

RESOLUTION NO. 2005- 18

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR LIFT STATION SITE FOR WATER AND SEWER SERVICE TO CROSSWINDS AT PALENCIA SUBDIVISION AND ACCEPTING A BILL OF SALE CONVEYING ALL PERSONAL PROPERTY ASSOCIATED WITH THE WATER AND SEWER SYSTEM.

RECITALS

WHEREAS, Genesis, Ltd., a Florida limited partnership ("Genesis"), and Crosswinds at Palencia, LLC, a Florida limited liability company ("Crosswinds"), have 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 Crosswinds at Palencia; and

WHEREAS, Genesis, Ltd. and Crosswinds, LLC, have executed and presented a Bill of Sale conveying all personal property associated with the water and sewer system, 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 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:

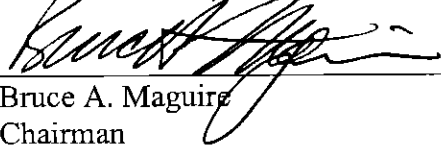
Section 1. The above recitals are incorporated by reference into the body of this Resolution and such recitals are adopted as findings of fact.

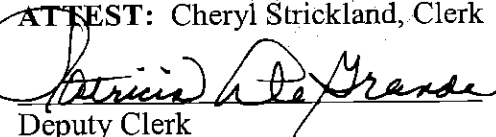
Section 2. The above described Easement for Utilities attached and incorporated hereto, is hereby accepted by the Board of County Commissioners.

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 26th day of January, 2005.

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

By: 
Bruce A. Maguire
Chairman

ATTEST: Cheryl Strickland, Clerk

Deputy Clerk

RENDITION DATE 1-27-05

PREPARED BY:

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

EASEMENT FOR UTILITIES
(MARSHALL CREEK)

December THIS EASEMENT FOR UTILITIES executed and given this 13th day of ~~November~~, 2004 by **GENESIS, LTD.**, a Florida limited partnership, whose address is 7 One San Jose Place, Suite 7, Jacksonville, Florida 3225 ("Genesis") and **CROSSWINDS AT PALENCIA, LLC**, a Florida limited liability company, whose address is 41050 Vincenti Court, Novi, Michigan, 48375 ("Crosswinds") ("Genesis" and "Crosswinds" are hereinafter collectively 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 0.05 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:

Anne G. Lara
Print Name: Anne G. Lara

Donna Passmore
Print Name: Donna Passmore

GENESIS, LTD., a Florida limited partnership

By: H. Smith, Inc., a Florida corporation
Its: General Partner

By: Mary Louise Dungey
Mary Louise Dungey
Vice President

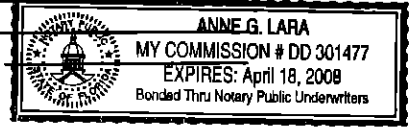
State of Florida

County of Duval

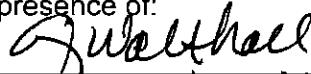
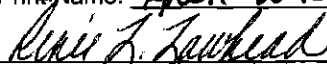
The foregoing instrument was acknowledged before me this 13th day of December, 2004, by Mary Louise Dungey, Vice President of H. Smith, Inc., a Florida corporation, the General Partner of GENESIS, LTD., a Florida limited partnership, on behalf of the Partnership.

Anne G. Lara


Notary Public
Print Name: Anne G. Lara
Commission Number: _____
My commission expires: _____



Signed, sealed and delivered in the presence of:


Print Name: ANJA WALTHALL

Print Name: RENEE L. LAWHAD

CROSSWINDS AT PALENCIA, LLC, a Florida limited liability company


By: 
Bernie Glieberman
President

State of Florida

County of Duval

The foregoing instrument was acknowledged before me this 21 day of November, 2004, by Bernie Glieberman, President of Crosswinds at Palencia, LLC, a Florida limited liability company, on behalf of the Company.

Anja J. Walthall
Notary Public, Wayne County, MI
My Commission Expires April 7, 2005
Acting In Oakland County


Notary Public
Print Name: _____
Commission Number: _____
My commission expires: _____

SKETCH TO FOLLOW LEGAL DESCRIPTION OF:
**A PORTION OF SECTION 4, TOWNSHIP 6 SOUTH, RANGE 29
EAST, ST. JOHNS COUNTY, FLORIDA**

PAGE 1 OF 2

SCALE: 1"=20'
DATE OF SKETCH: 11/24/04

PALENCIA VILLAGE DRIVE
MB 41, PGS. 52-57
(R/W VARIES)

**POINT OF
BEGINNING**

NW'LY CORNER OF
ORB 2006, PG 618

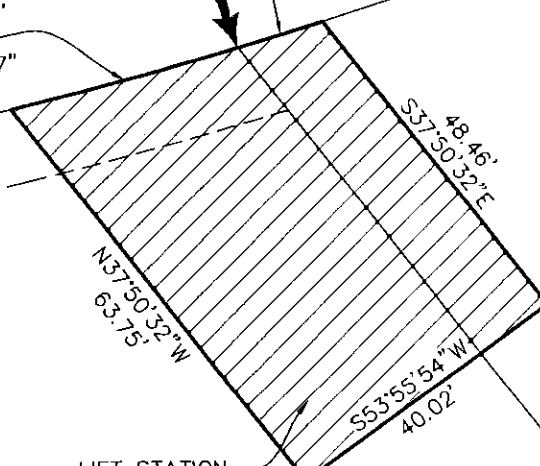
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CH=11.79'
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S'LY R/W LINE

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L=31.50'
D=02°41'37"

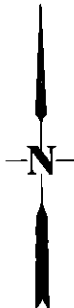
ORB 2006, PG 618

FP&L/UTILITY
EASEMENT



LIFT STATION
±0.05 ACRES

UNPLATTED SECTION 4,
TOWNSHIP 6 SOUTH, RANGE 29 EAST



**GENERAL NOTES &
LEGEND ON
PAGE 2 OF 2**

**NOT VALID WITHOUT
THE SIGNATURE AND
THE OFFICIAL
RAISED SEAL OF A
FLORIDA LICENSED
SURVEYOR & MAPPER**

John M. James

JOHN M. JAMES
REGISTERED SURVEYOR & MAPPER NO. 4774 FL.

CHARLES R. LEE
REGISTERED SURVEYOR & MAPPER NO. 5618 FL.

PRIVETT & ASSOC. OF FLORIDA, INC.
SURVEYORS, MAPPERS AND LAND PLANNERS
2732 TOWNSEND BOULEVARD
JACKSONVILLE, FLORIDA, 32211
(904) 743-7658 LB No.4622

PAGE 2 OF 2

LEGAL DESCRIPTION:

A PORTION OF SECTION 4, TOWNSHIP 6 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR THE POINT OF BEGINNING COMMENCE AT THE NORTHWESTERLY CORNER OF LANDS DESCRIBED IN DEED RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN BOOK 2006, PAGE 618, THE SAME BEING A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF PALENCIA VILLAGE DRIVE (A VARIABLE WIDTH RIGHT-OF-WAY AS NOW ESTABLISHED), ACCORDING TO MAP THEREOF RECORDED IN MAP BOOK 41, PAGES 52 THROUGH 57 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE IN AN EASTERLY DIRECTION, ALONG THE ARC OF A CURVE IN SAID SOUTHERLY RIGHT-OF-WAY LINE, SAID CURVE BEING CONCAVE NORTHERLY AND HAVING A RADIUS OF 670.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 73°15'46" EAST, 11.79 FEET; THENCE SOUTH 37°50'32" EAST, 48.46 FEET; THENCE SOUTH 53°55'54" WEST, 40.02 FEET; THENCE NORTH 37°50'32" WEST, 63.75 FEET TO THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE OF PALENCIA VILLAGE DRIVE; THENCE IN AN EASTERLY DIRECTION, ALONG THE ARC OF A CURVE IN SAID SOUTHERLY RIGHT-OF-WAY LINE, SAID CURVE BEING CONCAVE NORTHERLY AND HAVING A RADIUS OF 670.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 75°06'49" EAST, 31.49 FEET TO THE POINT OF BEGINNING.

THE LAND THUS DESCRIBED CONTAINS 0.05 ACRES, MORE OR LESS.

NOTES:

- 1) BEARINGS SHOWN HEREON ARE BASED ON STATE PLANE COORDINATES, FLORIDA EAST ZONE.
- 2) THIS IS NOT A BOUNDARY SURVEY. THE SPECIFIC PURPOSE OF THIS SKETCH IS TO ACCOMPANY LEGAL DESCRIPTION SHOWN HEREON.

LEGEND:

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ORV=OFFICIAL RECORDS VOLUME	
PB=PLAT BOOK	MB=MAP BOOK
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PRIVETT & ASSOC. OF FLORIDA, INC.
 SURVEYORS, MAPPERS AND LAND PLANNERS
 2732 TOWNSEND BOULEVARD
 JACKSONVILLE, FLORIDA, 32211
 (904) 743-7658 LB No.4622

BILL OF SALE

**UTILITY IMPROVEMENTS
FOR
CROSSWINDS AT PALENCIA, LLC**

CROSSWINDS AT PALENCIA, LLC, a Florida limited liability company ("Crosswinds"), 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 "Crosswinds at Palencia MUA-1 (Phase 1)" issued for construction on June 25, 2004, and marked approved by St. Johns County on June 25, 2004 (the "Plans"). All of the Improvements are lying within the real property described on **Exhibit "A"** attached hereto. Said personal property, fixtures and equipment being more particularly described on the attached **Exhibit "B"**.

Crosswinds 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, Crosswinds has caused this instrument to be duly executed and delivered by its duly authorized officer on this 29th day of November, 2004.

CROSSWINDS AT PALENCIA, LLC, a Florida limited liability company

By: _____

Bernie Gleberman
Its: President

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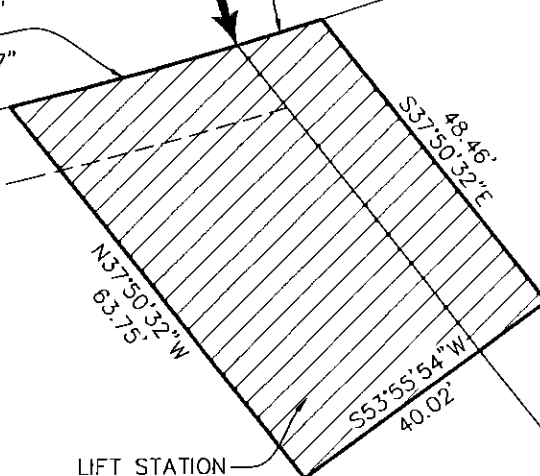
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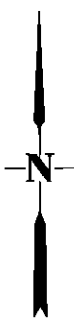
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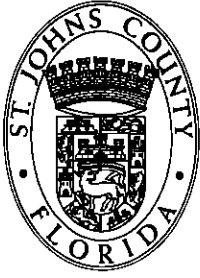
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EXHIBIT "B" TO THE BILL OF SALE

**VOLUSIA
CONSTRUCTION
COMPANY, INC.**
UNDERGROUND UTILITIES

Crosswinds @ Palencia

DESCRIPTION	QUANTITY	UM	UNIT PRICE	TOTAL PRICE
Lift Station	1	LS	125,100.00	125,100.00



ST. JOHNS COUNTY

UTILITY DEPARTMENT

2175 Mizell Road

P.O. Drawer 3006

St. Augustine, Florida 32085-3006

904-471-2161

M E M O R A N D U M

TO: Nanette Bradbury, Real Estate Coordinator
FROM: Debbie Sileo, Construction Tech III DS
SUBJECT: Marshall Creek Easement for Utilities – Crosswinds at Palencia
DATE: January 11, 2005

Please be informed that the Utility Department has reviewed and approved the above subject Utility Easement and Bill of Sale for Crosswinds at Palencia.

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.