

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A PURCHASE AND SALE AGREEMENT FOR THE ACQUISITION OF PROPERTY FOR EXPANSION OF THE COUNTY COMPLEX AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE PURCHASE AND SALE AGREEMENT AND TAKE ALL ACTION NECESSARY IN ORDER TO CLOSE AND COMPLETE THE PURCHASE IN ACCORDANCE WITH SECTION 125.355, FLORIDA STATUTES AND APPROVING DISBURSEMENT OF THE ESCROW PAYMENT OF \$100,000.00 WITHIN FIFTEEN (15) DAYS OF THE EFFECTIVE DATE.

RECITALS

WHEREAS, the owner of approximately (29) twenty-nine acres of property located south of the County Complex on Lewis Speedway has agreed to sell to the County the property as described in the executed Purchase and Sale Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the property will be used for expansion of the County Complex and construction of a new auditorium and administration offices. The existing auditorium and administration building is required by the County Court system to accommodate the needs of the public caused by rapid growth.

WHEREAS, acquisition of this property would also allow for future growth and it is in the best interest of the growing population of St. Johns County to acquire this property while it is available.

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 Board of County Commissioners hereby approves the Purchase and Sale Agreement, disbursement of the escrow payment of \$100,000.00 within fifteen (15) days of the effective date and authorizes the County Administrator to execute said Agreement and to take all action necessary to close and complete the purchase in accordance with Section 125.355, Florida Statutes.

Section 3. The Clerk of the Circuit Court is hereby instructed to file the Purchase and Sale Agreement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 23rd day of August, 2005.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
Bruce A. Maguire, Chairman

ATTEST: Cheryl Strickland, Clerk
By: 
Deputy Clerk

RENDITION DATE 8-29-05

REQUEST FOR CHECK

FUND: 3383-56100-Capital Improvement Revenue Bonds

DUE DATE: August 23, 2005

**PAY TO: Land America Financial Group, Inc.
450 South Orange Avenue
Suite 170
Orlando, Florida 32801
Attn: Juanita Schuster**

**HANDLING INSTRUCTIONS:
Debbie Taylor –Will pick up check
Real Estate Division**

CHECK TOTAL: \$100,000.00

JUSTIFICATION: Escrow deposit check

REQUEST BY:

DEPT. HEAD APPROVAL

ACCOUNTING

Mary Ann Blount

Mary Ann Blount

(FINANCE OFFICE CODING)

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of the date on which the final signature of the parties is affixed hereto ("Effective Date") by and between **Florida East Coast Railway, L.L.C.**, a Florida limited liability company ("Seller"), and **St. Johns County**, a political subdivision of the State of Florida ("Buyer").

WITNESSETH:

In consideration of the mutual undertakings of the parties set forth in this Agreement and of other valuable considerations, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows:

- 1. Property to be Conveyed.** Seller is the owner in fee simple of that certain tract of land containing approximately 29.54 acres located in St. Johns County, Florida, as depicted on Exhibit A attached hereto and made a part hereof, together with all appurtenances, hereditaments and improvements located thereon ("Property"). The legal description provided on the Survey (as defined in Section 6.1 of this Agreement) shall define the Property for all purposes of this Agreement. Buyer intends to purchase the Property from Seller, together with the development rights set forth in Section 5 of this Agreement and all other rights, permits, approvals and other privileges pertaining to the Property upon the terms and conditions hereafter set forth.
- 2. Purchase Price.** Under the terms of this Agreement, Seller hereby agrees to sell, assign and convey the Property to Buyer and Buyer agrees to pay for and purchase the Property from Seller. In consideration of the conveyance of the Property from Seller to Buyer, Buyer shall pay to Seller at Closing, as hereinafter defined, an amount equal to \$4.25 per square foot of uplands within the Property plus \$0.50 per square foot of wetlands within the Property ("Purchase Price"), which is estimated to be \$4,485,373 based on the conceptual site plan attached hereto as Exhibit B indicating 23.52 acres of uplands and 6.02 acres of wetlands. The Final Purchase Price will be established after the wetlands falling under the jurisdiction of the St. Johns River Water Management District (SJRWMD) have been flagged and reviewed by the SJRWMD. Following review, the SJRWMD wetland lines will be surveyed and shown on the Survey. The Purchase Price will be based upon the upland and wetland acres as determined and described by the Survey. Buyer shall make all payments when due by cashier's check drawn on a Florida bank, wire transfer of immediately available federal funds or other good funds.
- 3. Deposit.** Within fifteen (15) business days of the Effective Date, Buyer shall deliver to LandAmerica Financial Group, Inc. ("Escrow Agent") the sum of One Hundred Thousand and No/100 Dollars (\$100,000) as an earnest money deposit, which shall be held in an interest bearing account with interest accruing for the benefit of the parties as set forth in this Agreement (the "Deposit").
- 4. Inspection.** At any time prior to the expiration of a period of one hundred twenty (120) days following the Effective Date ("Feasibility Period"), Buyer and its agents shall have the right and privilege to enter upon the Property, at their own risk and expense, to inspect, examine, survey and perform such tests, inspections, studies or other evaluations of the Property as Buyer

may deem necessary in conjunction with Buyer's acquisition of the Property, including, but not limited to, an engineering feasibility study which may include topographic surveys, core borings, soil test pits and load bearing tests, as may be required by Buyer to determine the physical characteristics of the substrata of the Property. Following Buyer's inspection of the Property and prior to the conclusion of the Feasibility Period, Buyer shall restore the Property to its original condition and shall, to the extent allowed by Florida law, indemnify and hold Seller harmless from and against any and all claims, costs, expenses and damages to persons and/or property incurred by, through, or out of the exercise of such privilege. Buyer's obligation to indemnify Seller set forth herein shall survive the Closing of this Agreement or the termination of this Agreement.

Notwithstanding anything contained herein to the contrary, Buyer's inspections shall be subject to the following terms and conditions:

(a) At Seller's request, Buyer shall promptly provide a copy of any report or other information, other than a privileged communication between Buyer and its attorneys, produced as a result of any inspection. Buyer and its agents, employees and contractors shall keep in strict confidence all information obtained in the course of any such inspections (provided, however, that Buyer may disclose all information obtained with respect to the inspections to its directors, bankers and advisors as long as such parties agree to keep the information confidential until such time as the Closing is completed, and Buyer may also disclose information obtained with respect to the inspections as required by law, but Buyer must immediately notify Seller of any such requests for disclosure as required by law and, if such disclosure must be made to a governmental authority, then Buyer shall allow Seller to make the initial disclosure to such governmental authority) and this obligation shall survive the termination of this Agreement.

(b) Seller may have a representative present at any inspection, including, without limitation, an environmental audit.

(c) Buyer shall make any request to Seller to conduct an inspection of the Property at least 24 hours prior to the proposed time for the conduct thereof, which notice shall specify the type of inspection to be conducted by Buyer.

(d) Buyer hereby acknowledges that, except as otherwise specifically provided in this section, no invasive environmental tests (such as drilling or soil or groundwater testing) or any Phase II environmental audits may be performed by Buyer unless Seller has provided its written consent thereto, which consent will not be unreasonably withheld. Seller and Buyer shall both receive copies of the report compiled by the contractor. Except as otherwise expressly set forth herein or as required by applicable law, Buyer shall not, without the prior written consent of Seller, which consent will not be unreasonably withheld, release the results of such Phase II audit to any other person or entity. In the event that the Phase II audit reveals any condition that, according to applicable law, must be reported to a governmental authority, then Buyer shall allow Seller to make the initial contact with such governmental authority regarding such condition. Seller agrees to provide the Buyer with its most recent Phase I and Phase II Environmental Audit reports during the Feasibility Period.

Buyer shall have the right, which may be exercised by delivering written notice to Seller at any time during the Feasibility Period, to terminate this Agreement for any reason that Buyer deems appropriate. Upon delivery of written notice of termination to Seller during the Feasibility Period, this Agreement shall terminate and the parties hereto will have no further rights or obligations hereunder except as set forth in this Section 4. Upon such termination, Buyer shall be entitled to receive return of the Deposit from Escrow Agent.

5. Condition of Property. Buyer understands and agrees that it is purchasing the Property in an "as is" condition with all faults and without any representation or warranty on the part of the Seller except as otherwise specified herein. Buyer is solely responsible for obtaining all necessary development approvals from government entities. Seller does not represent that any government approval has been given for development on any specific site or parcel. Buyer represents and warrants to Seller that Buyer is relying solely upon its own investigations and inspections made during the Feasibility Period, and as a result Seller shall not be obligated to make any modifications to the Property as a condition to Buyer's obligation to close.

6. Survey and Title.

6.1 Survey. Within forty-five (45) days after the Effective Date, Seller shall obtain and deliver to Buyer, at Seller's expense, a boundary survey of the Property prepared by a licensed Florida land surveyor, selected by Seller, in accordance with Florida minimum technical standards, which shall show the boundaries of the uplands and wetlands based on the boundaries of the jurisdictional wetlands approved by SJRWMD ("Survey"). The Survey shall be certified to Buyer, Seller and Title Insurer, as defined in section 6.2 hereof, and shall describe an overall metes and bounds legal description of the Property and show the total area of the Property to the nearest square foot.

6.2 Title Insurance. Within thirty (30) days after the Effective Date, Seller shall obtain and deliver to Buyer an owner's title insurance commitment with copies of all exceptions and attachments thereto ("Title Commitment") from Lawyer's Title Insurance Corporation, Commonwealth Land Title Insurance Company or another title insurance company reasonable acceptable to Buyer ("Title Insurer"), at Seller's expense, which commits to insure Buyer's fee simple title to the Property in the total amount of the Purchase Price. Escrow Agent, acting as agent for the Title Insurer, shall issue an owner's title insurance policy to Buyer within sixty (60) days following the date of Closing insuring Buyer's fee simple title to the Property in the amount of the Purchase Price free and clear of all liens and encumbrances except (i) those exceptions not objected to by Buyer under the provisions of section 6.3 and (ii) those Title Defects, as defined in Section 6.3, which Seller is unwilling or unable to cure (the "Permitted Encumbrances").

6.3 Buyer's Review. Buyer shall have fifteen (15) days after receipt of the Title Commitment and Survey, whichever is received later, to examine the Survey and Title Commitment and to notify Seller of any defects in title to the Property ("Title Defects"). Seller shall not be obligated to remedy or remove the Title Defects. If Seller is unwilling to make efforts to remedy all Title Defects, Seller shall deliver Notice thereof to Buyer within ten (10) days of receipt of Buyer's Notice of Title Defects. If Seller is unable to remedy or remove all

Title Defects, after exercising good faith efforts to do so, Seller shall give Buyer Notice thereof no later than ten (10) days prior to Closing. Upon receipt of Notice from Seller that it is either unwilling or unable to remedy any Title Defects, Buyer shall then have the option of either: (i) providing Seller Notice of its election to terminate this Agreement no less than five (5) business days prior to Closing whereupon Buyer shall receive return of the Deposit and both parties shall thereafter be relieved of all further obligations under this Agreement which do not specifically survive its termination, or (ii) taking title as it then exists without reduction in the Purchase Price. If Buyer does not give Notice to Seller of its intention to terminate the Agreement at least five (5) business days prior to Closing, Buyer shall be deemed to have waived its right to terminate the Agreement pursuant to this section.

7. **Deed of Conveyance.** Seller shall convey to Buyer fee simple title to the Property by recordable special warranty deed sufficient to permit the Title Insurer to insure title in Buyer as provided for in section 6.2 above.

8. **Casualty and Eminent Domain.** Except as provided in Section 4, risk of any casualty to or loss of the Property occurring prior to Closing shall be borne by Seller. Notwithstanding the foregoing, if all or any portion of the Property or access thereto shall be damaged by fire or other casualty or taken by public authority, or notice of such proposed taking be obtained, prior to the Closing Date, then Seller shall provide immediate written Notice thereof to Buyer and Buyer may (i) terminate this Agreement and receive return of the Deposit forthwith, or (ii) Buyer may consummate the sale, pay the full Purchase Price and have assigned to it all claims and rights of recovery for such casualty or taking. Buyer shall make election in writing within ten (10) days after Seller shall have notified Buyer, in writing, of such taking or proposed taking or casualty damage and the Closing Date shall be extended if necessary to accommodate this notice period.

9. **Conditions Precedent to Closing.**

9.1 **Conditions to Buyer's Closing.** Buyer's obligation to close this transaction shall be contingent upon Seller's full performance of all of its obligations under this Agreement and Buyer's receipt of reasonably acceptable evidence of the continuing accuracy of all of the representations and warranties or covenants of Seller as set forth herein.

9.2 **Conditions to Seller's Closing.** Seller's obligation to close this transaction shall be contingent upon Buyer's full performance of all of its obligations under this Agreement and Seller's receipt of reasonably acceptable evidence of the continuing accuracy of all of the representations and warranties or covenants of Buyer as set forth herein.

10. **Brokerage Commission.** Buyer and Seller represent and warrant each to the other that neither has entered into any agreement or taken any other action which would result in a real estate brokerage commission, finder's fee or other similar charge being payable on account of the Closing of the Property.

11. **Buyer's Representations and Warranties.** Buyer hereby represents and warrants that as of the date hereof:

11.1 Buyer has the full right, power and authority to purchase the Property from Seller as provided in this Agreement and Buyer has the full right, power and authority to carry out its obligations hereunder;

11.2 Execution and delivery of, and the performance of all obligations under this Agreement by Buyer do not and will not require any consent or approval of any person or entity other than Buyer; and

11.3 The representations and warranties contained in this Agreement shall be true and correct as of the date of Closing, and Buyer shall execute a certificate at Closing to that effect and stating that Buyer has fully performed all of, and there exists no non-performance or breach in respect of any of, the agreements, representations and warranties on the part of Buyer contained in this Agreement. The representations and warranties set forth herein shall survive Closing.

12. Seller's Representations and Warranties. Seller hereby represents and warrants that as of the date hereof:

12.1 Seller is organized and in good standing under the laws of the State of Florida.

12.2 Seller's execution and delivery of this Agreement to Buyer and its sale of the Property provided for herein have been authorized by Seller, in accordance with applicable law and all other actions required to be taken to authorize execution of this Agreement and Seller's performance of all obligations undertaken by it under its terms have been duly and regularly taken.

12.3 There are no actions, suits or proceedings pending or to the knowledge of Seller threatened against or affecting Seller or the Property that would impede or otherwise impair its ability to perform its obligations under this Agreement.

12.4 The representations and warranties contained in this Agreement shall be true and correct as of the Closing Date and Seller shall, at Closing, execute a certificate to such effect and stating that Seller has fully performed all of, and there exists no non-performance or breach in respect of any of, the agreements, representations and warranties on the part of Seller contained in this Agreement. The representations and warranties set forth herein shall survive Closing.

13. Closing. The consummation of the transaction contemplated hereby for the purchase of the Property ("Closing") shall take place on or before the date that is thirty (30) days following the end of the Feasibility Period, unless otherwise extended by the terms hereof. The Closing shall be held at Seller's office or other location by agreement of the parties.

14. Documents to be Delivered at Closing. On or before Closing, Seller shall deliver to Buyer the following documents:

14.1 Special warranty deed conveying to Buyer fee simple title to the Property subject only to the Permitted Encumbrances;

14.2 Affidavit of Seller in form reasonably satisfactory to Buyer and the Title Insurer, evidencing that there have been no improvements or repairs made to the Property within ninety (90) days preceding the Closing Date, except as otherwise disclosed to Buyer and Title Insurer in writing, and sufficient in form and content to cause the Title Insurer to eliminate any exception for mechanics liens from the title policy. Such affidavit shall also evidence that Seller is in sole possession of the Property, and shall contain a certification that Seller is not a foreign person for purposes of Section 1445, Internal Revenue Code and such other certifications as may be sufficient for the Title Insurer to insure the "gap" at Closing;

14.3 Any and all other documentation as may be reasonably required to consummate the transactions contemplated in this Agreement. Specifically, Seller shall provide any documents required in Section 17 of this Agreement. This provision shall survive the Closing.

15. **Possession.** Seller shall deliver possession of the Property to Buyer at Closing.

16. **Closing Costs.** Buyer shall pay for (i) recording fees; (ii) Buyer's attorney's fees; and (iii) all costs of financing, if any. Seller shall pay for (i) Survey (ii) Owner's title insurance policy premium and related title search and commitment fees; (iii) documentary stamp tax on the deed; and (iv) Seller's attorney's fees. Buyer and Seller shall prorate ad valorem taxes and assessments against the Property as of the Closing Date. Ad valorem taxes shall be prorated based upon the actual tax bill for the year of Closing, and if not available, then on the tax bill for the year prior to the year of Closing, taking into account any discounts for early payment, and upon receipt of the actual tax bill for the year of Closing, Buyer and Seller shall re-prorate taxes, with repayment to, or repayment by Seller, as may be required, except that no repayment shall be required if re-proration results in adjustment of less than \$100.00.

17. **Construction of Road.** After execution of this Agreement by both Seller and Buyer, Seller shall design, permit and complete construction of a road extending Avenue D from its current termination point to the location depicted on Exhibit B attached hereto (the "Avenue D Extension") in order to provide access to the Property. Seller shall also install water and sewer lines of a size sufficient to serve the Property in compliance with all Land Development Code requirements. On or before December 31, 2005, Seller shall submit an application for an amendment to the City of St. Augustine Future Land Use Map with respect to Seller's real property located west of the F.E.C. Railroad Right of Way and south of the proposed Avenue D Extension. Upon Seller's receipt of final approval of the comprehensive plan amendment and the entitlements necessary for development of that property, Seller shall construct the remainder of the Avenue D Extension to U.S. 1. Seller shall complete construction of the Avenue D Extension, together with the water and sewer lines, in accordance with the St. Johns County Land Development Code requirements, including but not limited to construction and maintenance bonding requirements and the permitting and construction of any stormwater conveyance/treatment facilities, no later than September 30, 2007, subject to extension for Force Majeure, as defined in Section 32 of this Agreement, or as otherwise set forth in this Section. The parties hereby agree that three months is a reasonable period of time for the issuance of any permit required in connection with the construction of the Avenues D Extension. In the event that any such permit is not issued within three months of the date of application therefor, Buyer

and Seller shall act in good faith to agree upon an extension of the required completion date taking into account any delays caused by the delay in the issuance of such permit. Buyer shall assist Seller in the completion of the Avenue D Extension by September 30, 2007, as such date may be extended as set forth above, by reviewing and approving the plans for the Avenue D Extension expeditiously. Buyer will assist Seller in any way reasonably possible in Seller's efforts to obtain permits related to the Avenue D Extension from other governmental agencies. In the event that Seller incurs Force Majeure delays or delays in the issuance of a permit as set forth above that prevent completion of the entire Avenue D Extension by September 30, 2007, Seller shall use commercially reasonable efforts to complete the portion of Avenue D Extension, including the water and sewer lines, from U.S. 1 to the Property on or before that date. The terms and provisions of this Section shall survive Closing, but shall not survive termination of this Agreement prior to Closing.

18. Notices. Any notice, demand, consent, authorization, request, approval or other communication that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement ("Notice") shall be effective and valid only if in writing, signed by the party giving Notice and delivered personally to the other parties or sent by (i) facsimile followed by regular mail of the U.S. Postal Service; (ii) overnight courier or delivery service (e.g., Federal Express); or (iii) certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other party as follows (or to such other place as any party may by notice to the others specify):

To Seller:	J. J. Conners Development Director Flagler Development Company 10151 Deerwood Park Boulevard Building 100, Suite 330 Jacksonville, Florida 32256 Fax Number: (904) 565-4144
With a copy to:	Karl B. Hanson III Vice President & General Counsel Flagler Development Company 10151 Deerwood Park Boulevard Building 100, Suite 330 Jacksonville, Florida 32256 Fax Number: (904) 827-4492
To Buyer:	Mary Ann Blount Land Management Director St. Johns County Florida 4020 Lewis Speedway St. Augustine, FL 32084 Fax Number: 904-823-2585

With a copy to: Michael Hunt
Deputy County Attorney
St. Johns County Florida
4020 Lewis Speedway
St. Augustine, FL 32084
Fax Number: 904-823-2575

To Escrow Agent: LandAmerica Financial Group, Inc.
450 South Orange Avenue
Suite 170
Orlando, Florida 32801
Attn: Juanita Schuster
Fax Number: (407) 835-4383

Notice shall be deemed given when received, except that if delivery is not accepted, Notice shall be deemed given on the date of such non-acceptance.

19. Remedies. In the event that Buyer, prior to Closing, fails to perform any covenant, agreement or obligation hereof as provided herein, or in the event that there is any breach or failure of any warranty or representation by Buyer prior to Closing, then Seller shall be entitled to retain the Deposit, as full liquidated damages and as Seller's sole and exclusive remedy for such default, the parties hereto acknowledging that it is impossible to estimate or ascertain precisely the damages which might be suffered by Seller upon Buyer's default. Seller's retention of the Deposit is intended not as a penalty but as fully liquidated damages. Seller hereby waives and releases any right to (and hereby covenants that it shall not) sue Buyer for specific performance of the Agreement or to recover actual damages. In the event that Seller, prior to Closing, fails to perform any covenant, agreement or obligation hereof as provided herein, or in the event that there is any breach or failure of any warranty or representation by Seller prior to Closing, then Buyer may as its sole remedy either (i) treat this Agreement as terminated, and all payments and Deposits made hereunder shall be returned to Buyer, or (ii) treat this Agreement as being in full force and effect with a right to an action for specific performance. Buyer waives all other remedies that may be available to it at law or equity for breaches occurring prior to Closing. In the event Buyer or Seller breaches or fails to perform any covenant, agreement or obligation hereof subsequent to Closing or in the event there is a breach or failure of any warranty or representation of Buyer subsequent to Closing, then Buyer and Seller shall have all rights and remedies available at law or in equity including the right of injunctive relief, damages and the right to action for specific enforcement.

20. Escrow.

(a) Duties. By joining in the execution of this Agreement, Escrow Agent agrees to comply with the terms hereof insofar as they apply to Escrow Agent. Upon receipt, Escrow Agent will hold the Deposit in trust, to be disposed of in accordance with the provisions of this Agreement.

(b) Indemnity. Escrow Agent will not be liable to either party except for claims resulting from the gross negligence or willful misconduct of Escrow Agent. If the escrow is

involved in any controversy or litigation, the parties hereto will jointly and severally indemnify and hold Escrow Agent free and harmless from and against any and all loss, cost, damage, liability or expense, including costs of reasonable attorneys' fees to which Escrow Agent may be put or which may incur by reason of or in connection with such controversy or litigation, except to the extent it is finally determined that such controversy or litigation resulted from Escrow Agent's gross negligence or willful misconduct. If the indemnity amounts payable hereunder results from the fault of Buyer or Seller (or their respective agents), the party at fault will pay, and hold the other party harmless against, such amounts, to the extent permitted by law..

(c) **Withdrawal.** No party will have the right to withdraw any monies or documents deposited by it with Escrow Agent prior to the Closing or termination of this Agreement except in accordance with the terms of this Agreement. Escrow Agent will not be responsible for any delay in the electronic wire transfer of funds.

(d) **Written Objection.** In the event of any disagreement between the parties hereto resulting in conflicting instructions to, or adverse claims or demands upon the Escrow Agreement, or if a written objection is filed with Escrow Agent, or Escrow Agent otherwise is in doubt as to its duties, Escrow Agent may continue to hold the funds in escrow until the matter is resolved either by joint written direction from the parties or by the Circuit Court having jurisdiction of the dispute or the Escrow Agent may interplead the same in the Circuit Court and be relieved of any and all liability therefor; provided, however, (1) if Buyer delivers written notice of termination to Seller prior to the expiration of the Feasibility Period, Escrow Agent shall deliver the Deposit, together with any interest earned thereon, to Buyer within three (3) business days following delivery of such termination notice to Escrow Agent notwithstanding any objection to such disbursement by Seller; and (2) if Buyer (i) does not deliver written notice of termination to Seller prior to the expiration of the Feasibility Period, and thereafter fails to close the transaction contemplated by this Agreement in accordance with the terms hereof, or (ii) delivers written notice of termination to Seller after the expiration of the Feasibility Period, Escrow Agent shall deliver the Deposit, together with any interest earned thereon, to Seller within three (3) business days from and after the earlier of the Closing Date and the date of Buyer's delivery of any such termination notice, unless Buyer shall have delivered to Seller and Escrow Agent, prior to such date, a written notice of Seller's default hereunder. In any action or proceeding regarding the Deposit brought by Escrow Agent or to which Escrow Agent is made a party, Escrow Agent will be entitled to recover its reasonable costs and attorneys' fees through appeal.

21. State Required Disclosure. The following disclosure is required to be made by the laws of the State of Florida:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

22. Governing Law. The parties hereto expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled in accordance with

the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be St. Johns County, Florida.

23. **Entire Agreement.** This Agreement contains the entire Agreement between the parties hereto and no statement or representation of the respective parties hereto, their agents or employees, made outside of this Agreement, and not contained herein, shall form any part hereof or be binding upon the other party hereto. This Agreement shall not be changed or modified except by written instrument signed by the parties hereto.

24. **Further Assurances.** Each party hereto shall, from time to time, execute and deliver such further instruments as the other party or its counsel may reasonably request to effectuate the intent of this Agreement.

25. **Attorneys' Fees.** In the event of litigation arising pursuant to the provisions of this Agreement, the prevailing party shall be entitled to collect reasonable attorneys' fees from the non-prevailing party and costs and expenses of such litigation whether at the trial level or on appeal. This provision shall survive Closing indefinitely.

26. **Captions.** Captions used in this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement. Whenever used, the singular shall include the plural, the plural shall include the singular, and the neuter gender shall include all genders.

27. **Assignment.** This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

28. **Time is of the Essence.** Time is of the essence of this Agreement. If any date referenced herein falls on a Saturday, Sunday or legal holiday, then such date automatically is extended to the next business day.

29. **No Recording.** Buyer may not record this Agreement or any memorandum thereof.

30. **Like-Kind Exchange.** It is anticipated that the sale of the Property will be part of a like kind exchange undertaken by Seller pursuant to Section 1031 of the Internal Revenue Code. Buyer agrees to cooperate with Seller's reasonable requests in order to consummate the like kind exchange and to complete any necessary documentation in accordance with applicable provisions of the Internal Revenue Code.

31. **Survival of Certain Provisions Beyond Closing.** In order to alleviate any possibility of merger, it is explicitly noted that the following provisions shall survive Closing, and therefore, shall be both applicable and enforceable beyond Closing: Section 4(a), Section 11.3, Section 12.4, Section 14.3, Section 17 and Section 25.

32. **Force Majeure.** The performance by either party to this Agreements (except the payment of money) shall be excused by delays attributable to events beyond that party's control for a period of time that is sufficient for the party to perform its obligations after the cessation of the Force

Majeure event acting in a diligent, commercially reasonable manner. Events beyond a party's control include, but are not limited to, acts of the other party, acts of God (including reasonable preparation therefor), war, civil commotion, labor disputes, strikes, fire, flood or other casualty, failure of power, shortages of labor or material, and unusually inclement weather conditions. Events beyond a party's control shall not include changes in economic or market conditions, or financial or internal problems of the non-performing party, or problems that can be satisfied by the payment of money.

33. Board of County Commission Approval. This Agreement is subject to the adoption of a Resolution by the Board of St. Johns County Commission authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

34. Funding Source. The funding source for this project will be St. Johns County, Florida, Capital Improvement Revenue and Refunding Bonds Series 2005 (the "Bonds"). St. Johns County shall use its reasonable and best efforts to obtain the approvals for and to sell and issue the Bonds on or before September 15, 2005. Upon the issuance of the Bonds, Buyer shall provide evidence directly to Seller thereof and confirm in writing that proceeds from the issuance of the Bonds in the amount of the Purchase Price plus Buyer's closing costs have been reserved exclusively for this transaction, and at such time the contingency set forth in this Section shall be satisfied. In the event that the Bonds have not been sold and issued by September 15, 2005, or that Buyer has not confirmed the availability of sufficient proceeds for this transaction as set forth above, either Buyer or Seller may terminate this Agreement, and upon such termination the Deposit shall be returned to Buyer. In the event that Buyer confirms the sale and availability of proceeds by September 15, 2005, and Buyer subsequently fails to proceed to Closing due to lack of available funds, Buyer shall be in default of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates written below their respective names.

Signed, sealed and delivered
in the presence of:

SELLER:

Florida East Coast Railway, L.L.C.

Ausa C. McMillan

By: *G. John Carey*

G. John Carey

As its Vice President – Real Estate

May Charles

Date: *8.04.05*

Witnesses as to Seller

(CORPORATE SEAL)

BUYER:

St. Johns County

By: _____

Print Name: _____

As its: _____

Date: _____

Witnesses as to Buyer

(SEAL)

JOINDER

Escrow Agent hereby joins in this Agreement for the sole and exclusive purpose of evidencing its agreement to the provisions of Sections 3, 6.2 and 20 hereof.

ESCROW AGENT:

LandAmerica Financial Group, Inc.

By: _____

Print Name: _____

As its: _____



EXHIBIT A

Robert M. Angas Associates, Inc.
Land Surveyors, Planners and Civil Engineers
Since 1924

FLAGLER DEVELOPMENT CO 14775 St. Augustine Road
Jacksonville, FL 32258

JUL 21 2005

Tel: (904) 642-8550

Fax: (904) 642-4165

July 18, 2005
Miller Tract

Work Order No. 04-187.01
Page 1 of 2

Miller Tract 29 Acres

A portion of Section 36 and a portion of Section 55 Francis J. Fatio Grant, Township 6 South, Range 29 East, together with a portion of Section 1, Township 7 South, Range 29 East, City of St. Augustine, all lying in St. Johns County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the centerline intersection of San Marco Avenue, also known as U.S. Highway No. 1, a variable width right of way, as now established, with the centerline of State Road No. 16, a variable width right of way per Florida Department of Transportation Right of Way Map Section 78060-2506; thence South $77^{\circ}33'46''$ West, along said centerline of State Road No. 16, a distance of 1171.22 feet to its intersection with the Southerly prolongation of the Westerly line of those lands described and recorded in Deed Book 66, Page 168, of the Public Records of said St. Johns County; thence North $23^{\circ}50'52''$ West, departing said centerline and along said Southerly prolongation and said Westerly line, 6016.37 feet to a point lying on the Southerly line of Section 52, Fatio or Delespine Grant, of said Township 7 South, Range 29 East; thence South $82^{\circ}27'09''$ West, departing said Westerly line, and along said Southerly line, 233.88 feet to its intersection with the Southerly prolongation of the Northeasterly line of those lands described and recorded in Official Records Book 141, Page 1, of said Public Records; thence North $28^{\circ}30'26''$ West, departing said Southerly line, and along said Southerly prolongation and along said Northeasterly line, 1884.83 feet to the Southwesterly corner of those lands described and recorded in Official Records Book 2103, Page 1233, of said Public Records; thence North $76^{\circ}10'52''$ East, along the Southerly line of said lands, and along its Easterly prolongation, 590.25 feet to its intersection with the Southwesterly line of those lands described and recorded in Official Records Book 1165, Page 171, of said Public Records; thence South $33^{\circ}34'45''$ East, departing said Southerly line, and along said Southwesterly line, 346.69 feet to the Southerly most corner of said lands and the Point of Beginning.

From said Point of Beginning, thence North $60^{\circ}20'47''$ East, along said Southeasterly line of lands described in Official Records Book 1165, Page 171, a distance of 1069.62 feet to a point on a curve, said point lying on the Westerly line of a Florida East Coast Railroad, Right of Way, a 100 foot right of way as now established; thence Southerly, departing said Southeasterly line and along said Westerly Right of Way line, the following four courses: Course 1, thence Southerly, along the arc of said curve concave Southwesterly,

Miller Tract 29 Acres

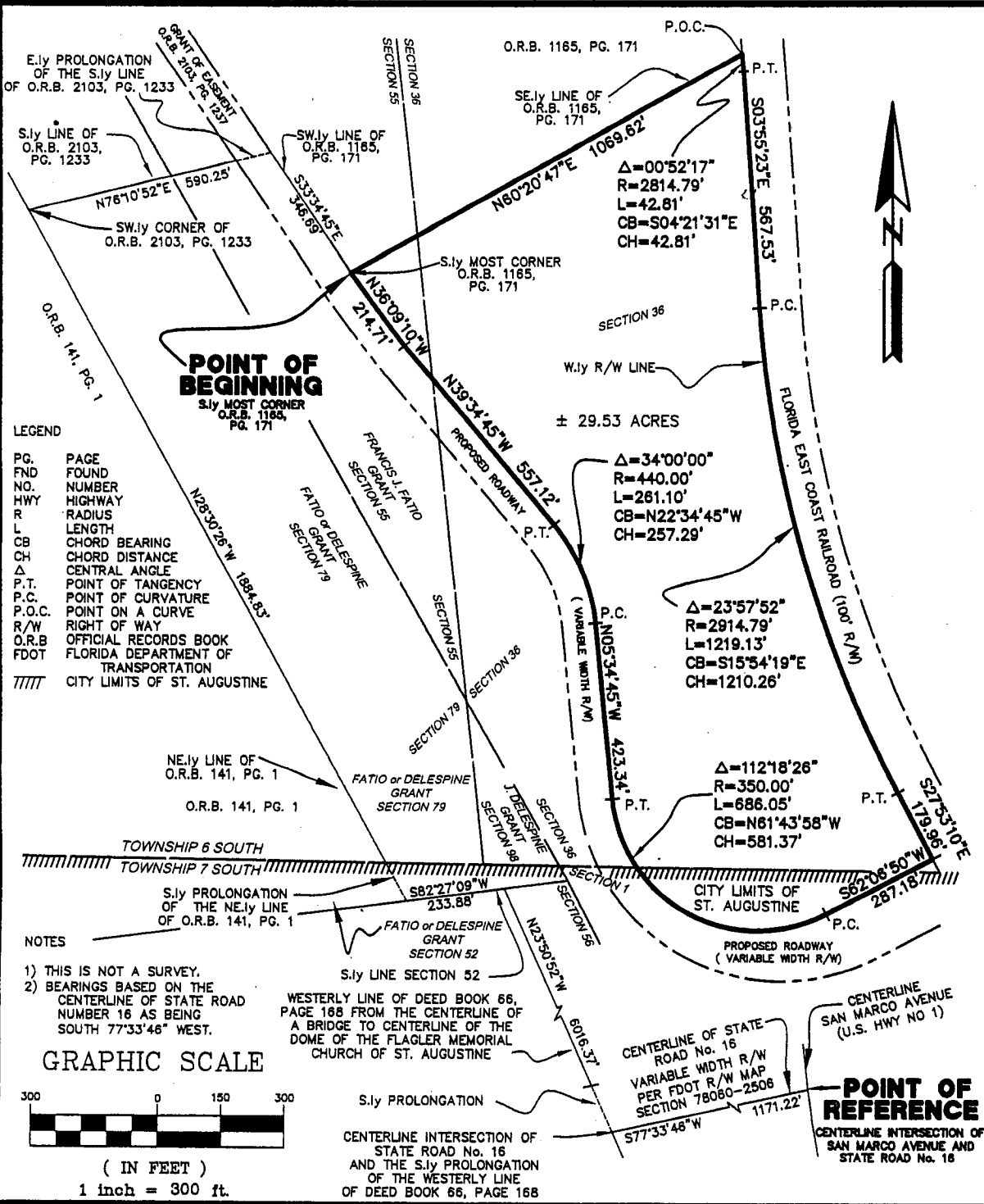
having a radius of 2814.79 feet, through a central angle of $00^{\circ}52'17''$, an arc length of 42.81 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $04^{\circ}21'31''$ East, 42.81 feet; Course 2, thence South $03^{\circ}55'23''$ East, 567.53 feet to the point of curvature of a curve concave Easterly, having a radius of 2914.79 feet; Course 3, thence Southerly, along the arc of said curve, through a central angle of $23^{\circ}57'52''$, an arc length of 1219.13 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $15^{\circ}54'19''$ East, 1210.26 feet; Course 4, thence South $27^{\circ}53'10''$ East, 179.96 feet; thence South $62^{\circ}06'50''$ West, departing said Westerly Right of Way line, 287.18 feet to the point of curvature of a curve concave Northeasterly, having a radius of 350.00 feet; thence Northwesterly, along the arc of said curve, through a central angle of $112^{\circ}18'26''$, an arc length of 686.05 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North $61^{\circ}43'58''$ West, 581.37 feet; thence North $05^{\circ}34'45''$ West, 423.34 feet, to the point of curvature of a curve concave Southwesterly, having a radius of 440.00 feet; thence Northerly, along the arc of said curve, through a central angle of $34^{\circ}00'00''$, an arc length of 261.10 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North $22^{\circ}34'45''$ West, 257.29 feet; thence North $39^{\circ}34'45''$ West, 557.12 feet; thence North $36^{\circ}09'10''$ West, 214.71 feet to the Point of Beginning.

Containing 29.53 acres more or less.



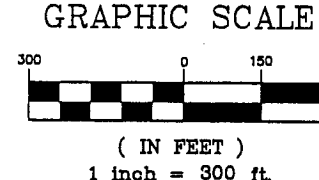
SKETCH TO ACCOMPANY DESCRIPTION OF

A PORTION OF SECTION 36 AND SECTION 55, THE FRANCIS J. FATIO GRANT, TOWNSHIP 6 SOUTH, RANGE 29 EAST, TOGETHER WITH A PORTION OF SECTION 1, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ALL LYING IN ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT.



- LEGEND**
- PG. PAGE
 - FND FOUND
 - NO. NUMBER
 - HWY HIGHWAY
 - R. RADIUS
 - L. LENGTH
 - CB. CHORD BEARING
 - CH. CHORD DISTANCE
 - Δ. CENTRAL ANGLE
 - P.T. POINT OF TANGENCY
 - P.C. POINT OF CURVATURE
 - P.O.C. POINT ON A CURVE
 - R/W. RIGHT OF WAY
 - O.R.B. OFFICIAL RECORDS BOOK
 - FDOT FLORIDA DEPARTMENT OF TRANSPORTATION
 - ////// CITY LIMITS OF ST. AUGUSTINE

- NOTES**
- 1) THIS IS NOT A SURVEY.
 - 2) BEARINGS BASED ON THE CENTERLINE OF STATE ROAD NUMBER 16 AS BEING SOUTH 77°33'46" WEST.



NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Robert M. Angas Associates, inc.
LAND SURVEYORS, PLANNERS AND CIVIL ENGINEERS
SINCE 1924

14775 St. Augustine Road, Jacksonville, FL. 32258 Tel: (904) 642-8550
Certificate of Authorization No.: LB 3624

JOSEPH LESIE REYNOLDS, III
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA I.S. No. 5517

SCALE: 1"=300" DATE: JULY 18, 2005

SITE DATA	
UPLANDS	2352 AC.
WETLANDS	602 AC.
TOTAL	2954 AC.

* ALL ACRES SHOWN SHALL BE DETERMINED BY FIELD SURVEY.



PHILIPS HIGHWAY / U.S. HIGHWAY No. 1

ENTRANCE TO MADEIRA

PROPOSED AT-GRADE CROSSING

F.E.C. RAILROAD RIGHT OF WAY

PROPOSED ROAD

AVENUE D EXTENSION

MILLER TRACT
FOR
CONCEPTUAL SITE PLAN

MAY 18, 2005



England-Thibault & Thibault, Inc.