

RESOLUTION NO. 2006- 140

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A LICENSE AGREEMENT AUTHORIZING THE UPGRADE OF A COUNTY OWNED MASTER LIFT STATION FACILITY AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE LICENSE AGREEMENT ON BEHALF OF THE COUNTY.

WHEREAS, Marshall Creek, Ltd., a Florida limited partnership, has requested a license, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, authorizing the upgrade of a County owned master lift station facility located on Shannon Road. The land in which the master lift station facility is located on is owned by Marshall Creek, Ltd; and

WHEREAS, the master lift station must be upgraded to meet the increased flows at Palencia and as required by the Florida Department of Environmental Protection and the St. Johns County Land Development Code; and

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

WHEREAS, it is in the best interest of the County to approve this License Agreement to meet the increased demands in Palencia and to comply with code regulations.

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 Board of County Commissioners of St. Johns County hereby approves the terms of the License Agreement and authorizes the County Administrator to execute said Agreement.

Section 3. The Clerk of the Courts of St. Johns County is instructed to record the original License Agreement in the Official Records of St. Johns County, Florida.

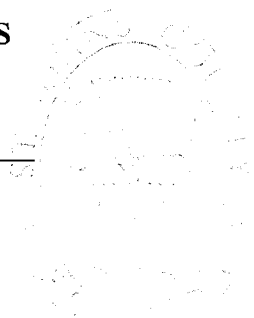
PASSED AND ADOPTED, this 16 day of May, 2006.

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

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

ATTEST: Cheryl Strickland, Clerk
By: Robin L. Reed
Deputy Clerk

RENDITION DATE May 19, 2006



LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made and executed this ____ day of _____, 2006, by and between St. Johns County, Florida, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, hereinafter referred to as the "County", and Marshall Creek, Ltd., a Florida limited partnership, whose address is 605 Palencia Club Drive, St. Augustine, Florida 32095, hereinafter referred to as the "Licensee".

WHEREAS, the Licensee has requested this License authorizing the upgrade of a master lift station facility owned by St. Johns County, however, the land in which the lift station is located is owned by Marshall Creek, Ltd., a Florida limited partnership. The master lift station must be upgraded to meet the increased flows at Palencia and as required by the Florida Department of Environmental Protection and the St. Johns County LDC; and

WHEREAS, the property that contains the master lift station facility is located on Shannon Road and is more fully described as Tract "B" as shown on the Marshall Creek DRI Unit One Plat, as recorded in Map Book 41 Page 52-57 of the public records of St. Johns County, Florida, and shown on the map attached hereto as Exhibit "A", incorporated by reference and made a part hereof, hereinafter the lift station and such land are referred to as the "Facility"; and

WHEREAS, in consideration of the respective agreements of the parties herein contained, the County does hereby license, without warranty, to the Licensee, the temporary use of the Facility for the purpose mentioned above.

1. To use the Facility for term of one (1) year, commencing on the date first above written.
2. Although the Licensee may enter and use the Facility for upgrade of the master lift station, the Licensee shall not be in possession of the Facility. The County shall possess and otherwise control all aspects of use of the Facility.
3. The Licensee shall not be permitted to make or suffer any waste or unlawful, improper or offensive use of Facility.

The Licensee understands that the lift station to be upgraded presently collects sewer flows from the existing residential and commercial communities within the Palencia development and repumps such sewer flows to the manifold system along U.S 1. Any operational, mechanical or electrical malfunctions occurring during construction of upgrades to the master lift station could affect sewer service to these developments.

The Licensee will be responsible for any or all such sewer bypass requirements that could be required due to construction of upgrades to the master lift station.

The licensee or its engineer understands the volume of sewer flows that the master lift station presently collects and will accommodate industry standard and reliable practices for bypass.

4. The County and its agents, servants, and employees shall have and hereby reserve their right and privilege, all reasonable times during the term of this license, to enter said Facility, to examine and inspect the same. The Licensee shall not cause or permit any use of the Facility for other than those uses specifically provided for in this license.
5. The Licensee, in consideration for the use of the Facility, does hereby release and discharge and further will indemnify and save harmless the County from any and all claims for personal injuries or property damages during the existence of this license, arising in any manner by virtue of the use or occupancy of such facility by the Licensee, that the Licensee does hereby further agree to indemnify and save harmless the County from liability for damage, injury or death to any person or persons arising out of the use of said Facility, or from the lack of keeping same in good repair and order, or from the negligent operation of same, or for any other cause for any nature whatsoever, provided such damage, injury or death is not due to County's own negligence.
6. The Licensee's upgrade to the Facility shall conform to and comply with all laws, orders and regulations of the federal, state, county and municipal governments and all of their departments and bureaus.
7. If the Licensee shall fail to comply with or abide by any of the other provisions or stipulations in this license on its part, and such default continues for sixty (60) days, the County may terminate this license and terminate the Licensee's use of said Facility after being notified by certified mail of Licensee's failure to comply with the terms of this license.
8. The waiver of County of any such breach hereof on the part of the Licensee, or any time or from time to time shall not be deemed, held, or construed as a waiver of any subsequent breach, or imply any further indulgence.
9. Licensee reserves the right to terminate this license by giving the County a ninety (90) day notice in writing.
10. The execution of this License Agreement shall not constitute a waiver by either party hereto of any right or claim of right to the subject Facility or to use the subject facility.

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

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

By: _____
Ben W. Adams, Jr. County Administrator

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____

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

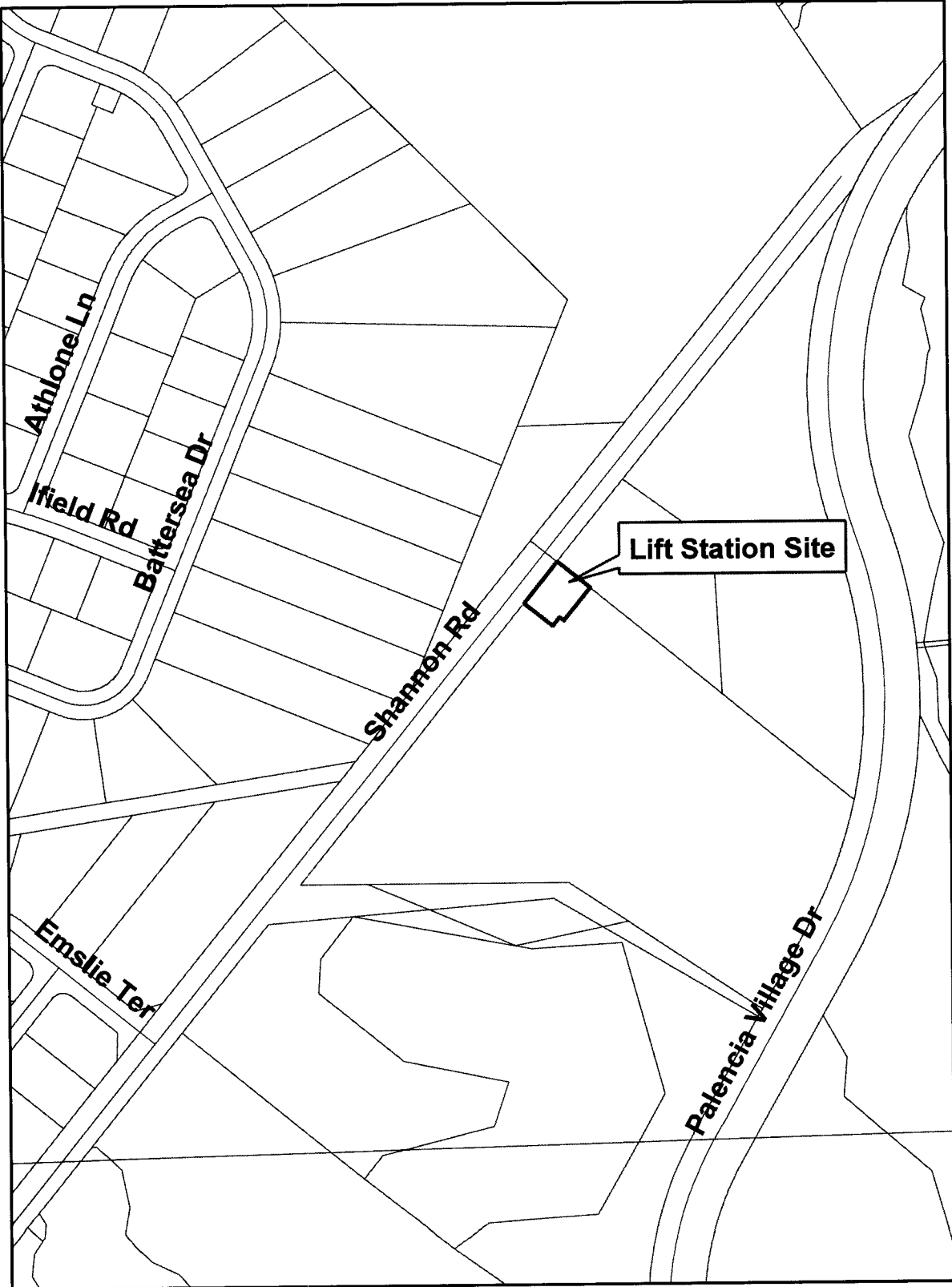
By: Hines Holdings, Inc., a Texas corporation, as its sole general partner

By: _____
Print: _____

Its: _____

Address: 5 Ravinia Drive
Atlanta, GA 30346


Exhibit "A" to License Agreement



Disclaimer: This map is provided by the St. Johns County Real Estate Division and is for estimate purposes only. The Real Estate Division disclaims all responsibility for the accuracy or completeness of data shown herein. Data are from multiple sources with varying degrees of accuracy. This map should not be used for final site-specific land use decisions.



Prepared By:
**St. Johns County
Real Estate Division**





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: Nannette Bradbury, Real Estate
FROM: Neal S Shinkre, P.E, MBA, Utility Engineering Manager
SUBJECT: Authorization for Representation
Palencia Master Lift Station Licensee Agreement
DATE: April 27th 2006

By this memo, I would like to request that you represent the Utility Department in presenting the Licensee Agreement to the BCC for the above mentioned project. As you know, I will also be presenting the contractual agreement with the developer contractor to perform upgrades to the lift station. Let me know if you have any questions.

Your support is most appreciated