of 2600 Citadel Plaza Drive, Houston, Texas 77008, Attention: General Counsel, hereinafter called "Grantor" to **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine FL 32084, hereinafter called "Grantee".

WITNESSETH:

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, 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 all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer utility services (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 to access the Easement Area as necessary for the use and enjoyment of the easement herein granted. The location of the ingress and egress area to the Easement area has been mutually agreed upon by the Grantor and Grantee. **As a result, the ingress and egress area is noted on the attached, and incorporated Exhibit B (Ingress/Egress Area).** This easement is for water and/or sewer utility services only and does not convey any right to install other utilities such as cable television service lines.

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

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

(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 Utility Lines and Associated Equipment 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, that Associated Equipment that is customarily installed above ground may be installed 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 Grantor's request provided that Grantor bears the cost of relocating the underground water and sewer 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. WATER SYSTEM - 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.

3. 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 which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. To the extent permitted by law, however, Grantee shall be responsible for damage to improvements that are caused by Grantee's negligence.

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

5. For the purposes 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.

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

WEINGARTEN I-4 ST. AUGUSTINE EV, LLC,
a Florida limited liability company

By: Weingarten Realty Investors,
a Texas real estate investment trust,
its managing member



Signed, sealed and delivered
In the presence of:

Traci Chenevert
Witness

By: William M. Crook
Its: William M. Crook
Vice President /
Associate General Counsel

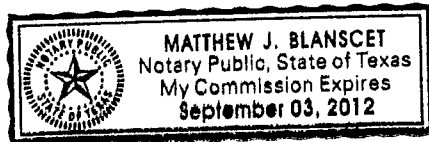
Traci Chenevert
Print Name

Carol Fielding Fashino
Witness

CAROL FIELDING FASHINO
Print Name

State of TEXAS
County of HARRIS

The foregoing instrument was acknowledged before me this 31st day of AUGUST, 2009, by WILLIAM M. CROOK, VICE PRESIDENT / ASSOC. GENERAL COUNSEL who is personally known to me or has produced _____ as identification.



Matthew J. Blanscet
Notary Public

Consent of McDonald's

The undersigned, Tenant, and **Weingarten I-4 St. Augustine EV, LLC, a Florida limited liability company** ("Landlord"), entered into that certain Ground Lease dated November 17, 2008 as amended, as evidenced by that certain Memorandum of Lease as recorded in Official Records Book 3199, page 1350 in the Public Records of St. Johns County, Florida, does hereby consent to the grant by Landlord of the within and attached Easement for Utilities.

This 1st day of ^{September}~~August~~, 2009.

As to TENANT:

TENANT: McDONALD'S USA, LLC,
a Delaware limited liability company

WITNESS:

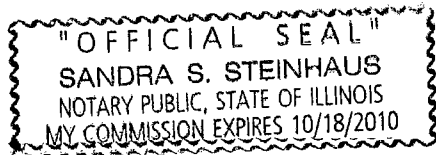
Gwen Nakutis
Gwen Nakutis

By: Catherine A. Griffin
Catherine A. Griffin
Title: Vice President

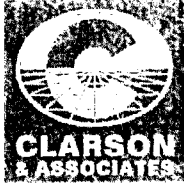


Signed, sealed and delivered
in the presence of:

Sandra S. Steinhaus
Sandra S. Steinhaus, Notary Public



EASEMENT AREA
(page 1 of 2)



CLARSON & ASSOCIATES, INC.
Professional Surveyors and Mappers
1643 Naldo Avenue
Jacksonville, FL 32207

Ph: (904) 396-2623
Fax: (904) 396-2633

AUGUST 10, 2009

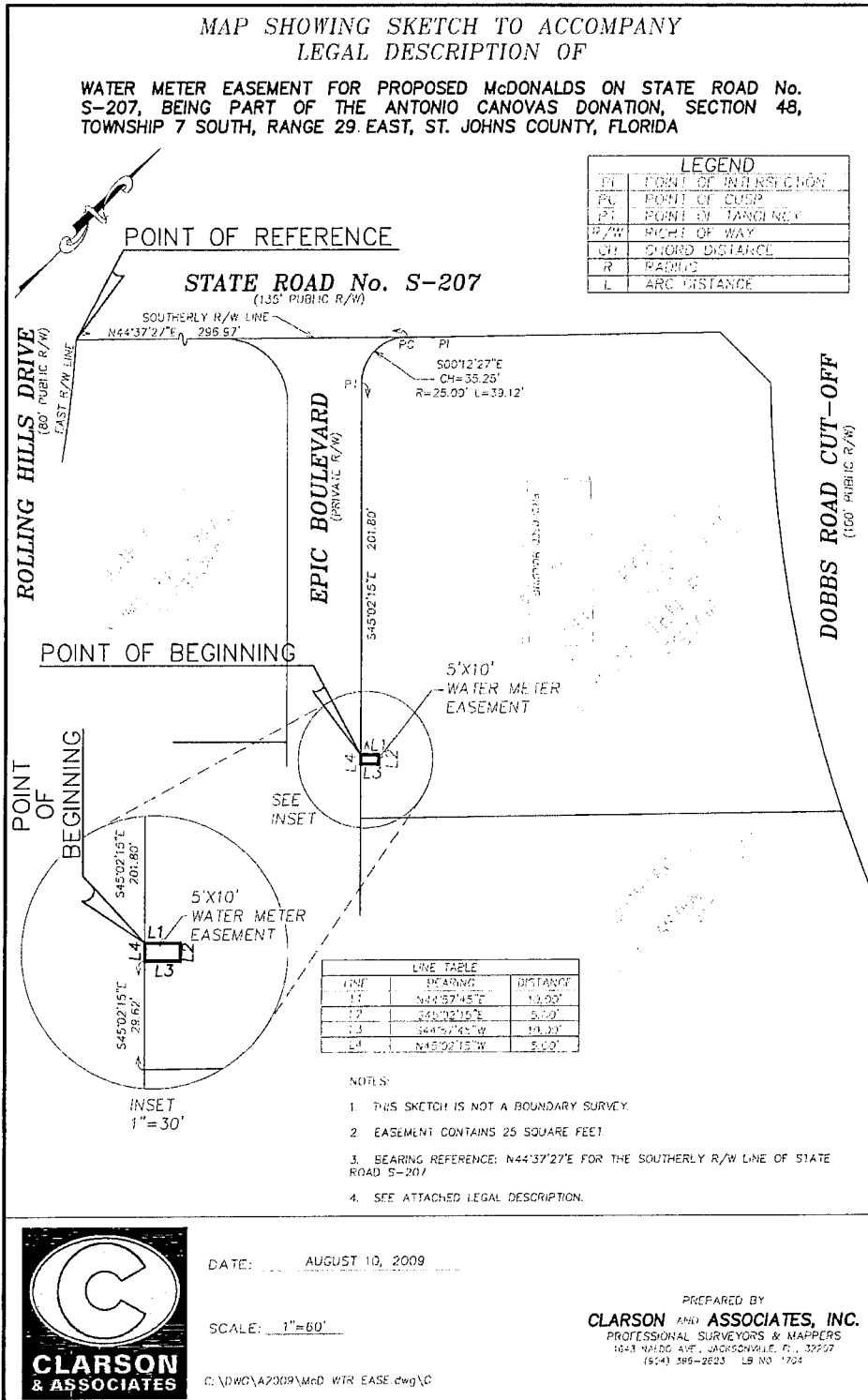
WATER METER EASEMENT FOR MCDONALD'S SITE ON STATE ROAD NO. S-207,
ST. JOHNS COUNTY, FL

A PARCEL OF LAND, BEING A PORTION OF SECTION 48, THE ANTONIO CANOVAS
DONATION, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA,
SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE
EASTERLY RIGHT OF WAY LINE OF ROLLING HILLS DRIVE, (FORMERLY KNOWN
AS INDUSTRIAL PARK ROAD), AN 80 FOOT PUBLIC RIGHT OF WAY, AS PER THAT
DEED RECORDED IN OFFICIAL RECORDS BOOK 82, PAGE 125 (PARCEL "B"), OF THE
PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA, WITH THE SOUTHERLY
RIGHT OF WAY LINE OF STATE ROAD NO. S-207, A 135 FOOT PUBLIC ROAD RIGHT
OF WAY (AT THIS POINT), AS PER STATE OF FLORIDA, DEPARTMENT OF
TRANSPORTATION RIGHT OF WAY MAP, SECTION NO. 78050-2516, AND RUN
THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. S-
207, NORTH 44° 37' 27" EAST, A DISTANCE OF 296.97 FEET TO A POINT OF CUSP;
RUN THENCE IN A SOUTHERLY DIRECTION ALONG THE ARC OF A CURVE, SAID
CURVE BEING CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AN
ARC DISTANCE OF 39.12 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID
ARC SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 00° 12' 27"
EAST, 35.25 FEET; THENCE SOUTH 45° 02' 15" EAST, A DISTANCE OF 201.80 FEET TO
THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED RUN NORTH 44° 57' 45" EAST, A
DISTANCE OF 10.00 FEET; THENCE SOUTH 45° 02' 15" EAST, A DISTANCE OF 5.00
FEET; THENCE SOUTH 44° 57' 45" WEST, A DISTANCE OF 10.00 FEET; THENCE
NORTH 45° 02' 15" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

EASEMENT AREA
(page 2 of 2)



INGRESS/EGRESS AREA
(page 1 of 2)



CLARSON & ASSOCIATES, INC.
Professional Surveyors and Mappers
1643 Naldo Avenue
Jacksonville, FL 32207

Ph: (904) 396-2623

Fax: (904) 396-2633

AUGUST 14, 2009

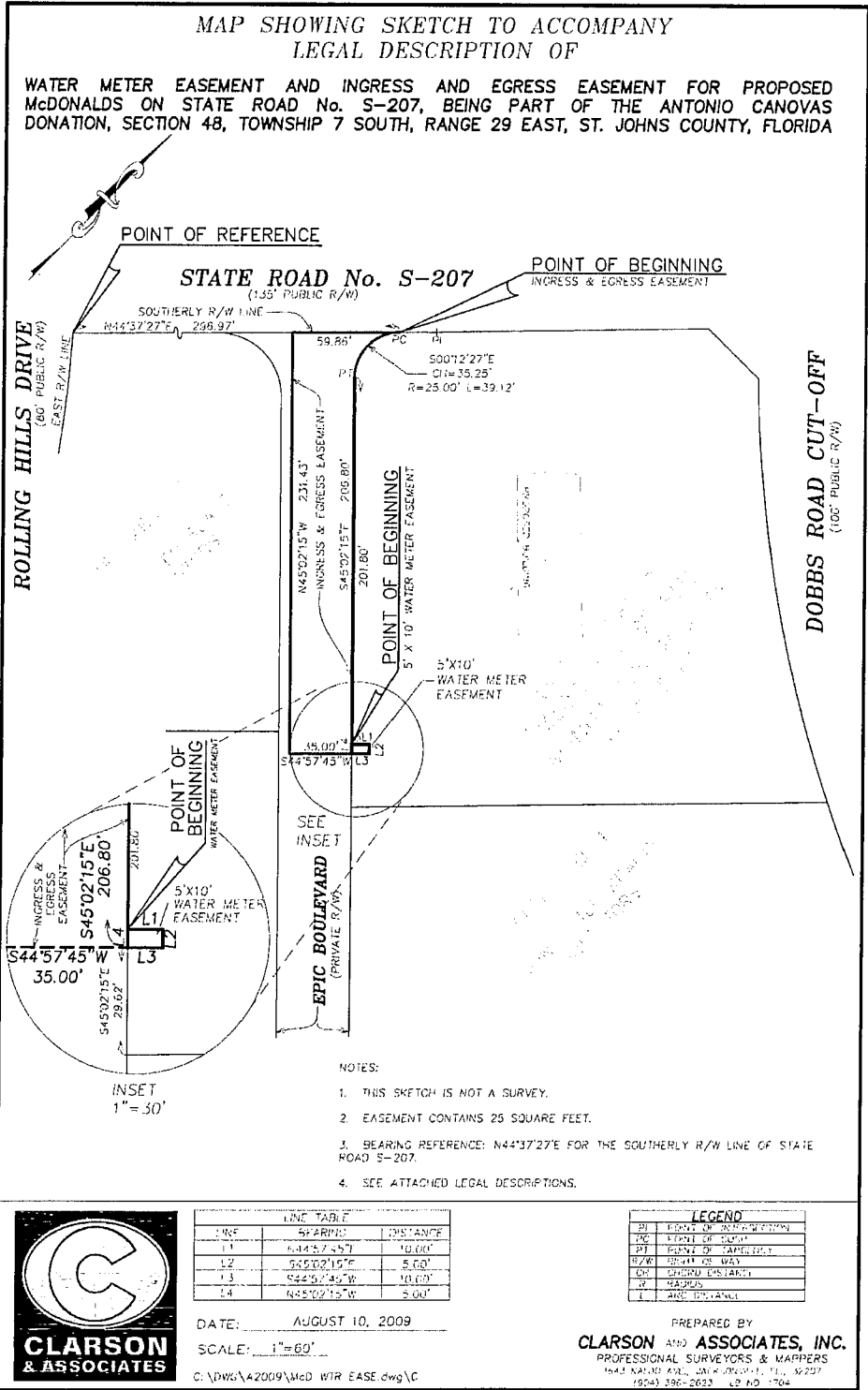
INGRESS & EGRESS EASEMENT TO WATER EASEMENT AT MCDONALD'S SITE ON
STATE ROAD NO. S-207, ST. JOHNS COUNTY, FL

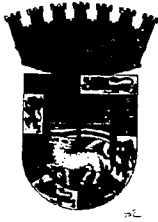
A PARCEL OF LAND, BEING A PORTION OF SECTION 48, THE ANTONIO CANOVAS
DONATION, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA,
SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE
EASTERLY RIGHT OF WAY LINE OF ROLLING HILLS DRIVE, (FORMERLY KNOWN
AS INDUSTRIAL PARK ROAD), AN 80 FOOT PUBLIC RIGHT OF WAY, AS PER THAT
DEED RECORDED IN OFFICIAL RECORDS BOOK 82, PAGE 125 (PARCEL "B"), OF THE
PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA, WITH THE SOUTHERLY
RIGHT OF WAY LINE OF STATE ROAD NO. S-207, A 135 FOOT PUBLIC ROAD RIGHT
OF WAY (AT THIS POINT), AS PER STATE OF FLORIDA, DEPARTMENT OF
TRANSPORTATION RIGHT OF WAY MAP, SECTION NO. 78050-2516, AND RUN
THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD NO. S-
207, NORTH 44° 37' 27" EAST, A DISTANCE OF 296.97 FEET TO A POINT OF CUSP FOR
THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED RUN THENCE IN A
SOUTHERLY DIRECTION ALONG THE ARC OF A CURVE, SAID CURVE BEING
CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE
OF 39.12 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID ARC
SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 00° 12' 27" EAST,
35.25 FEET; THENCE SOUTH 45° 02' 15" EAST, A DISTANCE OF 206.80 FEET; THENCE
SOUTH 44° 57' 45" WEST, A DISTANCE OF 35.00 FEET; THENCE NORTH 45° 02' 15"
WEST, A DISTANCE OF 231.43 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF
WAY LINE OF STATE ROAD NO. S-207; THENCE NORTH 44° 37' 27" EAST, ALONG
SAID SOUTHERLY RIGHT OF WAY, A DISTANCE OF 59.86 FEET TO THE POINT OF
BEGINNING.

INGRESS/EGRESS AREA
(page 2 of 2)





BILL OF SALE
UTILITY IMPROVEMENTS
for

McDonald's St. Augustine Commons

McDonald's, 37 Epic Blvd., St. Augustine, FL 32084, (the "Seller") for and in consideration of the sum of Ten and No/100 Dollars (\$10) and other good and valuable consideration, 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, the following personal property:

Fire Hydrant Assembly further described in Exhibit "A" attached hereto.

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

IN WITNESS WHEREOF, the Seller has caused this instrument to be duly executed and delivered by its duly authorized office on this 9 of Sept 2009

WITNESS:

[Signature]
Witness Signature

Jerry A. Towler
Print Witness Name

OWNER:

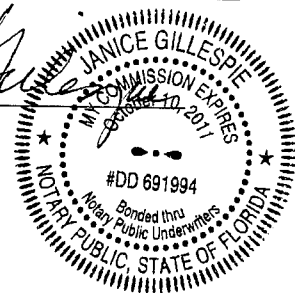
[Signature]
Owner's Signature

Stephanie Tyrrell
Print Owner's Name
Area Construction Manager
McDonald's USA, LLC

State of Florida
County of Hillsborough

The foregoing instrument was acknowledged before me this 9 day of September, 2009, by Stephanie Tyrrell who is personally known to me or has produced _____ as identification.

[Signature]
Notary Public





St. Johns County Utility Department

Asset Management

Schedule of Values

Project Name:

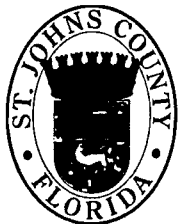
McDonald's 37 Epic Blvd.

Contractor:

Developer:

Mc Donald's Corp.

ITEM	UNIT	QUANTITY	UNIT COST	TOTAL COST
Water Mains (Size, Type & Pipe Class)				
6" DR 18 PVC	LF	5	\$ 11.00	\$ 55.00
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
Water Valves (Size and Type)				
8"x6" Tapping Sleeve	Ea	1	\$ 770.00	\$ 770.00
6" Gate Valve	Ea	1	\$ 600.00	\$ 600.00
Valve Jacket	Ea	1	\$ 200.00	\$ 200.00
4' Riser	Ea	1	\$ 375.00	\$ 375.00
	Ea		\$ -	\$ -
	Ea		\$ -	\$ -
Hydrants Assembly (Size and Type)				
	Ea	1	\$ 1,500.00	\$ 1,500.00
	Ea		\$ -	\$ -
	Ea		\$ -	\$ -
Services (Size and Type)				
	Ea		\$ -	\$ -
	Ea		\$ -	\$ -
	Ea		\$ -	\$ -
	Ea		\$ -	\$ -
Total Water System Cost				\$ 3,500.00



St. Johns County Board of County Commissioners

Utility Department

INTEROFFICE MEMORANDUM

TO: Nanette Bradbury, Real Estate Coordinator
FROM: (MAC) Melissa Caraway, Utility Review Coordinator
SUBJECT: McDonald's @ St. Augustine Commons
DATE: September 14, 2009

Please present the Easement, Bill of Sale, and Schedule of Values to the Board of County Commissioners (BCC) for final approval and acceptance of McDonald's @ St. Augustine Commons.

After acceptance by BCC, please provide the Utility Department with a copy of the executed resolution and a recorded copy for the utilities for our files.

Your support and cooperation as always are greatly appreciated.