

INSTR # 200602223
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JOHN A. CRAWFORD
CLERK OF CIRCUIT COURT
NASSAU COUNTY, FLORIDA
RECORDING FEES 112.00

REC. 112.00

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Return to:
Joyce Bradley

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT, made this 11th day of January, 2006, by and between **IRENE BOWS, MABLE KIMBLE, MAY CURTIS, and MARIE E. CLARK**, their heirs, successors, or assigns ("Developer"), and **BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County").

WITNESSETH:

WHEREAS, Developer owns approximately 3-1/2 acres which are described in Exhibit A attached hereto (The "Property") to be known at this time as "Buccaneer Plaza"; and

WHEREAS, the Property is proposed for a total of 20,000 sq. ft non-residential building(s); and

WHEREAS, The proposed Development at build-out has the potential to yield a 20,000 square foot non-residential building(s), and the maximum building height for the zoning district in which the proposed Project is located is forty (40) feet, and the proposed building intensities are seventy (70) percent; and

WHEREAS, the County has determined, pursuant to Ordinance 99-06, as amended, that the developer cannot receive a certificate of concurrency and has provided the Developer with a Concurrency Deferral Letter dated March 30, 2005; and

WHEREAS, the County has determined, based upon an Engineering Services study, that a specific dollar amount should be utilized for each trip for which the Developer lacks concurrency; and

WHEREAS, the Developer has requested that negotiations commence utilizing the dollar amount established by the County; and

WHEREAS, the County has determined that additional intersection improvements are required; and

WHEREAS, the Developer is desirous of entering into a Developer's Agreement for this project; and

WHEREAS, as a result of negotiations with County representatives, the Developer voluntarily agrees to the terms of this Agreement:

Public Facility Schedule

The following public facilities will serve the development proposed for the Property through the five (5) years of the Development Agreement to 2010.

- (1) Potable Water and Sanitary Sewer – JEA will provide adequate water and wastewater service to the Proposed.
- (2) Solid Waste – The County owns and operates the County's landfill. It will have sufficient space to accommodate the solid waste generated by the development of the Property through 2010.
- (3) Drainage – Developer shall provide drainage in accordance with the St. Johns River Water Management District and the County regulations.
- (4) Education – The School District reports the schools in the County's southern section, in which the Property is located, will have space to accommodate the pupils generated by the development on the Property.
- (5) Parks – In accordance with Section 10.4.2 of the concurrency Ordinance, as amended, recreational level of service does not apply to Commercial developments.
- (6) Health Systems and Facilities – The County projects that it will have sufficient hospital beds through 2010.

WHEREAS, Developer seeks concurrency approval for the Proposed Development consisting of a total of 20,000 sq. ft. commercial building, subject to the conditions precedent as set forth in Paragraph 2 herein; and

WHEREAS, the County deems it to be in the public interest to provide concurrency based upon the negotiations that result in a benefit for transportation deficiencies within the development impact area; and

WHEREAS, the Florida Local Government Development Agreement Act, Section 163.3220 – 163.3243, Florida Statutes (the “Act”), authorizes local governments to enter into Development Agreements with developers to encourage a stronger commitment to comprehensive and capital facilities planning, to ensure the provision of adequate public facilities for development, to encourage the efficient use of resources, to reduce the economic cost of development and to provide certainty to developers in the approval of development and assurances that they may proceed in accordance with existing laws and policies, subject to the conditions of such Development Agreements; and

WHEREAS, the “Act” authorizes agreements for up to ten (10) years which can be considered for an extension upon a showing of cause at a public hearing; and

WHEREAS, such Development Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning and reduces the costs of development.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The foregoing statements are true and correct and incorporated herein by reference as Findings of fact.

2. **Purpose, Conditions Precedent to Development.** The purpose of this Development Agreement is as follows:

To authorize any owner of the Property to construct any portion or all of the Proposed Development at any time during the term of this Agreement subject to the following conditions ("Conditions Precedent"): The payment of \$201,000.00, which shall be paid no later than five (5) days after the Board of County Commissioners' approval of this Agreement. Developer shall also install left and right turn lanes on Blackrock Road, install intersection traffic signalization at Blackrock Road and SR 200/A1A; and install a right turn deceleration lane on SR 200 at the Project entrance. Said improvements must be approved by the Board of County Commissioners and shall be completed prior to the Project's being issued a Certificate of Occupancy. The \$201,000.00 amount is based upon the Engineering Services Director's study approved by the Board of County Commissioners, which established \$3,000.00 for each trip for which the development lacks concurrency. This development lacks sixty-seven (67) trips.

3. **Developer Obligations and Consideration.** Developer hereby covenants and agrees to the following commitments, which are necessary to properly provide for impacts caused by the above referenced development:

(a) Any wetlands system as mapped on the Future Land Use Map and as validated by the St. John's River Water Management District shall be protected by establishing a buffer pursuant to the Land Development Regulations in effect at the time the plat is recorded. Other jurisdictional wetlands on the Property will be protected in accordance with the requirements of the St. John's River Water Management District.

(b) Developer shall obtain all permits necessary to develop the Property and shall comply with all rules, regulations, laws and other requirements governing development of the Property.

(c) Developer shall be subject to all County Ordinances and regulations.

4. **County Obligations.**

(a) By executing this Development Agreement, the County hereby issues to Developer, its heirs, successors or assigns, authority to take action to proceed with the construction of a total of 20,000 sq. ft. commercial building(s) contingent upon meeting the Conditions.

This Agreement is made and granted pursuant to Florida Statutes, Sections 163.3220-163.3243, and is effective through the fifth (5th) anniversary of the effective date of this Agreement, or within any applicable extension of this Agreement issued or agreed to by the County. Provided however, this Agreement should not be construed to and does not exempt Developer from any obligation to pay impact fees imposed by the County.

(b) Except as provided herein, the County shall not impose any further conditions upon the use of capacity or vested rights issued hereunder unless any such conditions are determined by the Board of County Commissioners of the County to be essential to protect the health, safety and welfare of the County.

(c) The County shall utilize the \$201,000.00 as and for transportation related expenditures for projects within the impacted area. The impacted area includes an area north of SR 200/A1A to the St. Marys River, and south of SR 200/A1A to the Amelia River, and east to the Intracoastal Waterway, and west to I-95. Said monies, plus any interest, shall be expended within five (5) years of the date of collection. If not utilized, the funds plus interest shall be refunded to the Developer.

5. **Extension of Agreement; Subsequent Changes to Concurrency Ordinance.** The County may extend the duration of this Agreement after conducting a public hearing in the manner specified in Section

163.3225, Florida Statutes, as it may be amended from time to time. If the County modifies its land development regulations or any other regulation subsequent to the execution of this Agreement, no such modification shall be applied in a manner that operates to prevent development of Property as would be permitted by this Agreement hereunder in its entirety under the County's land use regulations in effect as of the date of the execution of this Agreement. Further, nothing in this section shall be deemed to constitute a waiver of the applicant's right to contest application of any building code, zoning ordinance or other land development regulations as applied to this development under the State of Florida or United States Constitutions.

6. **Necessity to Obtain Permits.** Developer hereby acknowledges their obligation to obtain all necessary local development permits, which may be needed for development of the Property. The failure of this Agreement to address any particular permit, condition, term, or restriction applicable to the development of the property shall not relieve Developer or any successors or assigns of the necessity of complying with federal, State, and local-permitting requirements, conditions terms or restrictions as may be applicable.

7. **Agreement Consistent with Comprehensive Plan and Florida Statutes 163.3180.** The County hereby acknowledges and agrees that (i) the development contemplated by the Development Agreement is consistent with the County's Comprehensive Plan and Land Development Regulations and (ii) that the County's Comprehensive Plan is in compliance with the State of Florida Comprehensive Plan.

8. **Remedies and Monitoring.**

(a) Developer will secure the following permits (the "Permits"), if needed including, but not limited to:

- St. John's River Water Management District – Environmental Resource Permit

- Nassau County – Building Permit
- Nassau County – Site Work permit
- Final Development Plans, Final Plat and Construction Plans for Phases as applicable
- Nassau County Certificates of Concurrency for Water, Sewer and Drainage

(b) The County may apply subsequently adopted regulations and policies to the Proposed Development only upon meeting the requirements of Section 163.3233, Florida Statutes .

(c) Beginning one (1) year after the Effective Date of this Agreement as defined in Paragraph 15, herein, Developer shall provide to the County a written and accurate status report acceptable to the County, which shall include all information necessary for the County to conduct its periodic review in compliance with the requirements of Section 163.3235, Florida Statutes, and applicable rules. Said report shall include, but not be limited to, a description of the development activity during the preceding year and data sufficient to establish compliance with the terms and conditions of this Agreement. This report may contain the monitoring information set forth in Section 8 herein above.

(d) Developer will pay all costs related to providing notice and advertising this Agreement under Section 163.3225, Florida Statutes, and the cost of recording this Agreement.

(e) Within fourteen (14) days after the County executes this Development Agreement, the County shall record it with the Clerk of Circuit Court.

9. **Binding Effect.** The burdens of this Development Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement.

10. **Applicable Law; Jurisdiction of Venue.** This Development Agreement, and the rights and obligations of the County and Developer hereunder, shall be governed by, construed under, and enforced in accordance with the Laws of the State of Florida. This Agreement may be enforced as provided in Section 163.3243, Florida Statutes. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Nassau County, Florida. If any provision of this Development Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Development Agreement shall be valid and enforceable to the fullest extent permitted by law. The fact that this Development Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restriction that must be satisfied to complete the development contemplated by this Agreement shall not relieve Developer or its successors in interest of the obligation to comply with the law governing such permit requirements, conditions, terms and restrictions.

11. **Joint Preparation.** Preparation of this Development Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12. **Exhibits.** All exhibits attached hereto contain additional terms of this Development Agreement and are incorporated herein by reference.

13. **Captions or Paragraph Headings.** Captions or paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Development Agreement, nor the intent of any provision hereof.

14. **Counterparts.** This Development Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Development Agreement.

15. **Effective Date; Duration of Agreement.** This Agreement shall become effective after it has been recorded in the public records of Nassau County, Florida and thirty (30) days after it is received by the Florida Department of Community Affairs (the "Effective Date"). This Development Agreement shall remain in effect until the earlier of the following dates:

(i) The date on which the construction is complete on the Exhibit A Property; or

(ii) The fifth (5th) anniversary of the Effective Date, unless otherwise extended or terminated as provided for herein or in the Act.

This Development Agreement may be terminated by mutual consent of the parties. The maximum period of this Agreement shall be five (5) years unless extended pursuant to Paragraph 5 as set forth above.

16. **Amendment.** This Development Agreement may be amended by mutual consent of the parties so long as the amendment meets the requirements of the Act.

17. **Duration of Permits.** Developer acknowledges that this Agreement does not extend the duration of any other permits or approvals.

18. **Further Assurances.** Each of the parties hereto agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Development Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Development Agreement, the parties hereby declare their intentions to cooperate with each other in effecting the terms

of this Development Agreement and to coordinate the performance of their respective obligations under the terms of this Development Agreement.

19. **Notices.** Any notices or reports required by this Development Agreement shall be sent to the following:

For the County: Jose Deliz
Director of Engineering Services for Nassau
County, Florida
96161 Nassau Place
Yulee, Florida 32097

For Developer: Ms. C. Elaine Romans
Ortega Station, Box 89
Jacksonville, FL 32210-0089

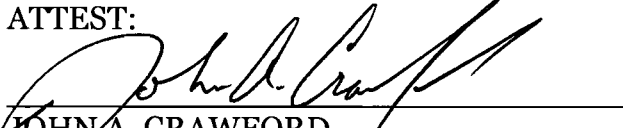
20. **Benefits to County.** The County hereby acknowledges and agrees that this Agreement substantially benefits the County in carrying out its Comprehensive Plan objectives and its Capital Improvements Program to provide certainty in planning and scheduling traffic improvements to serve not only the residents of these developments and those County residents utilizing the planned commercial development, but all the citizens of Nassau County.

Passed and Duly Adopted by the Board of County Commissioners of Nassau County, Florida this 12th day of December, 20 05.

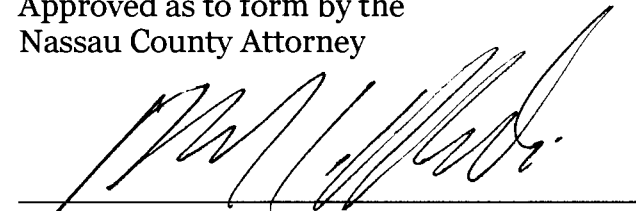
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


ANSLEY N. ACREE
Its: Chairman

ATTEST:

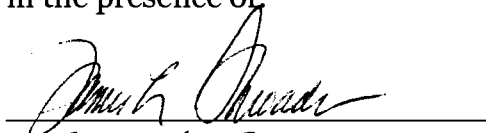

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

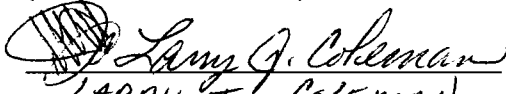
Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

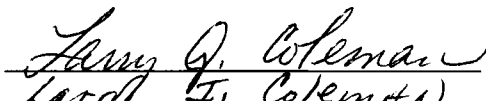
IN WITNESS WHEREOF, Developer has executed this Agreement in counterparts, each of which shall be deemed an original, the day and year first above written.

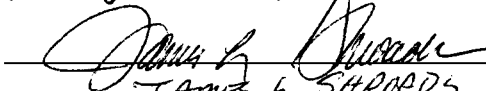
Signed, sealed and delivered
in the presence of:

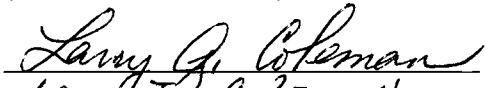

JAMES L. SARGADS
(Printed name of Witness)



LARRY J. COLEMAN
(Printed name of Witness)



JAMES L. SARGADS
(Printed name of Witness)



LARRY J. COLEMAN
(Printed name of Witness)


JAMES L. SARGADS
(Printed name of Witness)


LARRY J. COLEMAN
(Printed name of Witness)


IRENE BOWS
Executed January 11, 2006


MABLE KIMBLE
Executed January 11, 2006


MARY CURTIS
Mary
Executed January 11, 2006

(Signatures continue on next page)

Paula E. Morris

Paula E. Morris

(Printed name of Witness)

Jennifer L. Panke

Jennifer L. Panke

(Printed name of Witness)

Marie E. Clark

MARIE E. CLARK

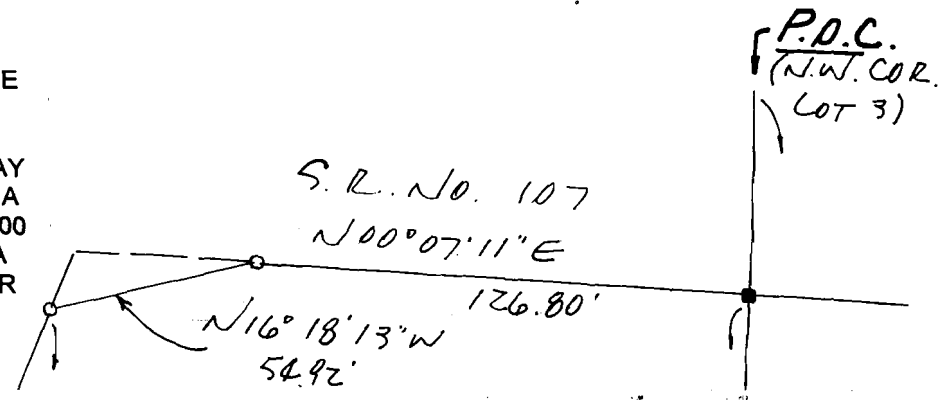
Executed January 12, 2006

h/anne/agreements/buccaneer-plaza-dev-agmt

MAP SHOWING BOUNDARY SURVEY OF

ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATED, LYING AND BEING IN THE NORTH ONE-HALF OF LOT NUMBERED THREE, SECTION 24, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA, AND MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3 AND RUN EAST ALONG THE NORTH BOUNDARY OF SAID LOT 3 FOR A DISTANCE OF 261.00 FEET TO THE NORTHWEST CORNER OF THE TRACT OF LAND HEREIN CONVEYED. THENCE RUN SOUTH $7^{\circ}00'00''$ EAST, 290.00 FEET TO THE NORTH BOUNDARY OF THE RIGHT OF WAY OF STATE HIGHWAY NO. 13, THENCE SOUTHEASTERLY ALONG SAID HIGHWAY FOR A DISTANCE OF 270.00 FEET, THENCE NORTH $7^{\circ}00'00''$ WEST FOR A DISTANCE OF 380.00 FEET, THENCE RUN WEST ALONG THE NORTHERN BOUNDARY OF SAID LOT 3 FOR A DISTANCE OF 250.00, TO THE PLACE OF BEGINNING, CONTAINING 2 ACRES MORE OR LESS.



MAP OF BOUNDARY SURVEY

ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATE LYING AND BEING IN THE NORTH ONE-HALF OF LOT NUMBER 3, SECTION 24, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGIN AT A FOUND 4"X4" CONCRETE MONUMENT LOCATED AT THE SOUTHWESTERLY CORNER OF LOT 1, STE-MAG, UNIT ONE, AS RECORDED IN PLAT BOOK 5, PAGE 46 OF THE PUBLIC RECORDS OF SAID NASSAU COUNTY; SAID POINT LYING AND BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 107 (A 100.00 FOOT RIGHT OF WAY); THENCE NORTH $87^{\circ}11'26''$ EAST, ALONG THE SOUTHERLY LINE OF SAID LOT 1, A DISTANCE OF 207.10 FEET; THENCE SOUTH $03^{\circ}27'19''$ EAST, A DISTANCE OF 257.08 FEET TO A POINT LYING AND BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 200/A-1-A (HAVING A 200.00 FOOT RIGHT OF WAY AS NOW MONUMENTED AND ESTABLISHED); THENCE NORTH $71^{\circ}01'52''$ WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 220.20 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 100.00 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE TO THE RIGHT A DISTANCE OF 50.34 FEET TO A POINT; SAID CURVE BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH $15^{\circ}41'50''$ WEST, 55.49 FEET; THENCE NORTH $00^{\circ}26'30''$ EAST ALONG SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD NO. 107, A DISTANCE OF 121.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.04 ACRES MORE OR LESS.