

RESOLUTION NO. 2009- 303

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT FOR PROPERTY NEEDED FOR SEGMENT III OF THE VOLUSIA STREET/FOUR MILE ROAD PROJECT.

RECITALS

WHEREAS, Healthcare Properties of St. Augustine, Inc., the owner of property located on North Volusia Street has executed and presented to the County a Purchase and Sale Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the owner has agreed to sell a portion of the property located along No. Volusia Street for the appraised value of \$1,500.00 for a 50' strip of fee simple ownership needed for the roadway improvements; and

WHEREAS, this Capital Improvement Project is funded as part of the 2006 Transportation Bond; and

WHEREAS, it is in the best interest of the County to acquire this property to make the necessary road improvements needed to bring Volusia Street up to standard.

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 terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute the Purchase and Sale Agreement and move forward to close this transaction.

Section 3. To the extent that there are typographical 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.

Section 4. The Clerk is instructed to file the original Purchase and Sale Agreement in the Clerks Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 20th day of October, 2009.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevenson
Cyndi Stevenson, Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Halterman
Deputy Clerk

RENDITION DATE 10/22/09

EXHIBIT "A" to the Resolution

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2009, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is, 500 San Sebastian View, St. Augustine, Florida 32084 ("Buyer") and **HEALTHCARE PROPERTIES OF ST. AUGUSTINE, INC., d/b/a/ Ponce De Leon Care Center**, whose address is, 1999 Old Moultrie Road, St. Augustine, Florida 32086 (Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing a portion of the property owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of property located along No. Volusia Street, the property is shown in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

NOW THEREFORE, it is mutually agreed as follows:

1. The above Recitals are incorporated into the body of this Agreement, and such Recitals are adopted as Findings of Fact.

2. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is **One Thousand Five Hundred and 00/100 dollars (\$1,500.00)**, subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
TOTAL PURCHASE PRICE		\$1,500.00

Payment of the Purchase Price shall be in cash or other immediately available funds.

3. Title Evidence.

(a) Buyer agrees, at his/her sole option and expense, to take all reasonable action to obtain, within forty-five (45) days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property; and

(b) Buyer shall notify Seller in writing (“Title Notice”) within ten (10) days after Buyer’s receipt of the Commitment or a denial thereof, if it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect or denial and such is timely noted in a Title Notice, Seller, at Seller’s sole option and expense, shall have sixty (60) days from the date it receives the Title Notice within which to cure such defect or denial (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects or denial, then in such event, Buyer’s remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit.

4. Identity and Obligation of Escrow Agent.

(a) ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC., 3670 US 1 South, Suite 110, St. Augustine, Florida 32086, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

5. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property (“Closing”) shall take place at the offices of the Escrow Agent, ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC., 3670 US 1 South, Suite 110, St. Augustine, Florida 32086, on or before one hundred twenty (120) days from the date of this Agreement (“Closing Date”), TIME BEING OF THE ESSENCE.

6. Prorations. Any real property taxes shall be prorated on the basis of the 2008 taxes at the highest allowable discount.

7. Seller’s Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

8. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a general warranty deed (“Deed”) conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number “FIRPTA” affidavit to be signed by seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the “gap” and to remove the standard printed exceptions for mechanics’ lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

9. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment and the cost of recording the deed, documentary stamps, property taxes to day of closing, and any other affiliated recording fees. Seller will be responsible for recording fees for documents related to clearing the title of the property for closing. Each party shall bear the expense of its own legal counsel.

10. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

11. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for ninety (90) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests, or assessments, including but not limited to Phase 1 Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Seller agrees to provide Buyer any documents, tests, easements, wetland assessments, environmental assessments, surveys, etc., within their possession that would help Buyer make a suitability decision regarding the property. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable for any reason, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on, or prior to, the Inspection Termination Date. Such notice of termination must be given on, or before, the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

12. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

13. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

15. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

16. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

17. Termination of Contract. If Buyer for any reason determines that the Property is unsuitable for the Buyer's intended use, or that there are other circumstances that negatively affect the Buyer's intended use, then Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

18. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

19. Time. Time is of the essence of all provisions of this Agreement.

20. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

21. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: **Healthcare Properties of St. Augustine, Inc.**, d/b/a/ Ponce de Leon Care Center, 1999 Old Moultrie Road
St. Augustine, Florida 32086

Buyer: **St. Johns County, Florida, a political subdivision
of the State of Florida**
500 San Sebastian View
St. Augustine, Florida 32084

Escrow Agent: **Action Title Services of St. Johns County, Inc.**
3670 US 1 South, Suite 110
St. Augustine, Florida 32086
(904) 797-4777

22. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.

23. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

24. Commission Dues. Seller agrees to pay any real estate commissions that may be owed as a result of this transaction.

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

26. Effective Date. The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties.

27. 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 a period of 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. (Section 404.056(5), F.S.)

28. Amendment. Notwithstanding any other provision contained in this Agreement, the closing date may be extended by the County, and the Seller, without further action of the Board of County Commissioners of St. Johns County. As a result, the County Administrator may execute an extension of the Inspection Termination Date and Closing Date, without such referenced further action of the Board. This accommodation extends only to extension of the Inspection Termination Date and Closing Date. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

29. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement/Contract shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes). Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparts.

WITNESSES:

 Signature *Debbie Pilott* Date *9/23/09*

 Print *Debbie Pilott*

 Signature *H. Wade Shroy* Date *09.23.09*

 Print *H. Wade Shroy*

SELLERS:

Healthcare Properties of St. Augustine, Inc.

 As: *President* Date *9/23/09*

 As: _____ Date _____

WITNESSES:

 Signature _____ Date _____

 Print _____

 Signature _____ Date _____

 Print _____

BUYER:

ST. JOHNS COUNTY, FLORIDA
A political subdivision of the State of Florida

By: _____
 Michael D. Wanchick Date _____
 County Administrator

ATTEST: Cheryl Strickland, Clerk

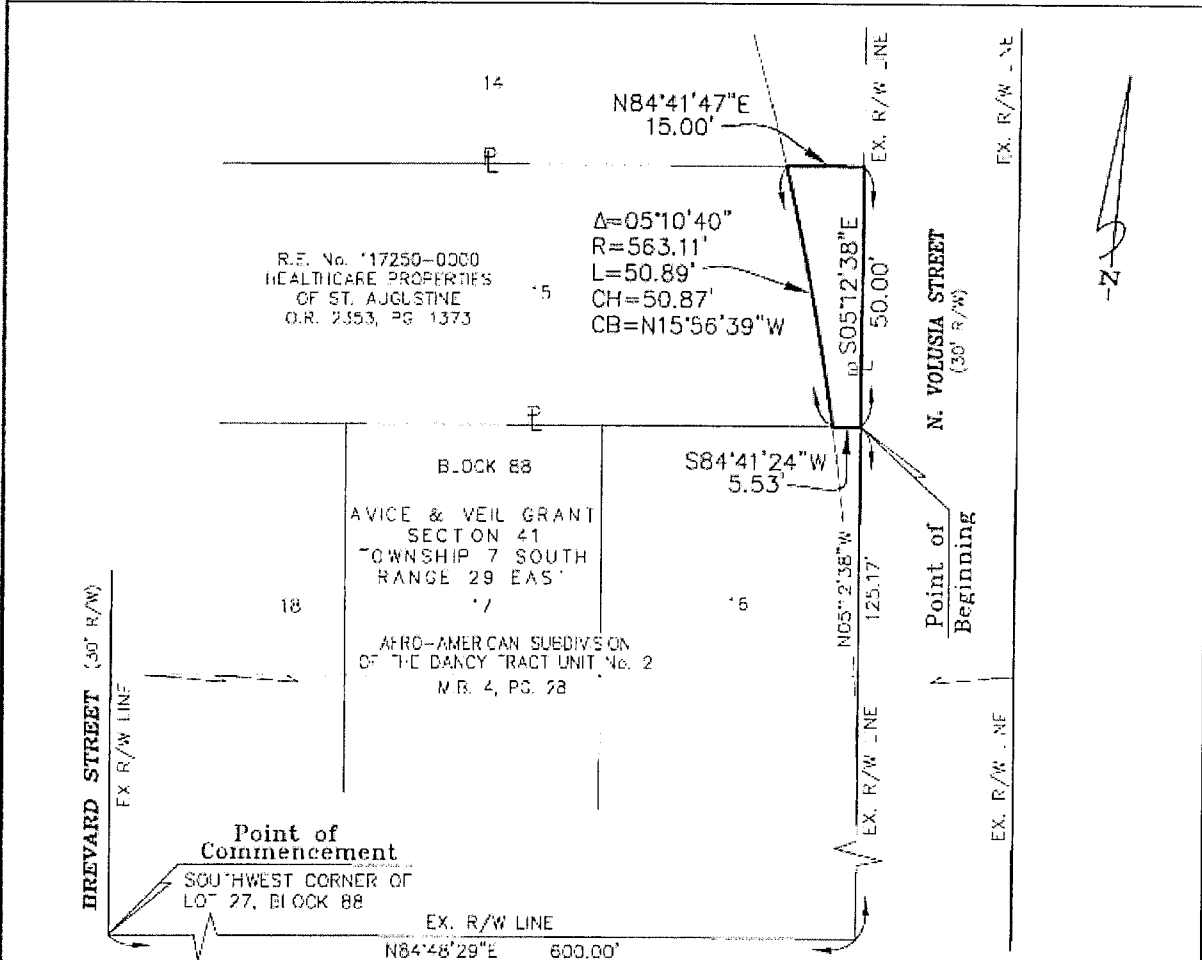
By: _____
Deputy Clerk

Exhibit “A”

COMMENCE AT THE INTERSECTION OF THE NORTHERLY EXISTING RIGHT OF WAY LINE OF HELEN STREET, (A 30.00 FOOT RIGHT OF WAY PER PLAT OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT, UNIT NO. 2, AS RECORDED IN MAP BOOK 4, PAGE 28 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA), WITH THE EASTERLY EXISTING RIGHT OF WAY LINE OF BREVARD STREET, (A 30.00 FOOT RIGHT OF WAY PER SAID PLAT OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT, UNIT NO. 2), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 27, BLOCK 88, SAID PLAT OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT, UNIT NO. 2; THENCE NORTH $84^{\circ}48'29''$ EAST, ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE OF HELEN STREET, A DISTANCE OF 600.00 FEET TO THE WESTERLY EXISTING RIGHT OF WAY LINE OF NORTH VOLUSIA STREET, (A 30 FOOT RIGHT OF WAY PER SAID PLAT OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT, UNIT NO. 2); THENCE NORTH $05^{\circ}12'38''$ WEST, DEPARTING SAID NORTHERLY EXISTING RIGHT OF WAY LINE OF HELEN STREET, AND ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE OF NORTH VOLUSIA STREET, A DISTANCE OF 125.17 FEET TO THE SOUTHERLY LINE OF LOT 15, OF SAID BLOCK 88, AND THE POINT OF BEGINNING; THENCE SOUTH $84^{\circ}41'24''$ WEST, DEPARTING SAID WESTERLY EXISTING RIGHT OF WAY LINE OF NORTH VOLUSIA STREET, AND ALONG SAID SOUTHERLY LINE OF LOT 15, A DISTANCE OF 5.53 FEET TO A POINT ON A CURVE; THENCE NORTHERLY, DEPARTING SAID SOUTHERLY LINE OF LOT 15, AND ALONG THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 563.11 FEET, THROUGH A TOTAL CENTRAL ANGLE OF $05^{\circ}10'40''$, AN ARC DISTANCE OF 50.89 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH $15^{\circ}56'39''$ WEST, 50.87 FEET TO THE NORTHERLY LINE OF SAID LOT 15; THENCE NORTH $84^{\circ}41'47''$ EAST, ALONG SAID NORTHERLY LINE OF LOT 15, A DISTANCE OF 15.00 FEET TO THE SAID WESTERLY EXISTING RIGHT OF WAY LINE OF NORTH VOLUSIA STREET; THENCE SOUTH $05^{\circ}12'38''$ EAST, DEPARTING SAID NORTHERLY LINE OF LOT 15, AND ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE OF NORTH VOLUSIA STREET, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

MAP SHOWING A SKETCH & DESCRIPTION OF

A PART OF LOT 15, BLOCK 88, OF THE AFRO-AMERICAN SUBDIVISION OF THE DANCY TRACT – UNIT No. 2,
AS RECORDED IN MAP BOOK 4, PAGE 28, OF THE PUBLIC RECORDS OF
ST. JOHNS COUNTY, FLORIDA

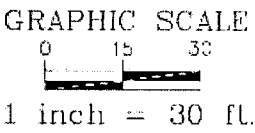


LEGEND

- Δ = DELTA ANGLE
- CB = CHORD BEARING
- CH = CHORD DISTANCE
- D.B. = DEED BOOK
- EX. = EXISTING
- L = ARC LENGTH
- M.B. = MAP BOOK
- No. = NUMBER
- P.R. = OFFICIAL RECORDS BOOK
- P.G. = PAGE
- R = RADIUS
- R.E. = REAL ESTATE
- R/W = RIGHT OF WAY

GENERAL NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTHERLY EXISTING RIGHT OF WAY LINE OF HELEN STREET AS N 84°48'29" E. (STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NAD 1983 1990 NGS ADJUSTMENT.)
2. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY. ITS SOLE PURPOSE IS TO GRAPHICALLY ILLUSTRATE THE ATTACHED DESCRIPTION.
3. THIS DRAWING MAY HAVE BEEN ENLARGED OR REDUCED FROM THE ORIGINAL. LISTEN THE GRAPHIC SCALE AS SHOWN.



CADD FILE: BLOCK 88-15.DWG DRAFTER: VLB CHECKED BY:

UNLESS OTHERWISE SHOWN AND STATED HEREON, THIS MAP OR SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS, IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND DOES NOT NECESSARILY MEET ANY OTHER NATIONAL OR REGIONAL STANDARDS.

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPING, THIS DRAWING, SKETCH, PLAN OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. (CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE)

Clary & Associates, Inc.
PROFESSIONAL LAND SURVEYORS
18 NC. 3731
3830 CROWN POINT ROAD
JACKSONVILLE, FLORIDA 32257
(904) 260-2703



SHEET 1 OF 2

DATE MARCH 17, 2009
SCALE 1" = 30'

DENNIS W. ELSWICK, P.L.S. CERT. NO. 3190

JOB No. 2008 200 2

Deposit received by _____, ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC., which the Escrow Agent agrees to return in accordance with the terms and conditions within the Agreement.

ESCROW AGENT

By: ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC.

Name: _____

Title: _____

Date: _____