

RESOLUTION NO. 2004- 229

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 MUB-4 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 MUB-4 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"; and

WHEREAS, St. Johns County Utility Department has reviewed and approved the documents mentioned above, as stated in a memo 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 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 by the Board of County Commissioners.

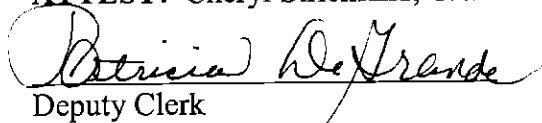
Section 3. The Clerk of the Circuit Court is instructed to record the original Easement for Utilities and file the Bill of Sale in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 15th day of September, 2004.

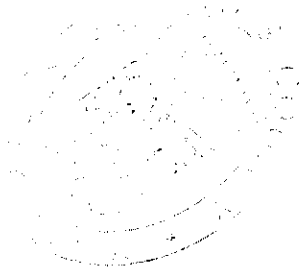
**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk


Deputy Clerk

RENDITION DATE 9-17-04



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 MUB-4

THIS EASEMENT executed and given this 12 day of August, 2004 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 6.63 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.

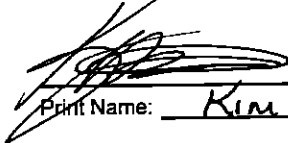
4. This Grant of Easement shall inure to the benefit of and be binding upon Grantee and its successors and assigns.

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: CHEHALIS A. PITMAN


Print Name: KIM M. KRAMER

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
Atlanta, GA 30346 MT

EXHIBIT A to Easement

Easement Area

OAK COMMON AVENUE, SEBASTIAN SQUARE, KENDALL BROOK LANE,
McKENZIE OAK LANE AND TRACT "C" AS SHOWN ON THE MARSHALL CREEK
DRI UNIT MUB-4 PLAT RECORDED IN MAP BOOK 50, PAGES 35 THROUGH 39
OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

BILL OF SALE

**UTILITY IMPROVEMENTS
FOR MARSHALL CREEK**

[Unit MUB-4]

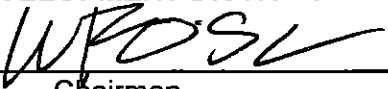
The Marshall Creek Community Development District, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, and located in St. Johns County, Florida (the "District"), for and in consideration of the sum of Ten and No/100 Dollars (\$10) and other good and valuable 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 "Palencia (Marshall Creek) Parcel MUB-4" issued for construction on July 15, 2003 and marked approved by St. Johns County on April 19, 2002 (the "Plans"). All of the Improvements are lying within the right-of-way of Oak Common Avenue, Sebastian Square, Kendall Brook Lane, McKenzie Oak Lane and Tract "C", as shown on the Marshall Creek DRI Unit MUB-4 Plat recorded in Map Book 50, pages 35 through 39 of the public records of St. Johns County, Florida. Said personal property, fixtures and equipment being more particularly described on the attached Schedule A.

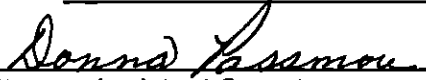
The District does, for itself and its successors and assigns, covenant to and with St. Johns County and its successors and assigns, that it is the lawful owner of said personal property; that the personal property is free of all encumbrances; that it has good right to sell the same; and that it will 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 12th day of August, 2004.

**MARSHALL CREEK COMMUNITY
DEVELOPMENT DISTRICT**



Its: Chairman
Print: Walter R. O'Shea



Its: Assistant Secretary
Print: DONNA PASSMORE

SCHEDULE of VALUES
 BILL of SALE
 MUB-4 - Palencia

Andy Campbell

18-Jun-04

Furnish & Install

WATER DISTRIBUTION

	Quantity	Unit	Unit Cost	Total Cost
8" DR25	5859	LF	\$13.00	\$76,167
6" DR25	100	lf	\$10.03	\$1,003
8" Gatevalve	14	ea	\$600.00	\$8,400
6" Gatevalve	9	ea	\$476.00	\$4,284
Fire Hydrant	9	ea	\$1,122.00	\$10,098
Water services	89	ea	\$740.00	\$65,880
TOTAL WATER		ea		\$0
				\$185,812

SANITARY SEWER

8" DR35 (4-8)	1063	lf	\$15.00	\$15,945
8" DR35 (6-8)	588	lf	\$17.00	\$9,973
8" DR35 (8-10)	1254	lf	\$19.00	\$23,826
8" DR26 (6-8)	62	lf	\$22.00	\$1,364
8" DR26 (8-10)	1077	lf	\$24.00	\$25,848
8" SR26 (10-12)	478	lf	\$27.00	\$12,952
8" SR26 (12-14)	430	lf	\$29.00	\$12,470
8" DR26 (14-18)	48	lf	\$33.00	\$1,584
6" DR35	3263	lf	\$13.00	\$42,419
Services	88	ea	\$2,713.72	\$238,807
TOTAL SANITARY SEWER		ea		\$0
				\$384,789

LIFT STATION \ FORCE MAIN

Lift Station	1	ea	\$121,132.00	\$121,132
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TOTAL LIFT STATION FM

\$121,132

10-18 AM

V.J. Usina Contracting Inc.

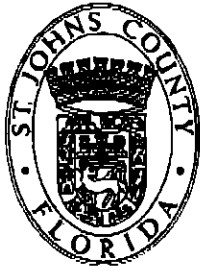
TOTAL

\$671,732
 BILL OF SALE

SCHEDULE "A" to Bill of Sale

Schedule of Values

Exhibit "C" to Resolution



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: Marshall Creek DRI, Unit MUB-4
DATE: August 27, 2004

A handwritten signature in black ink, appearing to read "HAW", is written over the "FROM:" line of the memorandum.

Please be informed that the Utility Department has reviewed and approved the Utility Easement for Unit MUB-4.

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

Your support and cooperation as always are greatly appreciated.