

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS  
RESOLUTION NO. 2009-~~370~~  
AN AMENDED AND RESTATED DEVELOPMENT ORDER  
FOR  
MARSHALL CREEK  
A DEVELOPMENT OF REGIONAL IMPACT

LET IT BE KNOWN that, pursuant to Section 380.06 of the Florida Statutes, the St. Johns County Board of County Commissioners heard at a public hearing convened on October 13, 1998, an Application for Development Approval (“ADA”) for Marshall Creek, to be developed in the manner described in the ADA and Response to Request for Additional Information filed by Hines Interest Limited Partnership for said development; and

WHEREAS, the Board of County Commissioners of St. Johns County has previously concluded at duly noticed public hearings five (5) previous Notices of Proposed Change (“NOPC’s”) to the original Development Order, and, in each case considered the report and recommendations of the Northeast Florida Regional Council, the St. Johns County staff, the documents and comments upon the record made before the St. Johns County Board of County Commissioners; and

WHEREAS, the original Development Order was approved by the St. Johns County Board of County Commissioners by Resolution 98-191, and each of the NOPC’S was approved, respectively, by Resolutions 98-220, 2002-103, 2004-24, 2004-154 and 2005-232; and

WHEREAS, Hines Interests Limited Partnership, hereinafter “Applicant” has filed a Notice of Proposed Change dated September 26, 2007 for further amendment to the Development Order; and

WHEREAS, the Board of County Commissioners of St. Johns County, by Resolution, approved Applicant’s request to reflect all approved amendments to the

Development Order since its adoption and to restate the terms and conditions of the Development Order, in full; and

WHEREAS, the Applicant has acquired two of the outparcels surrounded by the DRI known as the "Platt Parcel" containing approximately .92 acres and the "Thomas Parcel" containing approximately 2.40 acres (collectively, the "Added Outparcels") and wishes to incorporate the Added Outparcels into the East Village of the Marshall Creek Development of Regional Impact (the "DRI"); and

WHEREAS, the DRI is a proposed mixed use development located on approximately 2,678 acres located near St. Augustine in St. Johns County, Florida, consisting of approximately 1,353 acres, including the Added Outparcels, as described in the original Development Order and prior NOPCs, together with approximately 1,325 acres of land that was added to the DRI under Resolution 2005-232 (the "Added Lands"), as collectively described in the updated legal description of the DRI set forth on Exhibit "1" attached hereto; and

WHEREAS, Applicant is the Applicant of record for the Marshall Creek DRI;  
and

WHEREAS, the Applicant has previously provided complete copies of the ADA and all information for a sufficiency response to the Florida Department of Community Affairs, Northeast Florida Regional Council, and St. Johns County; and

WHEREAS, the Applicant has provided copies of all previous NOPC's and the current NOPC to the Florida Department of Community Affairs, Northeast Florida Regional Council and St. Johns County; and

WHEREAS, the authorized agent for the Applicant is Pappas Metcalf Jenks & Miller, P.A., 245 Riverside Avenue, Suite 400, Jacksonville, Florida 32202; and

WHEREAS, the ADA was reviewed by the Northeast Florida Regional Council as required by Section 380.06, F.S. (2004), and the Council recommended that the Application be approved, with conditions; and

WHEREAS, the St. Johns County Board of County Commissioners duly noticed and on October 13, 1998, held a public hearing on the application as required by Section 380.06, F.S. (2004), and afforded the public and all affected parties an opportunity to be heard and to present evidence; and

WHEREAS, the St. Johns County Board of County Commissioners has duly noticed and on December 15, 2009, held a public hearing on the NOPC resulting in this Amended and Restated Development Order and afforded the public and all affected parties an opportunity to be heard and present evidence; and

WHEREAS, implementation of the Master Plan for Marshall Creek will create a variety of distinct residential neighborhoods or villages buffered from one another by preserved wetlands, uplands and the golf course with access linkages to a Village Center, conveniently located within walking or biking distance of many of residential neighborhoods; and

WHEREAS, the Village Center, with its recreational, civic and commercial uses, including the golf course clubhouse, sales center, and swim and tennis facility, as well as various housing options, will ultimately be a community focal point and will provide an identity for the project and a community gathering destination for its residents and visitors; and

WHEREAS, the Applicant is seeking to provide a high quality of life for families within the Marshall Creek DRI while protecting the beauty and benefit of the natural characteristics of the property for future generations; and

WHEREAS, The Applicant has assembled a team of engineers, environmental consultants, architects and planners with a history of environmental sensitivity and is committed to design and develop joint strategies with permitting agencies and local government to ensure the protection of water quality of the adjacent Tolomato River and Marshall Creek.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The proposed DRI is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, F.S (2004).
2. The proposed DRI is consistent with the State Comprehensive Plan.
3. The proposed DRI is consistent with the Strategic Regional Policy Plan adopted by the Northeast Florida Regional Council.
4. The original DRI was consistent with the St. Johns County Comprehensive Plan 1990-2005 and the proposed changes are consistent with the St. Johns County Comprehensive Plan 2000-2015 and St. Johns County land development regulations.
5. The proposed DRI is consistent with the Assessment Report and Recommendations of the Northeast Florida Regional Council issued pursuant to Section 380.06, F.S (2004).

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, in public hearing duly constituted and assembled on December 15, 2009, that the Notice of Proposed Change to the Marshall Creek DRI is hereby approved, subject to the following terms and conditions, restated in full:

## GENERAL CONDITIONS

1. **Application For Development Approval.** The DRI shall be developed in accordance with the information, plans and commitments contained in (1) the Marshall Creek DRI ADA dated January 14, 1998, (2) the ADA sufficiency information response dated April 17, 1998, (3) the Master Plan, Map H, dated August 30, 2007, attached as Exhibit "3," and (4) the amendments to the ADA and the ADA sufficiency information response submitted on September 10, 1998 submitted by the Applicant as part of the DRI review prior to adoption of this Development Order under Resolution 98-191 and the amendments to the DRI approved in Resolution Numbers 98-220, 2002-103, 2004-24, 2004-154, and 2005-232, all of which are incorporated by reference except to the extent of any conflict with the express terms of the conditions of the Marshall Creek DRI Development Order.

2. **Land Use Totals.** The DRI may be developed with the following improvements: 45 acres of retail and 31 acres of office use to be developed with 300,000 gross square feet of retail service use, 1,500 retail parking spaces and 300,000 gross square feet of office use; up to 2,774 residential units; 18-hole golf course with normal accessory uses; approximately 45.17 acres of parks; other recreational amenities including a fitness center, swim and tennis center, interpretive environmental center/intracoastal club (as described on page 10-5 of the ADA, as amended by September 10, 1998 amendment), boat ramp, and boat dock, and approximately 733 acres of Regional/Open Space, with not less than 648.8 acres of preserved wetlands. As shown on the Land Use Summary and Comprehensive Plan Compliance Table attached as Exhibit "4", no more than 2,774 residential units and 119,000 square feet of non-residential space may be located within the "Density B" part of the Project and no more than 900 residential units and 600,000 square feet of non-residential space may be located within the "Mixed Use Corridor" part of the Project but in no event shall the total exceed the maximum development authorized by

this Development Order. The foregoing expressions of the allowable density ranges per land use category are not cumulative and are intended to express maximum density limitations on the amount of development per land use category. The Applicant may increase certain land uses and simultaneously decrease other land uses through modification of the Marshall Creek (a/k/a Palencia) PUD Ordinance without filing a Notice of Proposed Change provided that such changes are consistent with the Land Use Exchange Table attached as Exhibit “5.”

(a) At the time of election of a land use trade-off under the Land Use Exchange Table, the Applicant shall submit to St. Johns County any required application for PUD modification and shall notify, in writing, St. Johns County, the Department of Community Affairs (DCA) and the Northeast Florida Regional Council (NEFRC) of the election and shall provide the County, DCA, and NEFRC with cumulative land use totals and remaining allowable quantities. Written notice of the trade-off election shall be given to the DCA and NEFRC at least 30 days before any local government hearing or meeting which may be required for approval of the proposed trade-off.

(b) So long as the trade-off is consistent with the criteria contained in Exhibit “5” and no change is made to the Master Plan, Map H, no additional DRI approvals shall be required for the trade-off. Trade-off elections shall be reported biennially as provided below.

3. **Phasing, Buildout and Expiration of DRI.** The DRI shall be developed in two phases. Phase I shall be June 15, 1998 through June 15, 2008 and Phase II shall be June 16, 2008 through February 28, 2015. Physical development of the DRI has begun. The buildout date for all development is February 28, 2015. The DRI termination and DRI Development Order expiration dates are established as February 28, 2024. Any further extensions of the DRI

buildout, termination or expiration dates shall be governed by the provisions of Section 380.06(19) (C), F.S.

4. **Effective Date.** The original Development Order took effect on October 23, 1998.

5. **Monitoring Official.** The Director of The Growth Management Department of St. Johns County, Florida, or her designee shall be the local official responsible for monitoring the development for compliance by the Applicant with this Development Order.

6. **Downzoning Protection.** The Marshall Creek DRI as approved in this Development Order shall not be subject to downzoning or reduction of approved land uses before February 28, 2024, unless the Applicant consents to such change or St. Johns County demonstrates that substantial changes in the conditions underlying the approval of this development order have occurred, or that the development order was based on substantially inaccurate information provided by the Applicant, or that the change is clearly established by St. Johns County to be essential to the public health, safety and welfare.

7. **Election Regarding Environmental Rules.** Pursuant to Section 380.06(5)(c), F.S. (2004), the Applicant had elected to be bound by the rules adopted pursuant to Chapters 373 and 403 in effect as of the date of the original Development Order, including, but not limited to, the provisions of Section 373.414(13), F.S. The Applicant further elects to be bound by the rules adopted pursuant to Chapters 373 and 403 in effect as of the date of this Amended and Restated Development Order for the Added Lands. Such rules shall be applicable to all application for permits pursuant to those chapters which are necessary for and consistent with the development authorized in this Amended and Restated Development Order, except that a later-adopted rule shall be applicable to an application if:

- i. the later adopted rule is determined by the rule adopting agency to be essential to the public health, safety, or welfare; or
- ii. the later adopted rule is adopted pursuant to Section 403.061(27), F.S.; or
- iii. the later adopted rule is being adopted pursuant to a subsequent enacted statutorily mandated program; or
- iv. the later adopted rule is mandated in order for the state to maintain delegation of a federal program; or
- v. the later adopted rule is required by state or federal law.

Further, to qualify the Added Lands for the benefits of this provision, the application must be filed within five (5) years from the issuance of this Amended and Restated Development Order and the permit shall not be effective for more than eight (8) years from the issuance of the Amended and Restated Development Order. Nothing in this paragraph shall be construed to alter or change any permitting agency's authority to approve permits or to determine applicable criteria for longer periods of time.

8. **Level of Service Standards.** The Applicant shall be required to meet the adopted level of service standards in the St. Johns County Comprehensive Plan and the requirements of the County's concurrency management system.

9. **Reporting.** The Applicant or its successors or assigns, shall submit a biennial report on every other anniversary date of the Development Order, beginning in 2006, until the completion of the DRI. The report shall be submitted to St. Johns County, the Northeast Florida Regional Council, Florida Department of Community Affairs, the Northeast District of the Florida Department of Environmental Protection, St. Johns River Water Management District, Florida Fish and Wildlife Conservation Commission, and any other affected permit agencies.



Form RPM-BSP-ANNUAL REPORT-1 of the Florida Department of Community Affairs, as amended from time to time, may be used for the format of this report. In accordance with Section 380.06(18), F.S. (2004), failure to file the report in a timely manner may result in the temporary suspension of this Development Order. The biennial report shall address the following:

(a) A description of any changes made in the plan of development, or in the representations contained in the Application for Development Approval, or in the phasing for the reporting years and for the coming year. Any trade-off elections permitted by the Land Use Exchange Table in Exhibit "5." Any actions (substantial or non-substantial deviation determinations) taken by the local government to address these changes, including a cumulative history of such changes since adoption of the development order.

(b) A summary comparison of development activity proposed and actually conducted for the preceding two years and projected for the coming two years.

(c) Identification of undeveloped tracts of land, other than individual single family lots that have been sold to a separate entity or developer;

(d) Identification and intended use of lands purchased, leased or optioned by the Applicant adjacent to the original DRI site since the development order was issued;

(e) A specific assessment of the Applicant's and the local government's compliance with each individual condition of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and subsequent sufficiency responses and which have been identified by the local government, the Regional Planning Council or the Department of Community Affairs as being significant;

(f) Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the two reporting years and to be filed during the next year;

(g) An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued. Imposition of any moratorium imposed by a regulatory agency, including the type, duration, cause of and remedy for the moratorium;

(h) A list of significant local, state and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose and activity of each;

(i) A copy of the recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to Paragraph 380.06 (15)(f), F.S. 2004.

(j) A statement certifying that the Northeast Florida Regional Council (with appropriate filing fee), the Florida Department of Community Affairs, St. Johns County, Department of Environmental Protection, St. Johns River Water Management District, Florida Game and Fresh Water Fish Commission, and the other affected permit agencies have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), F. S. (2004).

(k) The acreage of uplands and wetlands placed under recorded conservation easements.

(l) Any change to previously reported stormwater plans or design criteria shall be reported biennially in the Monitoring Report.

(m) The status of the preserved wetlands and buffer areas shall be monitored and the cumulative acreage of each shall be reported biennially. A map shall be provided that defines these areas on a biennial basis.

(n) Each biennial report shall be accompanied by a statement certifying that the NEFRC, Department of Community Affairs, St. Johns County, Florida Department of Transportation, Florida Department of Environmental Protection and the St. Johns River Water Management District have been sent copies of the Biennial Monitoring Report in conformance with Subsections 380.06(15) and (18), Florida Statutes. It is the responsibility of the Applicant to guarantee that all appropriate agencies receive a copy of the biennial report.

10. **Notice of Adoption.** Notice of the adoption of this Amended & Restated Development Order, or any subsequent amendment to it, shall be recorded by the Applicant in accordance with Sections 28.222 and 380.06(15)(f), F.S. (2004), with the Clerk of the Circuit Court of St. Johns County, Florida. Recordation of this notice shall not constitute or provide actual or constructive notice of a lien, cloud or encumbrance of the DRI Property. The conditions of this Development Order shall run with the land and bind the successors and assigns of the Applicant on the DRI Property. Any contract or agreement for sale of those interests by

the Applicant for all or any part of the property subject to this Development Order shall contain a legend substantially in the following form printed or stamped thereon:

THE PROPERTY DESCRIBED IN THIS AGREEMENT IS PART OF THE MARSHALL CREEK DEVELOPMENT OF REGIONAL IMPACT AND IS SUBJECT TO A DEVELOPMENT ORDER, NOTICE OF WHICH IS RECORDED IN THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, WHICH IMPOSES CONDITIONS, RESTRICTIONS AND LIMITATIONS UPON THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY WHICH ARE BINDING UPON EACH SUCCESSOR AND ASSIGN OF HINES INTERESTS LIMITED PARTNERSHIP. THE DEVELOPMENT ORDER DOES NOT CONSTITUTE A LIEN, CLOUD OR ENCUMBRANCE OF REAL PROPERTY OR CONSTITUTE ACTUAL OR CONSTRUCTIVE NOTICE OF SAME. A COPY OF THE DEVELOPMENT ORDER MAY BE REVIEWED AT THE OFFICE OF THE PLANNING DEPARTMENT, ST. JOHNS COUNTY, FLORIDA.

11. **Application For Proposed Changes.** The Applicant shall submit simultaneously to St. Johns County, the Northeast Florida Regional Council and Florida Department of Community Affairs any applications for proposed changes to the DRI and shall comply with the requirements of Section 380.06(19), F.S. (2004), concerning substantial deviations.

12. **Subsequent Requests for Development Permits.** Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the St. Johns County Board of County Commissioners, after due notice and hearing, that one or more of the following is present;

- (a) substantial deviation from the terms or conditions of this Development Order, or other changes to the approved Development Plan which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Northeast Florida Regional Council; or
- (b) an expiration of the period of effectiveness of this Development Order as provided in this Development Order.

Upon a finding that (a) is present, the St. Johns County Board of County Commissioners shall order compliance with Section 380.06(19) (g) and (h), Florida Statutes, and development within Marshall Creek may continue, as approved, during the DRI review in those portions of the development that are not affected by the proposed change. Upon a finding that (b) is present, the St. Johns County Board of County Commissioners shall order a termination of all development activity until such time as a new DRI application for development approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes (2004).

13. **Limitation of Approval.** The approval granted by this Development order is limited. Such approval shall not be construed to obviate the duty of the Applicant to comply with all other applicable local or state permitting procedures.

#### SPECIAL CONDITIONS

##### Vegetation and Wildlife.

1. Prior to commencement of construction within any area identified as Gopher Tortoise Habitat on Map G, attached as Exhibit "6," the Applicant shall be responsible for the adequate mitigation of impacts to gopher tortoise habitat. There are 12.6 acres of occupied Gopher Tortoise Habitat present on the Existing Lands and 88.1 acres on the Added Lands, for a total of 100.7 acres of habitat. In order to adequately mitigate impacts to gopher tortoise habitat, the Applicant has purchased 3.15 acres of gopher tortoise habitat within the regional wildlife mitigation park through a contribution of \$13,649.00 for occupied habitat on Existing Lands. The applicant will purchase 9.67 acres of Gopher Tortoise Habitat through a contribution of \$56,714.74 for occupied Gopher Tortoise Habitat on the Added Lands. This condition relative to Gopher Tortoise Habitat shall be deemed satisfied. Additionally, Applicant shall provide four

(4) wildlife crossings, as depicted on Map H. The westernmost crossing shall be a culvert crossing of either a prefabricated and arched concrete structure, a corrugated pipe or a structure of similar design, with a vertical clearance of a minimum of four (4) feet and a horizontal opening width which is no less than one tenth the width of the road and right-of-way which is being traversed or ten (10) feet which ever is larger. The remaining wildlife crossings shall be at grade crossings with reduced speed limits and signs consistent with other such crossings approved in the County.

2. A minimum of 96 acres of uplands shall be preserved within the upland buffers around the preserved wetlands and other areas within the Existing Lands and a minimum of 73 acres of uplands shall be preserved within the upland buffers around preserved wetlands and other areas within the Added Lands. If the minimum buffers provided exceed the minimum acreage under Special Condition 5, than the upland preservation acreage shall be increased accordingly.

3. The areas within the East Parcel as indicated on Map H attached as Exhibit "3" (the "East Parcel") shall be limited in use to single family development at a density of no more than two (2) units per acre and active and passive recreational uses, and the interpretive environmental center/intracoastal club (as described on page 10-5 of the ADA, as amended September 10, 1998). The Applicant shall preserve a minimum of twenty-five percent (25%) of existing tree canopy in the areas within the East Parcel that are also within FLUCCS Code No. 425 as shown on Map D attached as Exhibit "7." The canopy will be preserved through covenants and restrictions and tree protection requirements that will be incorporated in final engineering plans submitted to St. Johns County. The Applicant shall comply with this requirement at the time of Construction Plan approval for areas within the East Parcel. St. Johns

County shall cooperate with the Applicant in preserving existing tree canopy by considering appropriate variances from paving and drainage standards to minimize loss of significant trees.

Wetlands/Upland Buffers.

4. Of the total of approximately 753.6 acres of wetlands located on the site, no less than 648.8 acres of wetlands shall be preserved on-site and no more than 105 acres of wetlands (no more than 35 acres on the Existing Lands and no more than 70 acres on the Added Lands) may be impacted as in the areas generally depicted on the Master Plan, as illustrated in Table 13-1 of page 43 of the sufficiency response to the original ADA and the NOPC Application dated October 1, 2004. The Applicant's environmental consultant has classified all wetlands on the site into several wetland quality classifications. The project's land planners made every effort to minimize impacts to the highest quality wetlands and to confine wetland impacts to the extent practicable to the lower quality wetlands. The exact boundaries of the areas to be preserved shall be determined in connection with wetland delineation and environmental resource permitting by the St. Johns River Water Management District. The limits of the preserved wetlands shall be delineated on the engineering plans submitted for approval by St. Johns County. All engineering plans submitted to St. Johns County shall be consistent with the requirements of applicable permits issued by the St. Johns River Water Management District. Prior to commencement of clearing, earth movement, construction or other development (including platting) within 500 feet of any wetlands within the jurisdiction of FDEP or SJRWMD, those wetlands shall be surveyed and the wetland boundaries shall be approved by the SJRWMD. All wetland and upland preservation areas required under this Development Order shall be protected by conservation easements meeting the requirements of §704.06 of the Florida Statutes. Nothing in this Development Order shall limit the owners' rights to use conservation easements as mitigation for

wetland impacts within or outside the development. The location and extent of the wetlands to be preserved shall be shown on engineering plans and shall be consistent with the areas of wetlands shown on the Existing Land Use/Natural Resources Map D attached as Exhibit "7."

5. The following buffers will be provided:

AS TO EXISTING LANDS:

Isolated Wetlands:

A minimum 15-foot upland buffer measured landward from the SJRWMD jurisdictional line will be maintained around all preserved isolated wetlands with the exception of road crossings and other impacted areas approved by the St. Johns River Water Management District.

Contiguous Wetlands:

A minimum 25-foot upland buffer measured landward from the SJRWMD jurisdictional line will be maintained around all preserved contiguous wetlands with the exception of road crossings and other impacted areas approved by the St. Johns River Water Management District.

Tidal Marsh/Tolomato River:

An average vegetated buffer of 200 feet shall be maintained between the landward edge of the upland buffer and open water. In addition, a minimum 50-foot vegetated buffer shall be maintained between the landward edge of the upland buffer and open water. An additional 25-foot building setback shall be provided from the landward edge of the upland buffer, except for the one golf hole fronting the marsh, the interpretive environmental center/intracoastal club and any crossings or other similar areas where

all stormwater will be routed to the stormwater management system. In addition, a minimum 50-foot upland buffer measured landward from the St. Johns River Water Management District wetland jurisdictional line shall be maintained and a minimum buffer of native vegetation 75 feet wide along that portion of the Tolomato River north of Marshall Creek measured landward from the landward edge of the marsh where this would result in a wider overall buffer than the 50-foot upland buffer. The minimum 50-foot upland buffer and minimum 75-foot vegetated buffer from the marsh line provided for in this paragraph shall not apply adjacent to golf hole 6, as shown on Map H, or to an intracoastal club area limited to 250 feet of marsh frontage measured as the distance between east/west lines through the north and south limits of the intracoastal club area at the marsh edge. The most restrictive of the foregoing buffers applicable to a given situation shall control. The additional 25-foot building setback described in the third sentence of this paragraph shall be established at the landward edge of the controlling upland buffer or 50 feet landward of the St. Johns River Water Management District line, whichever is more restrictive.

Tidal Marsh/Marshall Creek:

An average vegetated buffer of 100 feet shall be maintained between the landward edge of the upland buffer and open water. In addition, a minimum 50-foot vegetated buffer between the landward edge of the upland buffer and open water shall be maintained. There shall be an additional 25-foot building setback from the landward edge of the upland buffer, except for the golf holes, road crossings and other similar areas where all stormwater will be routed to the stormwater management system. A minimum upland buffer 50 feet wide measured landward from the St. Johns River Water Management



District wetland jurisdictional line shall be maintained. The 50-foot wide upland buffer shall not apply to the area adjacent to golf hole 16 or the green of golf hole 7, as shown on Map H. The additional 25-foot building setback referenced in the third sentence of this paragraph shall be established at the landward edge of the upland buffer or 50 feet landward of the St. Johns River Water Management District jurisdictional line, whichever is more restrictive. The most restrictive of the foregoing buffers applicable to a given situation shall control.

Riverine Areas/Marshall Creek/Stokes Creek:

A minimum vegetated buffer of 50 feet between the landward edge of the upland buffer and open water shall be maintained. There shall be an additional 15-foot building setback from the landward edge of the upland buffer, except for golf holes, road crossings and other similar areas where all stormwater will be routed to the stormwater management system.

Site Specific Buffering Plan:

Notwithstanding anything to the contrary set forth above, the Applicant may submit a site specific buffering plan within the boundaries of a proposed residential subdivision or non-residential development parcel to the County, the St. Johns River Water Management District and the Northeast District Office of the Florida Department of Environmental Protection in connection with construction plan approval and platting of a residential subdivision or construction plan approval for a non-residential parcel (“Site Specific Buffering Plan”) The Site Specific Buffering Plan may propose buffering requirements which differ from those set forth above, and which may include other stormwater run-off treatment measures. The Site Specific Plan may be implemented only

if the County, the St. Johns River Water Management District and the Northeast District Office of the Florida Department of Environmental Protection determine that the proposed Site Specific Buffering Plan provides protection to wetland resources, Class II waters and Outstanding Florida Waters that is equal to or better than the protection afforded by the minimum buffering requirements set forth above. The Northeast District of Florida Department of Environmental Protection and the St. Johns River Water Management District shall have thirty-five (35) days within which to review, comment on and both approve the Site Specific Buffering Plans prior to approval by the County as part of its normal construction plan review process. The Applicant shall not be permitted to seek approval of Site Specific Buffering Plans to reduce minimum buffers along the Tolomato River and the tidal marshes of Marshall Creek, except in the areas adjacent to golf hole 6, golf hole 16, and the green of golf hole 7, as shown on Map H. None of the Site Specific Buffering Areas along the Tolomato River shall occur within 1,000 feet south of the point of intersection of the northerly boundary of the original DRI project with the marsh edge.

Guidelines For Trimming Within Upland Buffers:

All native vegetation shall be preserved within all upland buffers, but such vegetation may be trimmed by hand with non-motorized equipment, subject to the buffer management guidelines set forth below. The guidelines shall be implemented and enforced by an architectural review committee to be established in connection with recorded covenants and restrictions. Any hand-trimming allowed within upland buffers pursuant to the foregoing provisions, shall be limited to 50 percent (50%) of lot width with an upper height limit of twenty-five feet (25') and a lower height limit of thirty-six

inches (36") from the ground. Trimming will be limited to limbs three inches (3") in diameter or less. Dead and diseased trees and branches may be removed. The guidelines shall also be made part of the approved construction plans enforceable by St. Johns County. The vegetated buffer areas shall be further protected by a conservation easement, which shall be recorded prior to final plat approval within residential areas and prior to conveyance of non-residential parcels to third parties. Such areas shall be clearly identified on subdivision plats. No herbicides or pesticides shall be applied within the upland buffers. The conservation easements shall be in the form previously reviewed and approved by the Department of Community Affairs.

For purposes of applying the provisions of this Special Condition 5, open water shall be defined as any watercourse that is regularly inundated and generally devoid of vegetation. Areas of open water shall be identified by the Applicant, agreed to by the St. Johns River Water Management District and St. Johns County and mapped on all engineering plans for improvements that abut the tidal marsh of the Tolomato River, the tidal marsh of Marshall Creek, or the riverine areas of Marshall Creek and Stokes Creek.

Conservation easements and the portions of the recorded covenants and restrictions that relate to preservation of wetlands and upland buffers shall be enforceable by the Applicant, the property owners association, the St. Johns River Water Management District, the County and the Northeast District of the Florida Department of Environmental Protection. The covenants and restrictions or conservation easement shall not permit variances from the minimum standards set forth in this Development Order Condition for individual lot owners.

The upland buffers required under this Development Order Special Condition 5 are minimum buffers. If the St. Johns River Water Management District determines, in connection with its review of applications for environmental resource permits for the project, that larger buffers are necessary to provide reasonable assurance that applicable state water quality standards will not be violated and that current water quality in receiving waters is preserved, then such larger buffers shall be provided. Such larger buffers may be required for parcels in which the stormwater from lawns, etc. is not collected and treated before entering the buffer, and for areas where the uses are more intense and create a greater threat for degradation of adjacent water quality.

AS TO THE ADDED LANDS:

Contiguous Wetlands:

An averaged 25-foot undisturbed vegetative upland buffer (10-foot minimum) shall be required adjacent to contiguous wetlands. This upland buffer shall be measured landward of the state wetland jurisdictional line. In addition, a 25-foot building setback to the upland buffer shall be provided. In no instance shall the upland buffer be reduced to less than 10 feet except in circumstances where unavoidable wetland impact occurs such as but not limited to a road crossing. The building setback shall be measured from the landward edge of the upland buffer.

Guana/Tolomato Rivers and Tributaries:

An averaged 50-foot undisturbed vegetative upland buffer (25-foot minimum) shall be required adjacent to the Guana or Tolomato Rivers and into all tributaries up to a location where a mean high water line can be set. Such portions of these tributaries, streams or

other water bodies shall be established by the mean high water line of the applicable tributary, stream or other water body and such mean high water line shall be depicted on all site plans, development plans and other documents submitted to authorize the review for development. This upland buffer shall be measured landward of the state wetland jurisdictional line. In no instance shall the upland buffer be reduced to less than 25 feet except in circumstances where unavoidable wetland impact occurs such as but not limited to a road crossing.

Conservation easements and the portions of the recorded covenants and restrictions that relate to preservation of wetlands and upland buffers shall be enforceable by the Applicant, the property owners association, the St. Johns River Water Management District, the County and the Northeast District of the Florida Department of Environmental Protection. The covenants and restrictions or conservation easement shall not permit variances from the minimum standards set forth in this Development Order Condition for individual lot owners.

The upland buffers required under this Development Order Special Condition 5 are minimum buffers. If the St. Johns River Water Management District determines, in connection with its review of applications for environmental resource permits for the project, that larger buffers are necessary to provide reasonable assurance that applicable state water quality standards will not be violated and that current water quality in receiving waters is preserved, then such larger buffers shall be provided. Such larger buffers may be required for parcels in which the stormwater from lawns, etc. is not collected and treated before entering the buffer, and for areas where the uses are more intense and create a greater threat for degradation of adjacent water quality.

6. Construction activity within the Marshall Creek DRI shall be conducted in accordance with a stormwater pollution prevention plan developed pursuant to the EPA NPDES permit program. Prior to commencement of any construction that will be adjacent to a preserved wetland, the contractor shall be required to install silt fencing on the landward edge of the upland buffer or landward of the upland buffer at the physical limits of construction to protect the preserved wetlands. An additional row of silt fencing shall be installed at least three feet (3') landward of the silt fence along the upland buffer adjacent to tidal marsh. The silt fencing shall be inspected at least once a week and repairs to fallen or damaged sections shall be made immediately upon discovery. The provisions of this Development Order Condition shall be incorporated into all construction contracts for work within the Marshall Creek DRI. All contractors working within the Marshall Creek DRI shall be notified of the requirement for a stormwater pollution prevention plan developed pursuant to the EPA NPDES Permit Program and shall be advised of the requirements set forth above concerning silt fencing. Copies of the stormwater pollution prevention plans shall be provided to the Northeast District office of the Florida Department of Environmental Protection.

Docks and Piers.

7. Construction of docks and piers within the tidal marsh areas of the Project shall be limited as follows:

- (a) Up to five (5) private individual docks may be constructed within the Marshall Creek marsh system. For purposes of this condition, the Marshall Creek marsh system is defined as that part of Marshall Creek and its adjacent wetlands that is southeasterly of the loop road shown on the Master Plan and west of a line connecting the two small islands lying north and south of Marshall Creek, as shown on the Master Plan. The docks shall

be required to meet all applicable permitting and authorization requirements, including, but not limited to, the requirements of Chapter 18-20 F.A.C. for docks within the aquatic preserve. The Applicant acknowledges and agrees to comply with Comprehensive Plan objective F.1.1.2 as it may apply to the Added Lands.

- (b) Up to two (2) community piers with viewing platforms, not including the Fish Camp Parcel, may be constructed from the upland areas of the site to the open waters of the Tolomato River. These piers shall be for the common use of the residents of the Project and shall be part of an environmental education program. Non-motorized boat launches may be permitted in association with these piers. No motorized docking shall be permitted. The piers shall be required to meet all applicable permitting and authorization requirements, including, but not limited to, the requirements of Chapter 18-20 F.A.C. for piers within the aquatic preserve. Nothing in this Special Condition shall entitle the Applicant to use uplands or wetlands owned by the State of Florida. All permits for docks and piers to the Tolomato River shall require the applicant to have riparian rights. The two piers to the Tolomato River must be separated by at least one-quarter (1/4) mile.
- (c) Applicant may elect to (i) maintain the Fish Camp Parcel in its current state, (ii) convey the Fish Camp Parcel to a third party purchaser, or (iii) may improve the Fish Camp parcel, and/or the existing boat ramp and/or construct docks to facilitate the launching and hauling out of both

motorized and non-motorized vessels. Any use of the Fish Camp Parcel not allowed by its current Rural Commercial Comprehensive Land Use designation and Commercial Highway Tourist zoning is subject to obtaining all applicable permits and complying with current provisions of the St. Johns County Comprehensive Plan. Any use of the Fish Camp Parcel allowed by its current Rural Commercial Comprehensive Land Use designation and Commercial Highway Tourist zoning is subject to obtaining all applicable permits and seeking a determination that such proposed use is within those uses allowable under the existing Rural Commercial Comprehensive Land Use Plan designation and Commercial Highway Tourist zoning. The Applicant may seek a determination of vesting from the current provisions of the St. Johns County Comprehensive Land Use Plan at any time.

8. In connection with permit applications for the stormwater management system for the Marshall Creek DRI, the Applicant shall ensure maintenance of high water table elevations and hydroperiods within preserved wetlands. No development activities, as defined in Section 380.04, F.S. (2004), except for activities permitted by the appropriate environmental permitting agencies, shall be allowed in any of the wetland areas within the DRI. Wetland impacts will be mitigated through the regulatory permitting process of the St. Johns River Water Management District and the U.S. Army Corp of Engineers.

Water.

9. The Tolomato River and a portion of Marshall Creek waterward of the mean high water line is a part of the Guana River Aquatic Preserve. Waters within the preserve are designated as Outstanding Florida Waters. Further, this portion of the Tolomato River is also



designated as a Class II waters. The Applicant recognizes the reciprocal benefits that will flow to the future residents of the Marshall Creek DRI, the residents of other properties adjacent to such waters and to all the citizens of the region as a result of protection of the quality of these waters. Waters meeting the Class II water quality standards and qualifying for inclusion within Outstanding Florida Waters provide a world-class amenity to the Project. The Applicant is committed to work within existing rules and to cooperate with the Northeast District of the Florida Department of Environmental Protection and the St. Johns River Water Management District to take measures as specified with this Development order to protect these waters. Accordingly, in addition to the other specific Development Order Conditions under this section, the surface water quality shall be monitored in accordance with the Surface Water Quality Monitoring Program approved by the Northeast District of the FDEP and attached as Exhibit "8." Monitoring data prepared in accordance with the monitoring program shall be summarized in the DRI biennial report.

If the Surface Water Quality Monitoring Program identifies a variation in water quality of receiving waters from established background water quality attributable to discharges from the Project, then the Northeast District of the Florida Department of Environmental Protection shall promptly notify the Applicant of such conditions. In such event, the Applicant shall cooperate with the Northeast District of the Florida Department of Environmental Protection to develop a plan to address the problem. The actions required to address the problem, including the means of payment by the Applicant for the costs of such plan and actions required, and the timeframe within which to implement the plan of action shall be agreed upon by the Northeast District of the Florida Department of Environmental Protection and the Applicant. If agreement is not reached within one (1) month from the time FDEP notifies the

Applicant of a variation in water quality, no further permits shall be issued until agreement is reached. Failure to implement the agreed-upon plan of action within the timeframe agreed upon will be a violation of this Development Order Condition.

10. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, a Chemical Management Plan (“CMP”) which includes an Integrated Pest Management Program (“IPMP”) and a Nutrient Management Program (“NMP”) was approved by the St. Johns River Water Management District, the Northeast District of the FDEP and the Department of Community Affairs and implemented prior to application of any pesticides or fertilizers on the golf course. Only EPA approved pesticides may be used. Upon completion and approval of the CMP, a copy shall be provided to St. Johns County. The CMP assures that nutrients and pesticides are used only when necessary. The IPMP minimizes the use of pesticides and includes the use of the USDA-NRCS Soil Rating for Selecting Pesticides to select pesticides for use that have a minimum potential for leaching or loss from run-off. The NMP is to be based upon the USDA-NRCS Nutrient Management Standard and includes the use of soil tests to determine needed applications. Only EPA approved chemicals with a half-life of seventy (70) days are to be used. The CMP also includes limitations in the homeowners’ restrictive covenants which restrict use of pesticides, herbicides and fertilizers to those that are consistent with the USDA-NRCS Soil Rating for Selecting Pesticides to pesticides which have a minimum potential for leaching or loss from run-off, and to EPA-approved chemicals with a half-life of seventy (70) days or less.

11. Golf Course fertilization shall comply with the fertilizer recommendations set forth in the Manual for Commercial Turf Grass Management by the University of Florida compiled by the Florida Turf Grass Association, or any future manual accepted by the reviewing

agencies that may succeed the Manual. Fertilizers applied to turf grasses within the golf course and common landscape areas may be applied through time release granular form or the golf course irrigation system. Prior to fertilizer being applied with the irrigation system, a Best Management Practices document for fertigation shall be prepared by the Applicant and approved by St. Johns County. The document was submitted to the County on April 13, 2006 and accordingly, this obligation has been satisfied.

12. Class II Waters and Outstanding Florida Waters adjacent to the Project shall be protected by compliance with applicable rules of the St. Johns River Water Management District relating to retention, treatment and discharge of stormwaters and by provision of reasonable assurance that applicable state water quality standards will not be violated.

13. All stormwater runoff from the golf course shall be routed to the stormwater treatment system prior to discharge to receiving surface waters. Where possible, the golf course shall be contoured to direct drainage into swales and berms prior to discharge to the stormwater management system.

Floodplain.

14. Construction within the 100-year floodplain, shall comply with applicable federal, state, and local laws and regulations.

15. In connection with review of the management and storage of surface waters permit or permits for the Project, the St. Johns River Water Management District shall review plans for fill within the 100-year floodplain to ensure there is no measurable increase in flood elevations off-site.

16. No permits for residential, commercial or public buildings will be issued for construction within any portion of the 100-year floodplain where the base flood elevation has not been established until the Applicant has provided to St. Johns County data on the site specific

base flood elevation. All road crossings and finished floor elevations of buildings within the 100-year floodplain shall be developed in accordance with the St. Johns County Flood Damage Prevention Ordinance 90-24, as amended.

Water Supply.

17. Development within the Project shall occur concurrent with the provision of adequate central potable water supply meeting the adopted level of service in the St. Johns County Comprehensive Plan. Central water supply shall be provided by St. Johns County.

18. The golf course and major common landscaped areas shall be irrigated first with available stormwater followed by reclaimed wastewater, immediately after it is made available in sufficient quantities to serve to those areas. Surficial water wells and the Floridan Aquifer may only be used as an emergency backup to these sources as such use is permitted by the St. Johns River Water Management District. The Applicant shall apply for concurrent environmental resource and consumptive use permits for the golf course to ensure the coordination of inter-related aspects such as the construction of a stormwater system that supports water reuse and minimizes pollutant and volume loading into surface waters.

19. Individual residential irrigation wells shall be encouraged within estate lot subdivisions subject to confirmation of acceptable water quality within the surficial aquifer. Immediately after reuse water is supplied in quantities sufficient to completely and continuously satisfy the year-round irrigation needs of the golf course and common landscaped areas and reuse water is made available to residential areas, future residential parcels for which final engineering plans have not been approved by St. Johns County shall be developed with reuse irrigation systems using the reuse supply.

20. Water conservation strategies, including the encouragement of xeriscape landscaping techniques and low-flow plumbing fixtures shall be incorporated into the

construction, operation, and maintenance phases of the development. A landscaped common area shall be established as a xeriscape demonstration area with signs and literature that describe the benefits of using Best Management Practices xeriscape landscape design. The demonstration area shall be in a visible location accessible to the residents and visitors of the Marshall Creek DRI such as the Village Center or interpretive environmental center/intracoastal club (as described on page 10-5 of the ADA, as amended September 10, 1998). In addition, a minimum of fifty percent (50%) of all shrub material used in landscaping of residential and commercial building parcels shall be drought-resistant or native to the Southeastern Atlantic Coastal Plain. Preservation of existing plant material will be encouraged and may count as satisfying this requirement. All builders and property buyers will be informed of this requirement and be provided a handbook for xeriscape landscaping in Marshall Creek, which will include a suggested plant list, design recommendations, maintenance and description of the xeriscape principles. The architectural review board will review all landscape plans and builder/buyer landscape options for all residential and commercial uses for compliance with this requirement.

21. An inventory of water wells on the added lands was prepared, mapped and delivered to the Water Management District prior to site clearing or construction. Any water wells not planned for future use and water wells determined to no longer be of service shall be abandoned in accordance with Rule 40C-3.531, F.A.C. Accordingly, this condition has been satisfied.

#### Wastewater Management.

22. Development of the Project shall proceed concurrent with the provision of adequate central sewer service meeting the adopted level of service standards in the St. Johns County Comprehensive Plan. Central sewer service shall be provided by St. Johns County.

23. Septic systems may only be used in connection with use of the golf course and other remote recreational amenities. When a central sewer system is installed to within two hundred feet (200') of a temporary septic system, the septic system shall be removed and central sewer and water service shall be provided to the golf course or other recreational amenity.

24. In the event that St. Johns County or the City of St. Augustine provides reuse wastewater to the Project for irrigation in the future, St. Johns County or the City of St. Augustine shall maintain an alternative off-site wet weather discharge. No wet weather discharge of reuse wastewater shall be required or allowed within the Project.

Stormwater Management.

25. Development within the Project shall proceed concurrently with a contiguous, functioning, permitted management and storage of surface waters system. The Project shall meet the adopted drainage level of service standard in the St. Johns County Comprehensive Plan.

26. Roadway and golf course designs adjacent to preserved wetland areas will provide for the capture and diversion of design capacity stormwater runoff from the roadway surface or golf course to the stormwater treatment system for treatment.

Solid Waste.

27. The Project shall meet the level of service standard established in the St. Johns County Comprehensive Plan 1990-2005.

28. The Project shall participate in the St. Johns County recycling program.

Transportation.

29. Pursuant to Section 163.3180(12), Florida Statutes (2004), the Applicant will contribute \$3,622,000.00 million dollars (the "Pipelining Amount") in funded transportation improvements to offset the impacts of the Marshall Creek DRI development to the regional transportation system, as described below. These contributions are sufficient to fully mitigate for

all the transportation impacts for the development rights approved in this Development Order through full build-out. These contributions are sufficient to pay for or construct one or more required improvements which will benefit regionally significant transportation facilities and meets the pipelining requirements set forth in Section 163.3180(12), Florida Statutes (2004) as authorized by this Development Order and if authorized by applicable Comprehensive Plan Amendment (COMPAMD 2004-09 Ordinance 2005-77), adopted by St. Johns County simultaneously with this Development Order. The improvements to be constructed by the Applicant or identified for funding by the Applicant are set forth on attached Exhibit "9" and are described below.

(a) Pipelined Improvements. The Applicant will cause the construction of the following transportation improvements, including right-of-way acquisition costs, if necessary for all improvements within the timeframe specified below.

(i) International Golf Parkway. Construct a three-lane undivided urban section extending westward from U.S. 1 as shown on Exhibit "9" (the exact location to be determined during the acquisition and permitting processes), and railroad crossing and intersection improvements as described therein. This improvement has an estimated allocated cost of \$1,975,000.00 Dollars. This improvement has been constructed, the right-of-way has been conveyed to St. Johns County and accordingly, this condition has been satisfied.

(ii) Application of Remaining Proportionate Share Payment. Upon the approval of the as-builts and acceptance by St. Johns County of the improvements described in subparagraph (i), the Applicant shall contribute an estimated \$1,647,000.00 (or whatever funds remain after the improvements described in subparagraph (i) have been completed) to the proposed long range improvements to the Interstate 95/County Road 210 interchange as set forth

in the Interchange Modification Report being proposed by the Developer of Twin Creeks DRI and as accepted by the Federal Highway Administration.

(b) Intersection Improvements.

The Applicant shall be responsible for the full cost of all intersection improvements necessary to accommodate project traffic at all access points, including, but not limited to, turn lanes, acceleration and deceleration lanes, and signalization, when warranted, at a time to be determined by St. Johns County. The Applicant shall be responsible for the full cost of the signal warrant study. Full median openings are located at the main entrance at the U.S. 1/International Golf Parkway intersection, Shannon Road/U.S. 1 intersection and at the intersection of Las Calinas Boulevard/U.S. 1.

(c) Connections to Adjacent Property.

The internal roadway system and land uses shall be developed so as to not preclude future connections to any development to the north of the project and to the south of the Project through Mixed Use Parcel A as shown on Map H. The Applicant shall provide for 2 (two) internal connections from the Existing Lands to the Added Lands. One (1) internal connection will be from MV-3 to the spine road, the specific location of which, along with the second connection, shall be determined at a later time.

(d) Transportation Demand Management.

(i) As development occurs in this area of the County, the Applicant shall team with other developers in this corridor and participate in a Transportation Management Organization (TMO). In order to meet this condition, the Applicant may become a member of the existing TMO (aka TDMA) for the Saint Johns DRI, which was formed pursuant to the Development Order for the Saint Johns DRI. The purpose of a TMO is to reduce traffic impacts,



especially from those employed at the project, particularly as such traffic may impact I-95 and U.S. 1 by employing a variety of Transportation Demand Management strategies. The Applicant's participation in the existing TDMA for Saint Johns or the creation of a new TMO will allow for the development community to cooperatively participate in such innovative planning and implementing actions as securing staggered work hour agreements among various employers located within the project and along the corridor; promoting van pooling and ridesharing for employees and transit on-site and coordinating such efforts with other major employers in the corridor; participating in transportation provision for the transportation disadvantaged; possible development of a park and ride facility; etc. The TMO shall be established or the applicant shall become a member of the existing TMO during construction of Phase II of the Project. All efforts to promote the transportation demand management strategies shall be documented in the Biennial Report.

Air Quality.

30. The following fugitive dust control measures shall be undertaken during all construction activities throughout buildout of the project:

- (a) Contractors will moisten soil or use resinous adhesives on barren areas, which shall include, at a minimum, all roads, parking lots, and material stockpiles;
- (b) Contractors will use mulch, liquid resinous adhesives with hydro-seeding or sod on all landscape areas;
- (c) Contractors will remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment, or soil erosion;

- (d) Contractors will utilize the best operating practices in conjunction with any burning resulting from land clearing, which may include the use of air curtain incinerators.

Affordable Housing.

31. Prior to any building permits being issued for retail/service or office development in excess of 210,000 gross square feet of any combination of such uses, the Applicant shall provide DCA, the NEFRPC, and St. Johns County: with a determination of the adequate housing demand for the Project following the requirements of Rule 9J-2.0248(4), F.A.C., and a determination of adequate housing supply within a reasonable proximity using current information from the Multiple Listings Service or some other acceptable methodology pursuant to Rule 9J-2.0248, F.A.C. (2004). The study was timely submitted by the Applicant on April 20, 2007, as amended on December 3, 2008 and accordingly, SC-31 has been satisfied. The analysis must be approved by DCA, the NEFRPC, and St. Johns County. If the reviewing agencies determine from the study that there is a deficiency of readily accessible affordable housing, no building permits for commercial or office use in Phase II in excess of accumulation total of 210,000 square feet shall be issued until mitigation measures consistent with those listed in Rule 9J-2.0248, F.A.C., Adequate Housing Uniform Standard Rule, are adopted in the development order or an amendment to the development order.

Fire Protection.

32. The Applicant shall undertake the following measures to enhance fire safety for the future residents of Marshall Creek:

- (a) All builders shall be required to distribute to each prospective purchaser informative literature explaining the benefits of installing a sprinkler system in the purchaser's new home. The literature shall be developed in

cooperation with the St. Johns County Fire Division. In addition, all structures greater than thirty-five (35') feet in height within Marshall Creek shall be protected with an automatic sprinkling system designed and installed in accordance with all applicable fire and building codes.

SC 32(b) and (c) required the developer to cause the donation of a fire station site suitable to the County. Pursuant to Resolution 2006-345, the site was conveyed to St. Johns County by two Special Warranty Deeds recorded at Official Records Book 2859, page 238 and Official Records Book 2859, page 284 of the public records of St. Johns County, Florida. SC (d) provided for Impact Fee Credits to be granted by St. Johns County for the conveyance. St. Johns County executed an Impact Fee Credit Agreement in exchange for the conveyance on February 5, 2007, which was recorded at Official Records Book 2873, page 895-904 of the public records of St. Johns County, Florida. Accordingly, SC 32 (b)(c) and (d) have been satisfied.

Recreation and Open Space.

33. The development shall include a total of 24.68 acres of community parks ("Community Parks"), a total of 20.49 acres of neighborhood parks ("Neighborhood Parks") and a total of 733 acres of Regional/Open Space ("Regional/Open Space"), all as defined in Objective H.1.3 of the St. Johns County Comprehensive Plan. A minimum of 14 acres of the Community Parks and a minimum of 4.16 acres of the Neighborhood Parks have been completed. The location of the Phase I Community Parks is as set forth on Map H, attached hereto. The balance of the Community Parks and Neighborhood Parks shall be completed during Phase II of the development. The location of the Phase II Neighborhood Parks shall be identified on master development plans as submitted.

The Community Parks and recreational improvements to be provided pursuant to this Development Order are further described as follows:

Phase I Community Parks.

- (a) The 10-acre active park has been constructed and was conveyed to the County under Resolution 2005-261. St. Johns County shall maintain the park for its intended active recreational uses. The Applicant, a Community Development District or a property owners' association may provide enhanced maintenance or additional improvements after the initial dedication to St. Johns County by agreement with the St. Johns County Parks and Recreation Department. The St. Johns County Parks and Recreation Department were consulted during the initial design of the active park. Park impact fee credits were granted for the conveyance pursuant to the Impact Fee Credit Agreement dated October 27, 2005 and recorded at Official Records Book 2592, page 1942 of the public records of St. Johns County, Florida. Accordingly, this condition SC-33(a) has been satisfied.
- (b) A village green and linear park along the loop road, which shall include a walking path and a bike path shall be completed during Phase I. The walking path and bike path shall be installed by the Applicant or a Community Development District. The village green and linear park shall be owned and maintained by a Community Development District or property owners' association. No user fees shall be charged for use of these facilities. The total acreage within the village green and linear park shall be adequate to satisfy the balance of the Phase I requirement of 14 acres not satisfied by the acreage within the active park. [The village

green and linear park has been constructed and therefore, SC 33(b) has been satisfied.]

Phase II Community Parks.

(a) The remaining 10.68 acres of Community Parks shall be completed during Phase II. The Phase II Community Parks may include active recreational areas, swim and tennis facilities, and extensions of the linear park along the loop road, as well as other park areas approved as Community Parks by the St. Johns County Parks and Recreation Department. The Phase II Community Parks shall be owned by a Community Development District or property owners' association. All Community Park areas, except the swim, fitness and tennis facilities, shall be accessible without user fees. The foregoing notwithstanding, a nominal cleaning fee may be charged to users of the athletic fields for organized events. [The Community Parks have been constructed and therefore this condition has been satisfied.]

Neighborhood Parks.

The Neighborhood Parks shall be private parks and shall be accessible to the residents of the Marshall Creek DRI.

Education.

34. The Applicant has met with the staff of the St. Johns County School District and the Marshall Creek Community Development District ("CDD") and continues to negotiate in good faith for the provision of a public school on the Marshall Creek property. A site containing 8 usable acres was identified by the Developer on the PUD Master Plan in July 2000 for a public elementary school serving grades K-5. Subject to satisfactory arrangements with St. Johns County Parks and Recreation for school utilization of the adjacent site, the identified site is satisfactory to the School Board and shall be conveyed to the School Board within 45 days of

written request to the Applicant. Applicant agrees that its credit for school impact fees for the identified site will be limited to the lesser of 50% of the fair market value of the site at the time of conveyance or \$600,000.00. If satisfactory arrangements cannot be made with St. Johns County Parks and Recreation, Applicant and the School Board will continue to negotiate in good faith. If the Applicant and the School District are unable to reach a mutually beneficial agreement by August 31, 2006, the Applicant shall grant to the School District a six-month option (by mutual agreement the time frame can be extended) to acquire a school site (the "Alternate Site") on the following terms:

- (a) The Alternate Site shall be at least 80 percent usable uplands and shall be large enough to meet the applicable requirements of the District for construction of an elementary school or K-5 school taking into account the availability, if any, of off-site drainage and retention and off-site recreational improvements.
- (b) The Applicant shall receive school impact fee credits for the Alternate Site in accordance with the applicable County impact fee ordinance.
- (c) To exercise the option to obtain title to the identified site or the Alternate Site, the School District would be required to enter into an agreement to commence construction of a school on the applicable site within eighteen (18) months after the School District notifies the Applicant that there are 400 elementary school aged children residing within Marshall Creek. If Department of Education approval of the school and all other requirements necessary to allow the School District to commence construction are not attained within twenty-four (24) months after such notification, then the

school site would be returned to the Developer. If the school site is returned to the Developer, then, simultaneously with such return, the impact fee credits shall be void and any impact fee credits that had been used would be repaid by the Developer.

- (d) Any modification to the location of the school site shall be incorporated into the PUD Master Plan.

Historical and Archeological Sites.

35. This condition shall be deemed satisfied. The preserved archeological sites 8SJ3145, 8SJ3146, 8SJ3149 and 8SJ3476 have been shown on Map H. Archeological site 8SJ3471 was determined to not meet the eligibility requirements for listing in the National register. Accordingly, this condition is satisfied.

Impact Fees.

36. Impact fee credits towards any present or future impact fees that may be adopted by St. Johns County shall be allowed for any contribution of land, money (including, but not limited to, contributions or construction pursuant to “pipelining” responsibilities) or improvements made by the Applicant or the Community Development District, as the case may be, for public facilities pursuant to the guidelines stipulated in Section 380.06(16), Florida Statutes, and St. Johns County Impact Fee Ordinances 87-57, 87-58, 87-59 and 87-60, as they may be amended. The Applicant proposes and the County agrees that, in the event that any contributions of land, money (including contributions or construction pursuant to “pipelining” responsibilities), or improvements funded or constructed with funds from a Community Development District are required by then current law to give rise to impact fee credits to the Community Development District, then such impact fee credit shall be established in the name of the Community Development District.

Community Development District.

37. The Applicant has formed a Community Development District and has indicated that it may form one or more additional Community Development Districts within the DRI pursuant to Chapter 190, F.S. (2004). Nothing in this section shall be construed as approval or consent by the County to the establishment of the Community Development District by the Applicant pursuant to Chapter 190, F.S., and the County expressly maintains all rights available to it pursuant to Chapter 190, F.S., related to the proposed establishment of a Community Development District by the Applicant. Any Community Development District for Marshall Creek approved pursuant to Chapter 190, F.S. (2004) may finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain projects, systems and facilities for the purposes described in Section 190.012, F.S., including, but not limited to, any other project required or authorized by this Development Order. Construction or funding by any such Community Development District of all such projects within or without the boundaries of the Community Development District required by this Development Order or necessary to serve the development approved by this Development Order is expressly approved. If the Applicant is required by this Development Order to provide, pay for or otherwise cause to be provide, infrastructure, projects, systems or facilities set forth in Chapter 190, F.S., including, without limitation, those in §190.012(1) and (2) F.S. (2004), then the Community Development District independently may satisfy such obligations. To the extent any such obligation under this Development order is met or performed by the Community Development District, then the Applicant shall no longer be subject to the obligation. The Applicant proposes and the County agrees that, in the event that any contributions of land, money (including contributions or construction pursuant to “pipelining” responsibilities), or improvements funded or constructed with funds from a Community Development District are required by then current law to give rise



to impact fee credits to the Community Development District, then such impact fee credits shall be established in the name of the Community Development District.

Design Criteria.

38. The Applicant shall incorporate into the PUD requirements special design criteria within the portion of Mixed Use Parcel A fronting on U.S. 1 to ameliorate any strip commercial effect through landscaping, signage, and access. [The commercial design guidelines for the Mixed Use Parcel A fronting on U.S. 1 have been incorporated into the Marshall Creek PUD and accordingly, SC-38 has been satisfied.]

Shannon Road/Out Parcel Access and Buffering.

39. Shannon Road, a road declared by the Board of County Commissioners of St. Johns County to be a County road in 1974 and a road maintained and used as a County road since that time, shall not be relocated or closed without approval of St. Johns County. If the relocation or closing is to be permanent, it shall first be approved by County Road vacation procedures required by State law and County ordinances and procedures. This provision shall not be interpreted as requiring or committing the County to approve such road vacation, and the Applicant shall not rely on this provision as a commitment that the County will approve the temporary or permanent closing or relocation of Shannon Road.

The existing Shannon Road may be used as a construction entry road to the Marshall Creek project so long as that road is maintained in a condition equal or better than it is in on the effective date of this Order. However, use of Shannon Road as an entrance to the project shall cease upon direction of the County Road and Bridge Department in order to maintain the road, or upon completion of another approved County access to the project, whichever occurs first.

Vehicle and pedestrian access to parcels of real property not included in the Marshall Creek DRI, but totally surrounded by it (hereinafter "Outparcels") will be provided at all times in the future by the Applicant or in the Applicant's place, a successor home owner association or Community Development District in a manner which is as efficient, useable, serviceable, or better than that provided by said Shannon Road and other easements as they exist on the date of County approval of this Development of Regional Impact. If Shannon Road access to said Outparcels is permanently replaced by any other road, such permanent replacement road shall meet all County standards applicable to access to said Outparcels and the structures thereon. Construction Plans that encompass or substantially affect any portion of the existing Shannon Road shall provide a description of the construction schedule demonstrating how access to the Outparcels will be maintained or replaced in a manner consistent with these requirements.

A twenty-five foot (25') undisturbed vegetated buffer shall be maintained around the Outparcels and all buildings within the Marshall Creek DRI shall be set back a minimum of forty feet (40') from the Outparcel boundaries.

**RENDITION**

Within ten (10) days of the adoption of this development order, St. Johns County shall render a copy of this development order with all attachments, certified as complete and accurate, by certified mail, return receipt requested, to the Florida Department of Community Affairs, Bureau of Local Planning, Northeast Florida Regional Council, and the Applicant.

PASSED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THIS 15<sup>th</sup> DAY OF December, 2009.

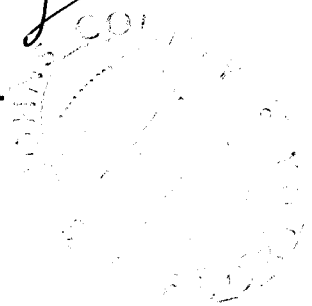
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: [Signature]  
Chairman

ATTEST: Cheryl Strickland  
By: [Signature]  
Deputy Clerk

RENDITION DATE 12/16/09

Adopted Regular Meeting December 15<sup>th</sup>, 2009  
Effective: December 15<sup>th</sup>, 2009



**EXHIBIT 4**

**MARSHALL CREEK**

Master Planned Residential Community

Land Use Summary & Comprehensive Plan Compliance

<i>AREA &amp; LAND USE<sup>1</sup></i>	<i>ACREAGE</i>	<i>DENSITY/AC.</i>	<i>UNITS</i>	<i>SQ. FT.</i>
<i>Density B</i>	<i>Not yet adjusted</i>			
<i>Village Center/Commercial Residential &amp; Amenities</i>	10			119,000
<i>Uplands</i>	1,790	2 d. u.	1,836.8	
<i>Wetland Credit</i>	640.7	2 d. u. (10%)	40	
<i>Subtotal</i>	2,445.3		Up to 2,774	110,000
<i>Mixed Use</i>				
<i>Wetlands</i>	76			
<i>Commercial (Retail. &amp; Office)</i>	88			490,000
<i>Residential</i>	50	13 d. u.	650	
<i>Residential</i>	24	6.1	146	
<i>Subtotal</i>	238		Up to 900	490,000
<b><i>TOTAL PUD LAND USE</i></b>	2,678		2,774	600,000

Total Uplands                    1962  
 Total Wetlands                    716.7  
 TOTAL SITE AREA                2,678

<sup>1</sup> Rounded to nearest whole number.

## EXHIBIT 5

### LAND USE EXCHANGE TABLE

The quantity of multi-family, office or Retail/Service may be increased by the method below:

1. The number of multi-family units may be increased to a maximum amount of 1,500 units, with a corresponding decrease in the number of single-family dwelling units based on the ratio of one multi-family unit to 0.624 single-family units.
2. The quantity of office may be increased to a maximum amount of 400,000 sq. ft. or reduced to a minimum of 50,000 square feet, with a corresponding decrease/increase in the quantity of Retail/Service use based on the ratio of one office space square foot to 0.266 Retail/Service use square foot up to a maximum amount of 340,000 square feet.