

RESOLUTION NO. 2003- 168

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 UNIT EV-2/SV-1 UNIT ONE SUBDIVISION AND ACCEPTING A BILL OF SALE CONVEYING ALL PERSONAL PROPERTY ASSOCIATED WITH THE WATER AND SEWER SYSTEM.

RECITALS

WHEREAS, Marshall Creek, Ltd., 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 Unit EV-2/SV-1 Unit One Subdivision; and

WHEREAS, Marshall Creek Community Development District has executed and presented the Bill of Sale conveying all personal property associated with the water and sewer system 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 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 9th day of September, 2003.

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

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

ATTEST: Cheryl Strickland, Clerk

Patricia A. Grande
Deputy Clerk

RENDITION DATE 9-12-03



Exhibit "A" to Resolution

PREPARED BY:

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

EASEMENT FOR UTILITIES
(MARSHALL CREEK)
Unit EV-2/SV-1 Unit One

THIS EASEMENT executed and given this 16th day of May, 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 5.14 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.

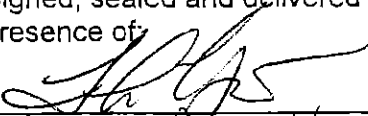
3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, 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.

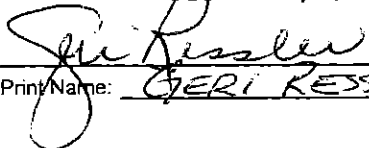
4. This Grant of Easement shall inure to the benefit of and be binding upon Grantee and its successors and assigns.

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: TRICIA HARRISON


Print Name: GERI RESSLER

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: Michael T. Harrison
Print: Michael T. Harrison
Its: Sr. Vice President
Address: 5 Ravinia Drive
Atlanta, GA 30346

EXHIBIT A to Easement

Easement Area

HICKORY HILL DRIVE AND NORTH RIVER DRIVE, ALL PART OF MARSHALL CREEK DRI UNIT EV-2/SV-1 UNIT ONE PLAT, RECORDED IN MAP BOOK 44, PAGES 42 THROUGH 46 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

BILL OF SALE

**UTILITY IMPROVEMENTS
FOR MARSHALL CREEK
[Parcel EV-2/SV-1 Unit One]**

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) 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 Parcel EV-2/SV-1 Unit One issued for construction on April 2, 2002, and marked approved by St. Johns County on April 2, 2002, (the "Plans"). All of the Improvements are lying within the right-of-way of Hickory Hill Drive and North River Drive, all a part of the plat of Marshall Creek DRI Unit EV-2/SV-1 Unit One Plat recorded in Map Book 44, pages 42 through 46 of the public records of St. Johns County, Florida. Said personal property, fixtures and equipment being more particularly described on the attached Schedule A.

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 14 day of May, 2003.

**MARSHALL CREEK COMMUNITY
DEVELOPMENT DISTRICT**


Its: Chairman

Print: Walter R. O'Shea


Its: Assistant Secretary

Print: DONNA PASSMORE

2/5/03

Andy Campbell

05-Feb-03

SCHEDULE of VALUES
 BILL of SALE
 Marshall Creek
 EV - 2

SCHEDULE A to Bill of Sale

Furnish & Install	Quantity	Unit	Unit Cost	Total Cost
WATER DISTRIBUTION				
6"DR25 pipe	261	LF	\$14.74	\$3,847
8"DR25 pipe	2680	LF	\$18.30	\$49,044
12" DR25 pipe	1140	LF	\$25.00	\$28,500
fire hydrants	6	EA	\$3,676.24	\$22,057
		EA		\$0
		EA		\$0
	0	EA	\$0.00	\$0
TOTAL WATER				\$103,449
SANITARY SEWER				
SDR 35 PVC \ 8"	1586	If	\$12.11	\$19,206
SDR 26 PVC \ 8"	1756	If	\$16.25	\$28,535
Sewer Manhole(s)	29	ea	\$3,451.00	\$100,079
Wyes	28	ea	\$180.00	\$5,040
TOTAL SANITARY SEWER				\$152,860
LIFT STATION \ FORCE MAIN				
		ea		\$0
		If		\$0
		ea	\$0.00	\$0
TOTAL LIFT STATION FM				\$0
TOTAL				\$256,309

11:01 AM

V.J. Usina Contracting Inc.

BILL OF SALE ANDY

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

ROBERT D. CRENSHAW, MAI
President
Florida State-Certified General Appraiser 0000709
Georgia State-Certified General Appraiser CG002546

J. Mark Williams
Vice President
Florida State-Certified General
Appraiser 0001501

Deborah L. Carvi, SRA
Florida State-Certified General
Appraiser 0001522

May 29, 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 (Unit EV-2/SV-1) in the Marshall Creek Subdivision located in a 5.14 acre land parcel 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 contained within a 5.14± gross acre land parcel. It is dedicated as an easement area for water and sewer utility services. The land area is currently being used for the roads 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 5.14 acres.

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
May 29, 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 May 22, 2003 is as follows:

Value of the Utility Easement in Marshall Creek (EV2/SV-1)	<u>\$39,000.00</u>
---	--------------------

Thank you for the opportunity to have been of service to you in this matter.

Respectfully submitted,

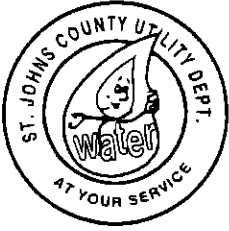
Crenshaw • Williams Appraisal Company



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

August 14, 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 , Parcel EV-2/SV-1 Unit one.**

Dear Ms. Bradbury:

This is in reference to the transmittal letter to you, dated May 28, 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 : 904-353-5217

8

AGENDA ITEM
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

Deadline for Submission - Monday 9 a.m. - One Week Prior to BCC Meeting

September 9, 2003

BCC MEETING DATE

TO: Ben W. Adams, Jr., County Administrator **DATE:** August 18, 2003

FROM: Mary Ann Blount, Real Estate Manager **PHONE:** 823-2449

SUBJECT OR TITLE: Resolution accepting an Easement for Utilities for water and sewer service to Marshall Creek Unit EV-2/SV-1 Unit One Subdivision and Bill of Sale conveying all personal property associated with the water and sewer system.

					Legal Review			
<u> </u>	BUSINESS ITEM	<u> </u>	BONDS	<u> </u>	PUBLIC HEARING	<u> </u>	ORDINANCE	()
<u> X </u>	CONSENT AGENDA	<u> </u>	APPOINTMENTS	<u> </u>	BID AWARD	<u> X </u>	RESOLUTION	(MDH)
<u> </u>	WORKSHOP	<u> </u>	REPORT	<u> </u>	EX PARTE COMMUNICATIONS	<u> </u>	CONTRACT	()
							BONDS	()

BACKGROUND INFORMATION: (Attach additional pages if necessary)

Marshall Creek, Ltd., has presented to the County an Easement for Utilities for water and sewer service to Marshall Creek Unit EV-2/SV-1 Unit One Subdivision. The Bill of Sale conveying all personal property associated with the water and sewer system has also been executed by Marshall Creek Community Development District and included with this Agenda Package.

St. Johns County Utility Department has reviewed and approved the documents mentioned above as stated in a memo also included in this Agenda Package.

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.

IF FUNDING IS REQUIRED, INDICATE THE SOURCE OF FUNDS & IF BUDGETED **YES** X **NO**

Source:

SUGGESTED MOTION/RECOMMENDATION/ACTION:

Motion to Adopt Resolution No. 2003- 168 accepting an Easement for Utilities for water and sewer service to Marshall Creek Unit EV-2/SV-1 Unit One Subdivision and a Bill of Sale conveying all personal property associated with the water and sewer system.

Administration: **Initials**

 X **FORWARDED TO BCC** X **SUPPORTING MATERIAL ATTACHED**