

RESOLUTION NO. 2004- 232

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR WATER AND SEWER SERVICE TO MARSHALL CREEK SUBDIVISION NORTH LOOP ROAD FOR THE OFFSITE UTILITY IMPROVEMENTS.**

**RECITALS**

**WHEREAS**, Marshall Creek, Ltd., a Florida limited partnership, has executed and presented to the County an Easement for Utilities, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, for water and sewer service to Marshall Creek Subdivision North Loop Road for the offsite utility improvements located adjacent to North Loop Road; and

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

**WHEREAS**, it is in the best interest of the County to accept this Easement for the health, safety and welfare of the citizens in that area.

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

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

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

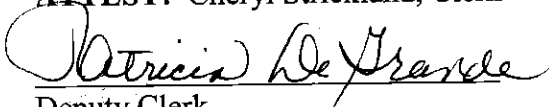
Section 3. The Clerk of the Circuit Court is instructed to record the original Utility and Restoration Easement and file the Bill of Sale in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 15<sup>th</sup> day of September, 2004.

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

By:   
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk

  
Deputy Clerk

RENDITION DATE 9-17-04

Exhibit "A" to Resolution

PREPARED BY:

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

**EASEMENT FOR UTILITIES**  
**(MARSHALL CREEK)**  
**North Loop Road**

**THIS EASEMENT FOR UTILITIES** executed and given this 12 day of August, 2004 by **MARSHALL CREEK, LTD.**, a Florida limited partnership, whose address is 7502-B US Highway 1 North, St. Augustine, Florida 32095, hereinafter called "Grantor," to **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is c/o Clerk of Courts, P. O. Drawer 349, St. Augustine, Florida 32085, hereinafter called "Grantee."

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby agree as follows:

1. Grantor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee a non-exclusive permanent easement and right-of-way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground water distribution system and sewer collection system, (including lift stations if applicable) and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer utility services (hereinafter referred to as "Utility Lines and Associated Equipment") over and upon the real property described on Exhibit A attached hereto containing an area of approximately 120 square feet (the "Easement Area"); together with rights of ingress and egress on and over the Easement Area as necessary for the use and enjoyment of the easement herein granted. This easement is for water and sewer utility services only and does not convey any right to install other utilities such as cable television service lines.

The easement herein granted is subject to covenants, restrictions, easements, liens and encumbrances of record, if any.

(a) Grantor reserves the right and privilege to use and occupy and to grant to others the right to use and occupy (i) the surface and air space over the Easement Area for any purpose which is consistent with the rights herein granted to Grantee; and (ii) subsurface of the Easement Area for other utility services or other purposes which do not interfere with the rights herein granted to Grantee, including, without limitation, the right to install, construct, operate, maintain, repair, replace and remove telecommunications, telephone, telegraph, electric, gas and drainage facilities and foundations, footing and/or anchors for surface improvements.

(b) All Utility Lines and Associated Equipment will be installed, operated and maintained at all times beneath the surface of the Easement Area provided that the same may be temporarily exposed or removed to the surface when necessary or desirable for the purpose of repairing and/or replacing the same. Provided, however, that Associated Equipment that is customarily installed above ground may be installed above ground subject to the right of Grantor, consistent with good engineering practices to approve the location of such above ground installation in its reasonable discretion.

(c) The easement granted by this instrument may be relocated to a location acceptable to the Grantee at any time upon Grantor's request provided that Grantor bears the cost of relocating the underground water and sewer utility lines and facilities located within the Easement area. At Grantor's request, and upon relocation of such lines at Grantor's expense, Grantee and Grantor shall execute an instrument in recordable form relocating the easement hereby granted to the new Easement Area designated by and in the title of the Grantor.

(d) Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with use and occupancy of residential or commercial improvements constructed upon the adjacent property owned by Grantor.

2. Grantee, by acceptance of this Easement, hereby agrees to maintain sewer force mains and gravity sewer lines located within the Easement Area. The Grantee's maintenance of gravity sewer lines shall extend "manhole to manhole", but shall not include a responsibility for maintenance of sewer service laterals. The Grantor or Grantor's successors and assigns shall be responsible for the maintenance of such sewer service laterals. Grantor hereby specifically indemnifies and holds Grantee harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of sewer service laterals. The Grantee shall maintain all water mains and other elements of the water distribution system up to and including the water meter or meters. Grantor or Grantor's successors and assigns shall be responsible for maintaining any water lines between the water meter and the improvements served by the utility system.

3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or other similar surface improvements. Grantor or Grantor's successors and assigns shall be solely responsible for replacement of any such sod, landscaping, planting, pavement or other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. Nothing in this section shall, however, relieve Grantee of liability for damage caused to improvements by Grantee's negligence.

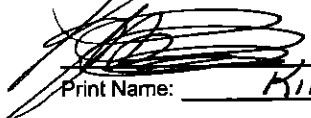
4. This Grant of Easement shall inure to the benefit of and be binding upon Grantee and its successors and assigns.

5. For the purposes of the terms and conditions of this Grant of Easement, "Grantor" means the owner from time to time of the Easement Area or any part thereof.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized officer and its corporate seals to be hereunto affixed as of the day and year first above written.

Signed, sealed and delivered in the presence of:

  
Print Name: CHEHALIS A. PITMAN

  
Print Name: Kim M. Krenel


MARSHALL CREEK, LTD., a Florida limited partnership

By: HINES/MARSHALL CREEK, LTD., a Florida limited partnership, as its sole general partner

By: HINES MANAGEMENT, L.L.C., a Delaware limited liability company, as its sole general partner

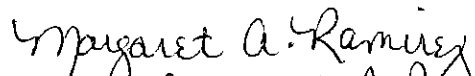
By: Hines Interests Limited Partnership, a Delaware limited partnership, its sole member

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

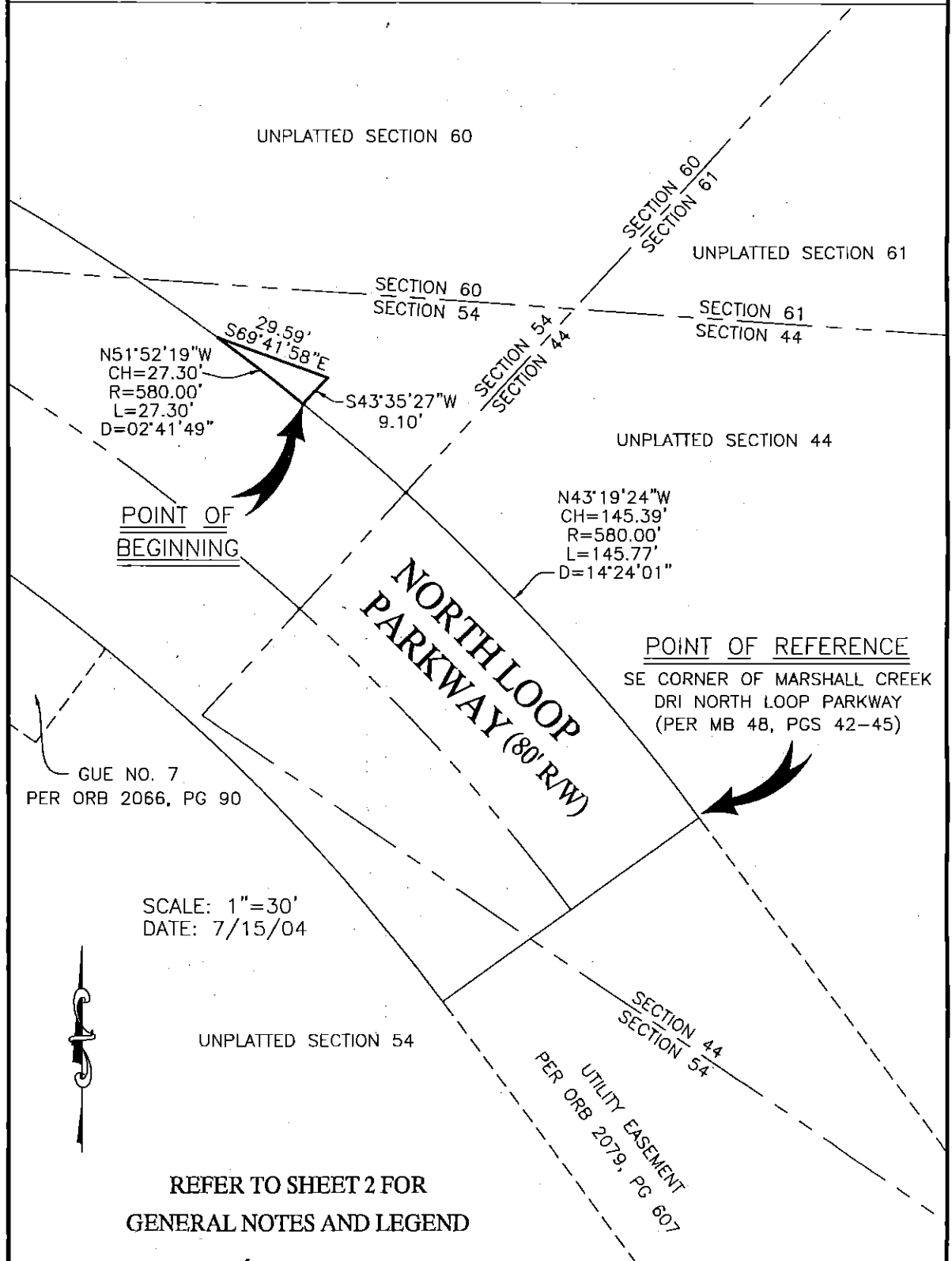
By:   
Print: Michael T. Harrison  
Its: Senior Vice President  
Address: 5 Ravinia Drive  
Atlanta, GA 30346 MT

STATE OF Georgia }  
  }SS  
COUNTY OF Cobb }

The foregoing instrument was acknowledged before me this 16 day of August, 2004, by Michael T. Harrison, as Sr. Vice President of HINES HOLDINGS, INC., a Texas corporation, as the sole general partner of HINES INTERESTS LIMITED PARTNERSHIP, a Delaware limited partnership, the sole member of HINES MANAGEMENT, L.L.C., a Delaware limited liability company, as the sole general partner of HINES/MARSHALL CREEK, LTD., a Florida limited partnership, as the sole general partner of MARSHALL CREEK, LTD., a Florida limited partnership, on behalf of the partnership.

  
(Print Name Margaret A. Ramirez)  
NOTARY PUBLIC  
State of GA at Large  
Commission #  
My Commission Expires:  
Personally Known   
or Produced I.D.  
[check one of the above]  
Type of Identification Produced  
Notary Public, Cobb County, Georgia  
My Commission Expires February 13, 2005

SKETCH TO FOLLOW LEGAL DESCRIPTION OF:  
**A PORTION OF SECTION 54, TOWNSHIP 5 SOUTH,  
 RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA**



*Chris R. Lee*

**PRIVETT & ASSOC. OF FLORIDA, INC.**

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

SURVEYORS, MAPPERS AND LAND PLANNERS

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

2732 TOWNSEND BOULEVARD  
JACKSONVILLE, FLORIDA, 32211  
(904) 743-7658 LB No.4622

**LEGAL DESCRIPTION**

A PORTION OF SECTION 54, TOWNSHIP 5 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR THE POINT OF REFERENCE COMMENCE AT THE SOUTHEAST CORNER OF MARSHALL CREEK DRI NORTH LOOP PARKWAY, ACCORDING TO MAP THEREOF RECORDED IN MAP BOOK 4B, PAGES 42 THROUGH 45 OF THE PUBLIC RECORDS OF SAID COUNTY, THE SAME BEING A POINT IN THE NORTHEASTERLY RIGHT-OF-WAY LINE OF NORTH LOOP PARKWAY, AN 80-FOOT RIGHT-OF-WAY AS NOW ESTABLISHED, PER SAID PLAT OF MARSHALL CREEK DRI NORTH LOOP PARKWAY; THENCE IN A NORTHWESTERLY DIRECTION, ALONG THE ARC OF A CURVE IN SAID NORTHEASTERLY RIGHT-OF-WAY LINE, SAID CURVE BEING CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 580.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 43°19'24" WEST, 145.39 FEET TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED, THENCE CONTINUE IN A NORTHWESTERLY DIRECTION, ALONG THE ARC OF A CURVE IN SAID NORTHEASTERLY RIGHT-OF-WAY LINE, SAID CURVE BEING CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 580.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 51°52'19" WEST, 27.30 FEET; THENCE SOUTH 69°41'58" EAST, 29.59 FEET; THENCE SOUTH 43°35'27" WEST, 9.10 FEET TO THE POINT OF BEGINNING.

THE LAND THUS DESCRIBED CONTAINS 120 SQUARE FEET, MORE OR LESS.

**LEGEND:**

ORB=OFFICIAL RECORDS BOOK  
PG=PAGE  
NTS=NOT TO SCALE  
MB=MAP BOOK

**NOTES:**

- 1) THE BEARINGS SHOWN HEREON ARE BASED ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH LOOP PARKWAY AS BEING S40°23'29"W PER MAP BOOK 41, PAGES 98-103.
- 2) THIS IS NOT A SURVEY. THE SPECIFIC PURPOSE OF THIS SKETCH IS TO ACCOMPANY LEGAL DESCRIPTION.

## Exhibit "B" to Resolution




**ST. JOHNS COUNTY**  
UTILITY DEPARTMENT  
2175 Mizell Road  
P.O. Drawer 3006  
St. Augustine, Florida 32085-3006

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I N T E R O F F I C E M E M O R A N D U M

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TO: Nanette Bradbury, Real Estate Coordinator  
FROM: Herbert A. Van Der Mark   
Construction Manager of Utilities  
SUBJECT: Marshall Creek DRI, Utility Easement - Offsite - North Loop Road  
DATE: August 27, 2004

Please be informed that the Utility Department has reviewed and approved the Utility Easement for Offsite - North Loop Road

Please present the Utility easement documents to the Board of County Commissioners for final approval and acceptance.

Your support and cooperation as always are greatly appreciated.