

Marshall Creek Community Development District

Board of Supervisors

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Dr. Howard Entman, Vice Chairman
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Scott Raybuck, Assistant Secretary
Jeff Riley, Assistant Secretary

Janice Eggleton Davis, District Manager
Katie Buchanan, Esq., District Counsel
Ryan Stilwell, P.E., District Engineer
Helen Ciesla, Operations Manager

Regular Meeting Agenda - Revised Wednesday, November 14, 2018 – 4:00 p.m.

Audit Committee Meeting:

- 1. Roll Call**
- 2. Establishment of RFP Evaluation Criteria**
- 3. Authorization to Proceed with RFP**
- 4. Adjournment**

Regular Meeting

- 1. Roll Call**
- 2. Audience Comments**
- 3. Approval of the Minutes**
 - A. October 17, 2018 Meeting
 - B. Discussion of Open Items
- 4. Business Matters**
 - A. Transition Status
 - Discussion of ADA Compliant CDD Website
 - Consideration of Second Addendum to FirstService Residential Contract
 - B. Consideration of Termination of Temporary Construction Easement & Acceptance of Bill of Sale
 - C. Consideration of Request for Palencia Property Owners Association to Use Space in the Amenity Center for 45 Days
- 5. Engineer's Report**
 - A. Ratification of Requisitions #70 - #73
- 6. Operations Manager's Report**
 - A. SJCSO Off-Duty Roving Patrol Violation Report

- 7. Manager's Report**
 - A. Consideration of Resolution 2019-2 – FY 2018 Budget Amendment
 - B. Consideration of Motion Assigning Fund Balance
- 8. Attorney's Report**
- 9. Supervisors' Requests**
 - A. Palencia Access Project – Regalo Road
- 10. Acceptance of the Updated September 2018 Financial Report**
- 11. Adjournment**

District Office:
175 Hampton Point Drive, Suite 4
St. Augustine, FL 32092
(904) 940-6044

www.MarshallCreekCDD.com

Meeting Location:
MCCDD Amenity Center
625 Palencia Club Drive
St. Augustine, Florida

4A.

AGREEMENT BETWEEN THE MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT AND NEIGHBORHOOD PUBLICATIONS, INC FOR WEB HOSTING SERVICES

THIS WEB HOSTING SERVICES AGREEMENT (the "Agreement"), dated as of the 8th day of May, 2012, is entered into by and between:

MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in St. Johns County, Florida, who mailing address is 475 West Town Place, Suite 200, St. Augustine, Florida 32092 (hereinafter the "District"), and

NEIGHBORHOOD PUBLICATIONS, INC., a Florida corporation whose principal address is 1685 Crescent Cove Court, Fleming Island, Florida 32003 (hereinafter the "Contractor").

RECITALS

WHEREAS, the District is a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in St. Johns County, Florida; and

WHEREAS, it is in the best interest of the District to own and operate a website to provide information and services to the residents within the boundaries of the District; and

WHEREAS, the District desires to retain an independent contractor to provide the webhosting services for such a website as set forth in this Agreement ("Services"); and

WHEREAS, Contractor has represented that it has the necessary skills and experience to provide said Services; and

WHEREAS, the District and Contractor desire to enter into this Agreement concerning the Services to be provided and warrant that they have the right, power, and authority to enter into and be bound by this Agreement.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and Contractor (together the "Parties") agree as follows:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and by this reference are incorporated by reference as a material part of this Agreement.

2. **SCOPE OF SERVICES.** Subject to the limitations set forth herein, Contractor shall solely be responsible for the means, manner and methods by which its duties, obligations and responsibilities are met to the satisfaction of the District.

- (i) Contractor shall provide webhosting services to the District for its website www.marshallcreekcdd.com (the "Website"). This domain name will be owned by the District, and shall remain the exclusive property of the District beyond the term of this Agreement. Further, in the event either party terminates this Agreement prior to expiration, or in the event the Parties cannot agree to new terms upon the expiration of this Agreement, Contractor agrees that all content contained on the Website is the property of the District and Contractor agrees to take all actions necessary for the orderly transfer of this content to another webhosting provider of the District's choosing.
- (ii) Contractor will provide all work necessary for the initial setup of the new website, including design, functionality, and capacity. Contractor will load all initial information provided by the District such as agendas and minutes, policies and procedures, fee schedules, and calendars for the initial setup of the Website. In addition, Contractor will provide training on maintenance, updating, and troubleshooting to administrators designated as such by the District ("Administrators").
- (iii) Contractor will establish all requested email accounts and provide instruction on the maintenance and operation of such email accounts.
- (iv) Contractor shall provide technical support and maintenance related to the function of the Website itself. However, after the initial setup and establishment of the Website, the District's Administrators shall be responsible for updating the material on the Website. As part of the Services that Contractor will provide in exchange for its Compensation, Contractor will assist the District's Administrators in updating the Website and creating new pages & content. Contractor will also assist by preparing and issuing emails to specific groups of residents. These services will be performed solely at the direction of the District's Administrators.
- (v) Contractor agrees and covenants that it will not, under any circumstances, sell, exchange, give away, or otherwise disseminate any information related to residents of the District, including but not limited to addresses, phone numbers, names, or occupations to any third parties for any purposes whatsoever. Contractor will use such resident information as mutually agreed upon for an online Resident Directory, and Contractor will train designated District Administrators so they can download this data from the website.

- (vi) Contractor shall prepare a form of mailing to be sent to residents of the District for purposes of informing the residents of the District's Website. The final form of the mailing shall be approved by the District's Board of Supervisors. Once the form of the mailing has been approved, the District shall be responsible for the distribution of the mailing to the residents within the District.

3. COMPENSATION. Contractor agrees to provide the Services to the District for a monthly fee of two hundred and fifty hundred dollars (\$250.00).

4. ADVERTISING.

- (i) The District hereby grants Contractor the right to post and display advertising on the Website (individually an "Advertisement"). Contractor shall pay all costs and expenses related to Advertisement design and production.
- (ii) The Advertisement construction, materials, layout content and colors will be approved by the District prior to posting. The District reserves the absolute right to approve or deny an advertising request or Advertisement; however, such approval will not be unreasonably withheld. Contractor will submit the form of Advertisement to the District Administrator for approval. Any Advertisement not approved within forty-eight (48) hours will be deemed to have been approved.
- (iii) Contractor will be permitted to place no more than two industry-standard size ads per web page, with advertising placement at Contractor's sole discretion.
- (iv) The Website is not a public forum and the District reserves the right to, in its sole discretion, edit advertising for content and to decline advertising based on advertising product, ad copy and graphics. The District preserves its rights and discretion to exercise reasonable editorial control over the content, appearance and wording of all advertisements, including the Advertisement, and messages. The District may make distinctions on the appropriateness of advertisements on the basis of subject matter of a potential advertisement but will not deny advertising opportunities based on the Advertiser's viewpoint.
- (v) The Contractor understands, and the District recognizes, that entering into this Agreement does not in any way constitute an endorsement of an Advertisement's products or services.
- (vi) The Contractor is solely responsible for obtaining necessary permission to use photographs, trademarks, trade names, copyrighted material or any other legally protected property. It shall in no way be the responsibility of the District to review or otherwise ensure compliance with this provision and the Contractor shall hold the District harmless for any illegal or improper use of any legally protected property.
- (vii) The following categories of advertisement are prohibited on the Website:

- (a) Advertisements promoting obscene or sexually-explicit material and illegal activities; and
- (b) Advertisements promoting religious or political material; and
- (c) Advertisements promoting alcohol or tobacco products.

5. TERM; CANCELLATION. This Agreement shall commence on the date first written above and shall remain in effect until terminated by any party hereto. This Agreement may be renewed annually upon the terms stated herein or upon terms which are mutually agreeable to the Parties. The District shall have the right to cancel this Agreement, with cause at any time. The District shall have the right to cancel this Agreement without cause upon 30 days written notice to Contractor without further obligation to Contractor. Contractor may cancel this Agreement upon 60 days written notice to the District. Upon cancellation by any party, Contractor shall take all actions necessary for the orderly transfer of the Website content and information to another webhosting provider of the District's choosing.

6. INDEPENDENT CONTRACTOR. In all matters relating to this Agreement, Contractor shall be acting as an independent contractor. Neither Contractor nor employees of Contractor, if there are any, are employees of District under the meaning or application of any federal or state unemployment or insurance laws or old age laws or otherwise. Contractor agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of Contractor, if there are any, in the performance of this Agreement. Contractor shall not have any authority to assume or create any obligation, express or implied, on behalf of District, and Contractor shall have no authority to represent District as an agent, employee, or in any other capacity, unless otherwise set forth in this Agreement.

7. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by any party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of actual damages and/or specific performance. The District shall be solely responsible for enforcing its rights under this Agreement against any interfering third party. Nothing contained in this Agreement shall limit or impair the District's right to protect its rights from interference by a third party to this Agreement.

8. ENFORCEMENT OF AGREEMENT. In the event that any party is required to enforce this Agreement by court proceedings or otherwise, then the Parties agree that the prevailing party shall be entitled to recover from the other all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.

9. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by the District and Contractor.

10. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the District and Contractor, the District and Contractor have complied with all the requirements of law, and the District and Contractor have full power and authority to comply with the terms and provisions of this instrument.

11. NOTICES. All notices, requests, consents, and other communications under this Agreement (“Notices”) shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery services, to the Parties, as follows:

A. If to Contractor: Neighborhood Publications, Inc.
1685 Crescent Cove Court
Fleming Island, Florida 32003
Attn: Evan Schuetz, President

With a copy to: Robert Hilles
505 Mission Park Lane
St. Augustine, FL 32095

B. If to District: Marshall Creek Community
Development District
475 West Town Place, Suite 200
St. Augustine, Florida 32092
Attn: Janice Eggleton Davis

With a copy to: Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, FL 32301
Attn: Jonathan T. Johnson

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00pm (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for Contractor may deliver Notice on behalf of the District and Contractor. Any party or other person to whom Notices are to be sent or copied may notify the other Parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the Parties and addressees set forth herein.

12. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the District and Contractor as an arm's length transaction. The Parties participated fully in the preparation of this Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, both Parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against either the District or Contractor.

13. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and Contractor and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and Contractor any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and Contractor and their respective representatives, successors, and assigns.

14. ASSIGNMENT. Neither the District nor Contractor may assign this Agreement or any monies to become due hereunder without the prior written approval of the other, which approval shall not be unreasonably withheld. Any purported assignment made without the required prior, written approval of the other party shall be void and otherwise unenforceable.

15. APPLICABLE LAW AND VENUE. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Each party consents that the venue for any litigation arising out of or related to this Agreement shall be in St. Johns County, Florida.

16. INSURANCE. Contractor shall maintain and keep in force with an insurance company licensed or authorized to do business in the State of Florida and throughout the entire term of this Agreement, a policy or policies of general comprehensive liability insurance with limits of at least \$1,000,000.00, with a broad form comprehensive general liability endorsement, which shall name the District as an additional insured and which insurance coverage shall be primary, regardless of whether Contractor shall maintain other insurance or self insured limits. Contractor shall be required to include the District, its officers, employees, supervisors and agents as additional insureds only for the term of this Agreement. Upon request of the District, Contractor shall furnish the District with written evidence that such insurance coverage is in force and effect.

17. INDEMNIFICATION.

A. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney's fees, and paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

B. Contractor agrees to indemnify and hold harmless District and its supervisors, officers, agents, and employees from any and all liability, claims, actions, suits, or demands by any person, corporation, or other entity for injuries, death, and/or property damage of any nature, arising out of, or in connection with, the work to be performed by Contractor, including litigation or any appellate proceedings with respect thereto. Contractor further agrees that nothing herein shall constitute or be construed as a waiver of District's limitations on liability contained in section 768.28, *Florida Statutes*, or other statute or law.

18. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to District in connection with this Agreement may be public records and shall be treated as such in accordance with Florida law.

19. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

20. HEADINGS FOR CONVENIENCE ONLY. The descriptive headings in this Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Agreement.

21. ENTIRE AGREEMENT. This instrument shall constitute the final and complete expression of the agreement between the Parties relating to the subject matter of this Agreement.

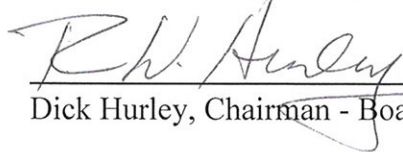
[signatures contained on following page]

IN WITNESS WHEREOF, the Parties execute this Contract the day and year first written above.

Attest:



Secretary / Assistant Secretary

**MARSHALL CREEK COMMUNITY
DEVELOPMENT DISTRICT**

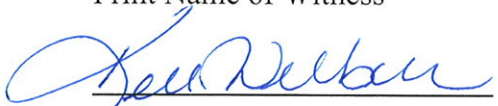

Dick Hurley, Chairman - Board of Supervisors

Witness:

NEIGHBORHOOD PUBLICATIONS, INC., a Florida corporation


DANIEL B. JONES
Print Name of Witness

 5/8/12
Evan Schuetz, President


Kellie Weltzberger
Print Name of Witness

FIRST AMENDMENT TO AGREEMENT BETWEEN THE MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT AND NEIGHBORHOOD PUBLICATIONS, INC FOR WEB HOSTING SERVICES

THIS FIRST AMENDMENT (the "Amendment"), dated as of the ___ day of May, 2013, is entered into by and between:

MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in St. Johns County, Florida, who mailing address is 475 West Town Place, Suite 200, St. Augustine, Florida 32092 (hereinafter the "District"), and

NEIGHBORHOOD PUBLICATIONS, INC., a Florida corporation whose principal address is 1685 Crescent Cove Court, Fleming Island, Florida 32003 (hereinafter the "Contractor").

RECITALS

WHEREAS, the District is a local unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, *Florida Statutes* ("Uniform Act"); and

WHEREAS, it is in the best interest of the District to own and operate a website to provide information and services to the residents within the boundaries of the District; and

WHEREAS, the District previously entered into an agreement with Contractor for webhosting services dated _____ ("Agreement"); and

WHEREAS, the District and Contractor wish to amend Section 2 (iv) and Section 3 of the Agreement to include additional services and to adjust the compensation and schedule pursuant to the additional services; and

WHEREAS, the District and Contractor warrant and agree that they have all right, power and authority to enter into and be bound by this First Amendment.

NOW THEREFORE, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this First Amendment.

SECTION 2. AMENDMENT. Section 2 (iv) of the Agreement is hereby amended to read as follows (text indicated in strikethrough type is deleted and text indicated by underlined type is added):

- (iv) Contractor shall provide technical support and maintenance related to the function of the Website itself and for ~~However, after the initial setup and establishment of the Website, the District's Administrators shall be responsible for updating the material on the Website.~~ As part of the Services that Contractor will provide in exchange for its Compensation, Contractor will implement updates to the ~~assist the District's Administrators in updating the Website and create~~ creating new pages & content. Contractor will also assist by preparing and issuing emails to specific groups of residents. These services will be performed solely at the direction of the District's Administrators.

SECTION 3. AMENDMENT. Section 3 of the Agreement is hereby amended to read as follows (text indicated in strikethrough type is deleted and text indicated by underlined type is added):

3. COMPENSATION. Contractor agrees to provide the Services to the District for a monthly fee of ~~two hundred and fifty dollars (\$250.00)~~ four hundred and forty dollars (\$440.00).

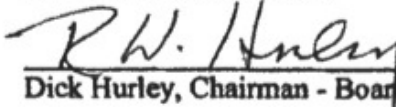
SECTION 4. REMAINDER OF AGREEMENT UNCHANGED. All other sections of the Agreement shall be unchanged by this First Amendment and shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties execute this Amendment the day and year first written above.

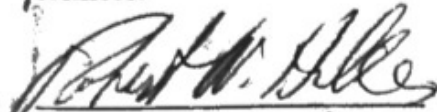
Attest:


Secretary / Assistant Secretary

**MARSHALL CREEK COMMUNITY
DEVELOPMENT DISTRICT**

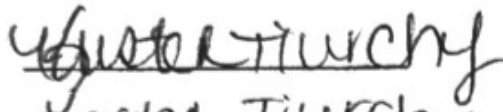

Dick Hurley, Chairman - Board of Supervisors

Witness:


Robert W. Hiles
Print Name of Witness

**NEIGHBORHOOD PUBLICATIONS, INC., a Florida
corporation**


Even Schuetz, President


Krista Tiurchy
Print Name of Witness

4B

Prepared By and Return to:

Susan S. Bloodworth, Esq.
ROGERS TOWERS, P.A.
100 Whetstone Place, Suite 200
St. Augustine, Florida 32084

**TERMINATION OF TEMPORARY CONSTRUCTION EASEMENT AGREEMENT BY
THE MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT**

This **Termination of Temporary Construction Easement Agreement by the Marshall Creek Community Development District (“Termination”)** is made as of this ____ day of November 2018, by Marshall Creek Community Development District, a unit of special purpose government established pursuant to Chapter 190, Florida Statutes, with an address of 175 Hampton Point Drive, Suite 4, St. Augustine, Florida 32092 (“**District**”).

WITNESSETH:

WHEREAS, the District and Gateway Village Center, LLC, a Florida limited liability company (“Gateway”) previously entered into a Temporary Construction Easement Agreement dated February 21, 2017 and recorded in Official Records Book 4336, Page 571, Public Records of St. Johns County, Florida (the “**TCE**”) that included the lands described in **Exhibit “A”** (“**Easement Lands**”) attached hereto and incorporated by reference establishing a temporary construction easement over the Easement Lands for purposes of installing sidewalks and landscaping in the Easement Lands;

WHEREAS, the District and Gateway have determined that the TCE is no longer necessary, as the improvements are complete and therefore desire to terminate the TCE.

NOW, THEREFORE, for and in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby state as follows:

1. **RECITALS.** The foregoing recitals are true and correct and by this reference are incorporated as a material part of this Termination.

2. **TERMINATION OF EASEMENT AGREEMENT.** The District hereby terminates the Easement Agreement, and from and after the date hereof the Easement Agreement shall be deemed to be canceled and declared to be null and void. In furtherance of such termination, the District does hereby state that the Easement Lands described on **Exhibit “A”** shall, from and after the date of this Termination, be released and discharged from any burden or obligation arising under or relating to the TCE.

IN WITNESS WHEREOF, District has caused this instrument to be executed effective as of the day and year first above written.

Signed, sealed and delivered

in the presence of:

Marshall Creek Community Development District, a unit of special purpose government established pursuant to Chapter 190, *Florida Statutes*

Witness Signature

Print Name

Witness Signature

Print Name

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this _____ day of November, 2018, by _____, as _____ of the Marshall Creek Community Development District. He/she is personally known to me, or has produced _____ as identification.

Signature of Notary Public

(SEAL)

Name of Notary Public
(Typed, Printed or Stamped)

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed and their names and seals to be hereto affixed on the day and year first hereinabove written.

JOINED AND CONSENTED TO BY:

Signed, sealed and delivered
in the presence of:

GATEWAY:

GATEWAY VILLAGE CENTER, LLC, a
Florida limited liability company

Witness _____
(type or print name)

By: _____
J.R. Pitcairn
Its: Manager

Witness _____
(type or print name)

STATE OF FLORIDA
COUNTY OF DUVAL

THE FOREGOING instrument was acknowledged before me this ____ day of
November, 2018, by J.R. Pitcairn, Manager of Gateway Village Center, LLC, a Florida limited
liability company, who () is personally known to me or () has produced driver's license no.
_____ as identification.

Notary Public

(Name of notary, typed/stamped/printed)
My commission expires: _____
My commission number: : _____

Prepared by and return to:
Susan S. Bloodworth, Esq.
McClure Bloodworth, P.L.
219 23rd Street
St. Augustine, Florida 32084

Project: Gateway Village Retail

RE Parcel # 0724220001/0724220003

TEMPORARY NON-EXCLUSIVE CONSTRUCTION EASEMENT

THIS TEMPORARY NON-EXCLUSIVE CONSTRUCTION EASEMENT, made this day of February, 2017, by and between Marshall Creek Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, being situated in St. Johns, County, Florida, and whose mailing address is 175 Hampton Point Drive, Suite 4, St. Augustine, Florida 32092 (the "District" or the "Grantor"), and Gateway Village Center, LLC, a Florida limited liability company, whose address is 1392 Moss Creek Drive, Jacksonville, Florida 32225 (collectively, the "Grantee.").

WITNESSETH, that for and in consideration of the sum of \$10.00 (Ten Dollars) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, the Grantor hereby gives, grants, bargains and releases to the Grantee, a Temporary Non-Exclusive Construction Easement over, upon, under, through and across that certain property located in St. Johns County, Florida, and depicted on Exhibit "A" attached hereto and incorporated herein by reference (the "Easement Area") for the sole purposes of access and installation of sidewalk and landscaping improvements within the area depicted on Exhibit "A" attached hereto.

It is understood and agreed by the parties hereto that the rights granted herein shall terminate when the project is complete and the sidewalk and landscaping improvements are conveyed by Grantee to the Grantor and accepted by the Grantor, and within thirty (30) days of acceptance by the Grantor, the Grantee must record a termination of this Temporary Non-Exclusive Construction Easement. Acceptance by the Grantor shall be by Bill of Sale in a form acceptable to the Grantor. In no event shall this Temporary Non-Exclusive Construction Easement extend beyond one (1) year, unless the Grantor provides express written permission to extend the duration of this Temporary Non-Exclusive Construction Easement.

Grantee shall use all due care to protect the Easement Area and adjoining property from damage resulting from Grantee's use of the Easement Area. In the event that Grantee, its respective employees, agents, assignees, contractors (or their subcontractors, employees or materialmen), or representatives cause damage to the Easement Area or to adjacent property or improvements in the exercise of the easement rights granted herein, Grantee, at Grantee's sole cost and expense, agrees to promptly commence and diligently pursue the restoration of the same and the improvements so damaged to, as nearly as practical, the original condition and grade, including, without limitation, repair and replacement of any landscaping, hardscaping, plantings, ground cover, roadways, driveways, sidewalks, parking areas, fences, walks, utility lines, stormwater facilities, pumping facilities, pumps and other structures or improvements of any kind. In the event the Grantee fails to do so to the District's reasonable satisfaction, the

District may upon notice to Grantee and at Grantee's sole expense complete such restoration.

To the extent allowed by law, Grantee shall defend, indemnify, and hold Grantor, and its successors, assigns, agents, employees, staff, contractors, officers, supervisors, and representatives harmless of and from any and all losses, damages, claims, or expenses, including reasonable attorneys' fees, arising out of any claim asserted by any person for loss of, or damage or injury to, person or property caused by any act, fault or omission of Grantee or its officers, employees, agents, contractors or invitees in connection with its use or activities on or about the Easement Area. Grantee agrees that nothing contained in this Temporary Non-Exclusive Construction Easement shall constitute or be construed as a waiver of the District's limitations on liability set forth in Section 768.28, Florida Statutes, and other law.

In the event of any dispute hereunder or of any action to interpret or enforce this Temporary Non-Exclusive Construction Easement, any provision hereof or any matter arising here from, the predominantly prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses, whether suit be brought or not, and whether in settlement, in any declaratory action, at trial or on appeal. Venue for any such dispute or action shall be in St. Johns County, Florida. The provisions of this paragraph shall survive the termination of this Temporary Non-Exclusive Construction Easement,

This Temporary Non-Exclusive Construction Easement is solely for the benefit of the parties hereto and no right, cause of action, or benefit shall accrue to or for the benefit of any third party.

The Grantor shall not be prohibited from granting additional rights within the Easement Area to third parties so long as such additional rights do not interfere with the Grantee's use of the Easement Area as set forth in this Temporary Non-Exclusive Construction Easement.

This Temporary Non-Exclusive Construction Easement shall be construed, interpreted and controlled according to the laws of the State of Florida.

[Signature Page to Follow]

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of:

Marshall Creek Community Development District, a unit of special purpose government established pursuant to Chapter 190, Florida Statutes.

Witnesses:

Vinelle Miller

(Signature) _____
Name: VINELLE MILLER

Howard Hoffman

Howard Hoffman
Chairman, Board of Supervisors

Beth A Grossman

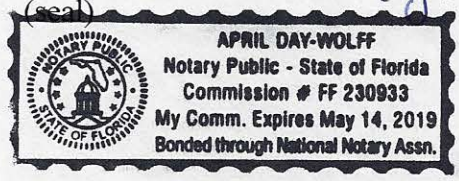
(Signature) _____
Name: Beth A Grossman

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 21st day of February, 2017, by Howard Hoffman, Chairman of the Marshall Creek Community Development District, a unit of special purpose government established pursuant to Chapter 190, F.S., on behalf of the District. He is (check one) personally known to me or has produced _____ as identification.

April Day-Wolff

Print April Day-Wolff
Notary Public, State and County aforesaid
Commission No.: 230933
My commission expires: May 14, 2019



Gateway Village Center, LLC

Sign *J.R. Pitcairn*
Print JAMES R Pitcairn JR

Title Manager

**QUITCLAIM BILL OF SALE
FOR PERSONAL PROPERTY LOCATED
IN EASEMENT**

THIS QUITCLAIM BILL OF SALE is made this ____ day of November, 2018 by **GATEWAY CAPITAL VILLAGE CENTER, LLC**, a Florida limited liability company, hereinafter referred to as the “**GATEWAY**” for the benefit of **MARSHALL CREEK COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes (“**CDD**”).

WITNESSETH:

WHEREAS, **CDD** has requested and **GATEWAY** has agreed to quitclaim to **CDD**, its successors and assigns, (without representation or warranty of any kind whatsoever), the following:

All sidewalks and landscaping improvements installed by **GATEWAY** located within that certain property located in St. Johns County, Florida and depicted on Exhibit “**A**” attached hereto and incorporated herein by reference and more particularly described in that certain Temporary Non-Exclusive Construction Easement recorded at Official Records Book 4336, page 571, et.seq. (the “**Personal Property**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **GATEWAY** does hereby quitclaim to **CDD** all of **GATEWAY’S** right, title and interest, if any, in and to the **Personal Property** without representation or warranty of any kind whatsoever.

IT IS UNDERSTOOD AND AGREED THAT WITH RESPECT TO ALL PROPERTY TRANSFERRED, GRANTEE EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY AND WARRANTY FOR FITNESS FOR A PARTICULAR USE. BY ACCEPTANCE OF THIS QUITCLAIM BILL OF SALE, **CDD** ACKNOWLEDGES AND AGREES THAT GRANTEE CONVEYS TO **CDD** AND **CDD** ACCEPTS THE **PERSONAL PROPERTY** “AS IS, WHERE IS,” WITH ALL FAULTS.

This Quitclaim Bill of Sale may be executed in one or more identical counterparts, each of which such counterpart shall be deemed an original for all purposes and all such counterparts collectively consisting of one such Quitclaim Bill of Sale.

This Quitclaim Bill of Sale shall be governed by and construed and enforceable in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first hereinabove set forth.

Signed, sealed and delivered in the presence of:

GATEWAY VILLAGE CENTER, LLC,
a Florida limited liability company

WITNESS

By: _____

WITNESS

J.R. Pitcairn

Title: Manager

STATE OF FLORIDA)

COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this ____ day of November 2018 by J.R. Pitcairn, as Manager of Gateway Village Center, LLC, a Florida limited liability company, who personally known to me or who has produced _____ (type of identification) as identification and who executed the foregoing instrument.

Notary Public, State of Florida
Print Name _____
Commission No. _____
My Commission Expires _____

WITNESS

**MARSHALL CREEK COMMUNITY
DEVELOPMENT DISTRICT**, a unit of
special purpose government established
pursuant to Chapter 190, *Florida Statutes*

WITNESS

By: _____

Title: _____

STATE OF FLORIDA)

COUNTY OF ST. JOHNS)

The foregoing instrument was acknowledged before me this ____ day of
November 2018 by _____, as _____ of
Marshall Creek Community Development District, a unit of special purpose government
established pursuant to Chapter 190, *Florida Statutes*, who personally known to me or
who has produced _____ (type of identification) as identification and
who executed the foregoing instrument.

Notary Public, State of Florida
Print Name _____
Commission No. _____
My Commission Expires _____

Ninth Order of Business

From: Jay Brawley <jbrawley@sjcfl.us>
Subject: Regalo Rd Next Steps
Date: October 23, 2018 at 3:31:20 PM EDT
To: Kirk Kemmish <kkemmish@gmail.com>
Cc: Neal Shinkre <nshinkre@sjcfl.us>

Kirk: Following up on our conversation regarding Regalo, we agreed that the best next steps are to get all of the known challenges and options on the table to get resolution to this item one way or another. During the discussion we noted that the most expedient way to get some answers to these items is for the Marshall Creek CDD to engage their consultant to begin the processes. Some of these may or may not be real concerns but need to be pursued. Assuming you continue to work with Prosser, they are very familiar with all of these steps as part of most development projects.

1. The property ownership gap between the Regalo R/W and CDD property has been resolved and was transferred to the CDD.
2. The CDD may be interested in taking ownership of the R/W in the area to be paved and thereby taking over future maintenance.
3. The road is expected to function as a minor collector. County staff has no objection to looking at the intent of the typical collector design and alternatives that provide the function and intent without compromising safety. Once this step is achieved your consultant would be able to provide a more accurate cost estimate.
4. The CDD should contact Growth Management staff to determine if a development amendment is needed if adding this entrance changes the original development approvals. A pre-application meeting should clarify what is involved.
5. St. Johns River Water Management should be contacted for an exemption letter or permit requirements.
6. FDOT should be contacted to identify early on any information they may request, if anything at all.
7. The County would maintain ownership and maintenance of the roadway between US 1 and the school entrance.

Addressing these items should identify the best path forward for providing Regalo as a paved access into Palencia.

These steps may reveal additional items to handle, but I wanted to emphasize that the County is willing to assist in these efforts to improve conditions for Palencia. Unless there is some technical or practical issue that prevents this from moving forward, we have no objections. However, if County funds are relied on for this project, it will need to be viewed in the same manner as all capital projects to weigh priority, need, and benefits.

Please call me if we should discuss again, or ask Prosser to contact me directly if they plan to commence moving ahead.

Regards,

Jay Brawley, PE, AICP

County Engineer
St. Johns County Board of County Commissioners
2740 Industry Center Road
St. Augustine, FL 32084
Direct: (904) 209-0113
Cell: (904) 417-5999
Email: jbrawley@sjcfl.us
Web: <http://www.sjcfl.us>

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the St. Johns County Board of County Commissioners and employees regarding public business are public records available to the public and media through a request. Your e-mail communications may be subject to public disclosure.