

**ASM CONSTRUCTION PARTNERS, LTD.**  
**1551 Sandspur Road**  
**Maitland, Florida 32751**  
**Telephone 407.741.8500**  
**Fax 407.629.5651**

**FAX COVER SHEET**

**DATE:** May 15, 2006

**TO:** **MICHAEL KIRWIN**

**COMPANY:** **BROAD & CASSEL**

**FACSIMILE:** **407-254-1202**

**TELEPHONE:** 407-839-4200

**FROM:** **STACY L. CARR**

**PROJECT(S):** **LAKE HARRIS COVE**

**PAGES:** 35 (including cover page)

**CC:**

**HARD COPY:**  TO FOLLOW:  Via Overnight  Via Courier  Via US Mail  
 NOT TO FOLLOW

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Michael,  
Per your email here are 2 faxed originals of the Gas Service Agreements for Lake Harris Cove, the Original will be fed ex'd to Fred A Morrison as requested.  
Thank you  
Stacy L. Carr

**DEVELOPERS • BUILDERS • MANAGERS OF INCOME PRODUCING PROPERTIES**

**GAS SERVICE AGREEMENT**

THIS GAS SERVICE AGREEMENT (this "Agreement") is made and entered into by and between the City of Leesburg, Florida, a municipal corporation organized under the laws of the State of Florida, located at 501 W. Meadow Street, Leesburg, Florida, 34748, (hereinafter referred to as "City"), and Lake Harris Cove Partners, Ltd., a Florida limited partnership, located at 1551 Sandspur Road, Maitland, Florida 32751 (hereinafter referred to as "Owner"), sometimes collectively referred to as "Party" or "Parties".

**WITNESSETH:**

**WHEREAS**, Owner is developing a subdivision located in Leesburg, Florida, known as Lake Harris Cove (hereafter referred to as the "Development"), which will consist of 152 residential units in accordance with the master plan for the Development which is on file with the City; and

**WHEREAS**, Owner has requested that the City provide natural gas service to the Development; and

**WHEREAS**, the City has agreed to provide natural gas service to the Development under the terms and conditions set forth below.

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, City and Owner do agree as follows:

1. The City shall, subject to the provisions of this Agreement, supply natural gas service to the Development. A map of the Development is attached as **Exhibit "A"** to this Agreement and by reference is made a part hereof. City shall provide such natural gas service from the supply line, including the gas meter.

2. Owner shall ensure that 152 of the planned 152 units are equipped with:

- (i) A natural gas water heater; and
- (ii) A Hydro - heat and natural gas stove or dryer.

3. Owner shall be responsible for all appliance installations, piping and connection to outlet of city gas meters. The Parties understand that the City relies upon these assurances from Owner as the primary consideration for the execution of this Agreement.

4. If, within two (2) years from the Effective Date (as defined herein) of this Agreement, the Owner has not equipped at least 152 residential units in the Development with gas appliances, as specified in Paragraph 2 above, then Owner shall reimburse the City for a pro rata share of the City's initial cost to provide natural gas service to the Development, calculated according to the following algebraic formula:

$$\text{REIMBURSEMENT} = (\text{IC}) \times \frac{(\text{PU} - \text{GU})}{(\text{PU})}$$

Where the symbols used have the following meanings:

- A. "IC" is the City's initial cost of providing natural gas service to the Development. This cost is estimated to be Forty Six Thousand Dollars (\$46,000), however, this is an estimate and the City's actual cost figures to provide the service shall be used in determining the amount of reimbursement due to the City. The Parties agree that in figuring any reimbursement owed to the City by Owner, the City's Initial Cost Figure ("IC") shall be computed with

regard to the costs only and shall not include any interest thereon.

- B. "PU" is the proposed number of residential units, 152;
- C. "GU" is the number of residential units equipped with natural gas appliances as specified above, at the end of the two (2) year period.

5. If the Owner, within the two (2) year period, fully complies with all requirements set forth in Paragraph 2 of this Agreement, then Owner's contingent obligation to reimburse the City shall terminate. If the Owner becomes obligated to reimburse the City for any portion of its costs, then upon payment of the amount of reimbursement due hereunder, neither party shall have any further obligation to reimburse the other for any costs associated with the construction and maintenance of the natural gas system within the Development. Owner agrees to pay any reasonable out-of-pocket costs that the City actually incurs in the collection of any unpaid reimbursement fees from Owner including reasonable attorney's fees and court costs (at the trial level and in any appellate proceedings), in any efforts to collect any judgment entered in favor of the City, and in any proceedings in receivership, bankruptcy or insolvency.

6. The City shall, within one hundred twenty (120) days of the Effective Date (as defined herein) of this Agreement, take all initial steps necessary to both provide natural gas service to the Development, and to lay the natural gas pipeline within the Development. The City shall not, however, be responsible for delays caused by the Owner, weather, the availability of materials, or other things beyond the reasonable control of the City. The City shall perform all such work at its own initial expense (subject to potential reimbursement as set forth above) and in accordance with plans and specifications developed by the City, and which plans and

specifications shall be consistent with the approved site plans and construction plans for the Development. The City shall install the gas piping and other gas infrastructure to supply natural gas within the Development in accordance with Owner's development plans so as not to conflict or interfere with any buildings or structures to be or constructed by Owner in the Development. The City acknowledges and agrees that it has been furnished with a set of plans for the Development. The City covenants and agrees to repair and/or replace any damage to the land or improvements of Owner which result from any exercise of the rights granted to the City by this Agreement.

7. The City shall both own and maintain the natural gas system to and including the natural gas meter within the Development.

8. Prior to the City's commencement of the installation of the natural gas pipeline and other infrastructure necessary to deliver natural gas to the Development, the Owner shall grant to the City an easement in the form attached hereto as Exhibit "B" (the "Gas Easement") for the purpose of installing, laying, maintaining, repairing, and replacing the natural gas pipelines.

9. The City shall bear responsibility for installing all gas piping and other gas infrastructure necessary to supply the natural gas service reflected in this Agreement. Owner and City will share trench space which will be dug by the Owner's water and/or electric utility contractor at no charge to the City. Each unit within the Development will be individually metered.

10. The City shall provide, when requested, individual residential unit hookups to the natural gas system up to the meter within the Development. The City shall ensure that such service is provided at the same rates and on the same terms as those provided to other natural gas

customers of the City within a comparable service area. The Parties understand that any and all hookup fees, meter charges and impact fees shall be paid by the residential customers at the time service is hooked up to the home.

11. The Parties agree that the laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. The parties agree that in the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

12. The Parties understand and agree that this Agreement sets forth the entire understanding between the parties and supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished thereby, except to the extent they are specifically set forth herein. Each party warrants, for the benefit and reliance of the other, that it has not entered into this Agreement in reliance on or on the basis of any promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument, and the parties mutually waive and disclaim any and all rights, remedies and causes of action which may otherwise exist, based wholly or partly on any such promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument.

13. The Parties understand and agree that this Agreement may not be amended orally, by implication, by course of conduct, or in any manner other than by way of a written instrument approved by the Leesburg City Commission and duly executed by both parties hereto.

14. This instrument may be executed by facsimile and in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

15. The effective date of this instrument shall be the date upon which the last party to sign has executed this instrument (the "Effective Date").



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of  
the date last written below.

**CITY OF LEESBURG, FLORIDA**

\_\_\_\_\_  
Bob Lovell, Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk  
Printed Name: \_\_\_\_\_

Approved as to form and content:

\_\_\_\_\_  
City Attorney  
Printed Name: \_\_\_\_\_



LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership

By: CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, its general partner

By: [Signature]  
Printed Name: Jay P. Brock  
Title: Manager  
Date: 5.15.06

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2006 by Jay Brock as the Manager of CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, as the general partner of LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership, on behalf of the company and partnership, and who is personally known to me or has produced as identification and who did/did not take an oath.



Stacy L. Carr  
My Commission DD246052  
Expires September 22, 2007

[Signature]  
Printed Name: Stacy L. Carr  
Notary Public, State of Florida  
Commission No.: DD246052  
My commission expires: 9.22.07

[Handwritten mark]

Exhibit "A"

[Map of Development]

SITE PLAN ATTACHED,  
ST-1, LAST REVISED 08/09/05,  
APPROVED 11/10/05





**Exhibit "B"****Prepared By and Return To:**

Troy W. Finnegan, Esq.  
Broad and Cassel  
390 North Orange Avenue  
Suite 1100  
Orlando, Florida 32801

**GAS EASEMENT**

THIS GAS EASEMENT (the "Easement") is made and granted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, from **LAKE HARRIS COVE PARTNERS, LTD.**, a Florida limited partnership, whose address is 1551 Sandspur Road, Maitland, Florida 32751 (the "Grantor"), to **THE CITY OF LEESBURG, FLORIDA**, a municipal corporation organized under the laws of the State of Florida, whose principal address is 501 W. Meadow Street, Leesburg, Florida 34748 (the "Grantee").

**WITNESSETH:**

That for and in consideration of the sum of \$1.00 and other good and valuable considerations, in hand paid and tendered unto Grantor, receipt whereof is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and confirm unto Grantee, its successors and assigns forever, a perpetual non-exclusive easement over, across, and under the following described real property:

**SEE EXHIBIT "A" ATTACHED HERETO  
AND BY THIS REFERENCE MADE A PART HEREOF (the "Easement Area")**

, for the purpose of construction, installation, repair, maintenance, replacement and improvement of underground natural gas lines and its associated pipes, tees, joints, laterals, valves, and other appurtenances (collectively, the "Facilities").

**TO HAVE AND TO HOLD** unto Grantee, its successors and assigns forever, subject to the terms and conditions set forth hereinbelow:

1. Grantor shall have the authority to use and to authorize others to use the Easement Area in any manner which is not inconsistent with the Easement. Grantor reserves the right to grant other easements over, under, upon and through the Easement Area, but will not allow such other easements to cause unreasonable interference with the easement granted to Grantee herein, or grant any other easements which, if utilized for their intended purposes, would violate any setback or separation provisions now or hereafter imposed by law, rule, or regulation, or as a



condition of any license or permit held by Grantee for the operation of any of the natural gas utilities located within the Easement Area.

2. Grantee will have and hold the easement, together with every right and appurtenance connected to it, for so long as Grantee is (i) providing natural gas utility services to the Improvements (as defined herein), or (ii) utilizing the Facilities to provide natural gas utility services to a party other than Grantor in accordance with the terms of this Easement. When that period expires, and provided Grantee is not then utilizing the Facilities to provide natural gas utility services to any other party, Grantor may provide Grantee with a written request to terminate the Easement, which request shall not be unreasonably, conditioned, or delayed by Grantee, and which shall be promptly executed and returned to Grantor. Thereafter, this Easement shall be terminated. Alternatively, if Grantee no longer is providing natural gas utility services to the Improvements (as defined herein) but is providing natural gas utility services through a portion of the Facilities to a third party other than Grantor in accordance with the terms of this Easement, Grantor may provide Grantee with a written request to terminate the Easement as to those portions of the Easement Area containing those Facilities no longer being used by Grantee, which request shall not be unreasonably, conditioned, or delayed by Grantee, and which shall be promptly executed. Thereafter, this Easement shall be terminated as to those portions of the Easement Area containing those Facilities no longer being used by Grantee, or modified so as to not prevent Grantee from serving other properties in a manner consistent with this Easement.

3. Grantee shall install the Facilities in accordance with Grantor's approved development plans (the "Plans") so as not to conflict or interfere with any buildings or structures to be constructed on the Grantor's property (the "Improvements"). Grantor agrees to construct the Improvements in accordance with the Plans, and Grantee agrees to construct the Facilities so as not to conflict with the Improvements as depicted on the Plans.

4. The Facilities shall be used by Grantee solely and exclusively for the purpose of (i) providing natural gas utility services to the Improvements, and (ii) for such other uses as the Grantee deems appropriate, provided that (a) the level of natural gas utility services to the Improvements is not diminished, (b) the points of connection within the boundaries of Grantor's property are reasonably acceptable to Grantor (the "Points of Connection"), and (c) Grantee installs the connections so as not to unreasonably conflict or interfere with the Improvements. Grantor's approval of the Points of Connection shall be in writing, shall not be unreasonably withheld, conditioned, or delayed, and shall not be denied on the grounds that natural gas utility services are being provided to a party other than Grantor.

5. Subject to the provisions of the Code of Ordinances of the City of Leesburg as the same may exist or be amended from time to time (the "Code"), the Facilities shall be installed, repaired, replaced, relocated, and maintained by Grantee, at Grantee's sole cost and expense, so as to provide the natural gas utility services specified herein and to not damage the Improvements.

6. If Grantor's future orderly development of the Improvements are in conflict with Grantee's Facilities, the Grantee shall, within a reasonable period after receipt of written request from Grantor (not to exceed one hundred eighty (180) days), relocate the Facilities to another

mutually agreed upon area on Grantor's property, provided that prior to the relocation of the Facilities, (a) Grantor shall pay to the Grantee the full expected cost of the relocation as estimated by the Grantee, including the actual cost of construction and materials, and the reasonable costs of design and engineering, permitting, legal review and document preparation, and expert review of surveys and plans, and (b) Grantor shall execute and deliver to the Grantee at no cost, an acceptable and recordable easement to cover the relocated Facilities which shall automatically terminate and release this Easement without the further consent of Grantee.

7. If Grantor, at Grantor's sole cost and expense, causes an accurate legal description of the centerline of the location of the Facilities to be created by a licensed surveyor, which survey shall be signed, sealed, and certified to Grantee and Grantee's legal counsel, Grantor and Grantee shall within a reasonable time after receipt thereof execute a revised easement which shall automatically terminate and release this Easement, and which shall limit the location of the Easement Area to the area(s) shown on such survey with those areas to be of sufficient width to accommodate all natural gas utilities in the revised easement, consistent with setbacks, rules, and regulations then in effect. Such easement shall provide for reasonable access to the revised easement area and shall state that the revised easement area and the location of the Facilities shall not be further modified unless the parties sign an additional revised easement.

8. To the extent permitted by law, by acceptance and use of the Easement and rights granted hereby, the Grantee covenants and agrees, by acceptance and use of the easements granted and conveyed herein, to indemnify, protect, defend, and hold harmless the Grantor from and against any and all claims, actions, causes of action, loss, damage, injury, liability, cost or expense, including without limitation attorneys' fees (whether incurred before, during or after trial, or upon any appellate level, or in arbitration, mediation, or in any proceeding in bankruptcy or insolvency), arising from the Grantee's use of the Easement Area or from the exercise by the Grantee of any rights arising under this Easement, or from any breach of any obligations of the Grantee hereunder. Nothing herein shall be construed as Grantee's waiver of sovereign immunity pursuant to Section 768.28, Florida Statutes (2005) (as amended, replaced, modified or supplemented).

9. In the event of any dispute hereunder or of any action to interpret or enforce this Easement, any provision hereof or any matter arising herefrom, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney (in-house and outside counsel), paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether incurred before, during or after trial or upon any appellate level, or in any administrative proceeding, in arbitration, mediation or any proceeding in bankruptcy or insolvency.

10. If Grantee damages any of the Improvements in its use of the easements granted hereunder, it shall repair any such damage at its expense, and restore the Improvements to substantially the same condition they were in prior to the activities of Grantee which caused the damage.

11. Grantor does hereby warrant the title to the interests conveyed to Grantee hereunder and will defend the same against the lawful claims of all persons whomsoever.

12. The rights and obligations described above area intended as, and shall be, covenants running with the land with respect to the Easement Area and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name as of the date, day and year first above written.

Signed, sealed and delivered in the presence of:

LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership

Stacy L. Carr  
Printed Name: Stacy L. Carr

By: CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, its general partner

Danielle Trotter  
Printed Name: Danielle Trotter

By: JL  
Printed Name: Jay Brock  
Title: Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2006 by Jay Brock as the Manager of CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, as the general partner of LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership, on behalf of the company and partnership, and who is personally known to me or has produced \_\_\_\_\_ as identification and who did/did not take an oath.



Stacy L. Carr  
My Commission DD246052  
Expires September 22, 2007

Stacy L. Carr  
Printed Name: Stacy L. Carr  
Notary Public, State of Florida  
Commission No.: DD246052  
My commission expires: 9-22-07

✓

EXHIBIT "A"

(the "Easement Area")

SHEET 1 OF 2 AND 2 OF 2 ATTACHED,  
24208\SKETCHES\SK 1 REV 9/15/05.DWG

## LEGAL DESCRIPTION

All of Lots 7 and 8, Block 46, and a portion of Lots 3 and 4, Block 50, all lying in and according to the plat of Silver Lakes Estates, a subdivision recorded in Plat Book 5, pages 1 and 2, and Revised and Corrected Plat in Plat Book 10, pages 66 through 69, inclusive, Public Records of Lake County, Florida, as vacated by Resolution recorded in Official Records Book 848, page 940.

Together with that portion of the abandoned railroad right of way conveyed in Official Records Book 1513, page 1717.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE at the Northeast corner of Lot 4, Block 46 of Silver Lakes Estates, as recorded in Plat Book 10, pages 66 through 69 of the Public Records of Lake County, Florida; thence run South 00°46'51" East, along the East line of said Block 46, for a distance of 661.12 feet to the Northeast corner of Lot 8 of said Block 46, also being the Northwest corner of Summer Wind on Lake Harris, as recorded in Official Records Book 1469, page 1763 of said Public Records, also being the POINT OF BEGINNING; thence Continue South 00°46'51" East, along the East line of said Block 46, and the East line of Lot 4, Block 50, of said Silver Lakes Estates, also being the West line of said Summer Wind on Lake Harris, for a distance of 759.17 feet; thence run South 89°13'09" West, for a distance of 669.31 feet to a point on the West line of said Blocks 46 and 50; thence run North 00°00'48" East, along said West line, for a distance of 775.21 feet to the Northwest corner of said Lot 7, Block 46; thence run South 89°23'30" East, along the North line of said Lot 7, Block 46, for a distance of 246.03 feet to the point of curvature of a curve, concave Southerly, having a radius of 80.00 feet, a chord bearing of South 78°28'46" East, and a chord distance of 30.29 feet; thence departing said North line, run Southeasterly along the arc of said curve through a central angle of 21°49'26" for an arc distance of 30.47 feet to the point of reverse curvature of a curve, concave Northeasterly, having a radius of 120.00 feet, a chord bearing of South 78°28'47" East, and a chord distance of 45.43 feet; thence run Easterly along the arc of said curve through a central angle of 21°49'27" for an arc distance of 45.71 feet to the point of tangency; thence run South 89°23'30" East, for a distance of 240.56 feet to the point of curvature of a curve, concave Northwesterly, having a radius of 120.00 feet, a chord bearing of North 85°59'19" East, and a chord distance of 19.33 feet; thence run Northeasterly along the arc of said curve through a central angle of 09°14'23" for an arc distance of 19.35 feet to the point of tangency; thence run North 81°22'07" East, for a distance of 79.58 feet to the POINT OF BEGINNING.

Containing 504,595.69 square feet, or 11.58 acres, more or less.

SHEET 1 OF 2



16 East Plant Street  
Winter Garden, Florida 34787 • (407) 654-5355

### SURVEYOR'S NOTES:

24208\SKETCHES\SK 1 rev 9/15/05.DWG

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF BLOCK 46, SILVER LAKES ESTATES AS HAVING AN ASSUMED BEARING OF SOUTH 89°23'30" EAST.

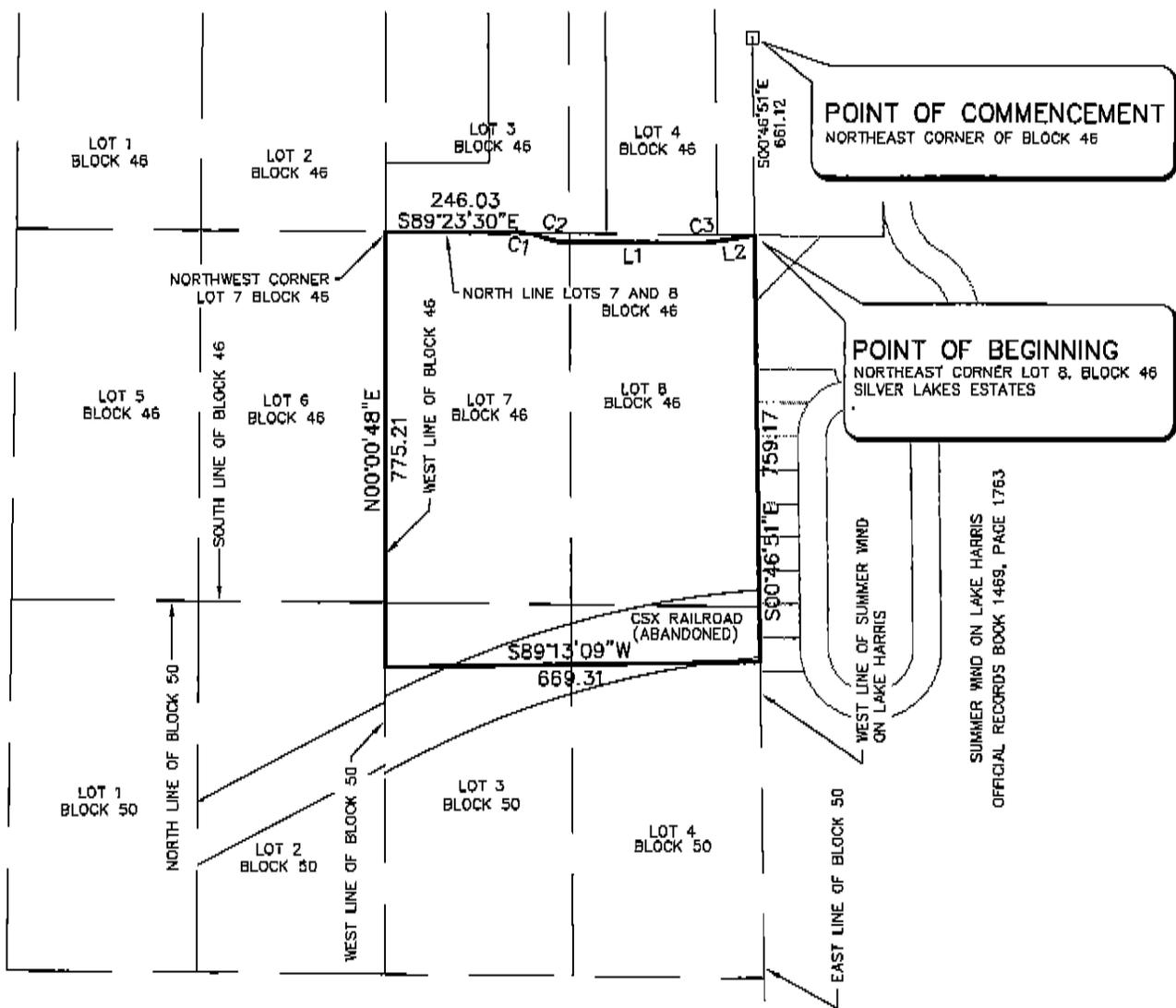
JOB NO. 24208  
DATE: 9/15/05  
SCALE: 1 INCH = 300 FEET  
FIELD BY: N/A

CALCULATED BY: EGT  
DRAWN BY: EGT  
CHECKED BY: JLR

FOR THE LICENSED BUSINESS #6723 BY:

JAMES L. RICKMAN, PSM #5633

# SKETCH OF DESCRIPTION



LINE TABLE		
LINE	LENGTH	BEARING
L1	240.56	S89°23'30"E
L2	79.58	N81°22'07"E

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	30.47	80.00	21°49'26"	30.29	S78°28'46"E
C2	45.71	120.00	21°49'27"	45.43	S78°28'47"E
C3	19.35	120.00	9°14'23"	19.33	N85°59'19"E

SHEET 2 OF 2

## SURVEYOR'S NOTES:

2420B\SKETCHES\SK 1 rev 9/15/05.DWG

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF BLOCK 46, SILVER LAKES ESTATES AS HAVING AN ASSUMED BEARING OF SOUTH 89°23'30" EAST.

JOB NO. 2420B  
 DATE: 9/15/05  
 SCALE: 1 INCH = 300 FEET  
 FIELD BY: N/A

CALCULATED BY: EGT  
 DRAWN BY: EGT  
 CHECKED BY: JLR



16 East Plant Street  
 Winter Garden, Florida 34787 • (407) 654-5355

**GAS SERVICE AGREEMENT**

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**WITNESSETH:**

**WHEREAS**, Owner is developing a subdivision located in Leesburg, Florida, known as Lake Harris Cove (hereafter referred to as the "Development"), which will consist of 152 residential units in accordance with the master plan for the Development which is on file with the City; and

**WHEREAS**, Owner has requested that the City provide natural gas service to the Development; and

**WHEREAS**, the City has agreed to provide natural gas service to the Development under the terms and conditions set forth below.

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, City and Owner do agree as follows:

1. The City shall, subject to the provisions of this Agreement, supply natural gas service to the Development. A map of the Development is attached as **Exhibit "A"** to this Agreement and by reference is made a part hereof. City shall provide such natural gas service from the supply line, including the gas meter.

2. Owner shall ensure that 152 of the planned 152 units are equipped with:

- (i) A natural gas water heater; and
- (ii) A Hydro - heat and natural gas stove or dryer.

3. Owner shall be responsible for all appliance installations, piping and connection to outlet of city gas meters. The Parties understand that the City relies upon these assurances from Owner as the primary consideration for the execution of this Agreement.

4. If, within two (2) years from the Effective Date (as defined herein) of this Agreement, the Owner has not equipped at least 152 residential units in the Development with gas appliances, as specified in Paragraph 2 above, then Owner shall reimburse the City for a pro rata share of the City's initial cost to provide natural gas service to the Development, calculated according to the following algebraic formula:

$$\text{REIMBURSEMENT} = (\text{IC}) \times \frac{(\text{PU} - \text{GU})}{(\text{PU})}$$

Where the symbols used have the following meanings:

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regard to the costs only and shall not include any interest thereon.

- B. "PU" is the proposed number of residential units, 152;
- C. "GU" is the number of residential units equipped with natural gas appliances as specified above, at the end of the two (2) year period.

5. If the Owner, within the two (2) year period, fully complies with all requirements set forth in Paragraph 2 of this Agreement, then Owner's contingent obligation to reimburse the City shall terminate. If the Owner becomes obligated to reimburse the City for any portion of its costs, then upon payment of the amount of reimbursement due hereunder, neither party shall have any further obligation to reimburse the other for any costs associated with the construction and maintenance of the natural gas system within the Development. Owner agrees to pay any reasonable out-of-pocket costs that the City actually incurs in the collection of any unpaid reimbursement fees from Owner including reasonable attorney's fees and court costs (at the trial level and in any appellate proceedings), in any efforts to collect any judgment entered in favor of the City, and in any proceedings in receivership, bankruptcy or insolvency.

6. The City shall, within one hundred twenty (120) days of the Effective Date (as defined herein) of this Agreement, take all initial steps necessary to both provide natural gas service to the Development, and to lay the natural gas pipeline within the Development. The City shall not, however, be responsible for delays caused by the Owner, weather, the availability of materials, or other things beyond the reasonable control of the City. The City shall perform all such work at its own initial expense (subject to potential reimbursement as set forth above) and in accordance with plans and specifications developed by the City, and which plans and

specifications shall be consistent with the approved site plans and construction plans for the Development. The City shall install the gas piping and other gas infrastructure to supply natural gas within the Development in accordance with Owner's development plans so as not to conflict or interfere with any buildings or structures to be or constructed by Owner in the Development. The City acknowledges and agrees that it has been furnished with a set of plans for the Development. The City covenants and agrees to repair and/or replace any damage to the land or improvements of Owner which result from any exercise of the rights granted to the City by this Agreement.

7. The City shall both own and maintain the natural gas system to and including the natural gas meter within the Development.

8. Prior to the City's commencement of the installation of the natural gas pipeline and other infrastructure necessary to deliver natural gas to the Development, the Owner shall grant to the City an easement in the form attached hereto as Exhibit "B" (the "Gas Easement") for the purpose of installing, laying, maintaining, repairing, and replacing the natural gas pipelines.

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10. The City shall provide, when requested, individual residential unit hookups to the natural gas system up to the meter within the Development. The City shall ensure that such service is provided at the same rates and on the same terms as those provided to other natural gas

customers of the City within a comparable service area. The Parties understand that any and all hookup fees, meter charges and impact fees shall be paid by the residential customers at the time service is hooked up to the home.

11. The Parties agree that the laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. The parties agree that in the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

12. The Parties understand and agree that this Agreement sets forth the entire understanding between the parties and supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished thereby, except to the extent they are specifically set forth herein. Each party warrants, for the benefit and reliance of the other, that it has not entered into this Agreement in reliance on or on the basis of any promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument, and the parties mutually waive and disclaim any and all rights, remedies and causes of action which may otherwise exist, based wholly or partly on any such promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument.

13. The Parties understand and agree that this Agreement may not be amended orally, by implication, by course of conduct, or in any manner other than by way of a written instrument approved by the Leesburg City Commission and duly executed by both parties hereto.

14. This instrument may be executed by facsimile and in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

15. The effective date of this instrument shall be the date upon which the last party to sign has executed this instrument (the "Effective Date").



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of  
the date last written below.

**CITY OF LEESBURG, FLORIDA**

\_\_\_\_\_  
Bob Lovell, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

Printed Name: \_\_\_\_\_

Approved as to form and content:

\_\_\_\_\_  
City Attorney

Printed Name: \_\_\_\_\_



LAKE HARRIS COVE PARTNERS, LTD., a  
Florida limited partnership

By: CED Capital Holdings 2005 A, L.L.C.,  
a Florida limited liability company, its  
general partner

By: [Signature]  
Printed Name: Jay P. Brock  
Title: Manager  
Date: 5.15.06

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of  
May, 2006 by Jay Brock as the Manager of CED Capital  
Holdings 2005 A, L.L.C., a Florida limited liability company, as the general partner of LAKE  
HARRIS COVE PARTNERS, LTD., a Florida limited partnership, on behalf of the company  
and partnership, and who is personally known to me or has produced  
as identification and who did/did not take an  
oath.



Stacy L. Carr  
My Commission DD246052  
Expires September 22, 2007

[Signature]  
Printed Name: Stacy L. Carr  
Notary Public, State of Florida  
Commission No.: DD246052  
My commission expires: 9.22.07

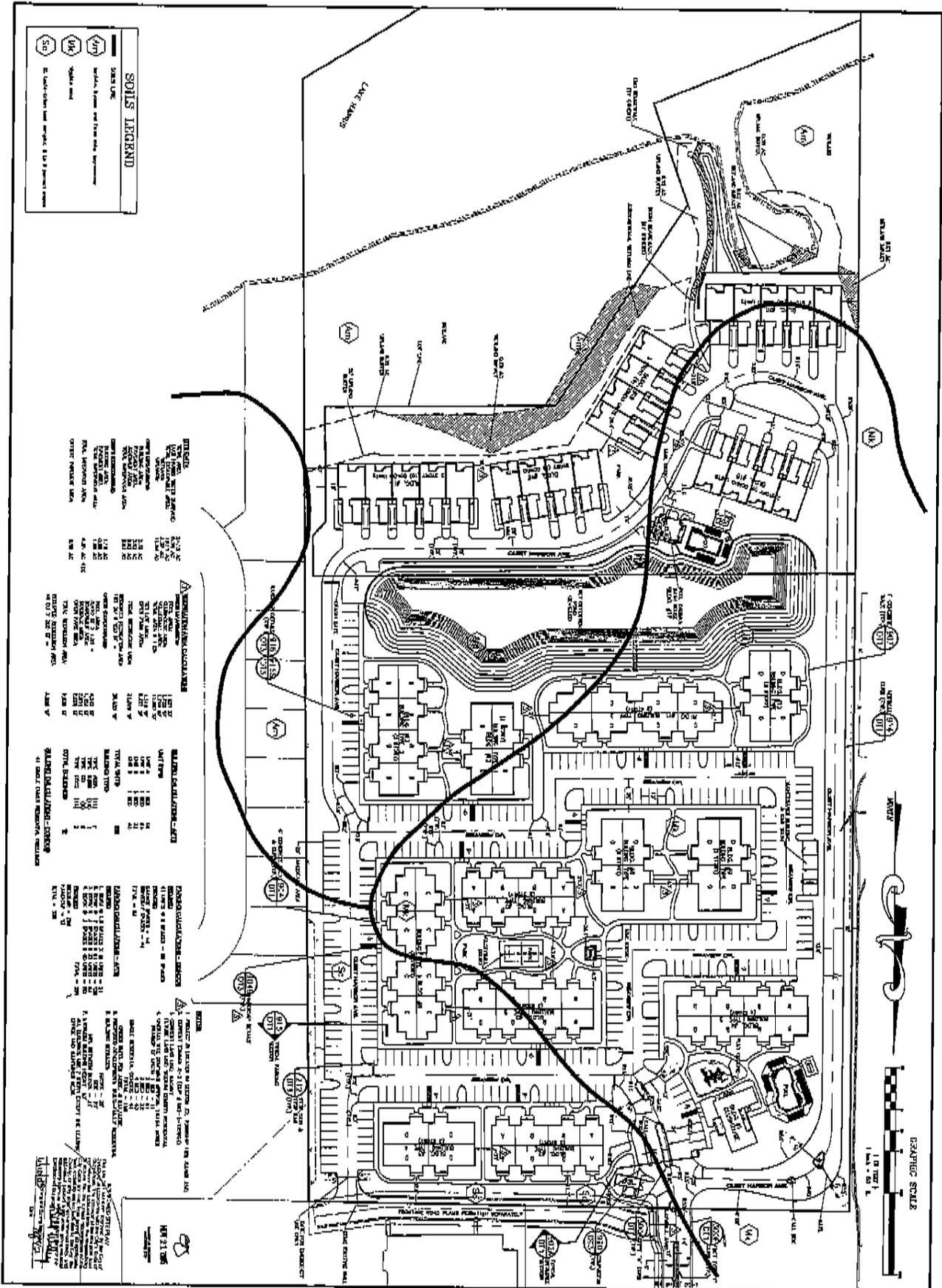
[Handwritten mark]

Exhibit "A"

[Map of Development]

SITE PLAN ATTACHED,  
ST-1, LAST REVISED 08/09/05,  
APPROVED 11/10/05





**SOILS LEGEND**

(Symbol)	SOILS

**NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF LAKE HARRIS COVE...
2. ALL UTILITIES SHALL BE DEEPENED AND REGRADED TO A MINIMUM DEPTH OF 48"...
3. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
4. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
5. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
6. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
7. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
8. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
9. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...
10. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE...

<p><b>ST-1</b></p>	<p>DATE: 05/15/2006</p>	<p>NOV 18 2005</p>	<p>LAKE HARRIS COVE PARTNERS, LTD.</p>	<p><b>SITE PLAN</b></p> <p>FOR</p> <p><b>LAKE HARRIS COVE</b></p> <p>CITY OF LAKE HARRIS COVE, FLORIDA</p>	<p><b>MADDEN</b></p> <p>REGISTERED PROFESSIONAL ENGINEER</p> <p>CIVIL ENGINEERS</p> <p>1001 S. STATE ROAD 100</p> <p>LAKE HARRIS COVE, FLORIDA 32829</p> <p>(407) 486-1000</p>
	<p>PROJECT: LAKE HARRIS COVE PARTNERS, LTD.</p> <p>DATE: 05/15/2006</p>	<p>NOV 18 2005</p>	<p>LAKE HARRIS COVE PARTNERS, LTD.</p>	<p><b>SITE PLAN</b></p> <p>FOR</p> <p><b>LAKE HARRIS COVE</b></p> <p>CITY OF LAKE HARRIS COVE, FLORIDA</p>	<p><b>MADDEN</b></p> <p>REGISTERED PROFESSIONAL ENGINEER</p> <p>CIVIL ENGINEERS</p> <p>1001 S. STATE ROAD 100</p> <p>LAKE HARRIS COVE, FLORIDA 32829</p> <p>(407) 486-1000</p>

**Exhibit "B"****Prepared By and Return To:**

Troy W. Finnegan, Esq.  
 Broad and Cassel  
 390 North Orange Avenue  
 Suite 1100  
 Orlando, Florida 32801

**GAS EASEMENT**

THIS GAS EASEMENT (the "Easement") is made and granted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, from **LAKE HARRIS COVE PARTNERS, LTD.**, a Florida limited partnership, whose address is 1551 Sandspur Road, Maitland, Florida 32751 (the "Grantor"), to **THE CITY OF LEESBURG, FLORIDA**, a municipal corporation organized under the laws of the State of Florida, whose principal address is 501 W. Meadow Street, Leesburg, Florida 34748 (the "Grantee").

**WITNESSETH:**

That for and in consideration of the sum of \$1.00 and other good and valuable considerations, in hand paid and tendered unto Grantor, receipt whereof is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and confirm unto Grantee, its successors and assigns forever, a perpetual non-exclusive easement over, across, and under the following described real property:

**SEE EXHIBIT "A" ATTACHED HERETO**  
**AND BY THIS REFERENCE MADE A PART HEREOF (the "Easement Area")**

, for the purpose of construction, installation, repair, maintenance, replacement and improvement of underground natural gas lines and its associated pipes, tees, joints, laterals, valves, and other appurtenances (collectively, the "Facilities").

**TO HAVE AND TO HOLD** unto Grantee, its successors and assigns forever, subject to the terms and conditions set forth hereinbelow:

1. Grantor shall have the authority to use and to authorize others to use the Easement Area in any manner which is not inconsistent with the Easement. Grantor reserves the right to grant other easements over, under, upon and through the Easement Area, but will not allow such other easements to cause unreasonable interference with the easement granted to Grantee herein, or grant any other easements which, if utilized for their intended purposes, would violate any setback or separation provisions now or hereafter imposed by law, rule, or regulation, or as a

condition of any license or permit held by Grantee for the operation of any of the natural gas utilities located within the Easement Area.

2. Grantee will have and hold the easement, together with every right and appurtenance connected to it, for so long as Grantee is (i) providing natural gas utility services to the Improvements (as defined herein), or (ii) utilizing the Facilities to provide natural gas utility services to a party other than Grantor in accordance with the terms of this Easement. When that period expires, and provided Grantee is not then utilizing the Facilities to provide natural gas utility services to any other party, Grantor may provide Grantee with a written request to terminate the Easement, which request shall not be unreasonably, conditioned, or delayed by Grantee, and which shall be promptly executed and returned to Grantor. Thereafter, this Easement shall be terminated. Alternatively, if Grantee no longer is providing natural gas utility services to the Improvements (as defined herein) but is providing natural gas utility services through a portion of the Facilities to a third party other than Grantor in accordance with the terms of this Easement, Grantor may provide Grantee with a written request to terminate the Easement as to those portions of the Easement Area containing those Facilities no longer being used by Grantee, which request shall not be unreasonably, conditioned, or delayed by Grantee, and which shall be promptly executed. Thereafter, this Easement shall be terminated as to those portions of the Easement Area containing those Facilities no longer being used by Grantee, or modified so as to not prevent Grantee from serving other properties in a manner consistent with this Easement.

3. Grantee shall install the Facilities in accordance with Grantor's approved development plans (the "Plans") so as not to conflict or interfere with any buildings or structures to be constructed on the Grantor's property (the "Improvements"). Grantor agrees to construct the Improvements in accordance with the Plans, and Grantee agrees to construct the Facilities so as not to conflict with the Improvements as depicted on the Plans.

4. The Facilities shall be used by Grantee solely and exclusively for the purpose of (i) providing natural gas utility services to the Improvements, and (ii) for such other uses as the Grantee deems appropriate, provided that (a) the level of natural gas utility services to the Improvements is not diminished, (b) the points of connection within the boundaries of Grantor's property are reasonably acceptable to Grantor (the "Points of Connection"), and (c) Grantee installs the connections so as not to unreasonably conflict or interfere with the Improvements. Grantor's approval of the Points of Connection shall be in writing, shall not be unreasonably withheld, conditioned, or delayed, and shall not be denied on the grounds that natural gas utility services are being provided to a party other than Grantor.

5. Subject to the provisions of the Code of Ordinances of the City of Leesburg as the same may exist or be amended from time to time (the "Code"), the Facilities shall be installed, repaired, replaced, relocated, and maintained by Grantee, at Grantee's sole cost and expense, so as to provide the natural gas utility services specified herein and to not damage the Improvements.

6. If Grantor's future orderly development of the Improvements are in conflict with Grantee's Facilities, the Grantee shall, within a reasonable period after receipt of written request from Grantor (not to exceed one hundred eighty (180) days), relocate the Facilities to another

mutually agreed upon area on Grantor's property, provided that prior to the relocation of the Facilities, (a) Grantor shall pay to the Grantee the full expected cost of the relocation as estimated by the Grantee, including the actual cost of construction and materials, and the reasonable costs of design and engineering, permitting, legal review and document preparation, and expert review of surveys and plans, and (b) Grantor shall execute and deliver to the Grantee at no cost, an acceptable and recordable easement to cover the relocated Facilities which shall automatically terminate and release this Easement without the further consent of Grantee.

7. If Grantor, at Grantor's sole cost and expense, causes an accurate legal description of the centerline of the location of the Facilities to be created by a licensed surveyor, which survey shall be signed, sealed, and certified to Grantee and Grantee's legal counsel, Grantor and Grantee shall within a reasonable time after receipt thereof execute a revised easement which shall automatically terminate and release this Easement, and which shall limit the location of the Easement Area to the area(s) shown on such survey with those areas to be of sufficient width to accommodate all natural gas utilities in the revised easement, consistent with setbacks, rules, and regulations then in effect. Such easement shall provide for reasonable access to the revised easement area and shall state that the revised easement area and the location of the Facilities shall not be further modified unless the parties sign an additional revised easement.

8. To the extent permitted by law, by acceptance and use of the Easement and rights granted hereby, the Grantee covenants and agrees, by acceptance and use of the easements granted and conveyed herein, to indemnify, protect, defend, and hold harmless the Grantor from and against any and all claims, actions, causes of action, loss, damage, injury, liability, cost or expense, including without limitation attorneys' fees (whether incurred before, during or after trial, or upon any appellate level, or in arbitration, mediation, or in any proceeding in bankruptcy or insolvency), arising from the Grantee's use of the Easement Area or from the exercise by the Grantee of any rights arising under this Easement, or from any breach of any obligations of the Grantee hereunder. Nothing herein shall be construed as Grantee's waiver of sovereign immunity pursuant to Section 768.28, Florida Statutes (2005) (as amended, replaced, modified or supplemented).

9. In the event of any dispute hereunder or of any action to interpret or enforce this Easement, any provision hereof or any matter arising herefrom, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney (in-house and outside counsel), paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether incurred before, during or after trial or upon any appellate level, or in any administrative proceeding, in arbitration, mediation or any proceeding in bankruptcy or insolvency.

10. If Grantee damages any of the Improvements in its use of the easements granted hereunder, it shall repair any such damage at its expense, and restore the Improvements to substantially the same condition they were in prior to the activities of Grantee which caused the damage.

11. Grantor does hereby warrant the title to the interests conveyed to Grantee hereunder and will defend the same against the lawful claims of all persons whomsoever.

12. The rights and obligations described above area intended as, and shall be, covenants running with the land with respect to the Easement Area and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name as of the date, day and year first above written.

Signed, sealed and delivered in the presence of:

LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership

Stacy L. Carr  
Printed Name: Stacy L. Carr  
Denielle Trotter  
Printed Name: Denielle Trotter

By: CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, its general partner

By: [Signature]  
Printed Name: Jay Brock  
Title: Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2006 by Jay Brock as the Manager of CED Capital Holdings 2005 A, L.L.C., a Florida limited liability company, as the general partner of LAKE HARRIS COVE PARTNERS, LTD., a Florida limited partnership, on behalf of the company and partnership, and who is personally known to me or has produced \_\_\_\_\_ as identification and who did/did not take an oath.



Stacy L. Carr  
My Commission DD246052  
Expires September 22, 2007

Stacy L. Carr  
Printed Name: Stacy L. Carr  
Notary Public, State of Florida  
Commission No.: DD246052  
My commission expires: 9.22.07

✓

EXHIBIT "A"

(the "Easement Area")

SHEET 1 OF 2 AND 2 OF 2 ATTACHED,  
24208\SKETCHES\SK 1 REV 9/15/05. DWG

## LEGAL DESCRIPTION

All of Lots 7 and 8, Block 46, and a portion of Lots 3 and 4, Block 50, all lying in and according to the plat of Silver Lakes Estates, a subdivision recorded in Plat Book 5, pages 1 and 2, and Revised and Corrected Plat in Plat Book 10, pages 66 through 69, inclusive, Public Records of Lake County, Florida, as vacated by Resolution recorded in Official Records Book 848, page 940.

Together with that portion of the abandoned railroad right of way conveyed in Official Records Book 1513, page 1717.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE at the Northeast corner of Lot 4, Block 46 of Silver Lakes Estates, as recorded in Plat Book 10, pages 66 through 69 of the Public Records of Lake County, Florida; thence run South 00°46'51" East, along the East line of said Block 46, for a distance of 661.12 feet to the Northeast corner of Lot 8 of said Block 46, also being the Northwest corner of Summer Wind on Lake Harris, as recorded in Official Records Book 1469, page 1763 of said Public Records, also being the POINT OF BEGINNING; thence Continue South 00°46'51" East, along the East line of said Block 46, and the East line of Lot 4, Block 50, of said Silver Lakes Estates, also being the West line of said Summer Wind on Lake Harris, for a distance of 759.17 feet; thence run South 89°13'09" West, for a distance of 669.31 feet to a point on the West line of said Blocks 46 and 50; thence run North 00°00'48" East, along said West line, for a distance of 775.21 feet to the Northwest corner of said Lot 7, Block 46; thence run South 89°23'30" East, along the North line of said Lot 7, Block 46, for a distance of 246.03 feet to the point of curvature of a curve, concave Southerly, having a radius of 80.00 feet, a chord bearing of South 78°28'46" East, and a chord distance of 30.29 feet; thence departing said North line, run Southeasterly along the arc of said curve through a central angle of 21°49'26" for an arc distance of 30.47 feet to the point of reverse curvature of a curve, concave Northeasterly, having a radius of 120.00 feet, a chord bearing of South 78°28'47" East, and a chord distance of 45.43 feet; thence run Easterly along the arc of said curve through a central angle of 21°49'27" for an arc distance of 45.71 feet to the point of tangency; thence run South 89°23'30" East, for a distance of 240.56 feet to the point of curvature of a curve, concave Northwesterly, having a radius of 120.00 feet, a chord bearing of North 85°59'19" East, and a chord distance of 19.33 feet; thence run Northeasterly along the arc of said curve through a central angle of 09°14'23" for an arc distance of 19.35 feet to the point of tangency; thence run North 81°22'07" East, for a distance of 79.58 feet to the POINT OF BEGINNING.

Containing 504,595.69 square feet, or 11.58 acres, more or less.

SHEET 1 OF 2



16 East Plant Street  
Water Garden, Florida 34787 • (407) 654-5355

### SURVEYOR'S NOTES:

24208\SKETCHES\SK 1 rev 9/15/05.DWG

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF BLOCK 46, SILVER LAKES ESTATES AS HAVING AN ASSUMED BEARING OF SOUTH 89°23'30" EAST.

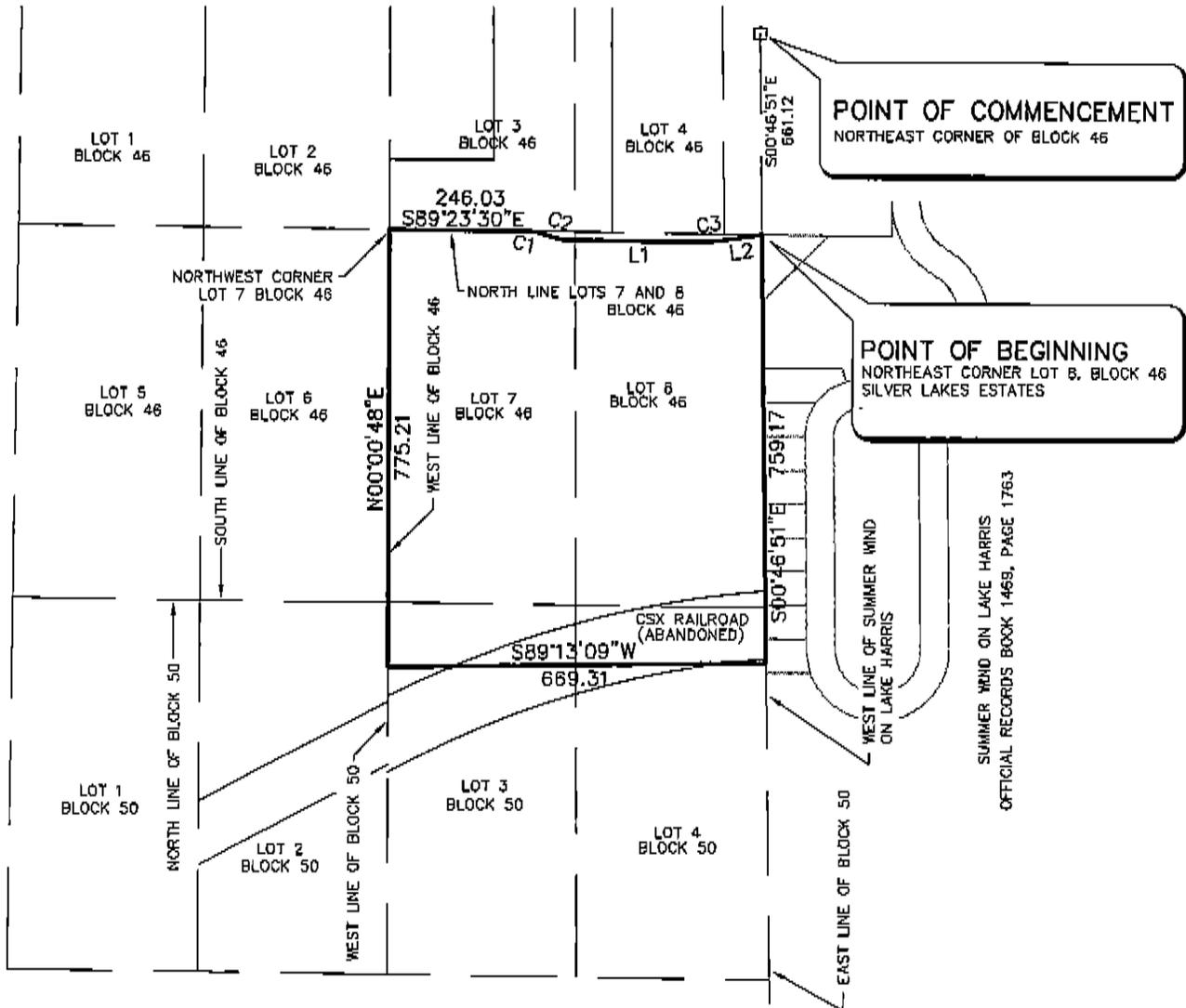
JOB NO. 24208  
DATE: 9/15/05  
SCALE: 1 INCH = 300 FEET  
FIELD BY: N/A

CALCULATED BY: EGT  
DRAWN BY: EGT  
CHECKED BY: JLR

FOR THE LICENSED BUSINESS #6723 BY:

JAMES L. RICKMAN, PSM #5633

# SKETCH OF DESCRIPTION



LINE TABLE		
LINE	LENGTH	BEARING
L1	240.58	S89°23'30"E
L2	79.58	N81°22'07"E

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	30.47	80.00	21°49'26"	30.29	S78°28'46"E
C2	45.71	120.00	21°49'27"	45.43	S78°28'47"E
C3	19.35	120.00	9°14'23"	19.33	N85°59'19"E

SHEET 2 OF 2

## SURVEYOR'S NOTES:

24208\SKETCHES\SK 1 rev 9/15/05.DWG

- THIS IS NOT A SURVEY.
- THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF BLOCK 46, SILVER LAKES ESTATES AS HAVING AN ASSUMED BEARING OF SOUTH 89°23'30" EAST.



16 East Plant Street  
Winter Garden, Florida 34787 • (407) 654-5355

JOB NO. <u>24208</u>	CALCULATED BY: <u>EGT</u>
DATE: <u>9/15/05</u>	DRAWN BY: <u>EGT</u>
SCALE: <u>1 INCH = 300 FEET</u>	CHECKED BY: <u>JLR</u>
FIELD BY: <u>N/A</u>	

*Handwritten mark*