

9/24/2012 12:17 PM Filed Lee County Clerk of Court

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

LEE COUNTY, FLORIDA, a political subdivision
of the State of Florida.

Petitioner,

vs.

CASE NO. 12CA-1552-T

Parcel 7A&B

Perpetual Subterranean
Utility Easement

SANCARLOS ISLAND, LLC, a Florida Limited
Liability Company; RADC/CADC VENTURE
2010-2, LLC, a Delaware Limited Liability Company,

Respondents.

STIPULATED AMENDED ORDER OF TAKING AND FINAL JUDGMENT

(To be recorded pursuant to Section 28.29 Florida Statutes (2011))

THIS CAUSE having come on upon the Joint Motion for the entry of this Stipulated Amended Order of Taking Final Judgment made by Petitioner, LEE COUNTY and Respondent, SAN CARLOS ISLAND, LLC, as the owner of Parcels 7A and 7B, and it appearing to the Court that the parties were authorized to enter into such motion, and that proper notice was first given to all Respondents and to all persons having or claiming any equity, lien, title or other interest in or to Parcels 7A and 7B, and the Court finding that the taking is necessary for a public purpose and that the compensation to be paid and any other consideration to be provided as set forth herein by Petitioner is full, just and reasonable for all parties concerned; and the Court being fully advised in the premises, it is therefore

ORDERED AND ADJUDGED:

1. That this Court has jurisdiction of this action, of the subject property, and of the parties in this cause pursuant to Chapters 73 and 74 of the Florida Statutes.

2. The pleadings in this cause are sufficient, that the Petitioner is properly exercising its delegated authority, and that the condemnation of Parcels 7A and 7B is for a valid public purpose and is reasonably necessary for such purposes.

3. This Court entered a Stipulated Order of Taking on July 17, 2012, to acquire Parcels 7A and 7B for a Perpetual Utility Easement as described in the legal description attached hereto as Exhibit "A", and title vested to Petitioner upon the deposit made on August 3, 2012.

4. Petitioner now seeks to amend the Perpetual Utility Easement as described in the July 17, 2012 Order of Taking as follows:

a. the easement acquired is a Perpetual *Subterranean* Utility Easement for the purposes of installing a single wastewater line, the right to construct and maintain replacement wastewater facilities, including transmission and collection system facilities, and associated appurtenances beneath the surface of the property approximately seventy (70) feet below sea level, to be constructed in substantial conformance with those sections of the construction plans attached hereto as Exhibit "B;"

b. reserving to the fee owner exclusive, unrestricted use of the entire surface area of the easement and those subsurface areas that lie fifty (50) feet or less below sea level.

5. Upon payment of the sums specified in Paragraph 6 to Respondent, title and interest to the real property identified as Parcels 7A and 7B as set forth in Paragraph 4, above, shall vest in the Petitioner, reserving to the fee owner those rights and interests specified therein.

6. Respondent does have and recover of and from the Petitioner, subject to the interests, if any, of RADC/CADC VENTURE 2010-2, LLC, the sum of **\$11,000.00 (ELEVEN THOUSAND and 00/100 DOLLARS)** in full payment for Parcels 7A and 7B herein taken and as described above and in Exhibit "A," and for all damages of any nature, including severance and business damages, statutory interest, as well as all attorney's fees, both monetary and non-

monetary based, and all expert fees and costs. Lee County, having deposited \$2,300 into the Court Registry, shall be entitled to a credit for that amount.

7. That upon entry and within twenty (20) days of the receipt of a conformed copy of this Stipulated Amended Order of Taking and Final Judgment, the Petitioner shall issue a check in the amount of **\$8,700.00 (EIGHT THOUSAND SEVEN HUNDRED AND 00/100 DOLLARS)** payable to the Trust Account of Moore Bowman & Rix, P.A., c/o Gregory S. Rix, Esquire, 300 West Platt Street, Suite 100, Tampa, Florida 33606, for proper disbursement.

8. That the Joint Motion for the entry of this Stipulated Amended Order of Taking and Stipulated Final Judgment is approved and is incorporated herein by reference.

9. That this Court shall maintain jurisdiction to enforce the terms and provisions contained herein.

DONE AND ORDERED in Chambers at Ft. Myers, Lee County, Florida, on this

21 day of September 2012.

KEITH R. KYLE 9/21/12
Keith R. Kyle
CIRCUIT COURT JUDGE

Pursuant to Rule 1.080, Florida Rules of Civil Procedure, a copy of the forgoing was mailed to:

Michael D. Jacob, Assistant County Attorney
Gregory S. Rix, Esquire
Robert F. Cooke, Esquire

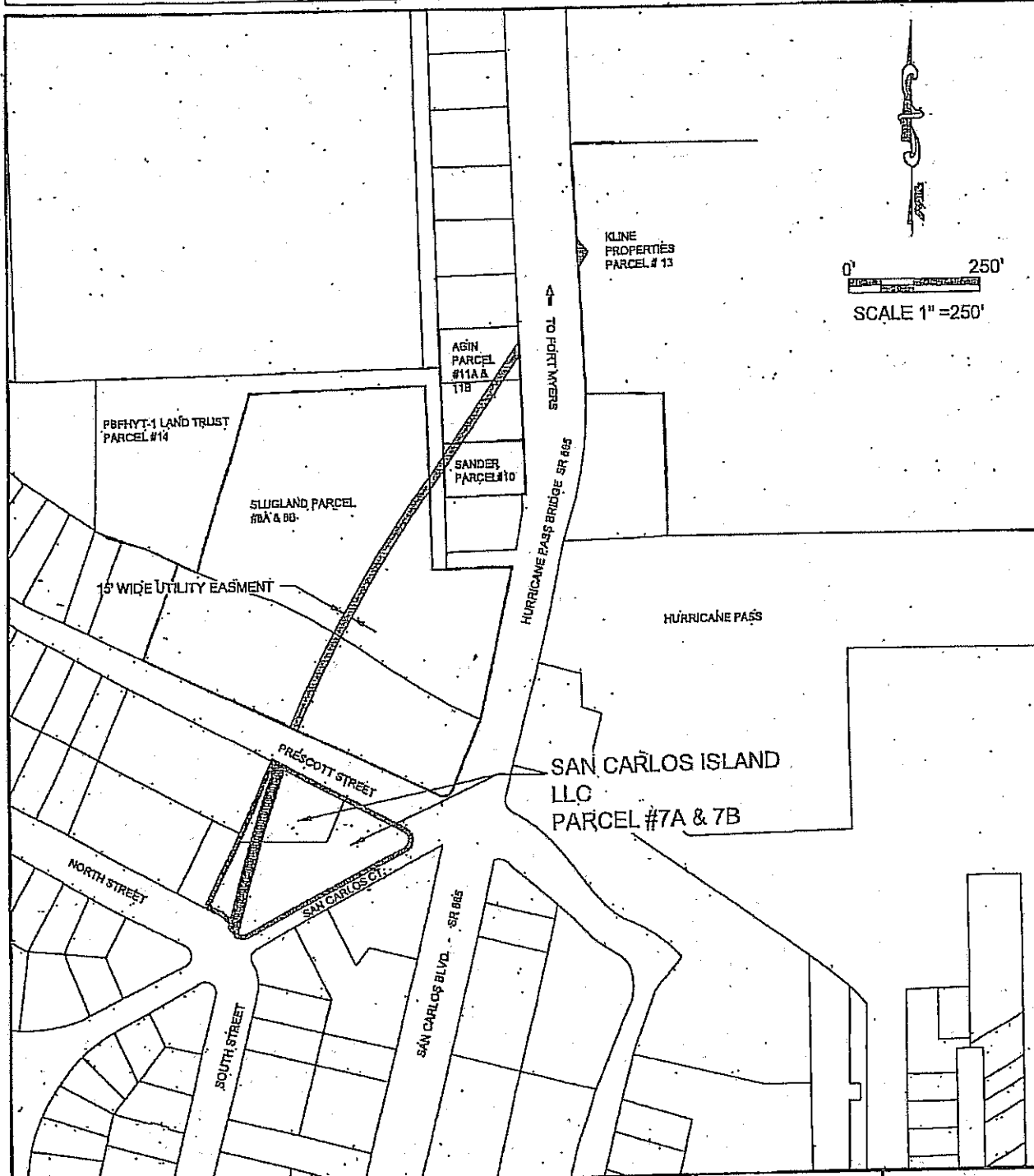
On Sept 21 2012

By: [Signature]
Judicial Assistant

Exhibit "A"

Page 1 of 3

Project:	Page Setup Name:	Printer/Plotter Name:	Plot Style Table:	Plotted By:
Plotted Drawing Path and Name:				Layout:



K&W CONSULTING ENGINEERS
 5821 Banner Drive
 Fort Myers, Florida 33912
 TEL: 239.278.1992 - FAX: 239.278.0922
 E-MAIL: info@kandw.com
 Engineering Certification # 5762
 Survey License # 734

PERMANENT EASEMENT LOCATION MAP

UTILITY EASEMENT PARCEL #7A & 7B
 SAN CARLOS ISLAND LLC PARCEL
 STRAP# 13-46-23-01-00004.0010 &
 STRAP# 13-46-23-00-00004.0430
 SECTION 13; TOWNSHIP 46 SOUTH, RANGE 23 EAST
 LEE COUNTY, FLORIDA

CREW CHIEF:
DRAWN BY: MAT
SCALE AS SHOWN
DATE: 04/12/2011
7916.09 LOC
#7A & 7B
SHEET 1 OF 3
TRW PROJECT NO.: 7916.09

Exhibit "A"

Page 2 of 3

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Plotted Drawing Path and Name: P:\survey\projects\07916.09 SAN CARLOS FLA\DWG\ENR17-LECC.dwg		Layout: X7		

COPY

LEGAL DESCRIPTION

A 15 FOOT WIDE UTILITY EASEMENT
PARCEL #7A & 7B

A 15 FOOT WIDE STRIP OF LAND LOCATED IN LOTS 3, 4 AND 43, BLOCK 4 OF SAN CARLOS ON THE GULF A SUBDIVISION LYING IN THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, LYING 7.5 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCE AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 4 OF SAN CARLOS ON THE GULF, A SUBDIVISION RECORDED IN PLAT BOOK 6 AT PAGE 6 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAN CARLOS COURT; AS SHOWN ON SAID PLAT OF SAN CARLOS ON THE GULF; THENCE RUN S 62°38'03" W, ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID SAN CARLOS COURT AND ALONG THE SOUTHEASTERLY BOUNDARY LINE OF SAID BLOCK 4, FOR A DISTANCE OF 79.77 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE TO THE NORTH; THENCE RUN WESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, THROUGH A DELTA ANGLE OF 29°02'54", SUBTENDED BY A CHORD DISTANCE OF 10.03 FEET, AT A CHORD BEARING OF S 77°09'30" W, FOR AN ARC DISTANCE OF 10.14 FEET TO THE END OF SAID CURVE AND THE POINT OF BEGINNING OF THE CENTERLINE OF THE HEREIN DESCRIBED 15 FOOT WIDE STRIP OF LAND; THENCE RUN N 14°04'40" E FOR A DISTANCE OF 23.77 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE TO THE EAST; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,200.00 FEET; THROUGH A DELTA ANGLE OF 8°00'16", SUBTENDED BY A CHORD DISTANCE OF 307.10 FEET AT A CHORD BEARING OF N 18°04'48" E, FOR AN ARC LENGTH OF 307.35 FEET TO THE END OF SAID CURVE AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF PRESCOTT STREET, A 60 FOOT RIGHT-OF-WAY AS SHOWN ON SAID PLAT OF THE SAN CARLOS ON THE GULF; THE SAME BEING THE END OF THE HEREIN DESCRIBED CENTERLINE; THIS 15 FOOT WIDE STRIP OF LAND CONTAINS 4,959 SQUARE FEET, MORE OR LESS.

THE SIDELINES OF THIS 15 FOOT WIDE STRIP OF LAND ARE TO BE LENGTHENED OR SHORTENED TO MEET THE NORTHERLY AND SOUTHERLY BOUNDARY LINE OF SAID BLOCK 4.

SUBJECT TO EASEMENTS, RESERVATIONS AND OR RESTRICTIONS OF RECORD.

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER THE EAST LINE OF SECTION 13, TOWNSHIP 46 S, RANGE 23 EAST AS BEING S 01°19'06"E BASED ON THE STATE PLANE COORDINATE SYSTEM, FLORIDA WEST ZONE (NAD 83 / 89).
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMAL THEREOF.

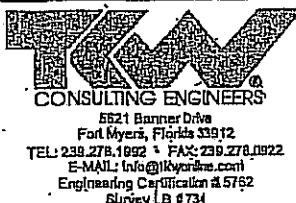
Eric V. Sandoval

SIGNATURE.

ERIC V. SANDOVAL (FOR THE FIRM - LB-734)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5223

5-2-11
DATE SIGNED:

* THIS IS NOT A SURVEY *

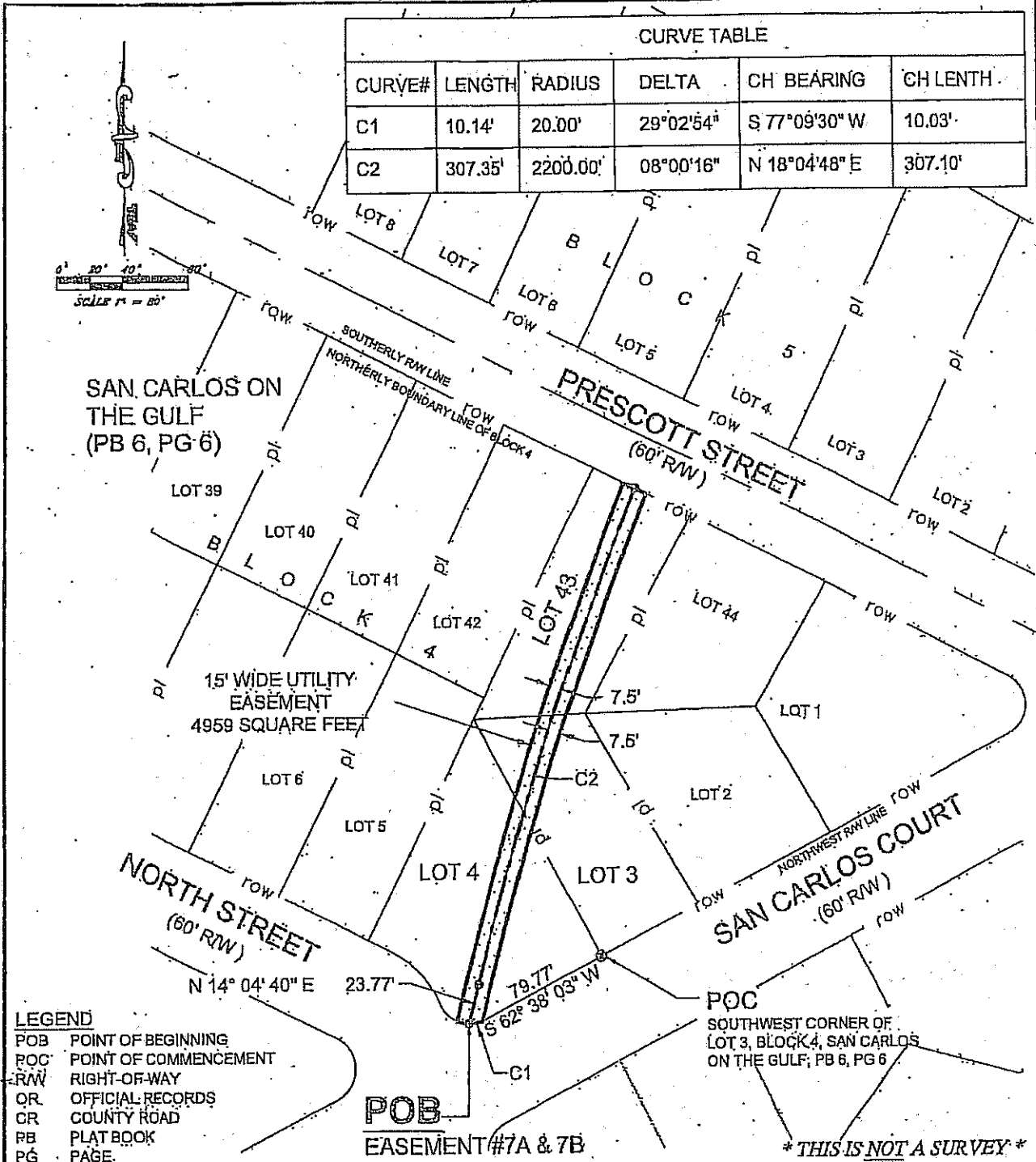


LEGAL DESCRIPTION

UTILITY EASEMENT PARCEL #7A & 7B
SAN CARLOS ISLAND LLC PARCEL
STRAP# 13-46-23-01-00004.0010 &
STRAP# 13-46-23-00-00004.0430
SECTION 13, TOWNSHIP 46 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA

CREW CHIEF:
DRAWN BY: MAT
SCALE: AS SHOWN
DATE: 04/12/2011
7916.09 LEG
#7A & 7B
SHEET 2 OF 3
TKW PROJECT NO.: 7916.09

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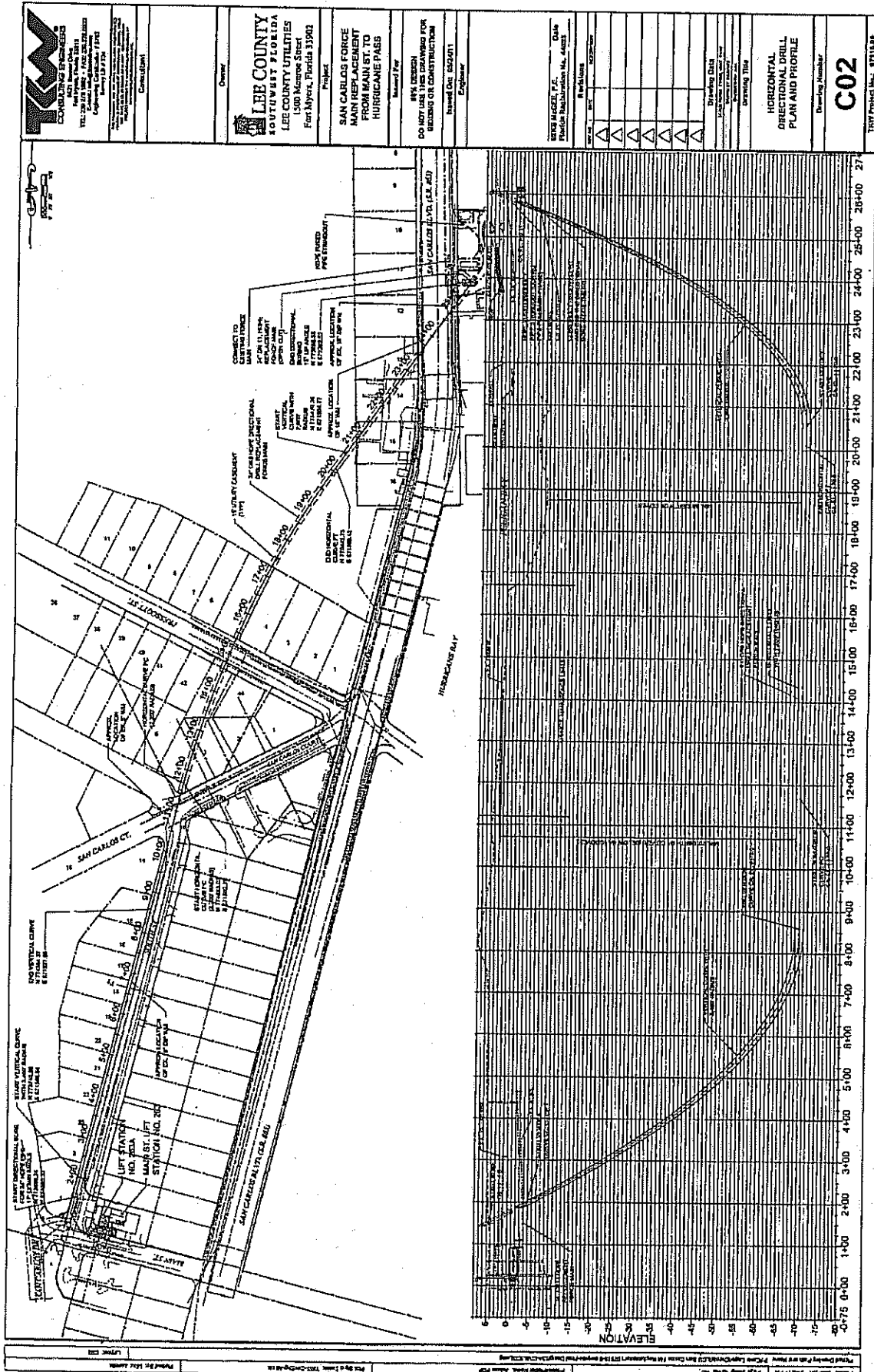

T&W
CONSULTING ENGINEERS

5621 Banner Drive
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TEL: 239.278.1992 • FAX: 239.278.0922
E-MAIL: info@tandw.com
Engineering Certification # 5762
Survey LB # 714

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

UTILITY EASEMENT #7A & 7B SAN CARLOS ISLAND LLC
STRAP# 13-46-23-01-00004.0010 &
STRAP# 13-46-23-00-00004.0430
SECTION 13, TOWNSHIP 46 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA

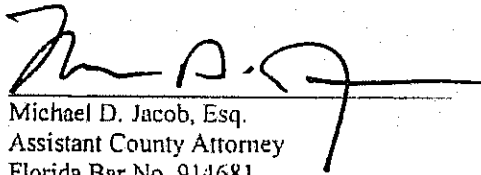
CREW CHIEF:
DRAWN BY: MAT
SCALE: AS SHOWN
DATE: 04/12/2011
7916.09 SK
#7A.&7B
SHEET 3 OF 3
T&W PROJECT NO.: 7916.09



PLAN R

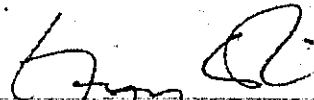
JOINT MOTION

COME NOW the parties to this action, by and through their undersigned attorneys, respectfully move for this Honorable Court to enter of the foregoing Stipulated Amended Order of Taking and Final Judgment.



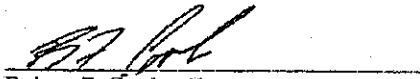
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Telephone 239/533-2236
Attorneys for Petitioner

Dated: 9/18/12



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Attorneys for Respondents
SANCARLOS ISLAND, LLC, a Florida
Limited Liability Company

Dated: 9-18-12



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Attorneys for Respondents RADC

Dated: 9-17-12