

RESOLUTION NO. 2003- 106

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES AND BILL OF SALE FOR SEWER SERVICE WHISPERING OAKS SUBDIVISION PHASES I, II AND III.

WHEREAS, Whispering Oaks Home Owners Association of St. Augustine Beach Inc., a Florida Non-Profit Corporation, has executed and presented to the County an Easement for Utilities, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for sewer service to Whispering Oaks Subdivision Phases I, II and III; and

WHEREAS, a Bill of Sale conveying all personal property associated with the sewer system has also been executed and is attached hereto as Exhibit "B", incorporated by reference and made a part hereof; and

WHEREAS, St. Johns County Utility Department has reviewed and approved the documents mentioned above as stated in memorandum attached hereto as Exhibit "C", incorporated by reference and made a part hereof; and

WHEREAS, it is in the best interest of the County to accept this Easement for Utilities for the health, safety and well being of the citizens in that area of the County.

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 above described Easement for Utilities and Bill of Sale, attached hereto, is hereby accepted.

Section 3. The Clerk of Circuit Court is instructed to record the original Easement for Utilities and file the Bill of Sale in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 3rd day of June, 2003.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

Cheryl Strickland
Deputy Clerk

RENDITION DATE June 4, 2003

Exhibit "A" to Resolution

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this 3rd day of May, 2003, by Whispering Oaks Home Owners Association of St. Augustine Beach Inc., a Florida Non-Profit Corporation, with an address of 145 Whispering Oaks Circle, St. Augustine Beach, FL 32080-6722, hereinafter called "Grantor," to ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is c/o Clerk of Courts, P.O. Drawer 349, St. Augustine, Florida 32085, hereinafter called "Grantee."

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby agree as follows:

1. Grantor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee a non-exclusive permanent easement and right-of-way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground sewer collection lines, including the sewage lift station and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground sewer collection lines over and upon the real property described on Exhibit A attached hereto (the "Easement Area"); together with rights of ingress and egress on and over the Easement Area as necessary for the use and enjoyment of the easement herein granted. This easement is for sewer collection lines only and does not convey any right to install other utilities such as cable television service lines.

The easement herein granted is subject to covenants, restrictions, easements, liens and encumbrances of record.

- (a) Grantor reserves the right and privilege to use and occupy and to grant to others the right to use and occupy (i) the surface and air space over the Easement Area for any purpose which is consistent with the rights herein granted to Grantee; and (ii) subsurface of the Easement Area for other utility services or other purposes which do not interfere with the rights herein granted to Grantee, including, without limitation, the right to install, construct, operate, maintain, repair, replace and remove telecommunications, telephone, telegraph, electric, gas and drainage facilities and foundations, footing and/or anchors for surface improvements.
- (b) All Sewer Collection Lines and Associated Equipment will be installed, operated and maintained at all times beneath the surface of the Easement Area provided that the same may be temporarily exposed or removed to the surface when necessary or desirable for the purpose of repairing and/or replacing the same. Provided, however, that Associated Equipment that is customarily installed above ground may be installed above ground subject to the right of Grantor, consistent with good

engineering practices to approve the location of such above ground installation in its reasonable discretion.

- (c) The easement granted by this instrument may be relocated to a location acceptable to the Grantee at any time upon Grantor's request provided that Grantor bears the cost of relocating the underground sewer collection lines and facilities located within the Easement Area. At Grantor's request, and upon relocation of such lines at Grantor's expense, Grantee and Grantor shall execute an instrument in record able form relocating the easement hereby granted to the new Easement Area designated by and in the title of the Grantor.
 - (d) Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with use and occupancy of residential or commercial improvements constructed upon the adjacent property owned by Grantor.
2. Grantee, by acceptance of this Easement, hereby agrees to maintain sewer force mains and gravity sewer lines including the sewage lift station located within the Easement Area. The Grantee's maintenance of gravity sewer lines shall extend "manhole to manhole", but shall not include a responsibility for maintenance of sewer service laterals. The Grantor or Grantor's successors and assigns shall be responsible for the maintenance of such sewer service laterals. Grantor hereby specifically indemnifies and holds Grantee harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of sewer service laterals.
 3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or any other surface improvements or structures. Grantor or Grantor's successors and assigns shall be solely responsible for replacement of any such sod, landscaping, planting, pavement or other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. Nothing in this section shall, however, relieve Grantee of liability for damage caused to improvements by Grantee's negligence.
 4. This Grant of Easement shall insure to the benefit of and be binding upon Grantee and its successors and assigns.

5. For the purposes of the terms and conditions of this Grant of Easement, "Grantor" means the owner from time to time of the Easement Area or any part thereof.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized officer and its corporate seals to be hereunto affixed as of the day and year first above written.

Signed, Sealed and
Delivered in the
presence of:

Whispering Oaks Homeowners Association
of St. Augustine Beach Inc, A Florida
Non-profit Corporation

Carrie Mickler
Print: Carrie Mickler

Robert Parker
BY: Robert Parker
Robert Parker, President

Erin Rosenmeier
Print: Erin Rosenmeier

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 3rd day of May, 2003, by Robert Parker, as President of Whispering Oaks Homeowners Association of St. Augustine Beach Inc. on behalf of the Corporation.



Carrie Jean Mickler
(Print Name Carrie Jean Mickler)
NOTARY PUBLIC
State of Florida at Large
Commission # CC893640
My Commission Expires:

Personally known _____
Or Produced I.D. FDL No 20-740-18-048-0
(check one of the above) EX. 3807
Type of Identification Produced

EXHIBIT "A"

EASEMENT AREA

The easement area granted by this document shall include all project roads and drives all areas designated "utility easement areas," all within the plats of WHISPERING OAKS SUBDIVISION PHASE I, recorded in Map Book 34, pages 11 through 13, WHISPERING OAKS SUBDIVISION PHASE II, recorded in Map Book 36, pages 79 through 80, and WHISPERING OAKS SUBDIVISION PHASE III, recorded in Map Book 41, pages 18 through 19, of St. Johns County, Florida. The Easement Area shall not include the driveways to individual homes except for the part of such driveways within the areas designated "utility easement areas."

BILL OF SALE

THAT WHISPERING OAKS HOMEOWNERS ASSOCIATION OF ST. AUGUSTINE BEACH INC., a Florida Non-Profit corporation, conveying its separate non-homestead property, party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) in lawful money and other good and valuable considerations to it paid by **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is c/o Clerk of the Courts, Post Office Drawer 349, St. Augustine, Florida 32085, party of the second part, the receipt of which is hereby acknowledged by it, has granted, bargained, sold, transferred, set over and delivered unto the party of the second part, the extension to the Utility System (constructed by the party of the first part) of the sewer collection lines and sewage lift station located on the following described real property:

Whispering Oaks, Phase I, Recorded in Map Book 34, Pages 11 through 13.

Whispering Oaks, Phase II, Recorded in Map Book 36, Pages 79 through 80.

Whispering Oaks, Phase III, Recorded in Map book 41, pages 18 through 19 of St. Johns County, Florida,

Party of the first part hereby warrants and represents that it has all the requisite right and authority to make this conveyance, and that the Extension is free from all liens and other encumbrances, and that contractors, subcontractor and material men furnishing labor or materials relative to the construction of the Extension have been paid in full, but except for the foregoing warranties or other expressed warranties given in writing, party of the first part makes no representation or warranties whatsoever, express or implied, and this conveyance as is.

TO HAVE AND TO HOLD the same unto party of the second part, it successors and assigns.

IN WITNESS WHEREOF, the party of the first part has caused this instrument to be executed in his name this 3rd day of May, 2003.

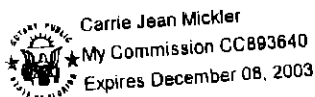
WITNESSES:

Carrie Jean Mickler
Robert Parker

Whispering Oaks Homeowners Association
of St. Augustine Beach Inc. a Florida
Non-Profit Corporation
By: Robert Parker
Robert Parker, President

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 3rd day of May 2003 by Robert Parker, as President for Whispering Oaks Homeowners Association of St. Augustine Beach, Inc., A Florida Non-Profit Corporation., who is personally known to me..



Carrie Jean Mickler
(Print Name Carrie Jean Mickler)
NOTARY PUBLIC
State of Florida at Large
Commission # CC893640
My Commission Expires: December 8, 2003
7021 North 700th St. 048-0
EV 3867



ST. JOHNS COUNTY

UTILITY DEPARTMENT


2175 Mizell Road

P.O. Drawer 3006

St. Augustine, Florida 32085-3006

I N T E R O F F I C E M E M O R A N D U M

TO: Nanette Bradbury, Real Estate Coordinator

FROM: Herbert A. Van Der Mark
Construction Manager of Utilities 

SUBJECT: "Easement for Utilities" Whispering Oaks Subdivision, Phases I, II and III.

DATE: May 5, 2003

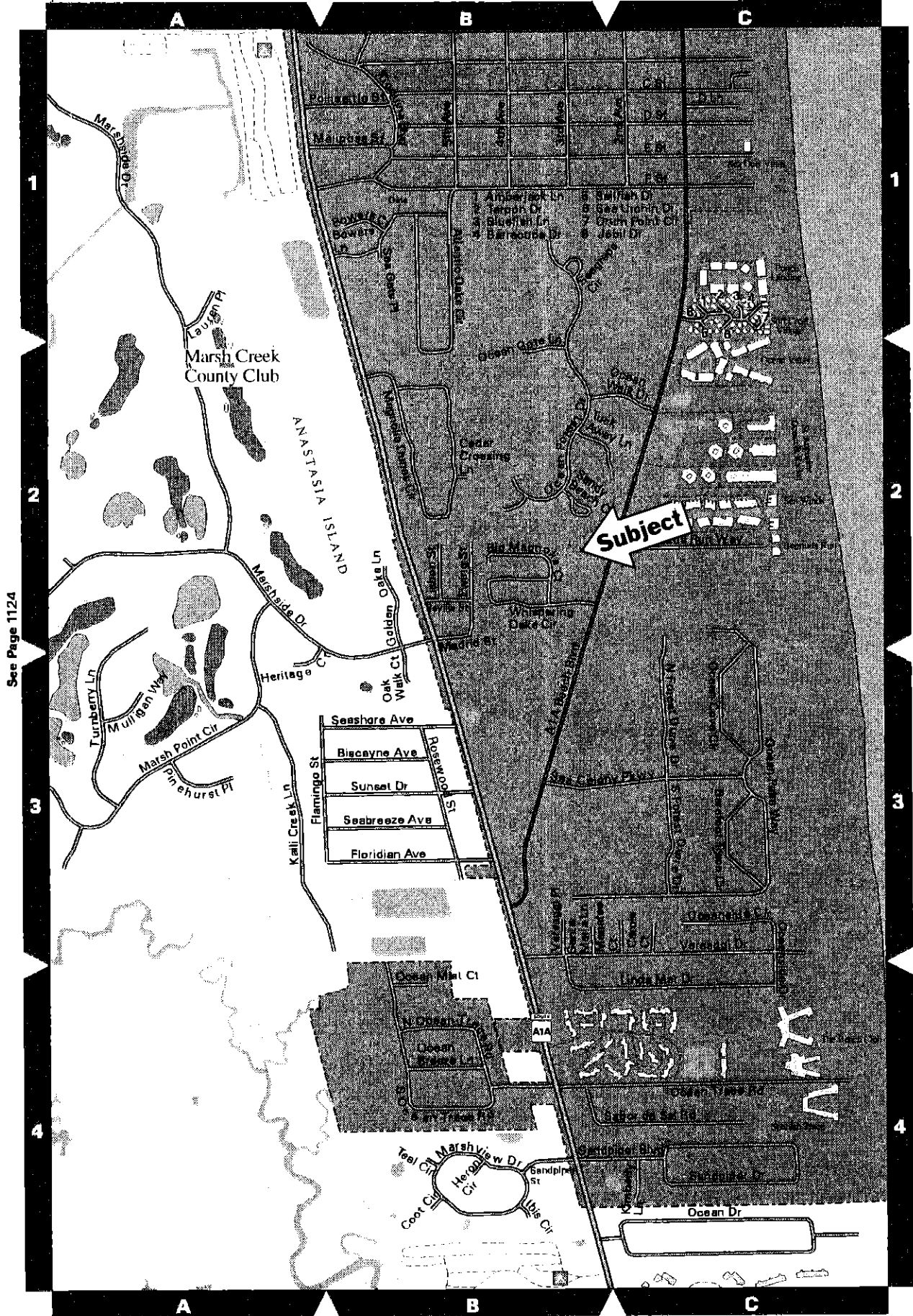
Please find attached the executed Easement For Utilities and Bill of Sale documents including the Real Property described on Exhibit A for the above mentioned subject development.

Also enclosed, are the schedule of utility construction values and Ronald Pacetti's utility easement appraisal reports for Phases I, II & III. These easements are for the sewer collection lines including a sewage lift station which were installed in accordance with the St. Johns County manual of Water and Wastewater Design Standards/Specifications and approved by the Florida Department of Environmental Protection for services. The attached documents have been reviewed and approved by the St. Johns County Utility Department.

Please present the easement documents to the Board of County Commissioners for final approval and acceptance.

After acceptance by BCC, please provide the utility department with a copy of the Executed Resolution and a recorded copy of the Easement for Utilities and Bill of Sale for our files.

Your support and cooperation as always are greatly appreciated.



See Page 1124

BILL OF SALE

THAT WHISPERING OAKS HOMEOWNERS ASSOCIATION OF ST. AUGUSTINE BEACH INC., a Florida Non-Profit corporation, conveying its separate non-homestead property, party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) in lawful money and other good and valuable considerations to it paid by ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is c/o Clerk of the Courts, Post Office Drawer 349, St. Augustine, Florida 32085, party of the second part, the receipt of which is hereby acknowledged by it, has granted, bargained, sold, transferred, set over and delivered unto the party of the second part, the extension to the Utility System (constructed by the party of the first part) of the sewer collection lines and sewage lift station located on the following described real property:

Whispering Oaks, Phase I, Recorded in Map Book 34, Pages 11 through 13.

Whispering Oaks, Phase II, Recorded in Map Book 36, Pages 79 through 80.

Whispering Oaks, Phase III, Recorded in Map book 41, pages 18 through 19 of St. Johns County, Florida,

Party of the first part hereby warrants and represents that it has all the requisite right and authority to make this conveyance, and that the Extension is free from all liens and other encumbrances, and that contractors, subcontractor and material men furnishing labor or materials relative to the construction of the Extension have been paid in full, but except for the foregoing warranties or other expressed warranties given in writing, party of the first part makes no representation or warranties whatsoever, express or implied, and this conveyance as is.

TO HAVE AND TO HOLD the same unto party of the second part, it successors and assigns.

IN WITNESS WHEREOF, the party of the first part has caused this instrument to be executed in his name this 3rd day of May, 2003.

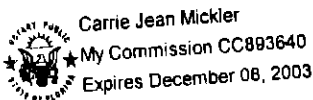
WITNESSES:

Carrie Jean Mickler
Chorner

Whispering Oaks Homeowners Association
of St. Augustine Beach Inc. a Florida
Non-Profit Corporation
By: Robert Parker
Robert Parker, President

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 3rd day of May 2003 by Robert Parker, as President for Whispering Oaks Homeowners Association of St. Augustine Beach, Inc., A Florida Non-Profit Corporation., who is personally known to me..



Carrie Jean Mickler
(Print Name Carrie Jean Mickler)
NOTARY PUBLIC
State of Florida at Large
Commission # CC893640
My Commission Expires: December 8, 2003
7DL Pledg. 700.48.048 J
EX. 2.8.07