

RESOLUTION NO. 2002-22

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR WATER AND SEWER SERVICE TO MARSH CREEK UNIT 17 SUBDIVISION.

WHEREAS, Marsh Creek Development Corporation, Inc. 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 Marsh Creek Unit 17 Subdivision; and

WHEREAS, a 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", 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.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above described Easement for Utilities and Bill of Sale, attached hereto, are hereby accepted.

Section 2. The Clerk is instructed to record the original Easement for Utilities and file the Bill of Sale in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED this 12th day of February, 2002.

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

By: Marc A. Jacalone
Marc A. Jacalone, Chairman

ATTEST: Cheryl Strickland, Clerk

Cheryl Strickland
Deputy Clerk

RENDITION DATE 2/14/2002

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this 17 day of December, 2001, by Marsh Creek Development Corporation, Inc. (owner), with an address of 4314 Pablo Oaks Court, Jacksonville, Florida 32224 (owner address), 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, underground water distribution system and sewer collection system, 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 (the "Easement Area"). 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, including but not limited to those set forth on Exhibit "B" attached hereto;

(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) the 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 shall be responsible for the maintenance of such sewer service laterals located within the remainder of the Easement Area. The sewer service laterals located within the land adjacent to the Easement Area, including within the Lots, will be maintained by the owner of such land. 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 specifically located within the Easement Area.

The Grantee shall maintain all water mains and other elements of the water distribution system up to and including water meters. The owner(s) of the land shall maintain the 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, Grantor, Grantee and their respective 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:

Marsh Creek Development Corporation

Jana E. Downs
Print Name Jana E. Downs

Gregory J. Barbour
By: Gregory J. Barbour
President

Lauren L. Owens
Print Name Lauren L. Owens

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this 17th day of Dec, 2001, by Gregory J. Barbour, as President of Marsh Creek Development Corporation, Inc. on behalf of the Corporation. He is personally known to me.

Lauren L. Owens



Lauren L. Owens
My Commission #CC952724
Expires November 3, 2004
Bonded through Troy Fain Insurance, Inc.

Print Name Lauren L. Owens
State of Florida at large
Commission # _____
My Commission Expires:

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 plat of Marsh Creek Unit Seventeen recorded in the Public Records of St. Johns County, Map Book 42, page 52 through 61. The Easement Area shall not include the driveways to individual homes except for the part of such driveways within the areas designated "utility easement area".

EXHIBIT B

PERMITTED EXCEPTIONS

Marsh Creek Declaration of Covenants, Conditions, Restrictions and Easements recorded in Official Records Book 753, page 1756, as amended in that certain First Amendment to Marsh Creek Declaration of Covenants, Conditions, Restrictions and Easements recorded in Official Records Book 873, page 1212, and as further amended by that certain Second Amendment to Marsh Creek Declaration of Covenants, Conditions, Restrictions and Easements recorded in Official Records Book 1242, page 50, and as supplemented by that certain Supplemental Marsh Creek Declaration of Covenants, Conditions, Restrictions and Easements for Unit Seventeen recorded in the public records of St. Johns County or 1689, page 1566 through 1573.

CONSENT AND JOINDER

Bank of America, a National Banking Association, as holder of that certain Mortgage and Security Agreement recorded in Official Records Book 1143, page 715, Modification of Mortgage, Future Advance and Spreading Agreement recorded in Official Records Book 1155, page 1070, Mortgage Modification Agreement recorded in Official Records Book 1270, page 1028, Mortgage Modification Agreement recorded in Official Records Book 1293, page 1, Mortgage Modification Agreement recorded in Official Records Book 1293, page 12, as re-recorded in Official Records Book 1299, page 1264, Mortgage Modification Agreement recorded in Official Records Book 1367, page 1696, Mortgage Modification Agreement recorded in Official Records Book 1419, page 1857, and Mortgage Modification Agreement recorded in Official Records Book 1483, page 789, between Marsh Creek Development Corporation (the "Mortgagor") and Bank Of America, N.A. (The "Mortgagee"), of the public records of St. Johns County, Florida, encumbering the real property described on the attached Exhibit A, (collectively, Mortgage) has caused this instrument to be signed by its duly authorized officer solely in evidence of its consent and joinder in and to the easement and subordinator of the Mortgage to the terms and conditions of this easement.

Signed, sealed and delivered in the presence of

[Signature]
Print Name JEFF MCGILL
[Signature]
Print Name CINDY BROWN

Bank of America, N.A.

By: [Signature]
Name: Michael Fritsch
Title: Senior Vice President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 17 day of December, 2001, by Michael Fritsch the Sr. VP of Bank of America, a National Banking Association, on behalf of the Mortgagee. He is personally known to the undersigned, or has produced PERSONAL KNOWN as identification.

[Signature]
Print Name: MARY L BROWN
Notary Public - State of Florida
My commission expires: _____
Commission number: _____



December 17, 2001

BILL OF SALE

THAT MARSH CREEK DEVELOPMENT CORPORATION, a Florida 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, receipt of which is hereby acknowledged by it, has granted, bargained, sold, transferred, set over and delivered and by these presents does grant bargain, sell, transfer, set over and deliver unto the party of the second part, the equipment, pipes and conduits constructed by a part of the Utility System (constructed by the party of the first part) and the complete water and wastewater system located on the real property described in Exhibit "A" attached hereto (being hereinafter collectively referred to as the Utility System").

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 Utility System is free from all liens and other encumbrances, and that contractors, subcontractors and materialmen furnishing labor materials relative to the construction of the Utility System 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 the party of the second part, its successors and assigns.

IN WITNESS WHEREOF, the party of the first part has caused this instrument to be executed in his name the day and year first above written.

WITNESS:

Tina Downs
Print Name TINA DOWNS

Lauren L. Owens
Print Name Lauren L. Owens

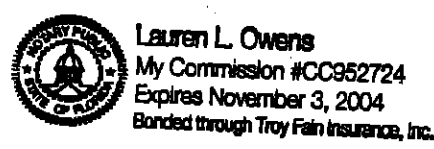
Marsh Creek Development Corporation
a Florida Corporation

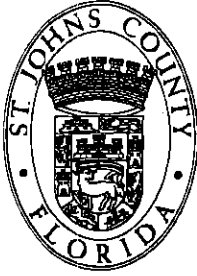
By: *Gregory J. Barbour*
Gregory J. Barbour, President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 17th day of December 2001, by Gregory J. Barbour, President of Marsh Creek Development Corporation, a Florida corporation on behalf of the corporation. He is personally known to me and did not take an oath.

Lauren L. Owens
Print Name: Lauren L. Owens
Notary Public, State of Florida at Large.
My Commission Expires: 11-3-04
Commission No. CC952724






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: Mary Ann Blount, Real Estate Manager
Laurie Braddock, Real Estate Officer

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

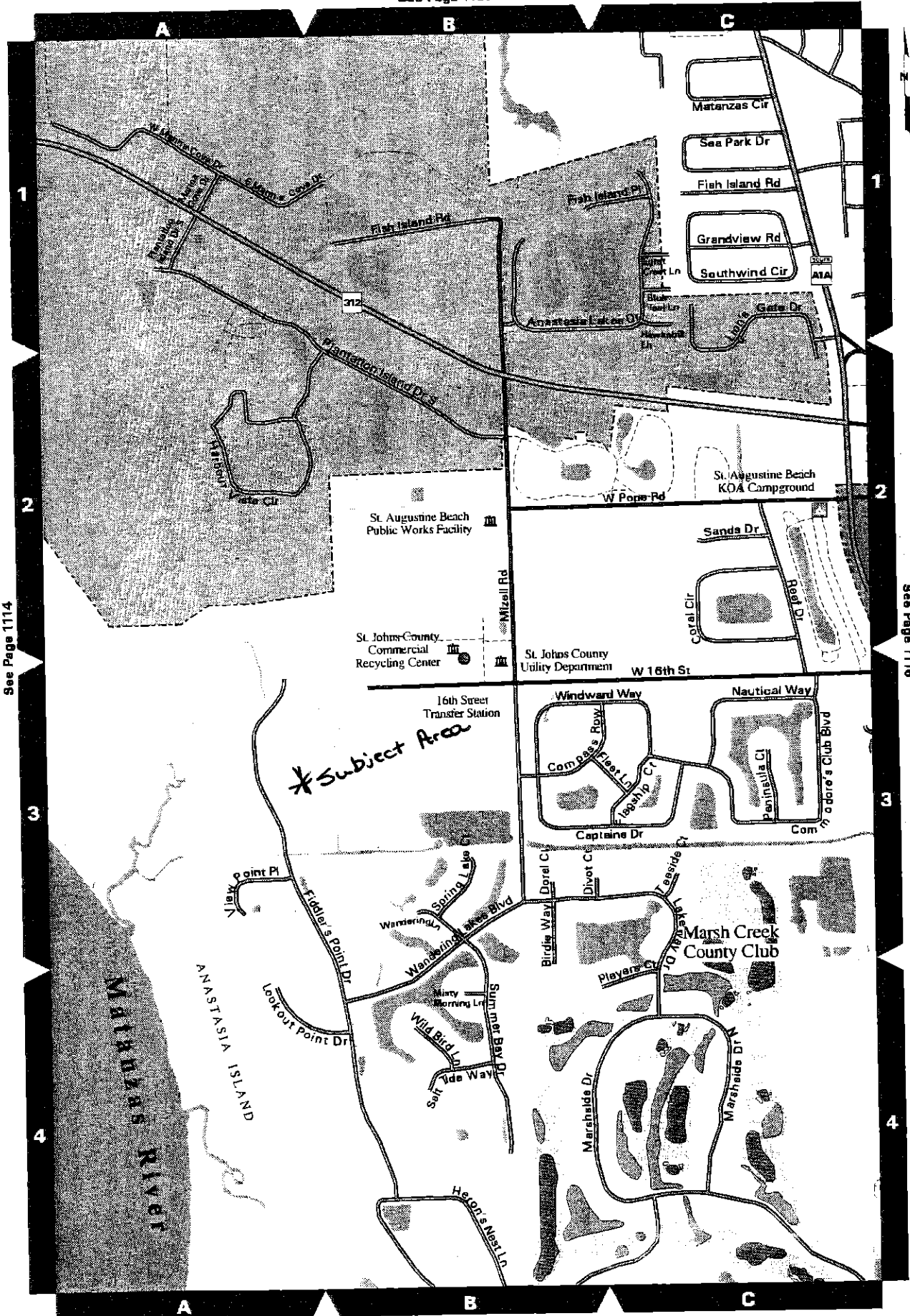
SUBJECT: Marsh Creek Unit 17, Bill of Sale and Easement for Utilities

DATE: January 2, 2002

Please be informed that the water and sewer infrastructure for the subdivision – Marsh Creek Unit 17 has been completed in accordance with the St. Johns County Manual of Water and Wastewater Design Standards and Specifications.

The attached documents, "Easement for Utilities" and "Bill of Sale" have been reviewed by the St. Johns County Utility Department. The Utility Department is in concurrence with the subject easement.

The Florida Department of Environmental Protection – Certification of Construction Completion Forms have been filed with the Florida Department of Environmental Protection and the acceptance letters for placing the systems in service have been received for both water and sewer.



See Page 1114

See Page 1116