

RESOLUTION NO. 2003- 148

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR WATER AND SEWER SERVICE TO MARSHALL CREEK VILLAGE CENTER UNIT TWO SUBDIVISION SWIM AND FITNESS CENTER AND ACCEPTING A BILL OF SALE CONVEYING ALL PERSONAL PROPERTY ASSOCIATED WITH THE WATER AND SEWER SYSTEM.**

**RECITALS**

**WHEREAS**, Marshall Creek, Ltd., a Florida Limited Partnership, 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 water and sewer service to Marshall Creek Village Center Unit Two Subdivision Swim and Fitness Center; and

**WHEREAS**, Marshall Creek Community Development District the Bill of Sale conveying all personal property associated with the water and sewer system has also been executed and is attached hereto as Exhibit "B", the Utility Appraisal Report value page is included as Exhibit "C", incorporated by reference and made a part hereof. Upon the passage of this Resolution, the Complete Appraisal Summary Report will be submitted to the St. Johns County Finance Division to comply with the Government Accounting Standards Board 34 Finance Rule; and

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

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

**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 attached and incorporated hereto, is hereby accepted.

Section 3. The Clerk of the 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 12<sup>th</sup> day of August, 2003.

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

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

ATTEST: Cheryl Strickland, Clerk

Patricia Alexander  
Deputy Clerk

RENDITION DATE 8-19-03



PREPARED BY:

KATHRYN F. WHITTINGTON, ESQ.  
PAPPAS METCALF JENKS & MILLER, P.A.  
245 RIVERSIDE AVENUE, # 400  
JACKSONVILLE, FL 32202

**EASEMENT FOR UTILITIES**  
**(MARSHALL CREEK)**

**VILLAGE CENTER UNIT TWO**  
**Swim and Fitness Center**

THIS EASEMENT executed and given this 6<sup>th</sup> day of June, 2003 by **MARSHALL CREEK, LTD.**, a Florida limited partnership, whose address is 7502-B US Highway 1 North, St. Augustine, Florida 32095, 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 water distribution system and sewer collection system, (including lift stations if applicable) and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer utility services (hereinafter referred to as "Utility Lines and Associated Equipment") over and upon the real property described on Exhibit A attached hereto containing an area of approximately 0.48 acres (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 water and sewer utility services 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, if any.

(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 Utility 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 water and sewer utility 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 recordable 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 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. The Grantee shall maintain all water mains and other elements of the water distribution system up to and including the water meter or meters. Grantor or Grantor's successors and assigns shall be responsible for maintaining any water lines between the water meter and the improvements served by the utility system.

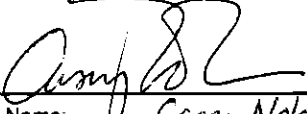
3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or other similar surface improvements. 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.

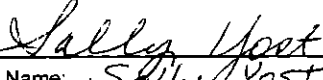
4. This Grant of Easement shall inure to the benefit of and be binding upon Grantee and its successors and assigns.

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:

  
Print Name: Casey Nolan

  
Print Name: Sally Yost


MARSHALL CREEK, LTD., a Florida limited partnership

By: HINES/MARSHALL CREEK, LTD., a Florida limited partnership, as its sole general partner

By: HINES MANAGEMENT, L.L.C., a Delaware limited liability company, as its sole general partner

By: Hines Interests Limited Partnership, a Delaware limited partnership, its sole member

By: Hines Holdings, Inc., a Texas corporation, as its sole general partner

By:   
Print: MICHAEL T. HARRISON  
Its: SENIOR VICE PRESIDENT  
Address: 5 Ravinia Drive MT  
Atlanta, GA 30346



# EXHIBIT "A" to Easement

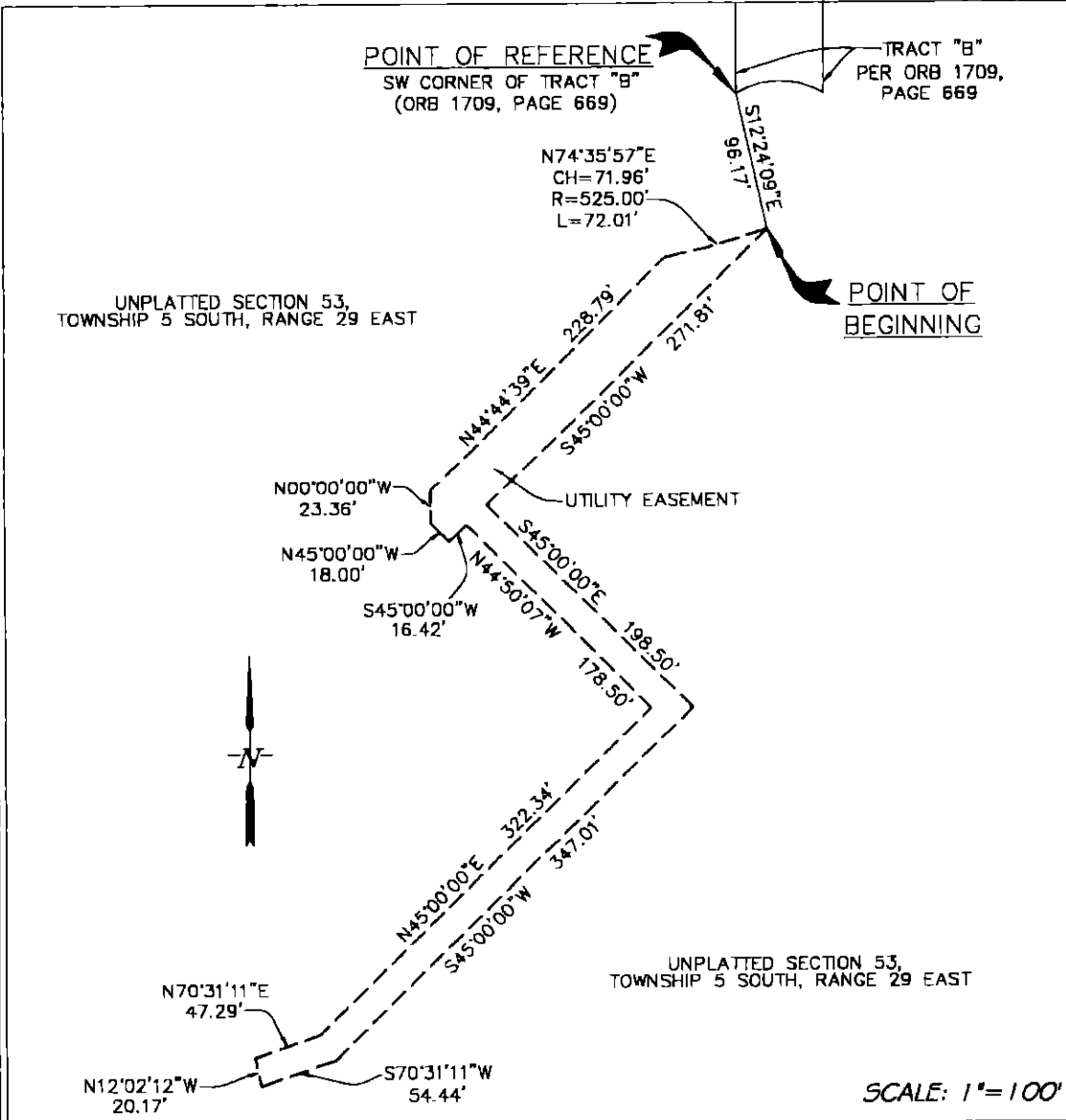
## SKETCH AND LEGAL DESCRIPTION OF

### LEGAL DESCRIPTION: UTILITY EASEMENT

A PORTION OF THE THERESA MARSHALL GRANT, SECTION 53, TOWNSHIP 5 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF LANDS DESCRIBED AS TRACT "B", ACCORDING TO DEED RECORDED IN BOOK 1709, PAGE 669 OF THE OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH 12°24'09" EAST, 96.17 FEET TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED, THENCE SOUTH 45°00'00" WEST, 271.81 FEET; THENCE SOUTH 45°00'00" EAST, 198.50 FEET; THENCE SOUTH 45°00'00" WEST, 347.01 FEET; THENCE SOUTH 70°31'11" WEST, 54.44 FEET; THENCE NORTH 12°02'12" WEST, 20.17 FEET; THENCE NORTH 70°31'11" EAST, 47.29 FEET; THENCE NORTH 45°00'00" EAST, 322.34 FEET; THENCE NORTH 44°50'07" WEST, 178.50 FEET; THENCE SOUTH 45°00'00" WEST, 16.42 FEET; THENCE NORTH 45°00'00" WEST, 18.00 FEET; THENCE NORTH 00°00'00" WEST, 23.36 FEET; THENCE NORTH 44°44'39" EAST, 228.79 FEET; THENCE IN AN EASTERLY DIRECTION, ALONG THE ARC OF A CURVE, SAID CURVE BEING CONCAVE NORTHERLY AND HAVING A RADIUS OF 525.00 FEET. A CHORD BEARING AND DISTANCE OF NORTH 74°35'57" EAST, 71.96 FEET TO THE POINT OF BEGINNING.

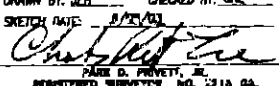
THE LAND THUS DESCRIBED CONTAINS 0.48 ACRES, MORE OR LESS.



#### NOTES:

- 1) BEARINGS SHOWN HEREON REFER TO STATE PLANE COORDINATES (FLORIDA EAST ZONE).
- 2) THIS IS NOT A SURVEY. THE SPECIFIC PURPOSE OF THIS SKETCH IS TO ACCOMPANY LEGAL DESCRIPTION OF A PROPOSED UTILITY EASEMENT FOR THE MARSHALL CREEK DEVELOPMENT.

VILLAGE\_TWO\_tract h utility easement.dwg 6-5-03 8:03:13 am EST

DRAWN BY: JCH CHECKED BY: CRJ  
 SKETCH DATE: 8/25/03  
  
 CHARLES H. PRIVETT, JR.  
 REGISTERED SURVEYOR NO. 2218 GA.  
 REGISTERED SURVEYOR & MAPPER NO. 9841 FL.  
 DANIEL R. LEE  
 REGISTERED SURVEYOR & MAPPER NO. 4774 FL.  
 REGISTERED SURVEYOR & MAPPER NO. 5818 FL.



**PRIVETT & ASSOC.  
OF FLORIDA, INC.**  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 2732 TOWNSEND BOULEVARD  
 JACKSONVILLE, FLORIDA, 32211  
 (904) 743-7858 LB No.4822

Exhibit "B" to Resolution

**BILL OF SALE**

**UTILITY IMPROVEMENTS  
FOR MARSHALL CREEK DRI**

**VILLAGE CENTER UNIT TWO  
[ Swim & Fitness Center ]**

The Marshall Creek Community Development District, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, and located in St. Johns County, Florida (the "District"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, transfers, and delivers to **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, the following personal property:

The personal property, fixtures and equipment comprising the sewage collection and potable water distribution system (the "Improvements") for Improvements within the project. All of the Improvements are included on the approved construction plan drawings prepared by Prosser Hallock, Inc., titled Marshall Creek DRI Village Center Unit Two issued for construction on November 15, 2002, and marked approved by St. Johns County on October 21, 2002 (the "Plans"). The Improvements lie within the real property described on the attached Exhibit "A." Said personal property, fixtures and equipment being more particularly described on the attached Exhibit "B."

The District does, for itself and its successors and assigns, covenant to and with St. Johns County and its successors and assigns, that it is the lawful owner of said personal property; that the personal property is free of all encumbrances; that it has good right to sell the same; and that it will warrant and defend the sale of the personal property against the lawful claims and demands of all persons.

**IN WITNESS WHEREOF**, the District has caused this instrument to be duly executed and delivered by its duly authorized officer on this 9 day of June, 2003.

**MARSHALL CREEK COMMUNITY  
DEVELOPMENT DISTRICT**



Its: Chairman

Print: Walter R. O'Shea



Its: Assistant Secretary

Print: DONNA PASSMORE

# EXHIBIT "A" to Bill of Sale

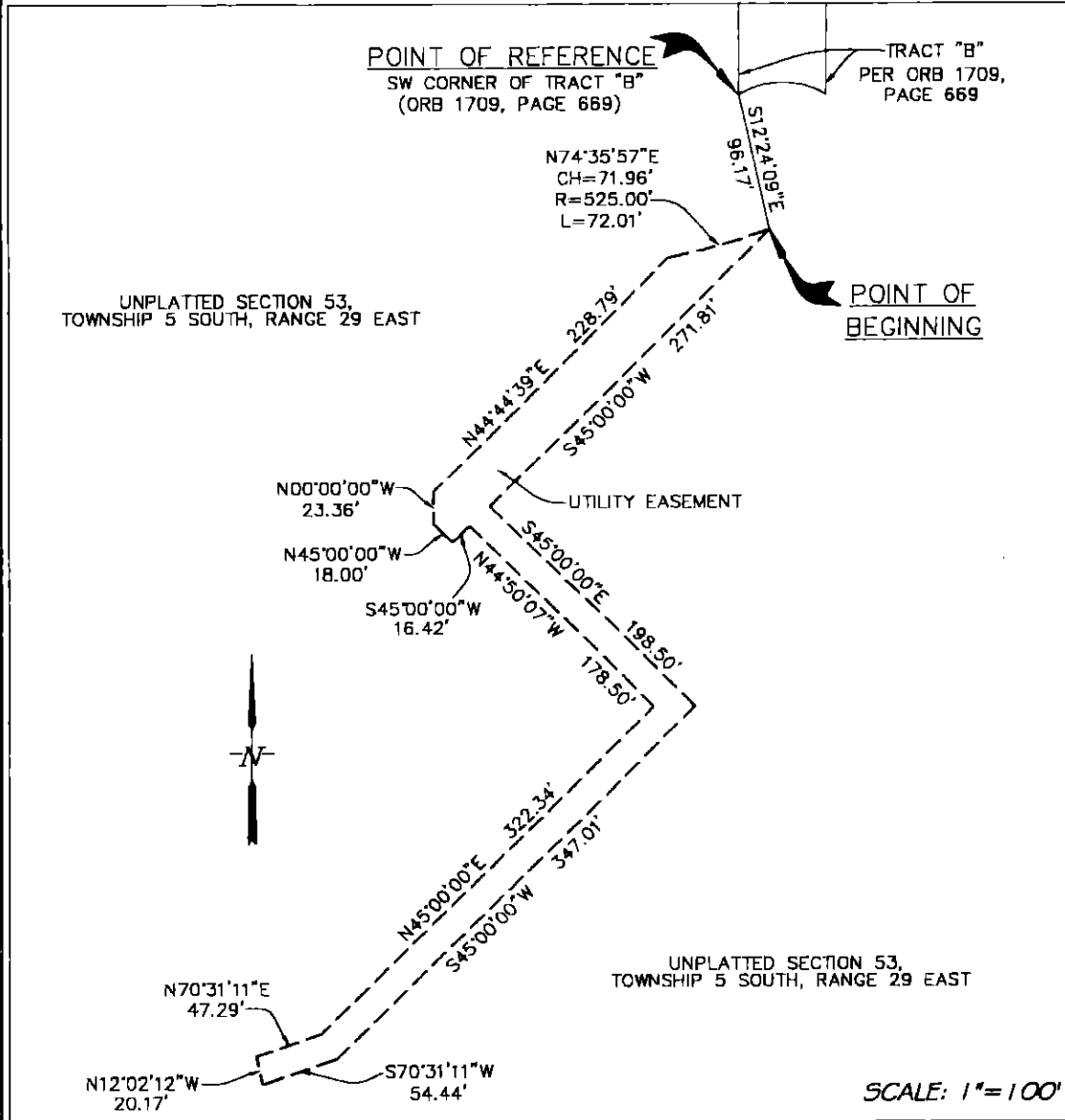
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THE LAND THUS DESCRIBED CONTAINS 0.48 ACRES, MORE OR LESS.



- NOTES:**
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DRAWN BY: JEH CHECKED BY: GRL  
 SKETCH DATE: 6/20/03  
*Charles H. Lee*  
 FAME D. PRIVETT, JR.  
 REGISTERED SURVEYOR NO. 2118 SA.  
 REGISTERED SURVEYOR & MAPPER NO. 3961 FL.  
 JOHN E. JAMES  
 REGISTERED SURVEYOR & MAPPER NO. 4274 FL.  
 CHARLES H. LEE  
 REGISTERED SURVEYOR & MAPPER NO. 3818 FL.



**PRIVETT & ASSOC.**  
**OF FLORIDA, INC.**  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 2732 TOWNSEND BOULEVARD  
 JACKSONVILLE, FLORIDA, 32211  
 (904) 743-7858 LB No.4822

**EXHIBIT "B"** to Bill of Sale

SCHEDULE of VALUES  
 BILL of SALE  
 Palencia Swim and Fitness

03-Jun-03

Furnish & Install	Quantity	Unit	Unit Cost	Total Cost
<b>WATER DISTRIBUTION</b>				
8" DR25 pipe	270	LF	\$31.00	\$8,370.00
2" water service	2	EA	\$3,000.00	\$6,000.00
8" GV	1	EA	\$3,500.00	\$3,500.00
steel casing	1	EA	\$1,150.33	\$1,150.33
<b>TOTAL WATER</b>				<b>\$19,020.33</b>
<b>SANITARY SEWER</b>				
SDR 35 PVC \ 8"	351	lf	\$33.00	\$11,583.00
Sewer Manhole(s)	1	ea	\$3,549.75	\$3,549.75
Sewer Services	1	ea	\$1,200.00	\$1,200.00
<b>TOTAL SANITARY SEWER</b>				<b>\$16,332.75</b>
<b>LIFT STATION \ FORCE MAIN</b>				
	0	ea	\$0.00	\$0.00
	0	lf	\$0.00	\$0.00
	0	ea	\$0.00	\$0.00
<b>TOTAL LIFT STATION \ FM</b>				<b>\$0.00</b>
<b>TOTAL</b>				<b>\$35,353.08</b>

**CRENSHAW • WILLIAMS APPRAISAL COMPANY**  
**REAL ESTATE APPRAISERS - CONSULTANTS**  
**5150 BELFORT ROAD SOUTH, BUILDING 600, SUITE B**  
**JACKSONVILLE, FLORIDA 32256**

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ROBERT D. CRENSHAW, MAI

President

Florida State-Certified General Appraiser 0000719

Georgia State-Certified General Appraiser CG202536

J. Mark Williams

Vice President

Florida State-Certified General

Appraiser 0001501

Deborah L. Carvi, SRA

Florida State-Certified General

Appraiser 0001572

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June 14, 2003

Mr. Michael Taylor  
Asst. Construction Manger  
Palencia  
7502-B US Highway 1 North  
St. Augustine, Florida 32095-8401

Re: Appraisal of the Utility Easement (Village Center Unit Two Swim & Fitness Center) in the Marshall Creek Subdivision containing 0.48 acres of land within the Palencia golf and country club in the Northeast Planning District of St. Johns County, St. Augustine, Florida 32095

Dear Mr. Taylor:

As requested, I have prepared a limited restricted appraisal of the utilities easement for located within the roadway for the Marshall Creek Subdivision.

The subject property is a utility easement containing 0.48 acres of land. It is dedicated as an easement area for water and sewer utility services within the Marshall Creek Subdivision and is considered to be entirely usable. The property is located within Palencia, a gated golf and country club community located along the west bank of the Intracoastal Waterway.

The value is for a non-exclusive permanent easement and right of way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground water distribution system and sewer collection system, including lift stations and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer collection system, over and upon the real property containing 0.48 acres together with rights of ingress and egress on and over the easement.

This appraisal has been prepared in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation.

This appraisal was not rendered on the basis of a requested minimum valuation, specific valuation, or an amount, which would result in the approval of a loan.

Page Two  
June 14, 2003

Subject to the definition of market value as set forth in this report, as well as the General Assumptions and Limiting Conditions, it is our opinion the value of the easement as of June 13, 2003 is as follows:

Value of the 0.48 Acre Utility Easement in Marshall Creek (Swim & Fitness Center)	<u>\$3,600.00</u> \$3,600.00
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Thank you for the opportunity to have been of service to you in this matter.

Respectfully submitted,

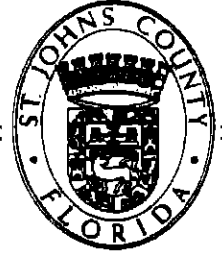
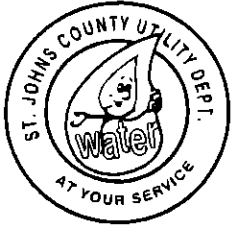
Crenshaw • Williams Appraisal Company



Robert D. Crenshaw, MAI  
State-Certified General Real  
Estate Appraiser No. RZ709

# ST. JOHNS COUNTY, FLORIDA

## Board of County Commissioners



P.O. Box 3006

St. Augustine, Florida 32085-3006

Phone: (904) 471-2161 • Toll Free: 1-877-837-2311

Administrative Fax: (904) 461-7619

Billing Dept. Fax: (904) 461-3995

June 24, 2003

St. Johns County Real Estate Department  
Attn: Nanette Bradbury  
Real Estate Coordinator  
P.O. Box 349  
St. Augustine, FL 32095-0349

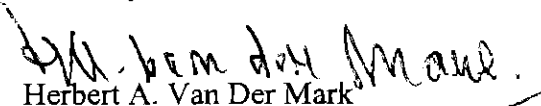
**RE: Easement for Utilities and Bill of Sale for Water and Wastewater  
Infrastructure for Marshall Creek DRI – Village Center Unit Two.**

Dear Ms. Bradbury:

This is in reference to the transmittal letter to you, dated June 10, 2003 from Kathryn F. Whittington of the law firm, Pappas Metcalf Jenks & Miller.

Please be informed that we have reviewed and approved the reference documents for the utility easements. Please submit to the Board of County Commissioners for their final approval and acceptance.

Sincerely,

  
Herbert A. Van Der Mark  
Construction Manager of Utilities  
St. Johns County

cc: Kathryn F. Whittington , fax : 904-353-1980