

nc. 120:0

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

BETWEEN

LIBERTY DEVELOPMENT FLORIDA LLC

AND

NASSAU COUNTY

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT is dated this 24th day of May, 2010, by and between **LIBERTY DEVELOPMENT FLORIDA, LLC., a Florida limited liability corporation**, (“Liberty”); and the **BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**, a political subdivision of the **State of Florida** (“County”).

Recitals:

A. Whereas, Liberty and County entered into a Development Agreement dated April 14, 2003, recorded at Book 1133, pages 17-23 in the Official Records of Nassau County (“Development Agreement”).

B. Whereas, Liberty and County desire to amend the Development Agreement as set forth herein. The provisions of this First Amendment to the Development Agreement (“Amendment”) shall supersede the Development Agreement in its entirety.

C. Whereas, the parcel identified in the 2003 Development Agreement as Parcel “A” has been developed as an affordable housing residential project consistent with the requirements of the Development Agreement.

D. Whereas, the parcel identified in the 2003 Development Agreement as Parcel “B” is still under the ownership of Liberty but currently undeveloped.

E. Whereas, Liberty and County acknowledge that the exhibits and attachments to the Development Agreement do not accurately clearly identify or reflect the description of the property discussed therein.

F. Whereas, Liberty and County desire to amend the Development Agreement to revise the exhibits and attachments in the Development Agreement and to include all the property identified in the configuration attached as Exhibit "A" and incorporated by reference herein.

G. The property identified in Exhibit "A" as Parcel 1 is the same parcel identified as Parcel "A" in the Development Agreement. The property identified in Exhibit "A" as Parcels 2 and ~~3~~ are is the same parcel identified as Parcel "B" in the Development Agreement and is owned by Liberty. The property identified in Exhibit "A" as Parcel ~~3~~ 4 is contiguous to the Liberty Property and is owned by Living Waters World Outreach Center, Inc., of Fernandina Beach, Florida ("Living Waters"). The property identified in Exhibit "A" as Parcel 3 is owned by Liberty and serves to provide contiguity between affected parcels. It remains as part of the Woodbridge Planned Unit Development.

H. Whereas, Liberty and County desire to modify the provisions set forth in Article 3 of the Development Agreement as more specifically provided below.

I. Whereas, Liberty and County desire to allocate certain benefits held by Liberty under the Development Agreement to Living Waters.

J. Whereas, pursuant to Section 5.1 of the Development Agreement, Liberty may assign any benefits it holds under the Development Agreement, subject to the written approval of the County.



K. Whereas, County has allocated 61 pm/peak hour trips to Liberty for its property described in Exhibit "B" ("Liberty Property") pursuant to the Development Agreement.

L. Whereas the County acknowledges that Liberty was allocated 61 pm/peak hour trips as one of the benefits of the Development Agreement. The County affirmed its position in the letter dated July 31, 2009 and incorporated by reference herein as Exhibit "C."

M. Whereas, Liberty is desirous of assigning 51 of its 61 pm/peak hour trips to Living Waters.

N. Whereas, Living Waters has a church and school that is located at its current property located at 96282 Brady Point Road, Fernandina Beach, Florida. Living Waters church and school are at capacity, and Living Waters cannot increase their church and school capacity based upon current property constraints and cannot continue to accommodate its members and school facility at its current location.

O. Whereas, Living Waters represents that it owns property on County Road 107, ~~as set forth in the attached legal description Exhibit "D" ("Living Waters Property"), and is desirous of constructing a church and school facility on said property. and is identified in tax parcels 27-2N-28-0000-0009-0010, 27-2N-28-0000-0009-0110, 27-2N-28-0000-0009-0120, 40-2N-28-0000-0061-0210, 40-2N-28-0000-0061-0220.~~

P. Whereas, the Liberty Property and the Living Waters Property are contiguous and ~~both~~ share direct access to County Road 107 (Segment 51) of the major transportation network of Nassau County. This Development Agreement applies to the property set forth in Exhibit "D".



Q. Whereas, Liberty and Living Waters represent that their representatives have negotiated an agreement to provide for the allocation of 51 pm/peak hour trips from Liberty to Living Waters, subject to County approval.

R. Whereas, the trips to be allocated from Liberty to Living Waters will not increase the committed trips or current trip allocations on the impacted roads (SR 200/A1A and CR 107) or change the traffic patterns. The trips are currently assigned, by the County, to SR 200/A1A and CR 107 pursuant to the County's transportation concurrency methodology.

S. Whereas, Liberty acknowledges that the assignment of 51 pm/peak hour trips to Living Waters, if approved by the County, will afford Liberty only 10 remaining pm/peak hour trips for the property described in Exhibit "B".

T. Whereas, the County adopted Ordinance 2007-17, as amended by Ordinance 2009-32, Section 2.04(c)(1) of the Land Development Code, which provides for a transfer of pm/peak hour trips subject to an applicable development agreement ~~based on a determination by the Board of County Commissioners that there is a bona fide public benefit~~

U. Whereas, County acknowledges the public benefit of the assignment of 51 pm/peak hour trips from Liberty to Living Waters.

NOW, THEREFORE, FOR and IN CONSIDERATION of mutually agreed upon consideration, the parties agree as follows:

1. The recitals and representations set forth in the foregoing paragraphs are material to this Amendment and are hereby incorporated into and made part of this Amendment as though they were fully set forth in this paragraph.



2. The provisions of this Amendment supersede the provisions provided in the Development Agreement in their entirety.

3. The obligations in Article 3.1.1, ~~3.1.4~~, and 3.1.6 of the Development Agreement are no longer applicable and are hereby eliminated from the Development Agreement.

4. The obligations in Article 3.1.2, 3.1.3, and 3.1.5 of the Development Agreement remain applicable to Parcel 1 and any additional property owned by Liberty ~~north~~ south of and adjacent to Woodridge Parkway.

5. As to the provisions in Article 3.1.7 of the Development Agreement, the County has issued a certificate of concurrency in compliance with this provision.

6. The description of the property identified in the Development Agreement is hereby substituted by Exhibit "A" attached hereto and incorporated by reference.

7. The property identified as Parcel 3 in Exhibit "A" remains part of the Woodbridge PUD and is unaffected, in terms of concurrency vesting, by its inclusion in this Agreement.

8. The property identified as Parcel 4 in Exhibit "A" and described specifically in the legal description attached as Exhibit "D" and owned by Living Waters is hereby incorporated into the property described in the Development Agreement.

9. Living Waters property has no obligations or duties under the Development Agreement or pursuant to this Amendment.

10. The County has determined, at two duly advertised public hearings, that the criteria for allocation of development rights pursuant to Ordinance 2007-17, as amended by Ordinance 2009-32, has been met. The property in question is subject to a development agreement and there is a bona fide public benefit for the allocation to contiguous property.



11. The County hereby approves the allocation of 51 pm/peak hour trips from Liberty Development Florida, LLC to Living Waters World Outreach Center, Inc., of Fernandina Beach, Florida.

12. Said allocation shall be recorded by County staff ~~and become effective upon the joint notification in writing by Liberty and Living Waters that the allocation and transfer has occurred. If the written notification, by Liberty and Living Waters, of the allocation and transfer has not been received by the Growth Management Director within thirty (30) days of the date of this First Amendment to the Development Agreement, the transfer shall be null and void. upon receipt by County staff of this fully executed Agreement. Living Waters shall be responsible for the recording fees.~~

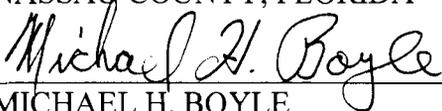
13. The County approval of the allocation by Liberty to Living Waters Property on CR 107 as described in Exhibit "D" of 51 pm/peak hour trips leaves only ten (10) pm/peak hour trips for the contiguous Liberty Property as set forth in Exhibit "B".

14. The Agreement shall be recorded within thirty (30) days of the joint execution of the Agreement. The recordation expense shall be a requirement of Living Waters. Copies shall be provided to Nassau County and Liberty Development and Living Waters.

15. The development of all parcels subject to this Agreement shall proceed in accordance with the applicable regulations in effect at the time of development.

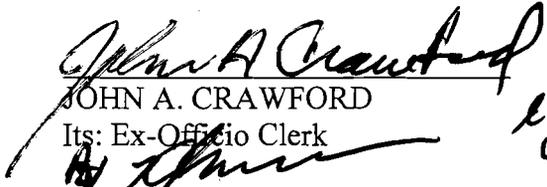
16. Time is of the essence.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


MICHAEL H. BOYLE

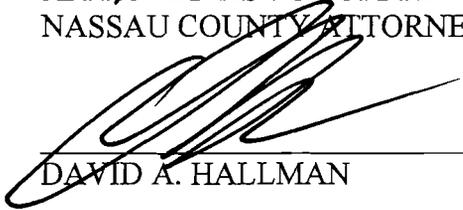

JC
7/11/10

Attest as to Chairman's signature:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

*OK
6/2/10*

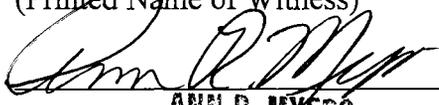
APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:


DAVID A. HALLMAN

LIBERTY DEVELOPMENT FLORIDA, LLC


Michael S. Mullin
(Printed Name of Witness)


By: VANN SIMMONS
Its: MANAGING MEMBER


ANN R. MYERS
(Printed Name of Witness)

LIVING WATERS WORLD OUTREACH
CENTER, INC., OF FERNANDINA BEACH
FLORIDA

(Printed Name of Witness)

By: _____
Its: _____

(Printed Name of Witness)

*John
7/14/10*

Attest as to Chairman's signature:

See page 7 for original signature.

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

*EBK
6/2/10*

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:



DAVID A. HALLMAN

LIBERTY DEVELOPMENT FLORIDA, LLC

(Printed Name of Witness)

By: _____
Its: _____

(Printed Name of Witness)

LIVING WATERS WORLD OUTREACH
CENTER, INC., OF FERNANDINA BEACH
FLORIDA

FRANK MARONE

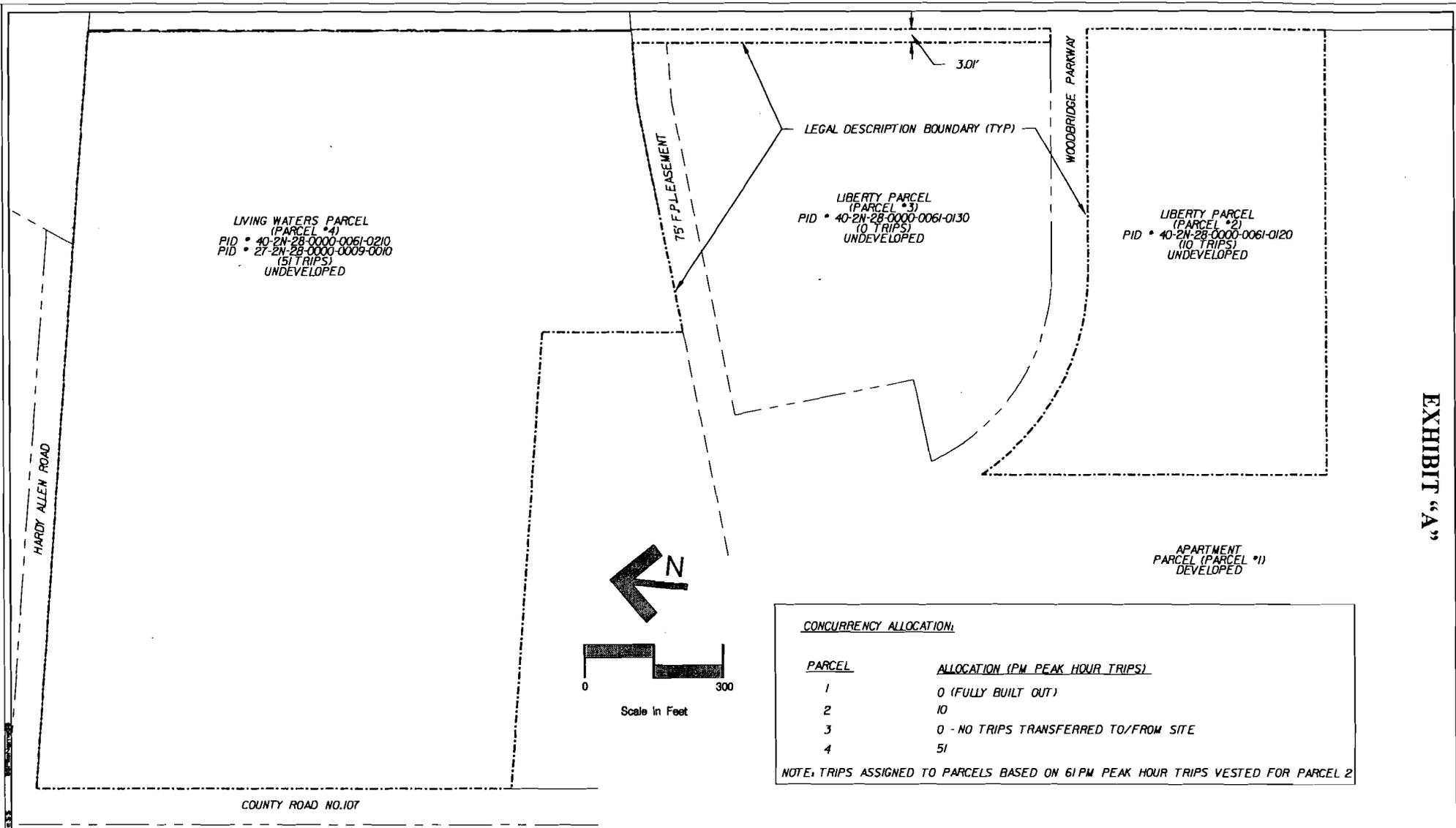
(Printed Name of Witness)


By: *Eric L. Myer*
Its: *President*

Paige Hobbs Johnston

(Printed Name of Witness)



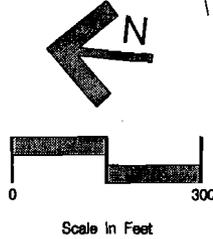


LIVING WATERS PARCEL
(PARCEL #4)
PID • 40-2N-28-0000-0061-0210
PID • 27-2N-28-0000-0009-0010
(51 TRIPS)
UNDEVELOPED

LIBERTY PARCEL
(PARCEL #3)
PID • 40-2N-28-0000-0061-0130
(0 TRIPS)
UNDEVELOPED

LIBERTY PARCEL
(PARCEL #2)
PID • 40-2N-28-0000-0061-0120
(10 TRIPS)
UNDEVELOPED

APARTMENT
PARCEL (PARCEL #1)
DEVELOPED



CONCURRENCY ALLOCATION:

<u>PARCEL</u>	<u>ALLOCATION (PM PEAK HOUR TRIPS)</u>
1	0 (FULLY BUILT OUT)
2	10
3	0 - NO TRIPS TRANSFERRED TO/FROM SITE
4	51

NOTE: TRIPS ASSIGNED TO PARCELS BASED ON 61 PM PEAK HOUR TRIPS VESTED FOR PARCEL 2

REVISED, MAY 10, 2010

DATE	BY	REVISION

Scale:
Project Mgr: NG
Designed by: NG
Drawn by: RP
QA/QC: NG

Gillette & Associates, Inc.
83 South 4th Street
Fort Lauderdale, FL 33304
Certificate of Authorization No. 9398

G & A
GILLETTE & ASSOCIATES, INC.
83 South 4th Street
Fort Lauderdale, FL 33304
Phone: (954) 281-8818
Fax: (954) 281-8808

COUNTY ROAD 107
CONCURRENCY ALLOCATION

LIVING WATERS
CHURCH/
LIBERTY DEVELOPMENT

CONCURRENCY
ALLOCATION
MAP

Registered Professional

SHEET NO.
MP-1
DATE: OCTOBER 18, 2009
PROJECT NO.
08-10-08

EXHIBIT "B"

Coastal Land Surveyors

Boundary • Subdivisions • Topographic • Construction

34 North 14th Street
Ft. Lauderdale Beach, FL 33304
(904) 261-8858 Voice
(904) 277-8250 Fax

LEGAL DESCRIPTION NO. 9904-18L

A PORTION OF SECTIONS 40 AND 41,
TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF SECTION 42, TOWNSHIP 2 NORTH, RANGE 28 EAST, SAID NASSAU COUNTY, FLORIDA; THENCE SOUTH 85 DEGREES 48 MINUTES 04 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID SECTION 42, A DISTANCE OF 590.27 FEET TO A POINT; THENCE NORTH 04 DEGREES 39 MINUTES 32 SECONDS WEST, A DISTANCE OF 3135.69 FEET TO A POINT; THENCE SOUTH 85 DEGREES 20 MINUTES 28 SECONDS WEST, A DISTANCE OF 3.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 85 DEGREES 20 MINUTES 28 SECONDS WEST, A DISTANCE OF 777.00 FEET TO A POINT; THENCE NORTH 04 DEGREES 39 MINUTES 32 SECONDS WEST, A DISTANCE OF 585.03 FEET TO A POINT LOCATED ON THE ARC OF A CURVE CONCAVE TO THE NORTHEASTERLY AND HAVING A RADIUS OF 540.00 FEET; THENCE AROUND AND ALONG SAID CURVE AN ARC DISTANCE OF 257.04 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING AN DISTANCE OF SOUTH 81 DEGREES 01 MINUTES 21 SECONDS EAST, 254.62 FEET) TO A POINT; THENCE NORTH 85 DEGREES 20 MINUTES 28 SECONDS EAST, A DISTANCE OF 529.56 FEET TO A POINT; THENCE SOUTH 04 DEGREES 39 MINUTES 32 SECONDS EAST, A DISTANCE OF 525.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 9.48 ACRES, MORE OR LESS, IN AREA.

PREPARED BY:
JIM PEACOCK, P.S.M. NO. 3718

EXHIBIT "C"



Nassau County Growth Management
96161 Nassau Place
Yulee, Florida 32097
Phone: 904-491-7328
Fax: 904-491-3611

Walter J. Fufidio, AICP
Planning Director

July 31, 2009

Michael S. Mullin
Rogers Towers P.A.
960185 Gateway Blvd., Suite 203
Amelia Island, FL 32034

Subject: Living Waters

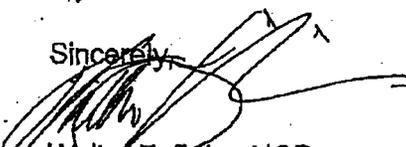
Dear Mr. Mullin:

You and Nick Gillette are representing Living Waters World Outreach Center and Liberty Development Florida LLC in discussions about a proposed development agreement. In order to proceed, it was determined that we needed to establish the number of vested trips collectively held by the parties.

To that end Growth Management received a Traffic Analysis for the Liberty property from Gillette and Associates. Based upon the Nassau County Comprehensive Plan and that Development Agreement between Liberty and Nassau County recorded at O.R. 1133 17-23, Growth Management confirms that the ± 10 acre parcel located on the south side of Woodbridge Parkway is vested for 99 multifamily units. Growth Management further confirms Gillette & Associates' analysis that 61 PMPH trips are available per the development agreement.

Should you have questions or require additional information please contact Cynthia Moody or myself.

Sincerely,


Walter Fufidio, AICP
Planning Director

c: Nick Gillette, P.E.
David A. Hallman, County Attorney
Cynthia Moody, Concurrency



MANZIE & DRAKE LAND SURVEYING

EXHIBIT "D"

LEGAL DESCRIPTION

LIVING WATERS

OCTOBER 19, 2009

A PORTION OF SECTION 40 (WILLIAM BERRY GRANT), SECTION 41 (D. FERNANDEZ GRANT) AND SECTION 27, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT A 5/8" IRON ROD WITH PLASTIC CAP MARKED "PLS-1558" LOCATED AT THE SOUTHWEST CORNER OF SECTION 42 (A. TUCKER GRANT), TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA; THENCE SOUTH 85° 47' 37" EAST, ALONG THE SOUTH LINE OF SAID SECTION 42 (A. TUCKER GRANT), A DISTANCE OF 607.85 FEET TO A 1/2" IRON PIPE WITH PLASTIC CAP MARKED "FL-3718"; THENCE NORTH 04° 38' 54" WEST A DISTANCE OF 3138.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 04° 38' 54" WEST A DISTANCE OF 1521.56 FEET TO THE NORTHERLY LINE OF A 75 FOOT WIDE FLORIDA PUBLIC UTILITIES RIGHT-OF-WAY EASEMENT; THENCE SOUTH 80° 43' 09" WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 3.01 FEET TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1239, PAGE 1211, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE NORTH 04° 38' 54" WEST, ALONG THE EASTERLY LINE OF LAST SAID LANDS, A DISTANCE OF 1187.52 FEET TO INTERSECT THE SOUTHERLY RIGHT-OF-WAY LINE OF HARDY ALLEN ROAD; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HARDY ALLEN ROAD THE FOLLOWING TWO COURSES; (1) SOUTH 89° 31' 38" WEST A DISTANCE OF 468.06 FEET; (2) SOUTH 89° 22' 43" WEST A DISTANCE OF 1201.46 FEET TO INTERSECT THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 107 (AN 80 FOOT RIGHT-OF-WAY AS SHOWN ON D.O.T. RIGHT-OF-WAY MAP SECTION NO. 74050-2501); THENCE SOUTH 04° 38' 54" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1037.04 FEET TO THE SOUTHWEST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1471, PAGE 224, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE NORTH 89° 25' 14" EAST, ALONG THE SOUTH LINE OF LAST SAID LANDS, A DISTANCE OF 1006.91 FEET; THENCE SOUTH 04° 38' 54" EAST A DISTANCE OF 308.47 FEET TO INTERSECT THE NORTHERLY LINE OF A 75 FOOT WIDE FLORIDA PUBLIC UTILITIES RIGHT-OF-WAY EASEMENT; THENCE ALONG THE NORTHERLY LINE OF SAID FLORIDA PUBLIC UTILITIES RIGHT-OF-WAY EASEMENT THE FOLLOWING TWO

117 SOUTH 9TH STREET, FERNANDINA BEACH, FL 32034

OFFICE (904) 491-5700 • FAX (904) 491-5777 • TOLL FREE (888) 832-7730

www.manzieanddrake.com

EXHIBIT "D" CONTINUED

MANZIE & DRAKE LAND SURVEYING



COURSES; (1) NORTH 74°14'05" EAST A DISTANCE OF 506.85 FEET; (2) NORTH 80°43'09" EAST A DISTANCE OF 137.08 FEET; THENCE SOUTH 04°38'54" EAST A DISTANCE OF 914.55 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF WOODBRIDGE PARKWAY; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY OF WOODBRIDGE PARKWAY THE FOLLOWING TWO COURSES; (1) SOUTH 85°20'28" WEST A DISTANCE OF 502.13 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 540.00 FEET; (2) THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 55°30'06", AN ARC DISTANCE OF 523.09 FEET AND BEING SUBTENDED BY A CHORD BEARING NORTH 66°54'29" WEST A DISTANCE OF 502.88 FEET; THENCE SOUTH 04°38'51" EAST A DISTANCE OF 758.55 FEET; THENCE NORTH 85°21'06" EAST A DISTANCE OF 977.22 FEET TO THE POINT OF BEGINNING.

Handwritten signature of Michael A. Manzie in cursive script.

MICHAEL A. MANZIE, P.L.S.

FLORIDA REGISTRATION NO. 4069

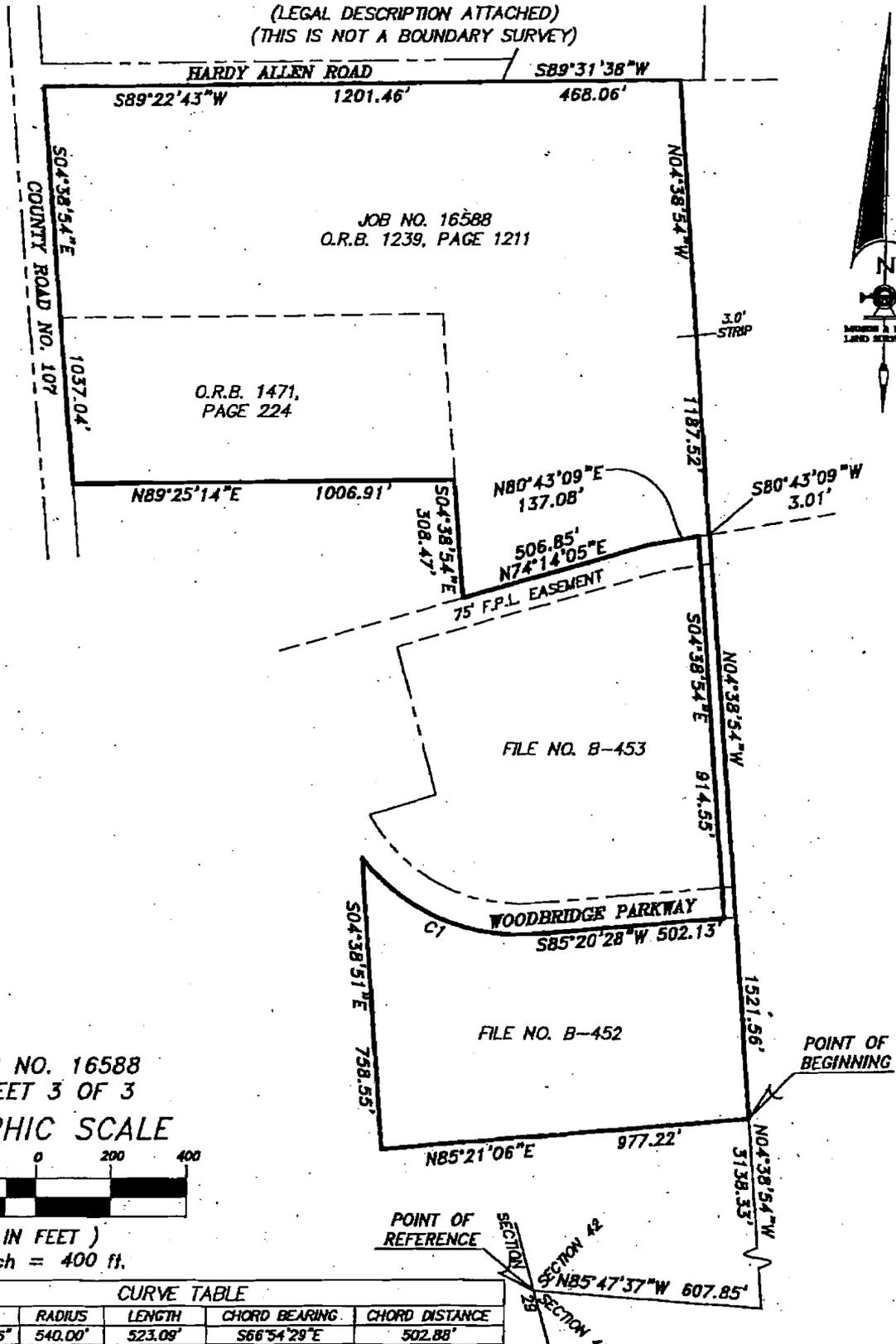
JOB NO. 16588



MANZIE & DRAKE LAND SURVEYING

SKETCH OF LEGAL DESCRIPTION

(LEGAL DESCRIPTION ATTACHED)
(THIS IS NOT A BOUNDARY SURVEY)



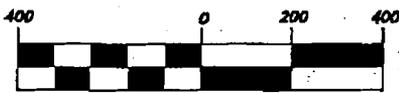
JOB NO. 16588
O.R.B. 1239, PAGE 1211

O.R.B. 1471,
PAGE 224

FILE NO. B-453

FILE NO. B-452

JOB NO. 16588
SHEET 3 OF 3
GRAPHIC SCALE



(IN FEET)
1 inch = 400 ft.

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C1	55°30'06"	540.00'	523.08'	S66°34'29"E	502.88'