

RESOLUTION NO. 24395

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE A PERPETUAL ACCESS AND UTILITY EASEMENT WITH WOODWORK REALTY COMPANY FOR AN EXISTING SEWER LOCATED AT 401 EAST MAIN STREET, CHATTANOOGA, TENNESSEE, IN THE FORM ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Administrator of the Department of Public Works be and is hereby authorized to execute a perpetual access and utility easement with Woodwork Realty Company for an existing sewer located at 401 East Main Street, Chattanooga, Tennessee, in the form attached hereto and made a part hereof by reference.

ADOPTED: April 19, 2005.

/add

ADDRESS OF NEW OWNER(S):	SEND TAX BILLS TO:	MAP PARCEL NO.
(Name)	(Name)	
(Street Address)	(Street Address)	
(City) (State) (Zip)	(City) (State) (Zip)	

THIS INSTRUMENT PREPARED BY:

Chambliss, Bahner & Stophel
1000 Tallan Building
Two Union Square
Chattanooga, Tennessee 37402
Attn: Michael N. St. Charles

ACCESS AND UTILITY EASEMENT

THIS ACCESS AND UTILITY EASEMENT AGREEMENT (the "Agreement") made as of the _____ day of February 2005, by **WOODWORK REALTY COMPANY** ("Grantor"), and **CITY OF CHATTANOOGA**, a municipal corporation ("Grantee").

RECITALS:

A. Grantor is the owner of a tract of real property located at 401 East Main Street, in the City of Chattanooga, Hamilton County, Tennessee, acquired by Grantor pursuant to a deed of record in Book 7421, Page 291 in the Register's Office for Hamilton County, Tennessee, as more particularly described in Exhibit A, attached to, and made a part of, this Agreement (the "Property").

B. There exists a public, underground sanitary sewer and storm water drainage line (the "Sewer Line") underneath the improvements located on the Property (the "Improvements"), and for which Grantee has an easement by law. It has been determined that it is impractical to relocate the Sewer Line from underneath the Improvements.

C. Grantor has agreed to grant a one hundred foot (100') foot easement on the Property in order to permit Grantee to install, relocate, use, repair, and maintain the Sewer Line across and under the Property.

NOW, THEREFORE, in consideration of the Recitals set forth above, the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby declare and agree as follows:

{04896_00/9601/00670078.DOC.2}

This instrument prepared by:
CHAMBLISS, BAHNER & STOPHEL, P.C.
1000 Tallan Building, Two Union Square
Chattanooga, Tennessee 37402-2500

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a perpetual, nonexclusive easement one hundred feet (100') in total width, being fifty feet (50') on each side of the centerline of the Sewer Line, from Main Street to the northern property line of the Property (the "Easement Area"), for the relocation, operation, maintenance, and repair of the Sewer Line. This easement includes the right of Grantee to use, operate, inspect, relocate, repair, maintain, replace and remove the Sewer Line within the Easement Area. Grantee shall have rights of ingress and egress across the Property from time to time as reasonably may be required for the purpose of using, maintaining, relocating, repairing, and replacing the Sewer Line and keeping the same in good working order, and to make examinations thereof so long as the Sewer Line is being maintained and operated.

2. Grantee's Covenants. Grantee agrees that the relocation, separation, maintenance, repair and replacement of the Sewer Line shall: (i) be performed at no cost or expense to Grantor and, upon completion of any relocation, maintenance, repair or replacement, the Property and the Improvements, shall be restored to the extent reasonably possible to their condition immediately prior to such installation, maintenance, repair or replacement and the Property and the Improvements shall be free of any and all liens which may result from such activities; (ii) comply with all applicable statutes, laws, regulations and ordinances; (iii) be performed in a manner so as not to unreasonably interfere with the use and enjoyment by Grantor of the Property and Improvements; and (iv) not include any above-ground improvements or structures.

3. Relocation of Sewer Line. Grantor agrees and recognizes that Grantee may determine that it is necessary to relocate and/or separate the Sewer Line within the Easement Area and that such relocation or separation may disturb the Property and the Improvements and shall restore to the extent reasonably possible, as set forth in Section 2 above.

4. Covenant Running with the Land. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the Grantor, and its successors, and assigns. If Grantor shall convey, transfer, assign or otherwise, dispose of all of its interest in the Property, it shall there upon be released and discharged from any and all liabilities or obligations which may arise relating to this Agreement, and such liabilities and obligations shall be binding on the successor in title to Grantor. This Agreement shall terminate at such time as the Sewer Line has been abandoned and is not being used.

5. Ownership. Grantor represents that it is the owner of the Property and has the right to execute this Agreement.

6. Additional Provisions.

(a) This is not a conveyance of the fee in the Easement Area, but only the rights, privileges and easements as set forth in this Agreement.

(b) This Agreement may be amended or modified only by an instrument in writing executed by all of the then record owners of the Property and by Grantee.

(c) All of the obligations created in this Agreement are intended to be and shall be binding upon the successors and assigns of the Grantor and Grantee, and all rights and benefits contained in this Agreement shall inure to the benefit of the respective successors and assigns of Grantor and Grantee, including lessees, licensees, and invitees.

(d) This Agreement constitutes the entire agreement and understanding of Grantor and Grantee with respect to the subject matter of this Agreement, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth in this Agreement.

(e) Whenever under this Agreement the consent or approval of Grantor is required or a determination must be made by Grantor, no such consent or approval shall be unreasonably withheld, conditioned or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement to be effective on the date and year first above written.

GRANTOR:

WOODWORK REALTY COMPANY

By: Larry E. Leigh
Name: LARRY E. Leigh
Its: Partner President

GRANTEE:

CITY OF CHATTANOOGA, TENNESSEE

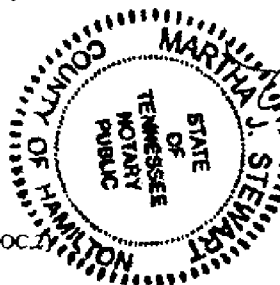
By: _____
Name: _____
Its: _____

STATE OF Tennessee :

COUNTY OF Hamilton :

Before me, a Notary Public of the state and county aforesaid, personally appeared Larry E. Leigh, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be a partner of WOODWORK REALTY COMPANY, a Tennessee general partnership, the within named bargainer, a partnership, and that he/she as such partner, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself/herself as partner.

WITNESS my hand and seal at office, this 1st day of MARCH, 2005



Martha Stewart
Notary Public

My commission expires: 9.24.2005

STATE OF _____

COUNTY OF _____

Before me, a Notary Public of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of CITY OF CHATTANOOGA, TENNESSEE, the within named bargainer and that he as such _____, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as _____.

WITNESS my hand and seal, at office in Hamilton County, Tennessee, this _____ day of _____, 2005.

Notary Public

My Commission Expires: _____

EXHIBIT A
Legal Description

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

All that portion of Lot One (1), Division of Signal Realty Company Property, as shown by plat of record in Plat Book 33, Page 135, in the Register's Office of Hamilton County, Tennessee, which has been deleted from said Lot One (1), added to and made a part of Lot Two (2), of said subdivision, as shown on said plat of record in Plat Book 35, Page 222, in the Register's Office of Hamilton County, Tennessee, and all of Lot Two (2), of said subdivision, as shown on said plat of record in Plat Book 33, Page 135, excepting therefrom Lot Three (3), of said subdivision, as shown by plat of record in Plat Book 35, Page 222, in the Register's Office of Hamilton County, Tennessee, all of which forms one contiguous tract of land more particularly described as follows: Beginning at the intersection of the Northeast line of East Main Street with the West line of the Central of Georgia Railway right-of-way; thence North 67 degrees 30 minutes West, with and along the Northeast line of East Main Street, 530.88 feet; thence North 22 degrees 43 minutes East 80.1 feet; thence North 67 degrees 30 minutes West 113.37 feet; thence North 22 degrees 20 minutes East 353.5 feet; thence South 67 degrees 30 minutes East 575.4 feet; thence South 03 degrees 56 minutes West 211 feet; thence south 21 degrees 56 minutes West 233.5 feet to the point of beginning.

REFERENCE is made for property title to a deed of record in Book 7421, Page 291 and Book 7429, Page 58, both in the Register's Office of Hamilton County, Tennessee.