



RG Towers' Developmental Review Application- Sonic

6 Relevant Easements

This instrument prepared by
and should be returned to:
Howard Bregman, Esq.
Wolf, Block, Schorr and Solis-Cohen
777 South Flagler Drive
Suite 900
West Palm Beach, FL 33401

780107

**GRANT OF EASEMENT
FOR INGRESS AND EGRESS**

This instrument prepared by
and should be returned to:
Howard Bregman, Esq.
Wolf, Block, Schorr and Solis-Cohen
777 South Flagler Drive
Suite 900
West Palm Beach, FL 33401

THIS EASEMENT GRANT is made this 5th day of September, 1986, between FP-95 ASSOCIATES, a Florida general partnership (referred to in this instrument as "Grantor") and CANAVERAL 401 CORP., a Florida corporation and ONSITE AMERICAN HOLDINGS, INC., a Florida corporation (referred to in this instrument collectively as "Grantee").

The following recitals constitute a material part of this instrument:

A. Grantor is the owner of a tract of land located in St. Lucie County, Florida, legally described in Exhibit A attached hereto and made a part hereof (the "FP-95 Premises").

B. Grantee is the owner of a tract of land located adjacent to the FP-95 Premises, legally described in Exhibit B attached hereto and made a part hereof (the "Canaveral Premises").

C. Grantor desires to grant and Grantee desires to receive an easement over, under and across a portion of the FP-95 Premises for the purposes described herein.

NOW, THEREFORE, in consideration of Ten and 00/100 (\$10.00) Dollars and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged the parties hereto agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive easement into, out of, over, and across a portion of FP-95 Premises for ingress to and egress from the Canaveral Premises to Jenkins Road along with the right, at Grantee's expense, to improve the Easement Area for the purposes expressed herein. The Easement Area shall have a width of forty feet parallel to and abutting the (i) eastern boundary line of the FP-95 Premises along Jenkins Road, (ii) southern boundary line of the FP-95 Premises along Okeechobee Road, (iii) western boundary line of the FP-95 Premises until such boundary line meets the southern boundary of the Canaveral Premises ("Easement Area"). Grantor shall have the right in its sole discretion, subject to the prior written consent of Ohio Savings Bank so long as its mortgage on the FP-95 Premises is outstanding, to relocate the Easement Area at any time and from time to time provided that Grantee shall continue to have access to the Canaveral Premises from Jenkins Road. To that end, Grantor shall have the unilateral right, subject to the prior written consent of Ohio Savings

Bank so long as its mortgage on the FP-95 Premises is outstanding, to terminate this Easement and record a new easement executed solely by Grantor, its successor or assigns relocating the Easement Area, provided such new easement shall not be inconsistent with the terms of this Easement.

2. Use of Easement Area. The Easement Area shall be used by Grantee solely for the purposes set forth in Paragraph 1 provided such use does not unreasonably burden Grantor's use of the FP-95 Premises.

3. Construction of Road. Nothing contained herein shall obligate Grantor or its successors or assigns to construct a road over the Easement Area or any relocated easement area, it being understood, however that if, and/or when Grantor, or its successors or assigns elects to construct a road, during such construction Grantor may provide temporary access to Grantee. Grantor, its successors or assigns shall have the unilateral right, if it or they so elect, subject to the prior written consent of Ohio Savings Bank so long as its mortgage on the FP-95 Premises is outstanding, to dedicate any road built over the Easement Area or any relocated easement area for the benefit of St. Lucie County, Florida or any other protected subdivision having jurisdiction.

4. Running of Benefits and Burdens. All provisions of this instrument, including the benefits and burdens, run with the land and are binding on and inure to benefit of the successors and assigns of the parties. This instrument may not be amended or modified without the prior written consent of Ohio Savings Bank so long as its mortgage on the FP-95 Premises is outstanding.

5. Conformity with Applicable Law. Grantee's use of the Easement Area shall be in conformity with all applicable rules, guidelines, regulations, ordinances or statutes of St. Lucie County, Florida, the State of Florida, and any other governmental or regulatory body or agency with jurisdiction over Grantor or the Easement Area.

6. Restoration. This Grant is subject to Grantee's obligation to restore and repair any damage caused by Grantee, its successors, assigns, or their agents, permittees, tenants or invitees to the Easement Area.

7. Indemnity. Grantee shall indemnify, defend and hold harmless Grantor against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, including, but not limited to, interest, penalties and reasonable attorney's fees that Grantor may incur which arise, result from or relate to Grantee's use of the easement.

IN WITNESS WHEREOF, Grantor and Grantee have
executed this instrument the date first above written.

Witnesses:

[Signature]
Marta B. [Signature]

FP-95 ASSOCIATES

By:

[Signature]
Paul Rhodes,
Managing Partner

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me
this 5th day of September, 1986, by Paul Rhodes,
managing venturer of FP-95 Associates, a Florida general
partnership, on behalf of the general partnership.

[Signature]
Notary Public

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES APRIL 28, 1990



EXHIBIT "A"

BEGINNING at the Southeast corner of the Northeast 1/4 of Section 24, Township 35 South, Range 39 East, St. Lucie County, Florida; thence run N89°41'37"W along the East-West interior 1/4 section line, a distance of 1324.46 feet, to the Southwest corner of the Southeast 1/4 of the Northeast 1/4 of said Section 24; thence run N00°05'06"W, along the west line of the said Southeast 1/4 of the Northeast 1/4 of Section 24, a distance of 44.5 feet, to the north right-of-way line of the North St. Lucie River Water Control District Canal No. 38; thence run N89°41'37"W, along the said north right-of-way line, a distance of 172.78 feet, to the east limited access right-of-way line of Interstate 95; thence run N12°03'03"W, along the said limited access right-of-way line, a distance of 425.17 feet; thence run N10°09'50"W, along the said limited access right-of-way line, a distance of 157.33 feet; thence run N89°51'30"E, a distance of 288.46 feet to the East line of the Southwest 1/4 of the Northeast 1/4 of said Section 24; thence run N00°05'06"W, along the said eastline, a distance of 41.08 feet to the Northline of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 24; thence run S89°55'04"E, along the said northline, a distance of 664.43 feet, to the west line of the East 560.00 feet of said Section 24, thence run S00°04'59"E, along the said west line, a distance of 330.26 feet; thence run S89°55'24"E, a distance of 660.02 feet, to the east line of said Section 24; thence run S00°04'59"E, along the said east line of said Section 24, a distance of 336.37 feet, to the POINT OF BEGINNING, less and excepting the East 40.00 feet for Jenkins Road and less the South 48.00 feet of the East 1324.46 feet for canal right of way.

TOGETHER WITH:

BEGINNING at the Southeast corner of the Northeast 1/4 of Section 24, Township 35 South, Range 39 East, St. Lucie County, Florida; thence run N89°41'37"W, along the east-west interior 1/4 section line, a distance of 1324.46 feet, to the Southwest corner of the Southeast 1/4 of the Northeast 1/4 of said Section 24; thence run S00°02'23"E, a distance of 44.50 feet, to the south right-of-way line of the North St. Lucie River Water Control District Canal No. 38; thence run N89°41'37"W, along the said right-of-way line, a distance of 153.85 feet, to the east limited access right-of-way line of Interstate 95; thence run S12°03'03"E, along the said limited access right-of-way line, a distance of 184.90 feet; thence run S35°56'56"E, along the said limited access right-of-way line, a distance of 272.24 feet; thence run S89°55'04"E, along the said limited access right-of-way line, a distance of 272.21 feet; thence run N89°51'30"E, along the said limited access right-of-way line, a distance of 374.36 feet; thence run N11°17'02"E, along the said limited access right-of-way line, a distance of 700.93 feet, to the east line of Section 24, Township 35 South, Range 39 East; thence run N00°04'59"W, along the said east line of Section 24, a distance of 61.32 feet to the said Southeast corner of the Northeast 1/4 and the POINT OF BEGINNING, less and excepting the North 48 feet of the East 1324.46 feet for canal right-of-way and less the East 40 feet for Jenkins Road.

Containing 23.8944 acres more or less.

EXHIBIT B

Beginning at the Northeast corner of the Southwest 1/4 of the Northeast 1/4 of Section 24, Township 35 South, Range 39 East, St. Lucie County, Florida; run S 00°05'06"E 705.96 feet; thence run S 89°51'30" W 288.46 feet; thence run N 10°09'50" W 50.62 feet; thence run N 03°06'31" W 207.26 feet; thence run N 01°16'06" W 449.22 feet; thence run N 89°51'30" E 317.53 feet to the P.O.B.

containing 5.00 acres, more or less.

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36 SEP 5 P3 20

FILE
ROSL
ST. LUCIE

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This instrument prepared by
~~Charles L. Wood, Esq.~~
Charles L. Wood, Esq.
Altman, Kritzer & Levick, P.C.
6400 Powers Ferry Road, Suite 224
Atlanta, Georgia 30339

RECIPROCAL EASEMENT AND OPERATION AGREEMENT

THIS RECIPROCAL EASEMENT AND OPERATION AGREEMENT (the "Agreement") is made as of this 13 day of March, 1997, between **RK HOLDINGS**, a Florida general partnership, having an office at Plaza Center, 251A Royal Palm Way, Suite 300, Palm Beach, Florida 33480-4319 ("Landholder"), and **HOME DEPOT U.S.A., INC.**, a Delaware corporation, having an office at 2455 Paces Ferry Road, Atlanta, Georgia 30339-9998 ("HD").

Preliminary Statement

Landholder is the owner in fee of certain real property located in Fort Pierce, St. Lucie County, Florida, consisting of several parcels shown on a certain plat dated February 1997, recorded in Plat Book 35, Page 31, of the Public Records of St. Lucie County, Florida (the "Plat"), being (i) approximately 6.12 acres more particularly described in Exhibit A-1 attached hereto (shown on the Plat as Parcel C, and described herein as the "Proposed Hotel Parcel"), (ii) approximately .9 acre more particularly described in Exhibit A-2 attached hereto (shown on the Plat as Parcel B1 and described herein as "Outparcel A"), and (iii) approximately 3.23 acres more particularly described in Exhibit A-3 attached hereto (shown on the Plat as a single Parcel B2, but described herein as "Outparcel B" and "Outparcel C"). As used herein, "Outparcel B" shall mean and refer to that portion of said Parcel B2 south of a line bisecting the curb cut onto said Parcel B2 from Jenkins Road (as shown on the Plat) and running from east to west the full width of said Parcel B2 and parallel to the northerly boundary line of said Parcel B2 (the "Curb Cut Centerline"), and "Outparcel C" shall mean and refer to that portion of said Parcel B2 north of the Curb Cut Centerline.

HD is the owner in fee of certain real property also located in Fort Pierce, St. Lucie County, Florida, consisting of approximately 14.24 acres (shown on the Plat as Parcel A, and described herein as the "HD Parcel"), contiguous to Landholder's Parcel. The HD Parcel is more particularly described in Exhibit B attached hereto. HD intends to construct on the HD Parcel a building containing approximately 98,280 square feet of ground floor area (exclusive of mezzanine), a garden area containing approximately 28,098 square feet of ground floor area, and truck loading docks, customer pickup and compactor facilities and related parking and site facilities in the areas indicated on the site plan attached hereto as Exhibit C (the "Site Plan").

The Proposed Hotel Parcel, Outparcel A, Outparcel B and Outparcel C are sometimes collectively referred to herein as "Landholder's Parcel." Outparcel A, Outparcel B and Outparcel C are sometimes collectively referred to herein as the "Outparcels." The Proposed Hotel Parcel, Outparcel A, Outparcel B, Outparcel C and the HD Parcel are herein collectively referred to as the "Parcels" or the "Project," and each individually as a "Parcel."

Landholder and HD have also entered into that certain Development, Escrow and Funding Agreement of even date herewith (the "Development Agreement"), pursuant to which Landholder and HD have set forth certain of their respective responsibilities related to the development of the Project and the costs of such development. Landholder and HD further recognize that for the most favorable development of the Project, it is necessary that they agree and cooperate with respect to the operation and maintenance of their Parcels and the facilities to be erected thereon. Landholder and HD therefore intend herein to grant to each other certain easements for pedestrian and vehicular ingress and egress over curb cuts, roadways, driveways and aisles for access and for delivery and to grant certain rights to install and maintain utility lines and site facilities. Landholder and HD also intend herein to provide for certain obligations and restrictions with respect to the operation and

Johanne Holman, Clerk of the Circuit Court - St. Lucie County
File Number: **1537838** OR BOOK **1065** PAGE **1910**
Recorded: 03-14-97 12:32 P.M.

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RENEWAL
FIRST AMERICAN TITLE INSURANCE CO
25400 U.S. Highway 19 N., Suite 212
CLEARWATER, FL 34629

maintenance of their respective Parcels and the facilities constructed and to be constructed thereon. Such easements, obligations and restrictions shall run to the benefit of and bind the respective Parcels, and the owners from time to time of the Project or any portion thereof. The terms HD or Landholder shall be deemed to refer to such parties and the respective heirs, successors, grantees and assigns of such parties, and any net lessee of any Parcel or part thereof who has assumed all of the obligations of the owning party (individually the "Owner," or collectively, the "Owners"); provided, however, that any other provision of this Agreement to the contrary notwithstanding, the liability of any Owner for obligations arising under this Agreement shall be limited in the manner set forth in Section 8.04 hereof.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, Landholder and HD hereby grant, covenant and agree as follows:

ARTICLE I - GRANT OF EASEMENTS

Section 1.01. Access Easements.

(a) The Owner of the HD Parcel hereby grants and conveys, to the Owner of Landholder's Parcel, for the benefit of Landholder's Parcel, a perpetual, non-exclusive easement and right to the use of the interior roadway, as shown on the Site Plan, lying and being on the HD Parcel extending from the westerly right-of-way line of Jenkins Road and continuing in a westerly direction along, and to the south of, the northerly boundary of the HD Parcel to the point where said roadway crosses the northerly boundary of the HD Parcel north of the proposed HD store building (in the area marked "Future Access" on the Site Plan), for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians. The roadway described in this Section 1.01(a) is sometimes referred to in this Agreement as the "East-West Drive."

(b) The Owner of the Outparcels hereby grants and conveys, to the Owner of the HD Parcel, for the benefit of the HD Parcel, a perpetual, non-exclusive easement and right to the use during the term of this Agreement of that portion of the interior driveway, as shown on the Site Plan, extending from Okeechobee Road in the south to the East-West Drive in the north lying and being on the Outparcels, for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians. The driveway described in this Section 1.01(b) is sometimes referred to in this Agreement as the "North-South Drive." The owner of the HD Parcel hereby grants and conveys, to the Owner of the Outparcels, for the benefit of the Outparcels, a perpetual, non-exclusive easement and right to the use during the term of this Agreement of that portion of the North-South Drive lying and being on the HD Parcel, for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians.

(c) The easements granted in this Section 1.01 and granted in Section 1.02 shall be for the benefit of, but not restricted solely to, the Owners of the HD Parcel, Landholder's Parcel (as to Section 1.01(a)) and the Outparcels (as to Section 1.01(b)), as the case may be, and each such Owner may grant the benefit of such easement to the tenants and other occupants of the HD Parcel, Landholder's Parcel (as to Section 1.01(a)) or the Outparcels (as to Section 1.01(b)), as the case may be, for the duration of such occupancy, and to the customers, employees, agents and business invitees thereof; but same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public nor shall it affect or benefit any real property outside of the Project. Such easement areas are reserved for said use for the term of this Agreement. In particular, and without limiting the generality of the foregoing provisions of this Section 1.01(c), neither Landholder nor any other Owner of any portion of Landholder's Parcel may, at any time, (i) grant any additional easements, licenses or other rights of use across or with respect to any driveways or roadways on any Parcel including, without limitation, the East-West Drive and the North-South Drive, or (ii) convey, transfer, assign or grant the benefit of any of the easements granted in Section 1.01 or Section 1.02 of this Agreement to any other party or for the benefit of any other property.

(d) Landholder and HD acknowledge and agree that the westerly end of the East-West Drive will not be paved and completed to the boundary line of the Proposed Hotel Parcel at the time of the initial construction and development of the East-West Drive. Accordingly, Landholder and HD further acknowledge and agree that at such time as the Owner of the Proposed Hotel Parcel

develops the Proposed Hotel Parcel, such Owner shall be entitled to the benefit of the temporary construction easement set forth in Section 1.03 hereof for the purposes of paving and improving the balance of the East-West Drive lying and being on the HD Parcel to the boundary line of the Proposed Hotel Parcel, subject, however, to the additional provisions of this Section 1.01(d). Any pavement or other improvement of the balance of the East-West Drive shall be of a design and of workmanship comparable to that of the initially-constructed portions of the East-West Drive as then existing, so as to make the entire East-West Drive a single roadway of like construction. The Owners of the HD Parcel and the Proposed Hotel Parcel will cooperate in the completion of all such work, and such work shall be performed in such a manner as to minimize to the extent possible any interference with the operation of any business located on the HD Parcel and the operation of the East-West Drive. All then-existing driveways, roadways and parking areas shall be kept open and unobstructed at all times during such construction activity.

Section 1.02. Utility Easements. The Owner of the Outparcels hereby grants and conveys to the Owner of the HD Parcel, for the benefit of the HD Parcel, a perpetual easement in, to, over, under and across the Outparcels for the purpose of installation, operation, maintenance, repair, replacements, removal and relocation of (i) Drainage Facilities (as defined herein), and (ii) sanitary sewer pipes, septic systems, water and gas mains, electric power lines, telephone lines, and other underground utility lines (collectively, "Utility Lines"), to serve the facilities located on the HD Parcel. The initial location for the installation of Drainage Facilities and Utility Lines, and all other details concerning such installation, shall be determined pursuant to the Development Agreement and the plans and specifications described therein. The Owner of the HD Parcel hereby grants and conveys to the Owner of the Proposed Hotel Parcel, for the benefit of the Proposed Hotel Parcel, a perpetual easement in, to, over, under and across that portion of the HD Parcel identified herein as the East-West Drive, and areas of the HD Parcel immediately adjacent to the East-West Drive, for the purpose of installation, operation, maintenance, repair, replacements, removal and relocation of Utility Lines serving the Proposed Hotel Parcel, subject to the provisions of the immediately following paragraph.

The Owner of the HD Parcel or any designee served by such Utility Lines may operate, maintain and repair (and, if it does not interfere with the use of the granting Owner's Parcel, relocate) such Utility Lines, provided such repair and maintenance is performed expeditiously and only after five (5) business days' written notice to the granting Owner utilizing or serviced by said Utility Lines or the parking area to be affected by any construction work. Any relocation of Utility Lines, and the initial location of any Utility Lines serving the Proposed Hotel Parcel and to be located on the HD Parcel, shall be subject, as to location, to the approval of the granting Owner, which approval shall not be unreasonably withheld or delayed. The party performing construction, maintenance, repair or relocation shall use its commercially reasonable efforts to minimize any interference with the normal use of the affected Parcel and shall, at its cost and expense, repair any damage to and/or restore any improvements. In particular, and without limitation, any such construction, maintenance, repair or relocation affecting the East-West Drive shall be subject to the reasonable approval of the Owner of the HD Parcel, and such work shall be performed in such a manner as to minimize to the extent possible any interference with the operation of any business located on the HD Parcel and the operation of the East-West Drive. Each Owner shall indemnify and hold the granting Owner and any occupant of the granting Owner's Parcel harmless from any claims, damage or loss which may result from the activities in performing such maintenance, making such repairs or relocating its facilities.

Section 1.03. Temporary Construction Easement. In connection with any construction work to be performed in the development of the Project, each Owner hereby grants the other temporary easements for incidental encroachments upon the party's Parcel which may occur as a result of construction, so long as such encroachments are kept within the reasonable requirements of construction work expeditiously pursued and so long as customary insurance is maintained protecting the other party from the risks involved. In particular, and without limitation, Landholder hereby grants to HD such temporary construction easement, utility easements, grading easements and such other rights as are reasonably necessary on, over, under, through and across Landholder's Parcel as may be necessary or appropriate to enable HD to perform the "Work" as described in the Development Agreement. The party performing any work on the property of another party shall use its commercially reasonable efforts to minimize any interference with the normal use of the affected Parcel and shall, at its cost and expense, repair any damage to and/or restore any improvements.

Section 1.04. Storm Water Drainage Easement. (a) The Owner of the HD Parcel hereby grants and conveys, for the benefit of the Outparcels, as a burden upon the HD Parcel, perpetual, non-exclusive rights and easements to use, to impound storm water within, and to drain storm water through, the storm water drainage and retention facilities located or to be located or constructed upon the HD Parcel including, without limitation, (i) all pipes, ditches, flumes, culverts, inlets and other facilities for the drainage of storm water, (ii) the detention pond to be located in the westerly portion of the HD Parcel, and (iii) sheet flow of storm water from the Outparcels across the surface of the HD Parcel. The foregoing provisions of this Section 1.04 to the contrary notwithstanding, (i) the rights and easements granted and conveyed hereby shall not benefit any portion of the Proposed Hotel Parcel, and (ii) the grant and conveyance of such rights and easements pursuant to this Section 1.04, and the use and enjoyment thereof, shall in all events and at all times be subject to the standards and limitations set forth in, or established pursuant to, the Development Agreement. Such standards and limitations shall include, without limitation, specifications and restrictions concerning maximum flow rates, storm water volume and other factors. The foregoing provisions are not intended, however, to preclude natural storm water drainage, following the grading of the HD Parcel, from the Proposed Hotel Parcel onto adjacent properties including, without limitation, the HD Parcel.

(b) The storm water drainage and retention facilities described in Section 1.04(a) above, together with all such storm water drainage and retention facilities located on the Outparcels, are collectively referred to herein as the "Drainage Facilities." Any other provision of this Agreement to the contrary notwithstanding, the Drainage Facilities shall be common property and shall be maintained by the Association (as defined herein) as further described in Section 1.05 below.

Section 1.05. Canal and Drainage Facilities Maintenance

(a) In connection with the development of the Project, a certain drainage canal (the "Canal") operated by the North St. Lucie River Water Control District (the "District") in the vicinity of the Project was relocated. Such relocation included, without limitation, the grant of easements by Landholder to the District (prior to the conveyance of the HD Parcel from Landholder to HD) by means of the Plat, with a retained reservation of the right to use the easement area in any manner that will not be inconsistent with the easement, pursuant to which a portion of the Canal was or will be directed through underground pipe crossing portions of the Parcels. Such easement areas are collectively referred to herein as the "Canal Relocation Area." To provide for the repair and maintenance of that portion of the Canal lying and being within the Canal Relocation Area (the "Relocated Canal"), the District has entered into or will enter into an agreement (together with any successor or replacement instrument thereto, the "Canal Maintenance Agreement") with RK-HD Owners Association, Inc., a Florida not-for-profit corporation (the "Association"), pursuant to which the Association shall perform such repair and maintenance. The Association shall also perform all repair and maintenance of the Drainage Facilities, as further described in and subject to Section 1.05(e) below. Landholder and HD, and their successors and assigns, shall at all times during their ownership (but only during their ownership) of any Parcel in which the Canal Maintenance Agreement, or any successor or substitute agreement, remains in effect, be required to be members of the Association, and shall cooperate with the Association in carrying out its obligations under the referenced Maintenance Agreement.

(b) As further determined pursuant to the Canal Maintenance Agreement and the Bylaws of the Association, the Association shall (i) promulgate a budget for the initial, partial calendar year of the term of the Canal Maintenance Agreement to provide for the payment of any and all costs or expenses incurred by the Association in the exercise of its operations and in performing the repair, upkeep, inspection, care and maintenance of the Relocated Canal (collectively, "Maintenance Expenses"), (ii) promulgate a Maintenance Expenses budget annually for each calendar year thereafter during the term of the Canal Maintenance Agreement, (iii) based upon the foregoing budgets, establish an annual charge to be assessed by the Association to all Owners to provide for payment of the Maintenance Expenses expected to be incurred by the Association during the applicable calendar year (each an "Annual Assessment"), and (iv) establish from time to time any special charges to be assessed by the Association to all Owners to provide for payment of expenses incurred by the Association for extraordinary, non-budgeted items or for capital expenses (as determined under generally accepted accounting principles consistently applied) incurred by the Association (each a "Special Assessment"). Annual Assessments and Special Assessments are sometimes collectively

referred to herein as "Assessments." The amount of any Assessment applicable to a particular Parcel shall be determined by multiplying the aggregate amount of such Assessment by a fraction, the numerator of which shall be the acreage of such Parcel, and the denominator of which shall be equal to the aggregate acreage of all Parcels.

(c) Unless otherwise provided by the Association, each Owner shall pay to the Association each Annual Assessment and each Special Assessment not later than thirty (30) days after receipt of an invoice therefor. Any Annual Assessment or Special Assessment not paid within such thirty (30) day period shall bear interest from the due date at the Interest Rate (as defined in Section 6.01 hereof).

(d) Landholder and HD hereby covenant and agree, and each subsequent Owner of any Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association: (i) the Annual Assessment applicable to such Parcel or Parcels owned by such Owner, and (ii) any Special Assessment applicable to such Parcel or Parcels owned by such Owner. Each Annual Assessment applicable to a Parcel and each Special Assessment applicable to a Parcel, together with interest, costs, and reasonable attorneys' fees incurred in connection with the collection of any Assessment or the enforcement of any Assessment lien, shall be a charge on such Parcel and shall be a continuing lien upon such Parcel. Each such assessment, together with such interest, costs, and reasonable attorneys' fees, shall also be the obligation of the person or entity who or which was the Owner of such Parcel at the time when the Assessment fell due (subject, however, to Section 8.04 of this Agreement). The obligation for delinquent Assessments shall not pass to the successors in title of such person or entity unless expressly assumed by such successors, but the lien upon such Parcel shall run with the land.

(e) As indicated above, it shall be responsibility of the Association to operate, repair and maintain the Drainage Facilities. The Bylaws of the Association shall provide that the method for assessing and collecting Assessments for the cost of operating, maintaining and repairing the Drainage Facilities shall be the same as are applicable to the Maintenance Expenses for the Relocated Canal, as described in Section 1.05(b) above. Any proposed amendment to the Articles of Incorporation or Bylaws of the Association, or to this Agreement, which would affect the Drainage Facilities shall be submitted to the South Florida Water Management District ("SFWMD") for a determination of whether such amendment requires a modification of the surface water management permit issued by SFWMD with respect to the Drainage Facilities, a copy of which shall be attached to the Bylaws of the Association. The Association's registered agent shall maintain copies of all further SFWMD permitting actions for the benefit of the Association. The Bylaws and other rules and regulations of the Association shall continue in existence for not less than twenty-five (25) years, with automatic renewal periods thereafter.

Section 1.06. Agreement Regarding Pylon Sign. (a) Landholder acknowledges that HD intends to construct, use and maintain a pole-mounted pylon structure and sign on the HD Parcel in the area indicated on the Site Plan, for the exclusive benefit of HD, with a total height of not less than thirty (30) feet and with HD's signage panels on each side thereof measuring not less than fourteen (14) feet by fourteen (14) feet (provided, however, that the bottom of the sign panel shall be located not less than sixteen (16) feet above the grade level of the ground at the location of such structure). HD may make changes to and/or replace such pylon structure and/or sign (provided, however, that the bottom of the sign panel shall be located not less than sixteen (16) feet above the grade level of the ground at the location of such structure), so long as all necessary governmental approvals are obtained therefor. HD shall have reasonable access to those portions of Landholder's Parcel in the vicinity of the referenced pylon sign for purposes of erecting, illuminating, maintaining, repairing and/or replacing the pylon structure or its pylon sign. The specific description of the foregoing pylon structure and sign in this Section 1.06 shall not be deemed to restrict or limit in any manner the construction, use or maintenance of other sign structures on the HD Parcel.

(b) Landholder covenants and agrees that no sign extending more than twelve (12) feet above the grade level of the ground at the location of the HD sign described in Section 1.06(a) above shall be erected on any portion of Outparcel B south of a line connecting the northernmost point of the HD pylon structure described in Section 1.06(a) above, and as shown on the Site Plan, with the southeast corner of Outparcel B.

Section 1.07. Agreement Regarding Directional Signs. Landholder acknowledges that HD intends to construct, use and maintain a monument structure and sign (the "HD Monument") in the area adjacent to the intersection of the East-West Drive and Jenkins Road. HD shall have reasonable access to those portions of Landholder's Parcel in the vicinity of the HD Monument for purposes of erecting, illuminating, maintaining, repairing and/or replacing the HD Monument. HD hereby agrees that the Owner of the Proposed Hotel Parcel shall have the right to construct, use and maintain a small directional sign (the "Directional Sign"), for the sole benefit of the Proposed Hotel Parcel, in the area adjacent to the intersection of the East-West Drive and Jenkins Road, at the northwest corner of such intersection; provided, however, that (i) the exercise of such right shall not interfere with or hinder the ability of HD to construct, use and maintain the HD Monument, and (ii) the Directional Sign shall in no event be located between the HD Monument and Okeechobee Road. The Owner of the Proposed Hotel Parcel shall have reasonable access to those portions of the HD Parcel in the vicinity of the Directional Sign for purposes of erecting, illuminating, maintaining, repairing and/or replacing the Directional Sign. The specific description of the foregoing structures and signs in this Section 1.07 shall not be deemed to restrict or limit in any manner the construction, use or maintenance of other sign structures.

Section 1.08. Legal Descriptions. This Agreement may be subsequently amended to define with specificity the legal description of all or any portion of the areas subject to the easements established hereby; provided however, that such amendment shall be subject to the requirements of Section 10.01(f) hereof.

Section 1.09. Restrictions. The easements granted by this Article I shall be subject to the covenants and restrictions set forth in Article III.

ARTICLE II - MAINTENANCE AND OPERATION

Section 2.01. Maintenance and Repair.

(a) Each Owner shall maintain, repair and replace all improved portions of its respective Parcel, so as to keep such areas at all times in a safe, sightly and good condition, subject only to the provisions of Section 2.03 with respect to the operation, maintenance, repair and replacement of the Common Facilities (as defined herein).

(b) Each Owner shall be responsible for keeping its own Parcel clean and free from refuse and rubbish. Any landscaped areas on the respective Parcels shall be mowed and otherwise tended to by the Owner thereof.

(c) Each Owner shall service, maintain, repair and replace, and pay the cost of any fees or charges in connection with the Utility Lines located on its Parcel to the extent that such Utility Lines service the improvements on that Parcel. Maintenance of any portion of any Utility Lines serving more than one Parcel shall be governed by Section 2.03 hereof. The provisions of this Section 2.01 and of Section 2.03 shall not apply to any Utility Line or portion thereof which has been dedicated to and accepted by any public or governmental authority or public utility having jurisdiction thereof which shall maintain such dedicated and accepted Utility Line (collectively, "Dedicated Lines").

(d) Each Owner shall pay, prior to any penalty attaching thereto, all real estate taxes, assessments and personal property taxes, if any, imposed upon the land and improvements and equipment located on its respective Parcel.

(e) Each Owner shall cause all buildings and improvements located on its Parcel to comply with all applicable requirements of law and governmental regulation applicable thereto; provided however, that an Owner may contest any such law or regulation so long as such contest would not create any material danger of a loss of title to, or impairment in any way of the use of all or any portion of the areas subject to the easements granted hereby for their intended purposes.

Section 2.02. Operation and Lighting

(a) The East-West Drive and the North-South Drive shall be kept open seven days a week at all times and lighted after dusk until 11:00 p.m. ("Normal Lighting Hours"). Controls for the lighting systems for the East-West Drive and the North-South Drive shall be separate from the controls for the lighting systems serving the remainder of the Parcels. Any Owner or occupant of a Parcel (the "Requesting Party") may request the exterior lights on the East-West Drive or the North-South Drive to be kept lighted after Normal Lighting Hours if such Owner or occupant reimburses the requested Owner (the "Requested Party") for the additional costs incurred with respect thereto, which costs shall be shared on a pro rata acreage basis with any other occupant which remains open during such additional hours; provided that the Requesting Party gives the Requested Party not less than fifteen (15) days prior written notice of such request, stating the period during which its requests that the lights be kept operating (the "Additional Lighting Period"). The Requesting Party shall deliver to the Requested Party, prior to the beginning of the Additional Lighting Period, a prepayment for the costs of such additional lighting (the "Prepayment") calculated in the following manner:

(i) If the Additional Lighting Period is to be less than thirty (30) days, the Prepayment shall be one hundred ten percent (110%) of the reasonable cost of such additional lighting (including, without limitation, electrical power and increased personnel costs) as estimated by the Requested Party; and

(ii) If the Additional Lighting Period is to be more than thirty (30) days, the Prepayment shall be one hundred ten percent (110%) of the reasonable cost (including, without limitation, electrical power and increased personnel costs) for the initial thirty (30) days of the Additional Lighting Period as estimated by the Requested Party, and the Requesting Party shall deliver an additional Prepayment to the Requested Party before the end of each successive thirty (30) day period during the Additional Lighting Period.

As soon as is practicable following the end of the Additional Lighting Period, the actual costs incurred with respect to the additional lighting shall be compared with the aggregate amount of Prepayments made, and the Requesting Party shall promptly pay to the Requested Party any deficiency, or the Requested Party shall promptly refund to the Requesting Party any surplus, as the case may be. Similar comparisons and adjustments (including, without limitation, adjustments in the amount of any Prepayments subsequently due) may be made by the Requested Party in its discretion from time to time during any Additional Lighting Period longer than thirty (30) days. Upon the failure of the Requesting Party to pay any amounts due under this Section 2.02(a), in addition to all other rights and remedies which may be available, the Requested Party shall have the right to discontinue the additional lighting. Any request for additional lighting may be withdrawn, terminated or modified by written notice from the Requesting Party to the Requested Party.

(b) The foregoing provisions of Section 2.02(a) to the contrary notwithstanding, all exterior lighting fixtures and facilities serving the driveways, roadways and parking areas on the Outparcels (including, without limitation, the North-South Drive) shall (i) initially be high-pressure sodium lighting fixtures and facilities, (ii) not exceed an average lighting output of three (3) foot candles, (iii) at all times be subject to the requirements, specifications and restrictions set forth in or established pursuant to the Development Agreement, (iv) be operated, maintained and controlled solely by HD as further described in Section 2.03 hereof.

Section 2.03. Management of Common Facilities

(a) The Owners hereby appoint HD and any successor Owner of the HD Parcel as the managing Owner (the "Managing Owner") to perform or to provide for the performance by a third-party contractor of the services described in this Section 2.03. The party or parties actually performing such services shall be referred to herein as the "Manager." The Manager shall perform the operation, maintenance, repair and replacement of the Common Facilities (as defined below). Each Owner shall pay its respective Share (as defined below) of the costs incurred in performing such services; provided, however, that any expenditure costing \$10,000.00 or more in which another Owner must share for a repair or replacement shall require the prior approval of each such Owner. As used herein the term "Share" shall mean a fraction, the numerator of which shall be the acreage

of such Owner's Parcel, and the denominator of which shall be equal to the aggregate acreage of all Parcels.

(b) "Common Facilities" shall mean (i) all driveways and roadways, any Utility Lines serving both the HD Parcel and any other Parcel (except Dedicated Lines), and all related improvements, facilities, installations and equipment, located within the areas subject to the easements granted in Sections 1.01, 1.02 and 1.04 hereof, (ii) all exterior light fixtures and facilities located on the HD Parcel, and (iii) those exterior light fixtures and facilities located on the Outparcels which illuminate the East-West Drive and the North-South Drive.

(c) Each Owner other than the Managing Owner shall reimburse the Managing Owner for such Owner's Share of all actual costs incurred in operating, maintaining, repairing and replacing the Common Facilities (including, without limitation, all utility charges incurred for the operation of the light fixtures and facilities described in Section 2.03(b)(ii) above) as well as all capital expenditures (as determined in accordance with generally accepted accounting principles consistently applied) incurred in connection therewith (collectively, "Common Maintenance Costs"), subject to the limitation set forth in Section 2.03(a) above and further subject to Section 2.03(e) and Section 2.03(f) below. Each such Owner shall pay to the Managing Owner its respective Share of Common Maintenance Costs not later than thirty (30) days after receipt of an invoice therefor. Any amounts not paid within such thirty (30) day period shall bear interest from the due date at the Interest Rate (as defined in Section 6.01 hereof), and failure of any Owner to pay any such amount within such thirty (30) day period shall entitle the Managing Owner to exercise the rights and remedies set forth in Article VI hereof.

(d) The Manager shall retain its records relating to the Common Maintenance Costs for not less than twenty-four (24) months. Upon reasonable prior written notice to the Manager, any Owner shall have the right, during the twenty-four (24) month period following the end of the calendar year for which Common Maintenance Costs are in question, to inspect (at such Owner's cost and expense) the Manager's records relating to such costs. Appropriate adjustments, with corresponding reimbursements or additional payments of an Owner's Share of such adjustments, as the case may be, shall be made with respect to errors in the computation of such Common Maintenance Costs revealed by such inspection.

(e) Any other provision of this Agreement to the contrary notwithstanding, the acreage of the Proposed Hotel Parcel shall not be considered in the calculation of each Owner's Share and no Share shall be attributed or charged to the Proposed Hotel Parcel with respect to:

- (i) any Common Maintenance Costs until the Proposed Hotel Parcel, or the majority thereof, is transferred, conveyed or leased by Landholder (except to an Affiliate (as defined herein) of Landholder), or developed with improvements, whichever first occurs; or
- (ii) any Common Maintenance Costs, at any time, related to the facilities described in Section 1.04 of this Agreement.

(f) Any other provision of this Agreement to the contrary notwithstanding, no Share shall be attributed or charged to Landholder's Parcel with respect to any Common Maintenance Costs related to that portion of the East-West Drive located westerly of the its intersection with the North-South Drive until the Proposed Hotel Parcel, or the majority thereof, is transferred, conveyed or leased by Landholder (except to an Affiliate (as defined herein) of Landholder), or developed with improvements, whichever first occurs.

(g) As used in this Section 2.03, the term "Affiliate" shall mean any parent or subsidiary entity of Landholder (or any individual partner of Landholder), and any person who or entity which controls, is controlled by or is under common control with Landholder (or any individual partner of Landholder), whether through ownership, voting control, trust powers or powers of appointment, or otherwise.

(h) The Manager or the Managing Owner shall, within a reasonable time after a request therefor, but not more often than two (2) times within any twelve (12) month period with respect to

any Owner, furnish a certificate signed by an officer or authorized agent of the Manager or the Managing Owner, as the case may be, setting forth whether the Share of Common Maintenance Costs attributable to a specified Parcel has been paid, the date of last payment and, if any such amounts have not been paid, the amount due and payable with respect to such Parcel.

ARTICLE III - COVENANTS AND RESTRICTIONS

Section 3.01. Restrictions. Landholder's Parcel (and, as expressly set forth in Subsection (b) below with respect to cross-parking and self-sufficiency, the HD Parcel) shall be subject to the following restrictions which shall be binding on each Owner of any portion of Landholder's Parcel and each of its tenants, occupants, employees, agents or invitees:

(a) No obstruction to the free flow of traffic and use of the East-West Drive or the North-South Drive shall be permitted, except to the extent, if any, indicated on the Site Plan or herein expressly provided for. The foregoing provisions to the contrary notwithstanding, the Owner of the HD Parcel shall have the right, from time to time, (i) to block or close such driveways and roadways, as now or hereafter located in accordance herewith, at such time and in such manner as is necessary or appropriate, in the reasonable opinion of such Owner or its counsel, to prevent dedication of such driveways and roadways to the public as public rights-of-way or streets and (ii) temporarily to block or close the driveways and roadways as reasonably necessary to perform repairs and maintenance thereto or as reasonably necessary in connection with alterations, improvements, repairs or maintenance on the balance of the HD Parcel or the Common Facilities.

(b) Sufficient parking facilities to meet all applicable legal requirements (without the issuance of any variance, special permit or similar exemption, privilege or authorization), and to meet any additional practical requirement (in excess of such applicable legal requirements) resulting from the particular use of any Parcel, shall be located on and wholly within the boundaries of each of the Proposed Hotel Parcel, Outparcel A, Outparcel B and Outparcel C, no cross-parking shall be permitted between any of such Parcels and the HD Parcel or between the HD Parcel and any of such Parcels, and the HD Parcel shall be self-sufficient with regard to parking facilities without regard to any parking on the other Parcels. Each Owner reserves the right, at any time and from time to time, to exclude any person from parking upon such Owner's Parcel in violation of the foregoing restrictions and to exercise any other available right or remedy to enforce such restrictions.

(c) Any construction on any portion of Landholder's Parcel shall be conducted in a manner which will limit to the maximum extent practicable any interference with the operation of the remainder of the Project, and no construction on any portion of Landholder's Parcel shall unreasonably interfere with the use, occupancy or enjoyment of any portion of the remainder of the Project.

(d) No portion of Landholder's Parcel shall be used for a business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; is a public or private nuisance; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; or creates unusual fire, explosive or other hazards.

(e) No portion of Landholder's Parcel may be leased, used or occupied as a health spa or exercise facility; theater, movie theater; bowling alley; billiard parlor; funeral parlor; flea market; industrial manufacturing; automobile dealership; discotheque; skating rink; bar (other than incidental to and located within the premises of a business operated primarily as a restaurant); adult bookstore or establishment selling, exhibiting or distributing pornographic or obscene materials; massage parlor; so-called "head shop"; unsupervised amusement arcade or game room; body and fender shop; car wash (except as an amenity to a service station located thereon); off-track betting parlor; or restaurant or fast food operation incorporating coin-operating amusements or showing movies to its customers thereof other than as an incidental or immaterial part of its business.

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(f) No portion of any Outparcel may be used for (i) general offices in excess of 1,500 square feet; or (ii) a home improvement center or for the sale of lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper, carpeting, floor coverings, cabinets, siding, ceiling fans, gardening supplies, nursery products, furniture and pool supplies and other related items customarily carried by a home improvement center except for the incidental sale of such items.

(g) There shall be no promotion, entertainment, amusement or other activities on Landholder's Parcel, including the sidewalks immediately adjacent to premises occupied by merchants, which would interfere with the use of the easement areas and related facilities for their intended purposes.

(h) Upon the initial development of each Outparcel and continuously thereafter, the Owner of each Outparcel shall construct and maintain a permanent, continuous curb along the boundary of such Outparcel with the remainder of the Project; provided that no such curb shall encroach in any manner upon the East-West Drive or the North-South Drive. Curb cuts may be made between each Outparcel and the remainder of the Project only in the locations shown on the Site Plan; provided, however, that subject to the reasonable approval of the Owner of the HD Parcel as to location and subject to compliance with all governmental requirements, (i) two (2) curb cuts in the aggregate may be made onto the North-South Drive along the westerly boundary of the Parcel designated on the Plat as Parcel B2, and (ii) one (1) curb cut may be made from Outparcel A onto the North-South Drive and one (1) curb cut may be made from Outparcel A onto the adjacent accessways located on the HD Parcel (and in the event such latter curb cut is constructed, the Owner of Outparcel A shall also have a perpetual, non-exclusive easement and right to the use of that portion of such accessways on the HD Parcel from the curb cut to the North-South Drive). Other curb cuts between any Outparcel and the remainder of the Project may be made, if at all, only with the mutual consent and approval of the Owners of the HD Parcel and the affected Outparcel. There shall be no free flow of vehicular ingress and egress from the Outparcels to the HD Parcel, or from the Outparcels to any interior driveway, except through permitted curb cuts. Any other provision hereof to the contrary notwithstanding, a curb cut shown on the Site Plan and/or the Plat as being located on the north side of Outparcel C at the "50' x 25' LIFTSTATION EASEMENT" shall not provide vehicular access to Outparcel C but shall be for the sole purpose of providing access to the facilities operated pursuant to such liftstation easement.

(i) No building constructed on Outparcel B shall exceed a single story in height or seven thousand (7,000) square feet in floor area.

(j) The parties acknowledge that a certain lake (the "Lake") is located adjacent to and along the northerly boundary of the Proposed Hotel Parcel and forms a part of the drainage system (which includes the Canal) operated by the District. Except as provided in this Section 3.01(j), no Owner of any portion of Landholder's Parcel shall cause or permit the deposit or discharge of any substantial amounts of materials or substances (other than surface water, water flowing from the Canal, or other materials incidentally mixed and flowing with any such water) into, or the filling of, any portion of the Lake without the consent of the District. The foregoing provision to the contrary notwithstanding, however, this Section 3.01(j) shall not prohibit, or require the consent of the District with respect to, the incidental discharge into the Lake of sand, sediment or similar natural materials in non-substantial amounts in connection with (i) the construction, operation and maintenance of the East-West Drive, or (ii) other lawful activities conducted in the development, operation and maintenance of any Parcel.

(k) It is the intention of Landholder that all portions of the Lake owned by Landholder ("Landholder's Lake Areas") be publicly dedicated for drainage purposes (together with those other areas described in the Plat as "Drainage Properties" and publicly dedicated thereby). Landholder hereby conveys to the District, and its successors and assigns, a perpetual non-exclusive easement, in common with Landholder, and its successors and assigns (including, without limitation, HD), in and to Landholder's Lake Areas for storm water drainage purposes. Landholder hereby reserves, for itself and its successors and assigns

(including, without limitation, HD), all easement rights which are necessary or appropriate for the construction and maintenance of the Canal and related storm water drainage improvements within Landholder's Lake Areas. Landholder further reserves, for itself and its successors and assigns (including HD but only as to storm water drainage and such other uses as may be required by the District, SFWMD or other governmental authority having jurisdiction thereof), the right to freely traverse and to use for recreational purposes Landholder's Lake Areas, as well as the right to use all of Landholder's Lake Areas for all other purposes including, without limitation, storm water drainage, not inconsistent with this grant of easement by Landholder to the District.

ARTICLE IV - LIABILITY AND INDEMNIFICATION

Section 4.01. Liability Indemnification. Each Owner shall indemnify and hold every other Owner, tenant, and occupant of the Project harmless (except for loss or damage resulting from the tortious acts of such other parties) from and against any damages, liability actions, claims, and expenses (including attorneys' fees in a reasonable amount) in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon such Owner's Parcel, or occasioned wholly or in part by any act or omission of said Owner, its tenants, agents, contractors, employees, or licensees.

Section 4.02. Liability Insurance. Each Owner shall maintain or cause to be maintained public liability insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by the condition, use or occupancy of such Owner's Parcel by the Owner and its tenants, agents, contractors, employees, licensees, customers and invitees, of such Owner or the occupants of its Parcels except as herein provided. Said insurance shall be carried by a reputable insurance company or companies qualified to do business in the State in which the Project is located and having limits for loss of life or bodily injury in the amounts of not less than \$500,000 for each person and \$1,000,000 for each occurrence and \$500,000 for property damage for each occurrence. Each Owner shall maintain or cause to be maintained contractual liability insurance specifically endorsed to cover said Owner's agreement to indemnify as set out in Section 4.01. Notwithstanding the foregoing, any Owner or party responsible to maintain such insurance may "self insure," or provide for a deductible from said coverage related to the Parcel, to the extent of one percent (1%) of the net worth of said Owner or party in its last annual or fiscal year as certified by an independent certified public accountant and computed in accordance with generally accepted accounting principles consistently applied. Such insurance may be carried under a "blanket" policy or policies covering other properties of the party and its subsidiaries, controlling or affiliated corporations. Each Owner shall, upon written request from the other Owner, furnish to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Section or evidence of a self-insurance capacity as hereinabove provided, as the case may be. All such insurance shall include provisions denying to the insurer subrogation rights against the other parties to the extent such rights have been waived by the insured prior to the occurrence of damage or loss. Each Owner hereby waives any rights of recovery against any other Owner, its directors, officers, employees, agents and tenants and occupants for any damage or consequential loss covered by said policies, against which such Owner is protected by insurance, to the extent of the proceeds payable under such policies, whether or not such damage or loss shall have been caused by any acts or omissions of the other Owner or its directors, officers, employees, agents, tenants or occupants.

ARTICLE V - CASUALTY AND EMINENT DOMAIN

Section 5.01. Casualty.

(a) If any of the buildings located on any Parcel is damaged or destroyed by fire or other cause, the Owner of such building shall promptly cause either: (i) the repair, restorations, or rebuilding of the building so damaged or destroyed, or (ii) the razing of any damaged building, the filling of any excavation, and performance of any other work necessary to put such portion of the Project in a clean, sightly and safe condition.

(b) In the event any improvements subject to the easements granted hereby are damaged or destroyed, the Owner of the Parcel to which such damage has occurred shall promptly cause the repair, restoration or rebuilding of the improvements to their previously improved condition and restore such other areas to the extent necessary to avoid interference with the use, and enjoyment of the easements and rights granted hereby and to adhere to any required parking ratios required by law and as set forth herein.

Section 5.02. Eminent Domain. In the event the whole or any part of the Project shall be taken by right of eminent domain or any similar authority of law (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the property so taken or to such Owner's mortgagees or tenants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Agreement. Any Owner of a Parcel which is not the subject of a taking may, however, file a collateral claim with the condemning authority over and above the value of the land and improvements being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken if such claim shall not operate to reduce the award allocable to the Parcel taken. In the event of a partial Taking, the Owner of the portion of the Project so taken shall restore the improvements located on the easement areas of the Owner's Parcel as nearly as possible to the condition existing prior to the Taking without contribution from any other Owner and any portion of any condemnation award necessary therefor shall be applied for such purpose.

ARTICLE VI - REMEDIES

Section 6.01. Self-Help: Lien Rights: Disputes.

(a) If any Owner shall default in the performance of an obligation of such Owner (such Owner being herein called a "Defaulting Owner"), which default materially affects the Owner of another Parcel or any occupant thereof (an "Affected Party"), such Affected Party, in addition to all other remedies it may have at law or in equity, after ten days' prior written notice to the Defaulting Owner and any first Mortgagee or SL Lessor as herein defined (or in the event of an emergency after such notice as is practical under the circumstances), shall have the right to perform such obligation on behalf of the Defaulting Owner. In such event, the Defaulting Owner shall promptly reimburse the Affected Party the cost thereof, together with interest thereon from the date of outlay at a rate equal to the lesser of (i) two percent in excess of the prime lending rate charged by Citibank, N.A., for commercial loans of its most preferred commercial customers or (ii) the highest rate permitted by applicable law (the "Interest Rate").

(b) Any such claim for reimbursement, together with interest thereon as aforesaid, shall be secured by a lien on the Parcel and improvements thereon owned by the Defaulting Owner, which lien shall be effective upon the recording of a notice thereof in the Office of the Clerk or Registrar of the County in which the Project is located. The lien shall be subordinate to any first mortgage or deed of trust now or hereafter affecting the subject Parcel (a "First Mortgage") which is of record prior to the date upon which notice of the lien is filed in said Clerk's office, and to the interest of any party who has purchased the Parcel and leased it back to the preceding Owner ("SL Lessor"), or its subsidiary or affiliate, on a net lease basis with the lessee assuming all obligations thereunder in what is commonly referred to as a "sale leaseback" transaction (a "SL Lease") under a SL Lease entered into prior to the date upon which notice of the lien is filed in said Clerk's office; and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any such First Mortgage or assignee of such SL Lease shall take title subject only to liens thereafter accruing pursuant to this Section 6.01.

Section 6.02. Injunctive and Other Remedies. In the event of a breach by any Owner of any obligation of this Agreement, the other Owners shall be entitled to obtain an order specifically enforcing the performance of such obligation or an injunction prohibiting any such breach; the Owners hereby acknowledge the inadequacy of legal remedies and the irreparable harm which would be caused by any such breach, and/or to relief by other available legal and equitable remedies from the consequences of such breach. Any action taken or document executed in violation of this Agreement may be set aside upon the petition of the other Owners of portions of the Project. Any

costs and expenses of any such proceeding, including attorneys' fees in a reasonable amount, shall be paid by Defaulting Owner and, if recorded without effective dispute, shall constitute a lien against the land, and improvements thereon, or the interests therein, until paid.

Section 6.03. Non-Waiver. No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any Owner of a breach of, or a default in, any of the terms and conditions of this Agreement by any other Owner shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement. Except as otherwise specifically provided in this Agreement, (i) no remedy provided in this Agreement shall be exclusive but each shall be cumulative with all other remedies provided in this Agreement and (ii) all remedies at law or in equity shall be available.

Section 6.04. Non-Terminable Agreement. No breach of the provisions of this Agreement shall entitle any Owner or party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other rights or remedies which any party may have hereunder by reason of any breach of the provisions of this Agreement. No breach of the provisions of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value covering any part of the Project, and any improvements thereon.

Section 6.05. Force Majeure. In the event any Owner or any other party shall be delayed or hindered in or prevented from the performance of any act required to be performed by such party by reason of Acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, the act or failure to act of the other party, adverse weather conditions preventing the performance of work as certified to by an architect, war or other reason beyond such party's control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such party.

Section 6.06. Lien Related to Initial Improvements. Pursuant to the Development Agreement, (i) HD is to make certain on-site and off-site improvements to the Project in connection with the initial development thereof, and (ii) Landholder is to reimburse HD for its pro rata share of the costs of such improvements (the "Landholder Reimbursements"). Landholder, for the Proposed Hotel Parcel, Outparcel A, Outparcel B and Outparcel C, hereby covenants and agrees, and each subsequent owner of any of such Parcels by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to HD, the Landholder Reimbursements, as determined in accordance with the Development Agreement and at such times as required thereby. The Landholder Reimbursements applicable to a Parcel, but only such Parcel, together with interest, costs, and reasonable attorneys' fees incurred in connection with the collection thereof and the enforcement of the lien granted hereby, shall be a charge on such Parcel and shall be a continuing lien upon such Parcel which shall run with the land.

ARTICLE VII - TERM

Section 7.01. Term. This Agreement and the easements, rights, obligations and liabilities created hereby shall be perpetual to the extent permitted by law.

ARTICLE VIII - EFFECT OF INSTRUMENT

Section 8.01. Mortgage Subordination. Any mortgage or deed of trust affecting any portion of the Project shall at all times be subject and subordinate to the terms of this Agreement, except to the extent expressly otherwise provided herein, and any party foreclosing any such mortgage or deed of trust, or acquiring title by deed in lieu of foreclosure or trustee's sale shall acquire title subject to all of the terms and provisions of this Agreement, subject to Section 6.01 hereof. Each party hereto represents and warrants to the other parties that there is no presently existing mortgage or deed of

trust lien on its Parcel, other than mortgage or deed of trust liens that are expressly subordinate to the lien of this Agreement.

Section 8.02. Binding Effect. Every agreement, covenant, promise, undertaking, condition, easement, right, privilege, option and restriction made, granted or assumed, as the case may be, by either party to this Agreement is made by such party not only personally for the benefit of the other party hereto but also as Owner of a portion of the Project and shall constitute equitable servitude on the portion of the Project owned by such party appurtenant to and for the benefit of the other portions of the Project. Any transferee of any part of the Project shall automatically be deemed, by acceptance of the title to any portion of the Project, to have assumed all obligations of this Agreement relating thereto to the extent of its interest in its Parcel and to have agreed with the then Owner or Owners of all other portions of the Project to execute any and all instruments and to do any and all things reasonably required to carry out the intention of this Agreement and the transferor shall upon the completion of such transfer be relieved of all further liability under this Agreement except liability with respect to matters that may have arisen during its period of ownership of the portion of the Project so conveyed that remain unsatisfied.

Section 8.03. No Third-Party Beneficiaries; Non-Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Project to the general public or for any public use or purpose whatsoever. Nothing in this Agreement, expressed or implied, shall confer upon any person, other than the parties hereto and their successors and assigns, any public or private benefits, rights or remedies under or by reason of this Agreement.

Section 8.04. Responsibility. Notwithstanding anything to the contrary contained in this instrument, each party to this Agreement shall be liable and responsible for the obligations, covenants, agreements and responsibilities created by this Agreement and for any judgment rendered hereon only to the extent of its respective interest in the land and improvements on the Proposed Hotel Parcel, Outparcel A, Outparcel B, Outparcel C and the HD Parcel, as the case may be, and such liability and responsibility shall not result in a personal deficiency judgment or other personal money judgment against a party to this Agreement.

Section 8.05. Effect of Subdivision. Landholder and HD acknowledge and agree that those Parcels described herein as Outparcel B and Outparcel C have not been formally subdivided, but in fact comprise the single Parcel B2 shown on the Plat. The identification herein of such portions as separate Outparcels is strictly for the convenience of the parties hereto and for the purpose of identifying portions of such Parcel B2 which may be separately affected by this Agreement. This Agreement shall not create any rights with respect to the separate use, demise or conveyance of the portions of such Parcel B2 described herein as Outparcel B and Outparcel C, and any such use, demise or conveyance shall continue to be subject to all legal and regulatory requirements, and all rights of the Owners or other affected parties, applicable with respect to the actual subdivision of such Parcel B2. The terms, conditions and provisions of this Agreement applicable to Outparcel B and Outparcel C (as described herein) including, without limitation, any restrictions imposed on Outparcel B or Outparcel C, shall continue to apply to Outparcel B and Outparcel C as specifically described and defined in this Agreement, notwithstanding any actual subdivision of such Parcel B2 into parcels of different dimensions or descriptions.

ARTICLE IX - NOTICES

Section 9.01. Notices. Any notice, report or demand required, permitted or desired to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if it is mailed by registered or certified mail, return receipt requested, to the parties at the addresses shown below or at such other address as the respective parties may from time to time designate by like notice, on the third business day following the date of such mailing:

If to Landholder:	RK Holdings Attention: Mr. Sidney Kohl 305 Royal Poinciana Plaza Palm Beach, Florida 33480
-------------------	---

With a copy to: Mr. Paul Rhodes
Plaza Center
251A Royal Palm Way
Suite 300
Palm Beach, Florida 33480-4319

With a copy to: James S. Levin, Esq.
Michael, Best & Friedrich
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108

If to HD: Home Depot U.S.A., Inc.
2455 Paces Ferry Road
Atlanta, Georgia 30339-9998
Attention: Legal Department

With a copy to: Charles L. Wood, Esquire
Altman, Kritzer & Levick, P.C.
Powers Ferry Landing, Suite 224
6400 Powers Ferry Road, N.W.
Atlanta, Georgia 30339

ARTICLE X - MISCELLANEOUS

Section 10.01. Miscellaneous.

(a) If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) This Agreement shall be construed in accordance with the laws of the State in which the Project is located.

(c) The Article headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

(d) Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render either of said parties liable for the debts or obligations of the other.

(e) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

(f) This Agreement may be amended, modified, or terminated at any time by a declaration in writing, executed and acknowledged by (i) the Owner of the HD Parcel and (ii) the Owner or Owners of those other Parcels comprising at least a majority of the aggregate acreage of such other Parcels. The foregoing provision to the contrary notwithstanding, no such amendment or modification of this Agreement may impose any material obligation, or materially increase any existing obligation, upon any Owner which has not executed, or otherwise consented in writing to, such amendment or modification. This Agreement shall not be otherwise amended, modified or terminated during the term hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

OR BOOK 1065 PAGE 1925

LANDHOLDER:

RK HOLDINGS, a Florida general partnership

WITNESSES:

Nanette K Norton
Name: NANETTE K. NORTON

Ingrid J. Baker
Name: INGRID J. BAKER

By: *Sidney Kohl*
SIDNEY KOHL, General Partner

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

SS:

The foregoing instrument was acknowledged before me this 7th day of MARCH, 1997, by SIDNEY KOHL, General Partner of RK HOLDINGS, a Florida general partnership, on behalf of said partnership. He personally appeared before me, and is personally known to me or produced as identification.

[NOTARIAL SEAL]



LESLIE P. MOSS
My Comm Exp. 6/05/98
Bonded By Service Inc
No. CC378935
☒ Personally Known ☐ Other

Notary: *Leslie P Moss*
Print Name: LESLIE P. MOSS
Notary Public, State of FLORIDA
My commission expires: 6-5-98

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

OR BOOK 1065 PAGE 1926

LANDHOLDER:

RK HOLDINGS, a Florida general partnership

WITNESSES:

Sally A. Larson
Name: Sally A. Larson

Susan Rhodes
Name: Susan Rhodes

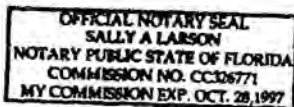
By: Paul Rhodes
PAUL RHODES, General Partner

STATE OF Florida
COUNTY OF Palm Beach

SS:

The foregoing instrument was acknowledged before me this ____ day of February, 1997, by PAUL RHODES, General Partner of RK HOLDINGS, a Florida general partnership, on behalf of said partnership. He personally appeared before me, and is personally known to me or produced _____ as identification.

[NOTARIAL SEAL]



Notary: Sally A. Larson
Print Name: Sally A. Larson
Notary Public, State of Florida
My commission expires: Oct 28 1997

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

HD:

WITNESSES:

HOME DEPOT U.S.A., INC.,
a Delaware corporation

James G. Russell
Name: James A. Russell

By: L.A. Smith
Name: L. A. SMITH
Title: VICE PRESIDENT-LEGAL

Suzanne Fetting
Name: SUZANNE FETTING

James G. Russell
Name: James A. Russell

Attest: Joanna Paulsen
Name: JOANNA PAULSEN
Title: Assistant Secretary

Suzanne Fetting
Name: SUZANNE FETTING

[CORPORATE SEAL]



STATE OF GEORGIA)

COUNTY OF COBB)

SS:

The foregoing instrument was acknowledged before me this 26 day of February 1997, by L. A. Smith as Vice President-legal of HOME DEPOT U.S.A., INC., a Delaware corporation, on behalf of the corporation. He/~~she~~/they personally appeared before me, and is/~~am~~ personally known to me, or produced as identification.

[NOTARIAL SEAL]



Notary: Vida Upton-Cherry
Print Name: Vida UPTON-CHERRY
Notary Public, State of Georgia
My commission expires: _____

Notary Public, Cobb County, Georgia
My Commission Expires February 21, 2001

CONSENT, JOINDER AND SUBORDINATION
OF LENDER

OR BOOK 1065 PAGE 1928

The undersigned, SIDNEY KOHL ("Lender"), is the owner and holder of that certain Mortgage and Security Agreement from FP-95 Associates, a Florida general partnership, to Ohio Savings Bank, an Ohio corporation, dated as of September 5, 1986, recorded September 5, 1986, in Official Records Book 513, Page 641, of the Public Records of St. Lucie County, Florida, as modified by and Amendment to Note and Mortgage dated December 23, 1986, recorded December 23, 1986, in Official Records Book 526, Page 777, of the Public Records of St. Lucie County, Florida, and re-recorded December 31, 1986, in Official Records Book 529, Page 157, of the Public Records of St. Lucie County, Florida, and as assigned to the undersigned by and Assignment of Loan dated December 31, 1986, recorded December 31, 1986, in Official Records Book 526, Page 773, of the Public Records of St. Lucie County, Florida, as the same may have been further amended (the "Mortgage").

Lender, as the owner and holder of the Mortgage, hereby joins in, consents to and subordinates the Mortgage to, the foregoing Reciprocal Easement and Operation Agreement (the "REA") to which this Consent, Joinder and Subordination is attached, and Lender further acknowledges its consent to, joinder in and subordination of the Mortgage to the Development Agreement (as defined in the foregoing REA), and Lender agrees that all of its right, title and interest in and to the real property comprising Landholder's Parcel existing by virtue of the Mortgage shall be bound by, subject to and subordinate to the easements and other terms and provisions of the foregoing REA and the terms and provisions of such Development Agreement, and the REA and the Development Agreement shall survive any foreclosure, deed in lieu of foreclosure and/or exercise of any remedy by Lender pursuant to the Mortgage; provided, however, that nothing herein shall modify, alter, or amend the Mortgage as between Lender and the borrower thereunder

LENDER:

WITNESSES:

Nanette K Norton
Name: NANETTE K NORTON

Sidney Kohl
SIDNEY KOHL

Engel J. Baker
Name: ENGEL J. BAKER

STATE OF FLORIDA)
COUNTY OF St. Lucie)

SS:

The foregoing instrument was acknowledged before me this 7th day of February, 1997, by SIDNEY KOHL. He personally appeared before me, and is personally known to me or produced as identification.

[NOTARIAL SEAL]

93079-6
 LESLIE P MOSS
My Comm Exp. 6/05/98
Bonded By Service Inc
No. CC378935
1) Personally Known 1) Other

Notary: Leslie P Moss
Print Name: LESLIE P MOSS
Notary Public, State of FLORIDA
My commission expires: 6-5-98

EXHIBIT A-1

The Proposed Hotel Parcel

Parcel C of Fort Pierce Plaza, per plat thereof recorded in Plat Book 35, Page 21, of the Public Records of St. Lucie County, Florida.

OR BOOK 1065 PAGE 1929

EXHIBIT A-2

Outparcel A

Parcel B1 of Fort Pierce Plaza, per plat thereof recorded in Plat Book 35 Page 21 of the Public Records of St. Lucie County, Florida.

PLAT BOOK 1065 PAGE 1930

EXHIBIT A-3

Outparcel B and Outparcel C

Parcel B2 of Fort Pierce Plaza, per plat thereof recorded in Plat Book 35, Page 21, of the Public Records of St. Lucie County, Florida.

OR BOOK 1065 PAGE 1931

EXHIBIT B

HD Parcel

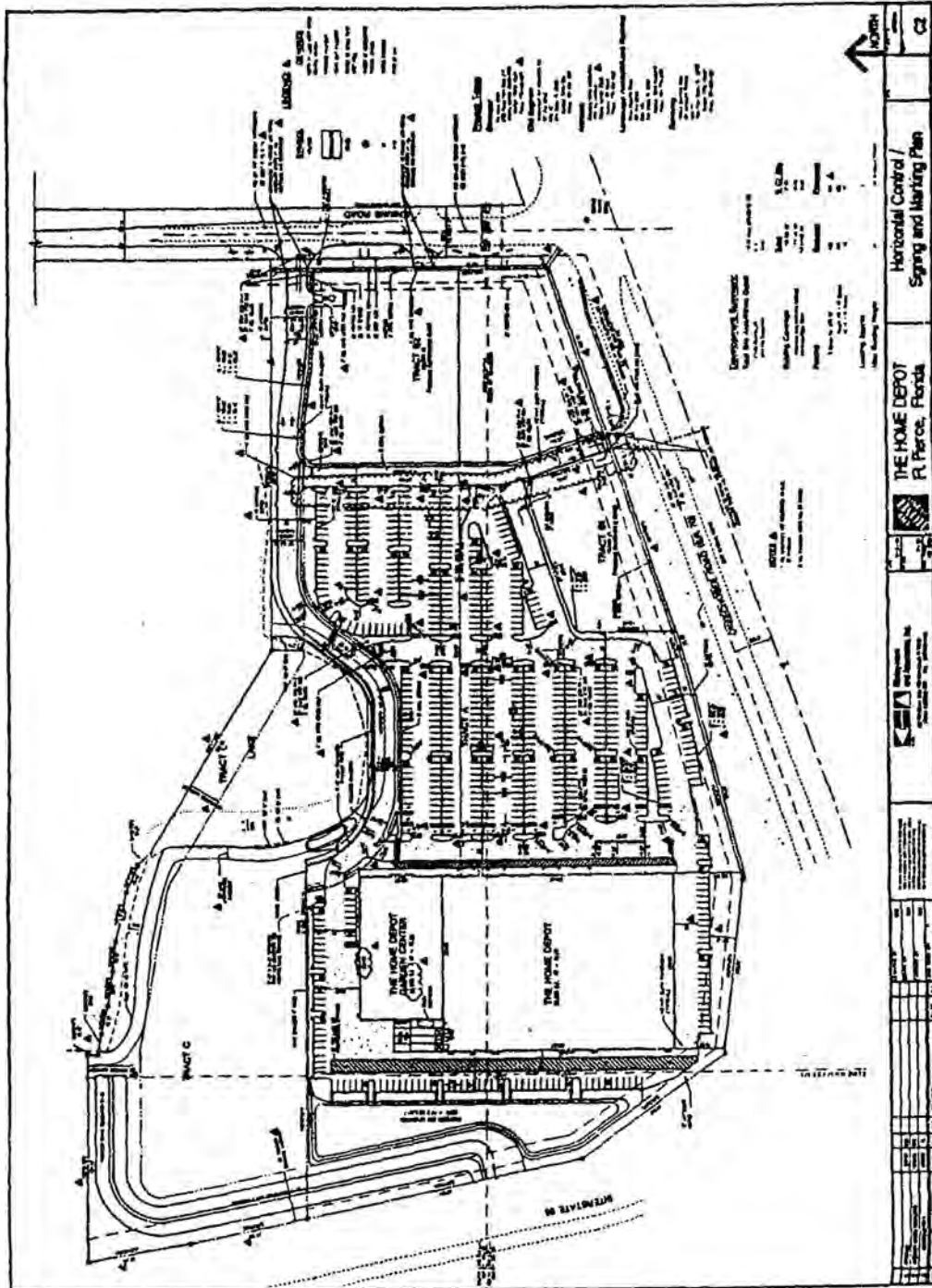
Parcel A of Fort Pierce Plaza, per plat thereof recorded in Plat Book 35, Page 21, of the Public Records of St. Lucie County, Florida.

OR BOOK 1065 PAGE 1932

EXHIBIT C

Site Plan

OR BOOK 1065 PAGE 1933



INLEGIBLE

When Received For Filing

JoAnne Holman, Clerk of the Circuit Court - St. Lucie County
File Number: 1838340 OR BOOK 1066 PAGE 0481
Recorded: 03-18-97 12:21 P.M.

First American Title Insurance Company
25400 U.S. 19 North, Suite 212
Clearwater, FL 34623

Our File No.: 0300471

MODIFICATION OF GRANT OF EASEMENT FOR INGRESS AND EGRESS

This Modification of Grant of Easement for Ingress and Egress (the "Amendment") is made as of the 13 day of March, 1997, by RK HOLDINGS, a Florida general partnership (hereinafter referred to as "Grantor"), as successor in title to FP-95 ASSOCIATES, a Florida general partnership (hereinafter referred to as "FP").

WITNESSETH

WHEREAS, on September 5, 1986, FP executed that certain Grant of Easement for Ingress and Egress in favor of Canaveral 401 Corp. and Onsite American Holdings, Inc. (hereinafter collectively referred to as "Grantee"), as recorded in Official Records Book 513, Page 636, Public Records of St. Lucie County, Florida (the "Grant of Easement"); and

WHEREAS, FP, as the owner of the real property burdened by the Grant of Easement, retained the right to relocate the ingress and egress easement with the joinder of Ohio Savings Bank, the mortgagee of FP's real property at the time of the Grant of Easement; and

WHEREAS, Grantor is the present owner of fee simple title to the land described in the Grant of Easement as the "FP-95 Premises" (hereinafter referred to as "Grantor's Premises") which are burdened by the ingress and egress easement described in and conveyed by the Grant of Easement, and as the present owner and successor-in-title to FP, Grantor has the right to relocate the aforesaid easement; and

WHEREAS, the Ohio Savings Bank mortgage referenced in Paragraph 1 of the Grant of Easement has been assigned to the undersigned Sidney Kohl, individually, who also is one of the general partners of Grantor; and

WHEREAS, Grantor has executed and caused to be recorded a subdivision plat of Fort Pierce Plaza prepared by Wallace Surveying dated February, 1997, recorded in Plat Book 35, Page 21, Public Records of St. Lucie County, Florida (the "Plat") pursuant to which Plat Grantor intends to convey Parcel A as depicted thereon to Home Depot U.S.A., Inc. ("HD"), following which conveyance Grantor's Premises are intended to be developed as a shopping center; and

WHEREAS, Grantor desires to modify and amend the Grant of Easement with regard to the location of the ingress and egress easement created thereby.

Now, therefore, in consideration of Ten and 00/100 (\$10.00) Dollars and other valuable consideration, and of the premises and the mutual benefits to be derived herefrom, Grantor hereby declares as follows:

1. Relocation of Easement. The description of the location of the Easement Area as described in Paragraph 1 of the Grant of Easement is hereby extinguished in its entirety. From and after the date of execution and recordation of this Amendment, the Easement Area shall be the driveway which generally runs in an east-west direction and which is to be installed within the area designated as "50' A.E." on the plat of Fort Pierce Plaza prepared by Wallace Surveying dated February 1997, recorded in Plat Book 35, Page 21, Public Records of St. Lucie County, Florida, which strip of land shall provide ingress and egress to and from the Canaveral Premises and Jenkins Road on the terms and conditions otherwise provided in the Grant of Easement. Grantor, as the owner of said Parcel C, and HD, as the owner of said Parcel A, and the respective successors and assigns of Grantor and HD, shall have the unilateral right to further

relocate the portions of the Easement Area on their respective parcels, provided such new easement location shall not be inconsistent with the terms of the Grant of Easement or this Amendment, and provided further that Grantor or HD, as the case may be, must have the prior written consent of the other if any such relocation of a portion of the Easement Area affects the other's parcel.

2. Miscellaneous. Certain defined terms, as indicated by the initial capitalization of such terms, shall have the same meanings as ascribed to such terms in the Grant of Easement. Except as herein specifically modified and amended, the provisions of the Grant of Easement are hereby ratified and confirmed and shall remain in full force and effect for the intents and purposes therein expressed.

IN WITNESS WHEREOF, Grantor has executed this Amendment as of the date first above written.

Signed, Sealed and Delivered
in our Presence:

Nanette K Norton
Witness Signature

RK HOLDINGS, a Florida general
partnership

NANETTE K. NORTON
Type or Print Witness Name

Ingard J. Baker
Witness Signature

By: *Sidney Kohl*
Sidney Kohl
General Partner

INGARD J. BAKER
Type or Print Witness Name

Sidney Kohl
Sidney Kohl, Individually, as mortgagee

STATE OF FLORIDA

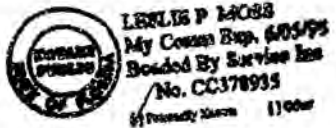
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 7th day of MARCH, 1997, by SIDNEY KOHL, general partner of, and on behalf of, RK HOLDINGS, a Florida general partnership. He is personally known to me or has produced _____ as identification and did (did not) take an oath.

Leslie P. Moss
notary public

LESLIE P. MOSS
Type or Print Name of Officer Taking Acknowledgment

notary expiration
notary seal



(Signatures Continued on Next Page)

Signed, Sealed and Delivered
in our Presence:

Sally A. Larson
Witness Signature

RK HOLDINGS, a Florida general
partnership

Sally A. Larson
Type or Print Witness Name

Paul Rhodes
Witness Signature

By: *Paul Rhodes*
Paul Rhodes
General Partner

Paul Rhodes
Type or Print Witness Name

OR BOOK 1066 PAGE 0483

STATE OF FLORIDA

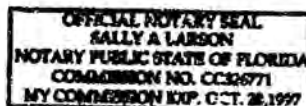
COUNTY OF Polk

The foregoing instrument was acknowledged before me this ____ day of February, 1997, by PAUL RHODES, general partner of, and on behalf of, RK HOLDINGS, a Florida general partnership. He is personally known to me or has produced _____ as identification and did (did not) take an oath.

Sally A. Larson
notary public

Sally A. Larson
Type or Print Name of Officer Taking Acknowledgment

notary expiration
notary seal



RETURN TO: RUPERT N. KOBLEGARD III
#25

This instrument prepared by:

DAVID A. MELLERT

FORT PIERCE UTILITIES AUTHORITY

P.O. BOX 3191, FORT PIERCE, FL 34948-3191

Property Appraisers Parcel Identification (Folio) Number(s):

2324-134-0001-0006

EASEMENT
FROM
CORPORATION

KNOW ALL MEN BY THESE PRESENTS, That the undersigned

RK HOLDINGS, A FLORIDA GENERAL PARTNERSHIP

for and in consideration of the sum of One Dollar, to it in hand paid by the FORT PIERCE UTILITIES AUTHORITY OF THE CITY OF FORT PIERCE, FLORIDA (located at 205 South Sixth Street) a municipal corporation under the laws of the State of Florida, receipt whereof is hereby acknowledged, does hereby convey and grant to the CITY OF FORT PIERCE, FLORIDA, for the use and benefit of the FORT PIERCE UTILITIES AUTHORITY the privilege and easement for the maintenance, operation, repair, replacement or renewal of their municipal-owned electric, water, sewer and natural gas utilities presently installed in and under the following described land in St. Lucie County, Florida to wit:

See attached Exhibit consisting of eight (8) sheets identified as DWG NOS 98-1155-10 (2 pages), 98-1155-11 (2 pages), 98-1155-12 (2 pages) and 98-1155-13 (2 pages), all dated 10/22/97.

The GRANTOR reserves the right exercisable by the execution and recordation of a Restated Easement to modify and revise the easement area shown and described on the attached exhibit at the time(s) of the development and improvement of the property to the end that easement areas and the utilities located therein shall not interfere with or otherwise impede such development and improvement.

The GRANTOR reserves the use of the easement area for any use not inconsistent herewith, including without limitation roadways, driveways, parking, paving and landscaping, but no buildings or above grade structures shall be erected or placed on said easement area by GRANTOR. The rights herein granted may be assigned in whole or in part.

The GRANTEE will indemnify and save the GRANTOR harmless from any damages, injuries, losses, claims, demands or costs proximately caused by the sole fault or negligence of the GRANTEE in the installation, maintenance, operation, repair, replacement or renewal of said utilities and the equipment and facilities connected therewith, and under the easement areas.

The GRANTOR hereby covenants and warrants that it owns the said land and has the right to grant this easement.

IN WITNESS WHEREOF, the GRANTOR has caused these presents to be executed in its name 13th day of November, 1997.

Signed, sealed and delivered in the presence of:

Leslie P. Moss
Witness Signature

Leslie P. Moss

Printed Witness Signature

Christina H. Lesick
Witness Signature

Christina W. Lesick

Printed Witness Signature

STATE OF Florida

COUNTY OF Palm Beach

RK HOLDINGS, A FLORIDA GENERAL PARTNERSHIP

GRANTOR

by

Sidney Kohl
GENERAL PARTNER (Signature)

Sidney Kohl

Printed Signature

305 Royal Poinciana Plaza

Street Address

Palm Beach, Florida 33480

City, State, Zip

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Sidney Kohl known to me

to be a General Partner of the partnership in whose name the foregoing instrument was executed, and that Sidney Kohl acknowledged executing the same for such partnership, freely and voluntarily, and he is personally known to me or has produced identification.

NOTARY RUBBER STAMP SEAL



LESLIE P. MOSS
My Comm. Exp. 6/05/98
Bonded By Service Inc
No. CC378935

☒ Personally Known ☐ Other

Witness my hand and official seal in the County and State last aforesaid this 13th day of November A.D. 1997.

Leslie P. Moss
Notary Signature

Leslie P. Moss

Printed Notary Signature

992910

Description Sketch For: HOME DEPOT

LEGAL DESCRIPTION:

A strip of land, 20 feet in width, lying in Section 24, Township 35 South, Range 39 East, City of Ft. Pierce, St. Lucie County, Florida, being a portion of Parcel B1 as shown in the Plat of Fort Pierce Plaza as recorded in Plat Book 74, Page 14, Public Records of St. Lucie County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Parcel B1; thence South 18° 42' 58" East along the East line of said Parcel B1 a distance of 15.43 feet to the **POINT OF BEGINNING** of the centerline of the following described 20 foot wide strip; thence South 58° 37' 23" West a distance of 22.51 feet to the **POINT OF TERMINUS**.

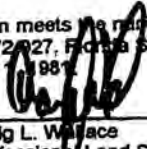
Said strip bounded on the East by the East line of said Parcel B1, bearing South 18° 42' 58" East, passing through the **POINT OF BEGINNING**, and is the basis of all other bearings.

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This plat is not valid unless sealed with an embossed surveyor's seal.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors pursuant to sections 472.027, Florida Statutes, and adopted in Chapter 61G17-8, Florida Administrative Code, effective September 1, 1981.


 Craig L. Wallace
 Professional Land Surveyor
 Florida Certificate No. 3357

96-1155-10

DR BOOK 1120 PAGE 2550

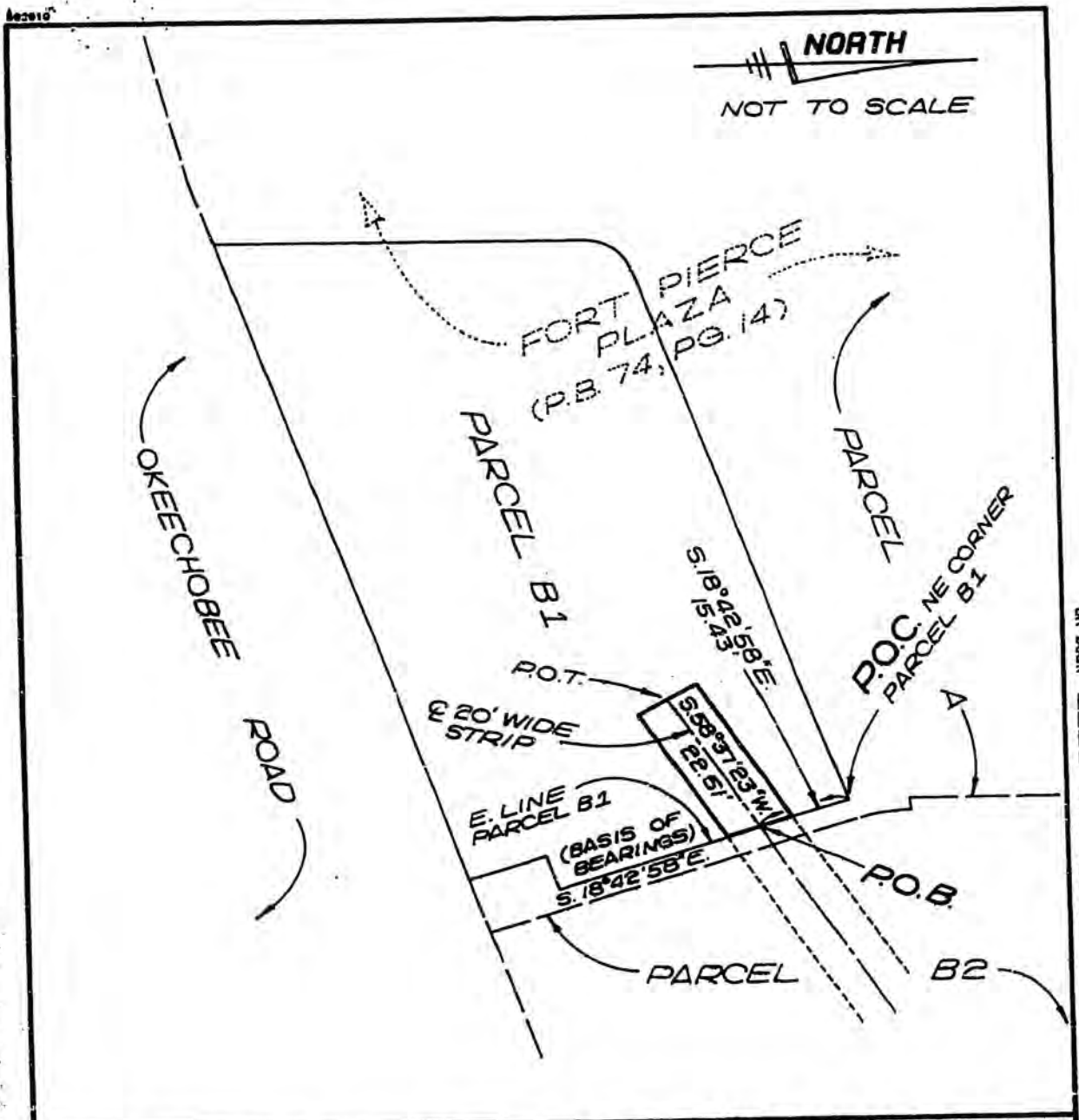


WALLACE SURVEYING CORPORATION

801 NORTHPOINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33407 • (407) 834-1881

DATE 10/22/97	DWG NO 96-1155-10
OFFICE R.C.	SHEET 1 OF 2
CKD	REF

802010



DR BOOK 1120 PGE 2551



WALLACE SURVEYING CORPORATION
601 NORTHPOINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411-2400-400

DATE: 10/22/97	DWG NO 26-1155-10
OFFICE: R.C.	SHEET 2 OF 2
CKD:	REF

Description Sketch For: HOME DEPOT

LEGAL DESCRIPTION:

Two parcels of land lying in Section 24, Township 35 South, Range 39 East, City of Ft. Pierce, St. Lucie County, Florida, being a portion of Parcel B2 as shown in the Plat of Fort Pierce Plaza as recorded in Plat Book 74, Page 14, Public Records of St. Lucie County, Florida, being more particularly described as follows:

Parcel B2-1

Begin at the Southeast corner of the 20 foot by 50 foot utility easement as shown on said Plat; thence South 00° 04' 59" East along the West line of the 30 foot wide U.D.E. & U.E. as shown on said Plat a distance of 10.08 feet to a point; thence departing said West line North 41° 50' 19" West a distance of 13.55 feet to a point on the South line of said 20 foot by 50 foot utility easement; thence South 89° 55' 24" East along said South line a distance of 9.02 feet to the Southeast corner of said 20 foot by 50 foot utility easement and the **POINT OF BEGINNING**;

Parcel B2-2

That portion of the following described 20 foot wide strip that lies within said Parcel B2, the centerline of said strip being more particularly described as follows:

Commence at the Southwest corner of said Parcel B2 as shown on said Plat; thence North 18° 42' 58" West along the West line of said Parcel B2 a distance of 129.20 feet to the **POINT OF BEGINNING** of the hereinafter described centerline; thence departing said West line, North 58° 37' 23" East a distance of 41.37 feet to a point; thence North 00° 00' 03" West a distance of 322.72 feet to Point "A"; thence North 88° 52' 51" East a distance of 89.34 feet to the Easterly **POINT OF TERMINUS** of said centerline;

thence begin anew at said Point "A", North 89° 55' 24" West a distance of 48.53 feet to the Westerly **POINT OF TERMINUS** of said centerline;

Said 20 foot wide strip bounded as follows:

On the North by the North line of said Parcel B2;
On the West by the West line of said Parcel B2 passing through the West **POINT OF TERMINUS**;
At the **POINT OF BEGINNING** by the West line of said Parcel B2 passing through said point;

The South line of said Parcel B2 is assumed to bear South 71° 17' 02" West and all other bearings are relative thereto.

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This plat is not valid unless sealed with an embossed surveyor's seal.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors pursuant to sections 472.027, Florida Statutes, and adopted in Chapter 61G17-6, Florida Administrative Code, effective September 1, 1981.

Craig L. Wallace
Professional Land Surveyor
Florida Certificate No. 3357

98-1155-11



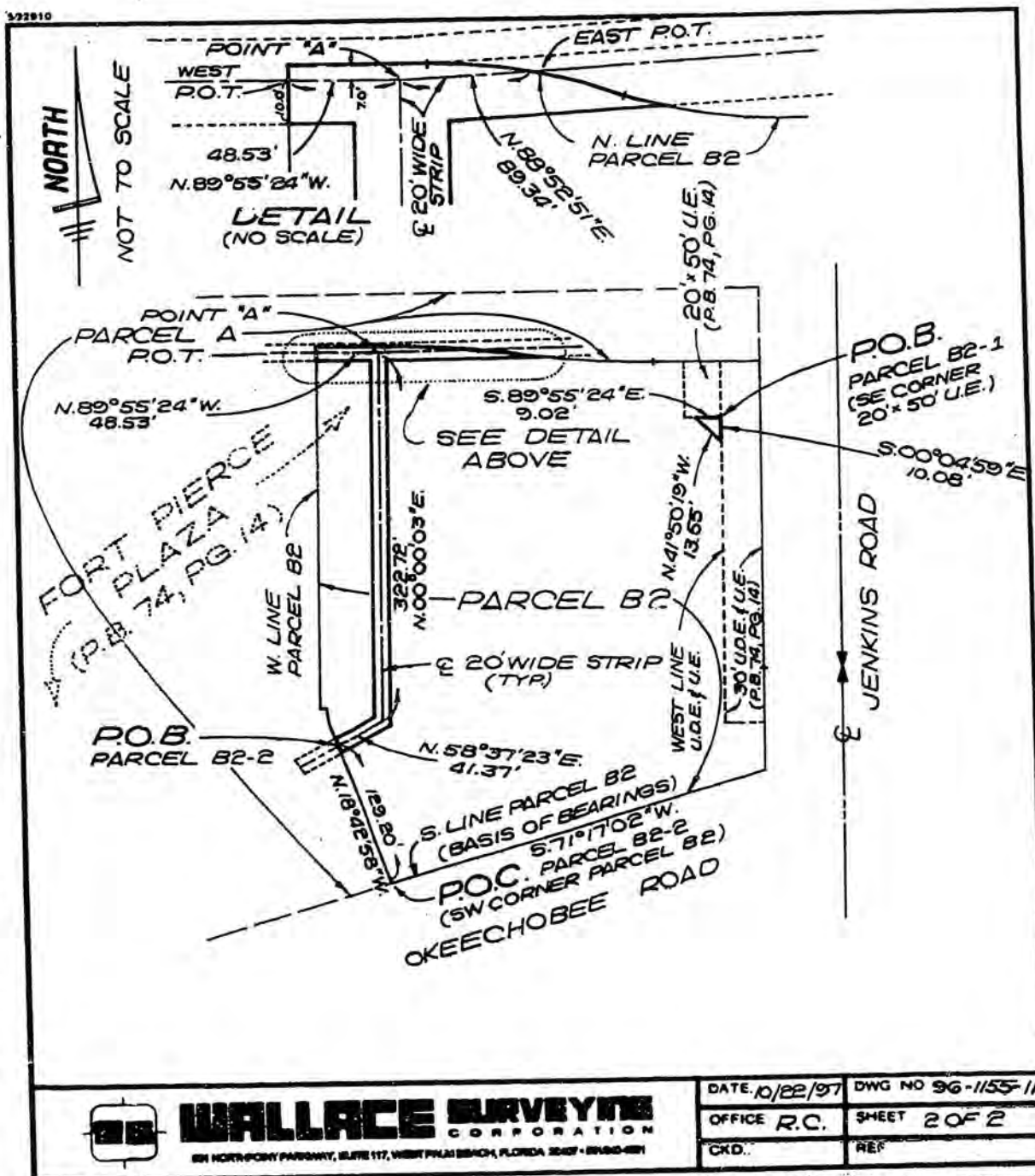
WALLACE SURVEYING
CORPORATION

801 NORTHPOINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411-3911

DATE 10/22/97	DWG NO 98-1155-11
OFFICE R.C.	SHEET 1 OF 2
CKD.	REF

OR BOOK 1120 PAGE 2552

322810



OR BOOK 1120 PAGE 2553

Description Sketch For: HOME DEPOT

LEGAL DESCRIPTION:

Two 12 foot wide strips of land lying in Section 24, Township 35 South, Range 39 East, City of Fort Pierce, St. Lucie County, Florida, being a portion of Parcel C as shown in the Plat of Fort Pierce Plaza as recorded in Plat Book 74, Page 14, Public Records of St. Lucie County, Florida, the centerline of said strips being more particularly described as follows:

Parcel C-1

Commence at the Southwest corner of said Parcel C as shown on said Plat; thence North 90° 00' 00" East along the South line of said Parcel C a distance of 188.23 feet to the POINT OF BEGINNING of the centerline of the following described 12 foot wide strip of land; thence North 00° 00' 00" East a distance of 13.21 feet to the POINT OF TERMINUS.

Parcel C-2

Commence at the Southwest corner of said Parcel C as shown on said Plat; thence North 90° 00' 00" East along the South line of said Parcel C a distance of 498.86 feet to the POINT OF BEGINNING of the centerline of the following described 12 foot wide strip of land; thence North 00° 00' 02" East a distance of 27.19 feet to the POINT OF TERMINUS.

Parcels C-1 and C-2 are bounded on the South by the South line of said Parcel C which bears North 90° 00' 00" East passing through the POINTS OF BEGINNING and is the basis of all other bearings.

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This plat is not valid unless sealed with an embossed surveyor's seal.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors pursuant to sections 472.027, Florida Statutes, and adopted in Chapter 61G17-6, Florida Administrative Code, effective September 1, 1981.


Craig L. Wallace
Professional Land Surveyor
Florida Certificate No. 3357

96-1155-12



WALLACE SURVEYING
CORPORATION

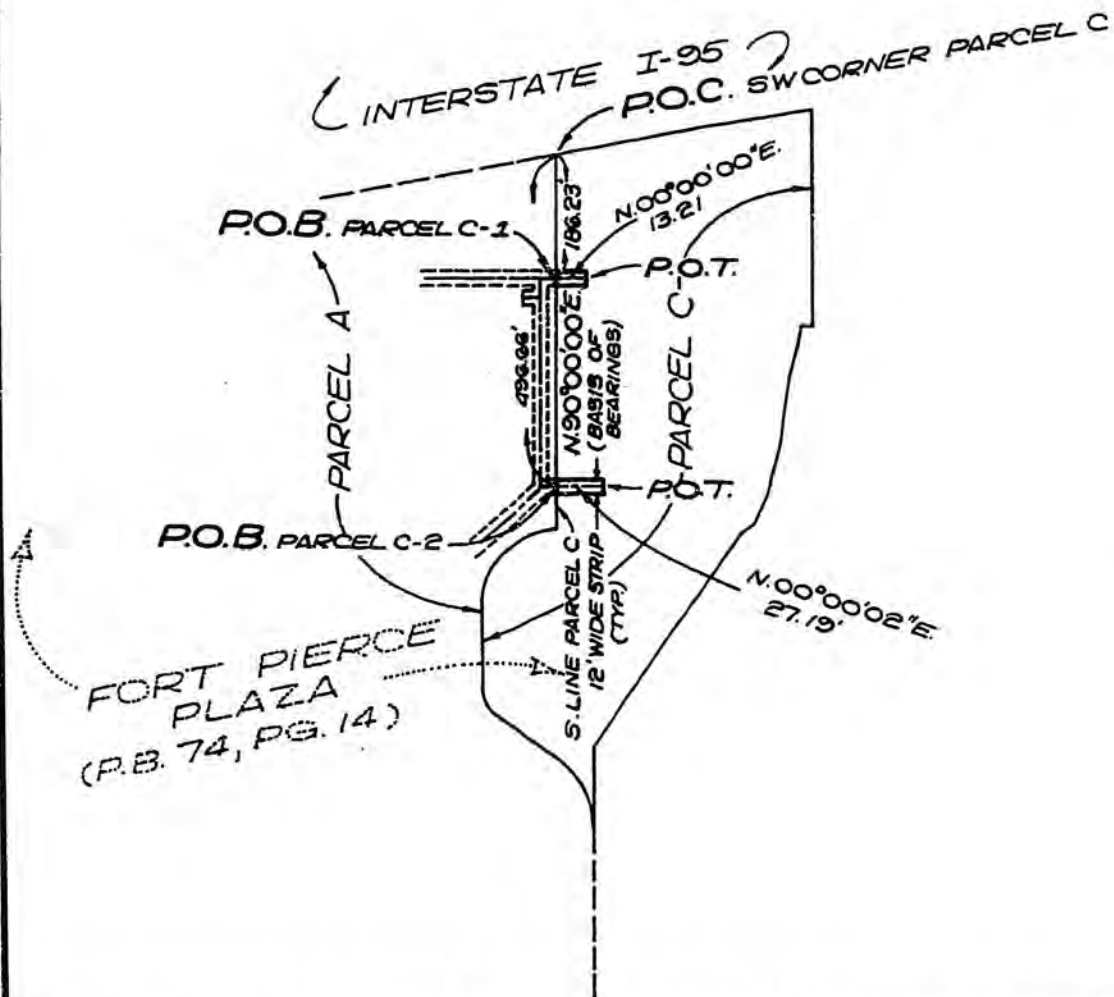
801 NORTHPOINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411-3510-4801

DATE 10/22/97	DWG NO 96-1155-12
OFFICE R.C.	SHEET 1 OF 2
CKD	REF

DR BOOK 1120 PAGE 2554

592910

NORTH
NOT TO SCALE



OR BOOK 1120 PAGE 2555



WALLACE SURVEYING
CORPORATION

801 NORTH POINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411 • 561-846-0091

DATE: 10/22/97	DWG NO 96-1155-12
OFFICE: R.C.	SHEET 2 OF 2
CKD:	REF:

552610

Description Sketch For: HOME DEPOT

LEGAL DESCRIPTION:

A 20 foot wide strip of land lying in Section 24, Township 35 South, Range 39 East, City of Fort Pierce, St. Lucie County, Florida, being a portion of Parcel C as shown in the Plat of Fort Pierce Plaza as recorded in Plat Book 74, Page 14, Public Records of St. Lucie County, Florida, the centerline of said strip being more particularly described as follows:

Commence at the Southwest corner of said Parcel C as shown on said Plat; thence North 90° 00' 00" East along the South line of said Parcel C a distance of 543.92 feet to the POINT OF BEGINNING of the centerline of the following described 12 foot wide strip of land; thence North 00° 00' 23" East a distance of 16.62 feet to the POINT OF TERMINUS.

Said parcel is bounded on the South by the South line of said Parcel C which bears North 90° 00' 00" East passing through the POINT OF BEGINNING and is the basis of all other bearings.

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This plat is not valid unless sealed with an embossed surveyor's seal.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors pursuant to sections 472.027, Florida Statutes, and adopted in Chapter 61G17-6, Florida Administrative Code, effective September 1, 1981.



Craig L. Wallace
Professional Land Surveyor
Florida Certificate No. 3357

96-1155-13

DR BOOK 1120 PAGE 2556



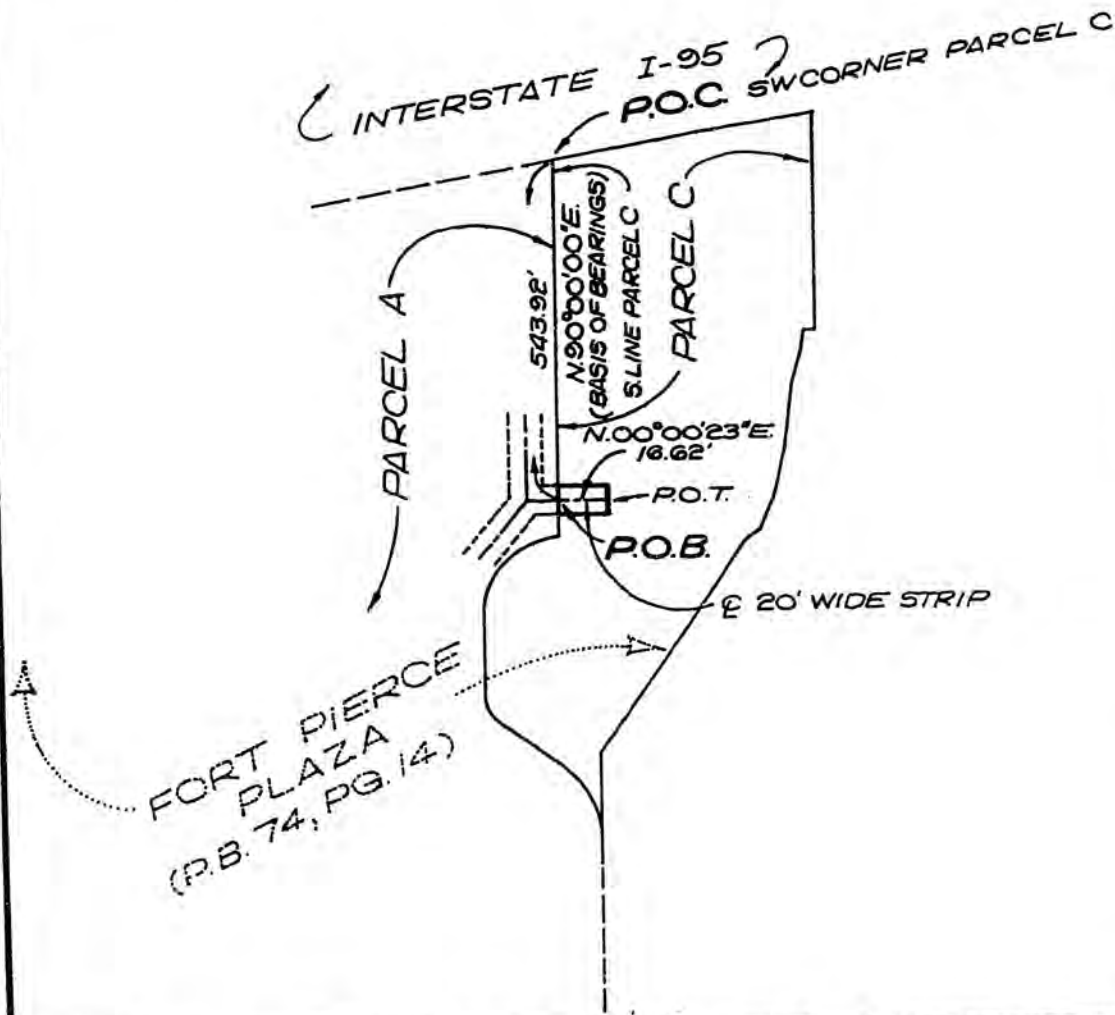
WALLACE SURVEYING
CORPORATION

801 NORTHPOINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411 • 561-840-4881

DATE 10/22/97	DWG NO 96-1155-13
OFFICE R.C.	SHEET 1 OF 2
CKD.	REF

502910

 **NORTH**
NOT TO SCALE



OR BOOK 1120 PAGE 2557



WALLACE SURVEYING
CORPORATION
501 FORT PIERCE AVENUE, SUITE 117, WEST PALM BEACH, FLORIDA 33411-5000-001

DATE 10/22/97	DWG NO 96-1155-13
OFFICE R.C.	SHEET 2 OF 2
CKD.	REF.

RETURN TO: RUPERT N. KOBLEGARD III

This instrument prepared by:

Debi Sizemore

FORT PIERCE UTILITIES AUTHORITY

P.O. BOX 3181, FORT PIERCE, FL 34946-3181

Property Appraisers Parcel Identification (Photo) Number(s):

2324-134-001-000/0

* Doc Assump: \$ 0.00
* Doc Tax : \$ 0.70
* Int Tax : \$ 0.00

EASEMENT
FROM
CORPORATION

KNOW ALL MEN BY THESE PRESENTS, That the undersigned

Home Depot U.S.A., Inc., a Delaware corporation

for and in consideration of the sum of One Dollar, to it in hand paid by the FORT PIERCE UTILITIES AUTHORITY OF THE CITY OF FORT PIERCE, FLORIDA (located at 208 South 88th Street) a municipal corporation under the laws of the State of Florida, receipt whereof is hereby acknowledged, does hereby convey and grant to the CITY OF FORT PIERCE, FLORIDA, for the use and benefit of the FORT PIERCE UTILITIES AUTHORITY the privilege and easement for the installation, maintenance, operation, repair, replacement or renewal of their municipal-owned electric, water, sewer and natural gas utilities in, under, upon, along, over and across the following described land in St. Lucie County, Florida to wit:

See Exhibit "A" - Attached for a description of Parcel A owned by Grantor

Access to the above strip of land over the adjoining lands of the GRANTORS is hereby granted. The GRANTEE may cut or trim trees, bushes and seedlings growing upon or extending over said strip of land so far as may be reasonably necessary in the installation, maintenance, operation, repair, replacement or renewal of said utilities. Petrolling said easement shall not constitute grounds for a claim for damage.

The GRANTORS reserve the use of said strip of land for any use not inconsistent herewith, but no buildings, or structures shall be erected or placed on said strip of land by GRANTORS. The rights herein granted may be assigned in whole or in part.

The GRANTEE will indemnify and save the GRANTOR harmless from any damages, injuries, losses, claims, demands or costs proximately caused by the negligence of the GRANTEE in the installation, maintenance, operation, repair, replacement or renewal of said utilities and the equipment and facilities connected therewith, over and across said strip of land.

The GRANTOR hereby covenants and warrants that it owns the said land and has the right to grant this easement.

In Witness Whereof, the GRANTOR has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

(Corporate Seal)

Attest:

Joanna Paulsen Assistant Secretary

Signed, sealed and delivered in the presence of:

Michelle R. Snell

Witness Signature

Michelle R. Snell

Printed Witness Signature

James A. Purcell

Witness Signature

James A. Purcell

Printed Witness Signature

STATE OF GEORGIA

COUNTY OF COBB

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgements, personally appeared CAROL B. TORNE, Vice President and Joanna Paulsen, Assistant Secretary of HOME DEPOT U.S.A., INC., the corporation in whose name the foregoing instrument was executed, and that they severally acknowledged executing the same for such corporation, freely and voluntarily, under authority duly vested in following form of identification of the above-named person

PERSONAL KNOWLEDGE

and that an oath (was) (was not) taken.

NOTARY RUBBER STAMP SEAL

Rev. 05/02/94

Witness my hand and official seal in the County and State last aforesaid this 4 day of AUGUST A.D. 19 97

Vida Lupton Cherry

Notary Signature

VIDA LUPTON - CHERRY

Printed Notary Signature

Description Sketch For: **HOME DEPOT - FT. PIERCE**

DESCRIPTION:

A strip of land, ten feet (10') in width lying within the plat of **FORT PIERCE PLAZA**, as recorded in Plat Book 35, Page 21, Public Records of St. Lucie County, Florida, the centerline of said strip being more particularly described as follows:

Commence at the Southeast corner of Parcel B2, according to said plat; thence North 00° 00' 15" East, along the East line of said Parcel B2, a distance of 5.38 feet to the **POINT OF BEGINNING** of the hereinafter described centerline; thence South 71° 17' 02" West, along a line five feet North of and parallel with the South line of said Parcel B2 (the South line of said Parcel B2 is assumed to bear South 71° 17' 02" West and all other bearings are relative thereto), a distance of 839.10 feet to a point; thence South 75° 15' 57" West, a distance of 373.26 feet to a point; thence North 83° 44' 43" West, a distance of 269.10 to a point; thence North 35° 56' 56" West a distance of 32.77 feet to a point; thence North 00° 00' 00" East a distance of 194.28 feet to Point "A"; thence continue North 00° 00' 00" East a distance of 429.70 feet to a point ten feet North of the North line of Parcel A, according to said plat, and the **POINT OF TERMINUS** of the herein described centerline.

BEGIN anew at said Point "A", thence North 90° 00' 00" East, along said centerline, a distance of 25.00 feet to Point "B" and the **POINT OF TERMINUS**.

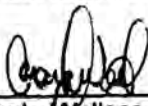
Said strip bounded on the East by the East line of said Parcel B2 and being bounded at Point "B" by a line bearing North 00° 00' 00" East passing through said Point "B."

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This plat is not valid unless sealed with an embossed surveyor's seal.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Land Surveyors pursuant to sections 472.027, Florida Statutes, and adopted in Chapter 61G17-8, Florida Administrative Code, effective September 1, 1981.


Craig L. Wallace
Professional Land Surveyor
Florida Certificate No. 3357

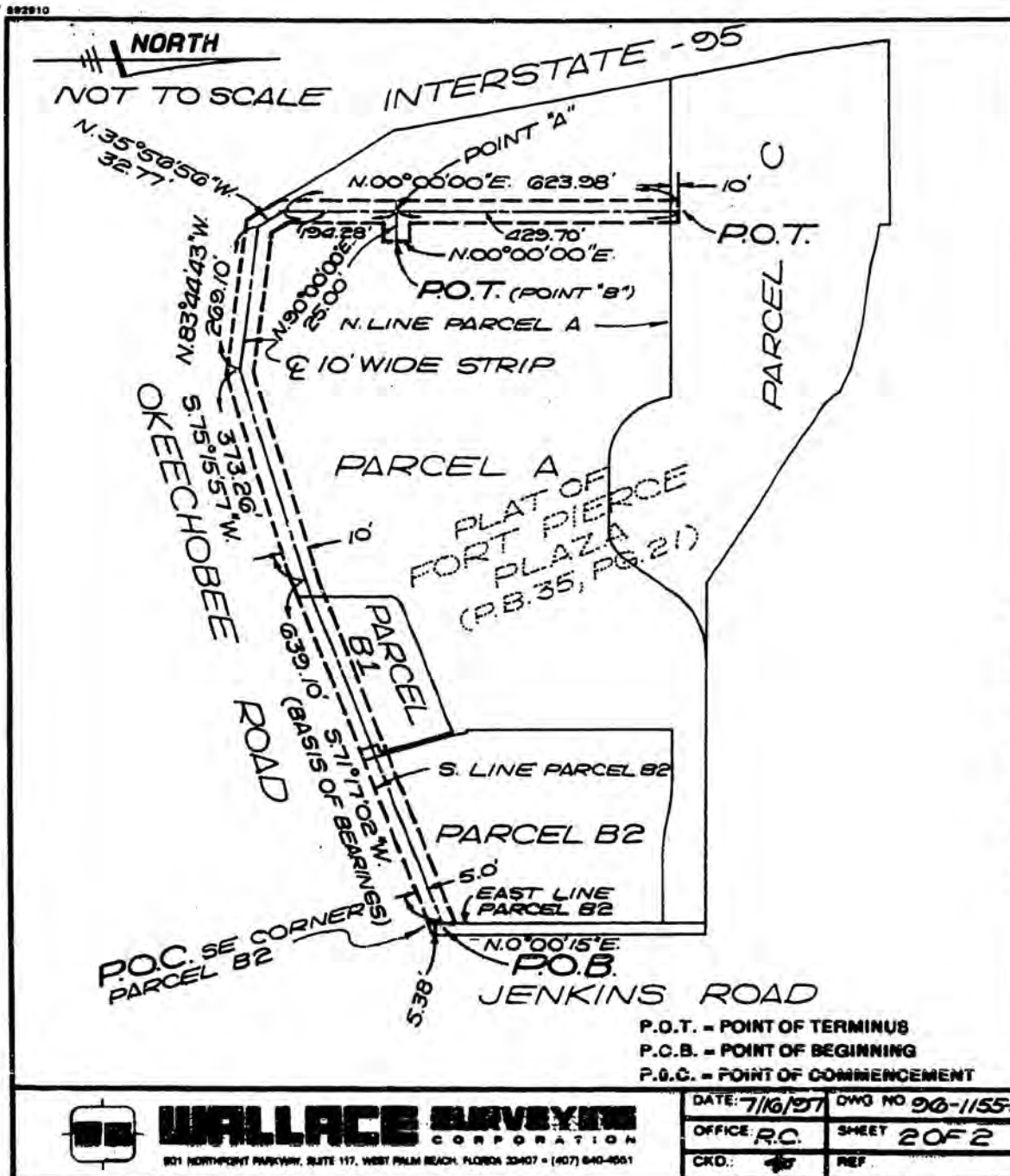
95-1155-5



WALLACE SURVEYING
CORPORATION

801 NORTH POINT PARKWAY, SUITE 117, WEST PALM BEACH, FLORIDA 33411 • (407) 831-4881

DATE 7/16/97	DWG. NO. 96-1155-1
OFFICE R.C.	SHEET 1 OF 2
CKD.	REF



1637.50
Doc stamps \$0.70

Prepared by and to be returned to:
Claude P. Czaia, Esq.
Racetrac Petroleum, Inc.
P.O. Box 105035
Atlanta, Georgia 30348-5035

JoAnne Holman, Clerk of the Circuit Court - St. Lucie County
File Number: 1705564 OR BOOK 1.210 PAGE 0906
Recorded: 03-18-99 11:08 A.M.

INGRESS/EGRESS EASEMENT AGREEMENT

THIS INGRESS/EGRESS EASEMENT AGREEMENT (this "Agreement"), made as of the 11th day of March, 1999, by and between RK Holdings, a Florida general partnership, through Sidney Kohl, its sole remaining General Partner ("Grantor"), and Racetrac Petroleum, Inc. ("Grantee");

WITNESSETH: That:

WHEREAS, Grantor is the owner of certain real property (the "Grantor Property") located in St. Lucie County, Florida, as more particularly described on Exhibit "A", attached hereto and incorporated by reference herein;

WHEREAS, Grantee is the owner of certain real property (the "Grantee Property") which is contiguous to the Grantor Property and more particularly depicted and described on Exhibit "B", attached hereto and incorporated by reference herein;

WHEREAS, Grantor desires and agrees to grant to Grantee an easement for vehicular and pedestrian ingress and egress, over, across and through a portion of the Grantor Property to the Grantee Property, more particularly described and labeled as the "Ingress/Egress Easement Area" on Exhibit "C" attached hereto and incorporated by reference herein (the "Ingress/Egress Easement Area");

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and of the mutual covenants herein contained, and for other valuable and good consideration in hand paid by Grantee to Grantor at or before the sealing of these presents, the sufficiency and receipt of which are hereby expressly acknowledged and confirmed, the parties hereby agree as follows:

* Doc Assump: \$
* Doc Tax : \$
* Int Tax : \$

1. **Grant of Ingress, Egress and Access Easement.** Grantor does hereby bargain, sell, grant and convey to Grantee and its successors and assigns, for the benefit of and as an appurtenance to the Grantee Property, the following covenants:

0.00
0.70
0.00

a. A perpetual, non-exclusive right, privilege and easement upon, over, in, and across that certain portion of the Grantor Property which is more particularly described and designated as the "Ingress/Egress Easement Area I" on Exhibit "C" attached hereto and incorporated by reference herein, for the purposes of vehicular and pedestrian access, ingress and egress to and from the Grantee Property and Jenkins Road.

b. A perpetual, non-exclusive right, privilege and easement upon, over, in, and across that certain portion of the Grantor Property which is more particularly described and designated as the "Ingress/Egress Easement Area II" on Exhibit "D" attached hereto and incorporated by reference herein, for

CHICAGO TITLE INSURANCE COMPANY
390 N. ORANGE AVE., SUITE 150
ORLANDO, FLORIDA 32801
509001000T
Auctioneer

the purposes of vehicular and pedestrian access, ingress and egress to and from the Grantee Property and Okcechobee Road.

TO HAVE AND TO HOLD such easement rights, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantor; and Grantor does hereby bind itself to warrant and forever defend all and singular such easement rights unto Grantee against any person whomsoever lawfully claiming, or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise.

2. **Paving & Maintenance.** If and when Grantee develops the Grantee Property, Grantee shall be responsible to pave and maintain Ingress/Egress Easement Area II, at its sole cost and expense, as it deems necessary or appropriate, until the commencement of development of any portion of the Grantor Property which is located north of the Grantee Property. From and after the commencement of development of any portion of the Grantor Property which is located north of the Grantee Property, Grantee and the owners of such developing portion(s) of the Grantor Property shall each be responsible for its respective probata share of the cost and expense related to the maintenance and repair of the Ingress/Egress Easement Area. As used herein, the term "developing portion(s)" shall refer to the portion(s) of the Grantor Property on which development has commenced. If the Gross Property has not been subdivided, then the developing portion(s) shall be deemed to be the entire Grantor Property, but if the Grantor Property is subdivided into two (2) or more tracts, the developing portion(s) shall be deemed to be the subdivided tract(s) on which development has commenced. The term "probata share" shall be a fraction, the numerator of which shall be the acreage of each respective owner's developing portion and the denominator of which shall be the combined acreage of the Grantee Property and the developing portion(s). Grantee's probata share shall be a fraction, the numerator of which shall be the acreage of the Grantee Property and the denominator of which shall be the combined acreage of the Grantee Property and the developing portion(s). Any amounts to be reimbursed hereunder by any party shall be paid to the party who is entitled to be reimbursed within thirty (30) days of delivery of a bill therefor, which amount shall thereafter bear interest at the maximum lawful rate per annum allowed by Florida law. Subject to the Reciprocal Easement and Operation Agreement dated March 13, 1997 between RK Holdings and Home Depot U.S.A. (OR Book 1065, Page 1910, St. Lucie County, FL) and to be amended by that certain First Amendment to Reciprocal Easement and Operation Agreement of even date herewith, Grantee shall have the right but not the obligation to pave and maintain Ingress/Egress Easement I.

3. **Binding Effect.** The benefits and burdens of the easements granted by this Agreement shall run with the title to the Grantee Property, the Grantor Property, and the Ingress/Egress Easement Area, respectively, and shall bind or benefit the owners thereof, their respective successors, successors-in-title, legal representatives and assigns.

4. **Warranties of Title.** Grantor warrants that Grantor has good and indefeasible fee simple title to the Grantor's Property, and that Grantor has the full and lawful authority to grant these easements, and that Grantee shall and may peaceably have, hold and enjoy the easements. Grantor further warrants that there are no leases, tenancies, liens, easements, restrictions, deeds to secure debt, assessments, or other encumbrances against or otherwise affecting the Grantor Property that and prohibit or limit, in any way. The easements granted herein by Grantor on, over and across the Grantor Property.

OR BOOK 1210 PAGE 0908

5. **Perpetual Agreement.** This Agreement and the easements, restriction, rights, and obligations and liabilities created hereby, including, but not limited to Grantee's obligation to maintain, shall be perpetual, shall be appurtenant to and run with title to the land affected hereby, and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

6. **Waiver.** The failure of Grantor or Grantee to exercise any right given hereunder or to insist upon strict compliance with any term, condition or agreement specified herein, shall not constitute a waiver of either party's right to exercise such right or to demand strict compliance with any such term, condition or agreement under this Agreement.

7. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state in which the Ingress/Egress Easement Area lies.

8. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement under seal as of the day and year first above written.

GRANTOR: RK Holdings, a Florida General Partnership

By: [Signature]

Sidney Kohl, its sole remaining General Partner

Witness: G. Diaz-Granados
Printed Name: G. DIAZ-GRANADOS

Witness: Ann Jenkins
Printed Name: ANN JENKINS

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this 10th day of March, 1999, by Sidney Kohl, as General Partner of RK Holdings, a Florida General Partnership, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC
STATE OF FLORIDA
Leslie P. Moss
Commission # CC 137183
Expires June 5, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

[Signature]
Notary Public
LESLIE P. MOSS
Printed Name

OR BOOK 1210 PAGE 0909

[SIGNATURES CONTINUED FROM PRECEDING PAGE]

WITNESS:

Print Name

M. KENNEDY

GRANTEE: Racetrac Petroleum, Inc.

By:

Title:

Harriet Linn
VP

WITNESS:

Print Name

Velma G. Kendall
VELMA G. KENDALL

STATE OF GEORGIA
COUNTY OF COBB

The foregoing instrument was acknowledged before me this 1st day of March 1999,
by HARRIET LINN as VICE PRESIDENT of Racetrac Petroleum, Inc., who is personally
known to me or who has produced _____ as identification and who did (did not)
take an oath.

Velma G. Kendall
Notary Public

VELMA G. KENDALL
Printed Name

Notary Public, Cobb County, Georgia
My Commission Expires Dec. 2, 2000

EXHIBIT "A"

TO INGRESS/EGRESS EASEMENT AGREEMENT

All that tract or parcel of land lying in Section 24, Township 35 South, Range 39 East, St. Lucie County, Florida more particularly described as follows:

Parcel B2 of Fort Pierce Plaza, per plat thereof recorded in Plat Book 35, Page 21 of the Public Records of St. Lucie County, Florida.

LESS AND EXCEPT that property described in Exhibit "B" hereof.

DR BOOK 1210 PAGE 0910

EXHIBIT "B"

DESCRIPTION

PARCEL 1

A parcel of land in Section 24, Township 35 South, Range 36 East, St. Louis County, Florida described as follows:

Commencing at the Southeast corner of the Northwest 1/4 of Section 24-35-36; thence West along the North line of the Southeast 1/4 of Section 24-35-36, a distance of 68.80 feet to the Point of Beginning; thence South 07° 04' 15" West, a distance of 88.64 feet to the Northern right-of-way line of Okeechobee Road; thence South 77° 17' 54" West along said Northern right-of-way line, a distance of 273.35 feet; thence North 10° 45' 50" West, a distance of 143.88 feet to a point of curvature of a curve concave to the East, having a radius of 25.00 feet, a chord bearing of North 09° 53' 30" West, and a chord distance of 9.71 feet; thence Northwesterly along said curve, through a central angle of 183° 37' 00", an arc distance of 9.71 feet; thence North 09° 04' 50" West, a distance of 49.31 feet; thence North 71° 17' 02" East, a distance of 105.15 feet; thence North 07° 04' 50" East, a distance of 184.53 feet to the Western right-of-way line of Jenkins Road; thence South 07° 04' 50" East, a distance of 69.07 feet to the Point of Beginning.

Parcel 1 contains 1.31 acres (56,880 square feet) more or less.

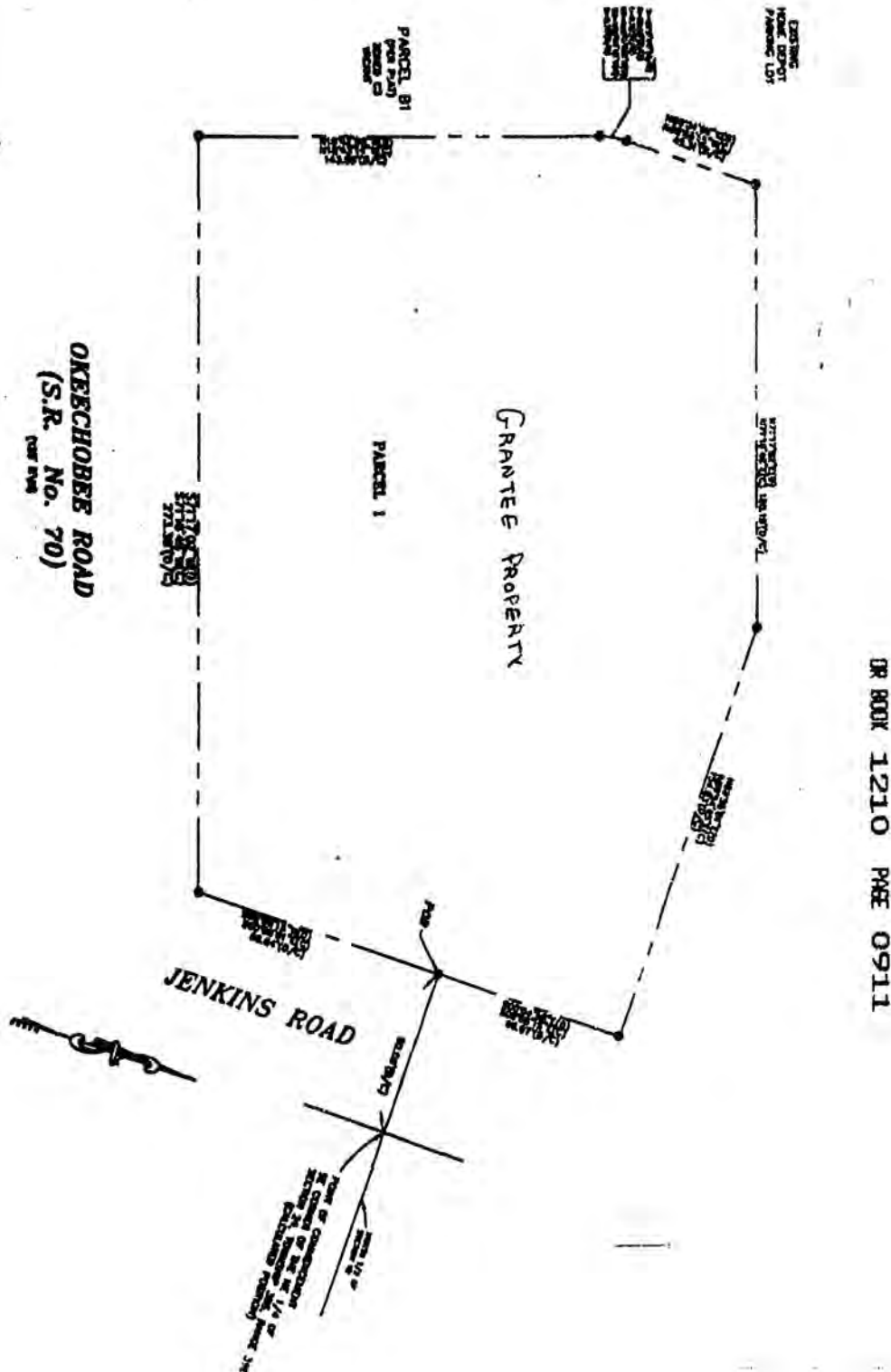
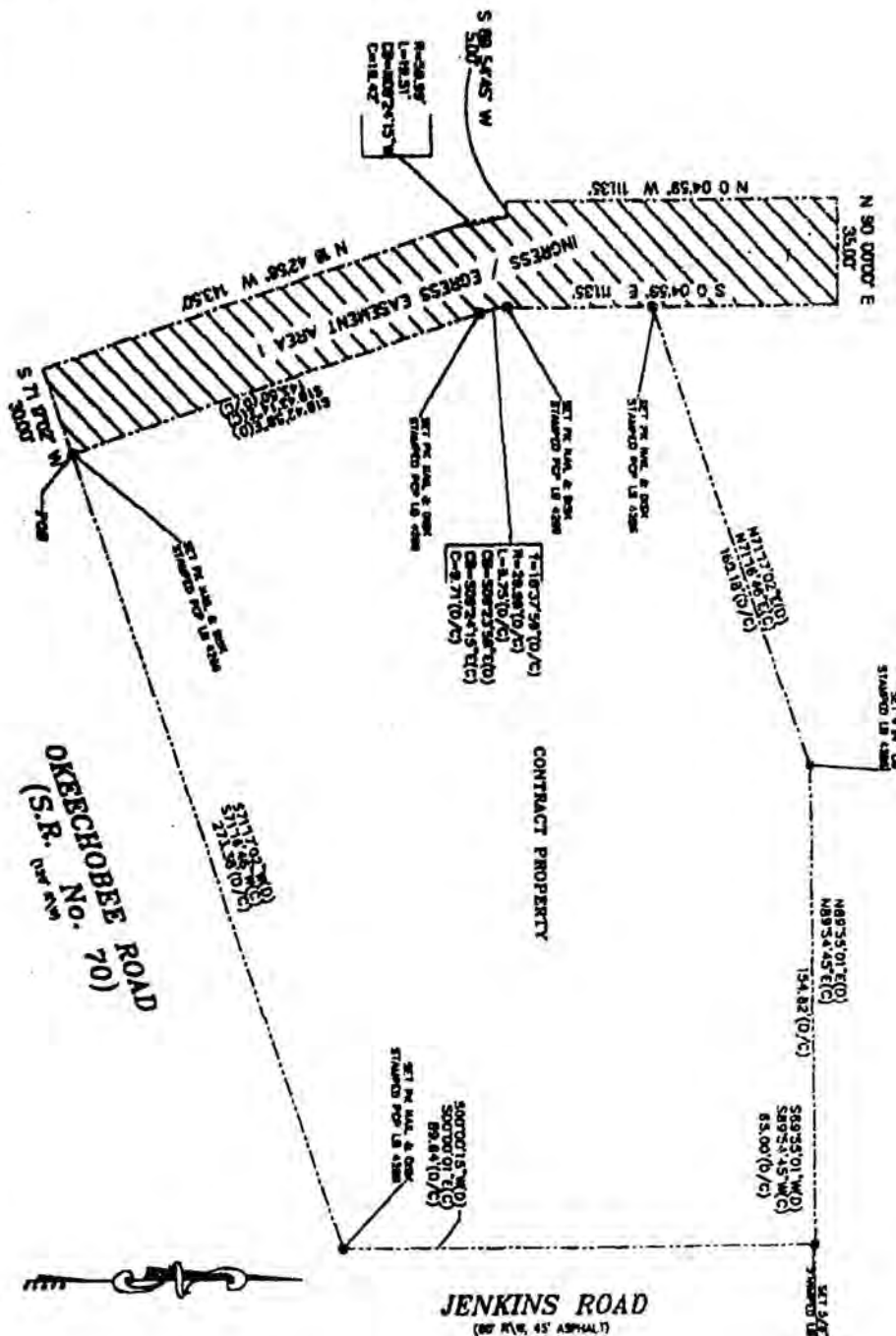


EXHIBIT "C"**Ingress/Egress Easement Area I**

A tract or parcel of land in Section 24, Township 36 South, Range 39 East, St. Lucie County, Florida as hatched below and being more particularly described as follows:

Beginning of the South westernmost corner of the Contract Property on the Northern right-of-way of Okeechobee Road; thence South 71° 17' 02" West, a distance of 30.00 feet to a point; thence North 18° 42' 58" West, a distance of 143.50 feet to a point of curvature of a curve concave to the East, having a radius of 86.88 feet and a chord bearing of North 08° 24' 18" West; thence Northerly along said curve, through a central angle of 18° 37' 58", on an arc distance of 18.81 feet; thence South 89° 54' 43" West, a distance of 8.00 feet to a point; thence North 00° 04' 58" West, a distance of 111.33 feet; thence North 90° 00' 00" East, a distance of 35.00 feet to a point; thence South 00° 04' 58" East, a distance of 111.33 feet to a point of curvature of a curve concave to the East, having a radius of 28.88 feet and a chord bearing of South 08° 23' 38" East; thence Southerly along said curve, through a central angle of 18° 37' 58", on an arc distance of 8.79 feet; thence South 18° 42' 58" East, a distance of 143.50 feet to a point on the Northern right-of-way of Okeechobee Road and the Point of Beginning.

Parcel 3 contains 8,841 square feet, more or less.



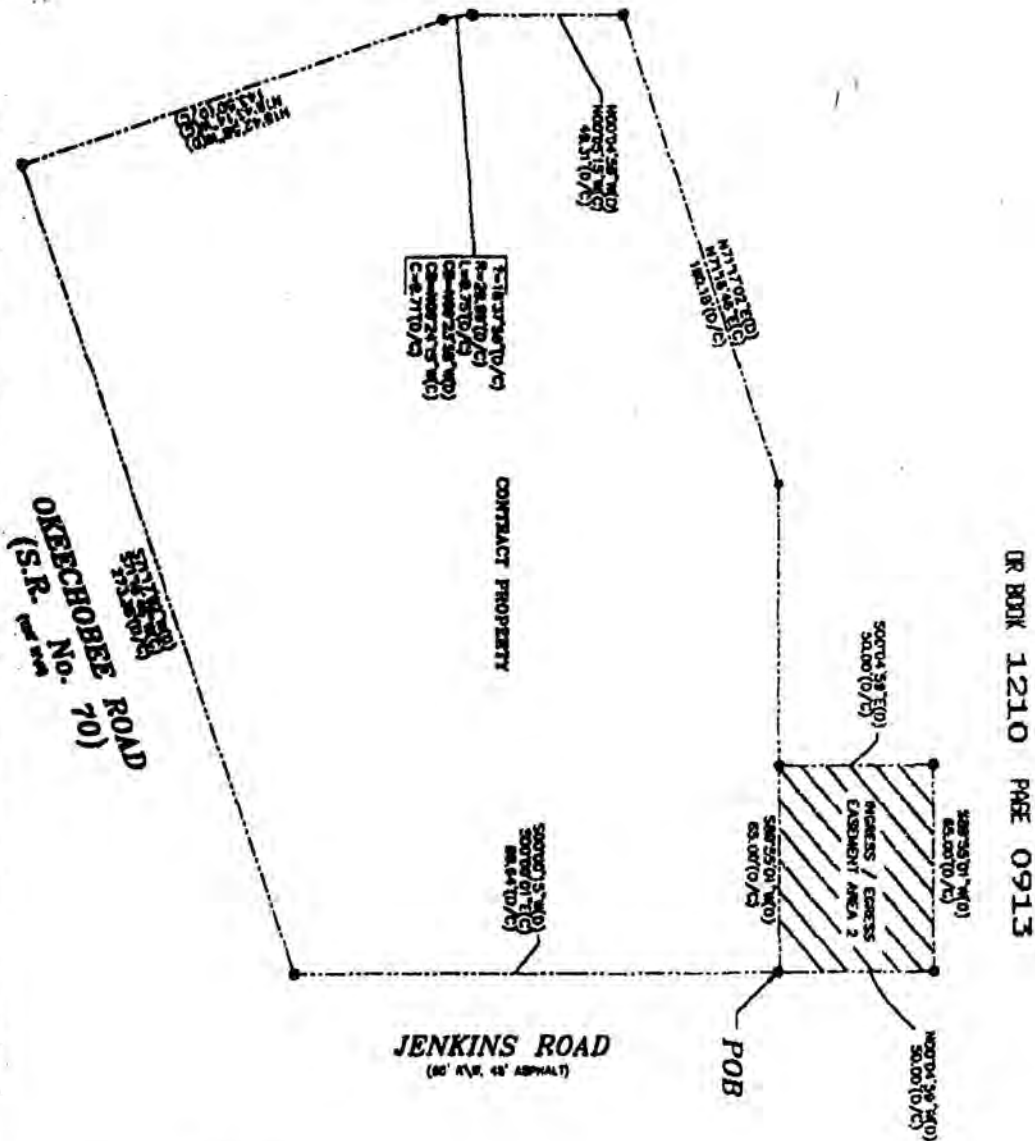
OR BOOK 1210 PAGE 0912

EXHIBIT "D"**Ingress/Egress Easement Area II**

A tract or parcel of land in Section 24, Township 35 South, Range 39 East, St. Lucie County, Florida as hatched below and being more particularly described as follows:

Beginning at the North easternmost point of the Contract Property on the Western right-of-way of Jenkins Road; thence North 00° 04' 58" West along said right-of-way, a distance of 50.00 feet to a point; thence South 88° 55' 01" West, a distance of 65.00 feet to a point; thence South 00° 04' 58" East, a distance of 50.00 feet to a point; thence North 88° 55' 01" East along the Northern Boundary line of the Contract Property, a distance of 65.00 feet to the Point of Beginning.

Parcel 2 contains 3,250 square feet, more or less.



B
37.50

This instrument prepared by
and after recording return to:
Claude P. Czaja, Esq.
Racetrac Petroleum, Inc.
300 Technology Court
Smyrna, Georgia 30082

JoAnne Holman, Clerk of the Circuit Court - St. Lucie County
File Number: 1705566 OR BOOK 1210 PAGE 0918
Recorded: 03-18-99 11:08 A.M.

**FIRST AMENDMENT
TO
RECIPROCAL EASEMENT AND OPERATION AGREEMENT**

THIS FIRST AMENDMENT TO RECIPROCAL EASEMENT AND OPERATION AGREEMENT (the "Amendment") is made as of this 11th day of March, 1998, between **RK HOLDINGS**, a Florida general partnership, through Sidney Kohl, its sole remaining General Partner, having an address of 340 Royal Poinciana Way, Suite 305, Palm Beach, Florida 33480 ("Landholder"), and **HOME DEPOT U.S.A., INC.**, a Delaware corporation, having an office at 2455 Paces Ferry Road, Building C, 20th Floor, Attn: Legal Department, Atlanta, Georgia 30339-4024 ("HD").

RECITALS

- A. Landholder and HD entered into a certain Reciprocal Easement and Operation Agreement dated March 13, 1997, recorded in the St. Lucie County, Florida Circuit Court Clerks' office, O.R. Book 1065, Page 1910 (the "REA").
- B. In compliance with Section 10.01(f) of the REA, Landholder and HD comprise the Approving Parties required to amend the REA.
- C. Landholder and HD desire to amend certain provisions of the REA for their mutual benefit.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landholder and HD hereby agree, and the REA is hereby amended, as follows:

1. The last sentence of the first paragraph of the Preliminary Statement section of the REA is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"As set forth herein, "Outparcel B" shall mean and refer to that portion of said Parcel B2 as shown on that certain Plat prepared by Culpepper & Terpinig, Job No.: 2248, last revised February 16, 1999, recorded in Plat Book _____, Page _____, of the Public Records of St. Lucie County, Florida (the "Revised Plat"). "Outparcel C" shall mean and refer to Parcel B2 less and except Outparcel "B" as Outparcel "B" is shown on the Revised Plat."

2. Notwithstanding Section 1.02 or Section 1.03 of the REA, the parties hereby agree that any Drainage Facilities and Utility Lines installed upon Outparcel B that service other portions of the Project shall only be located within the areas denoted as "Utility Areas" on Exhibit "A" attached hereto and made a part hereof by this reference, and that any Utility Lines proposed to be installed upon any other portion of Outparcel B that service other portions of the Project may only be installed after procuring the prior written consent of the Owner of Outparcel B. Accordingly, the "Common Facilities" upon Outparcel B that shall be subject to any of the easements set forth in the REA shall be limited to the Utility Areas denoted on Exhibit "A" attached hereto and North-South Drive as is depicted on the Site Plan.

3. Notwithstanding Section 1.03 of the REA, from and after the date hereof, the performance by HD of the "Work" as described in the Development Agreement on Outparcel B may only commence after procuring the prior written consent of the Owner of Outparcel B.

CHICAGO TITLE INSURANCE COMPANY
390 N. ORANGE AVE., SUITE 150
ORLANDO, FLORIDA 32801

100-50982010001

4. Notwithstanding Section 1.06(b) of the REA, the Owner of Outparcel B shall be allowed to construct and maintain a sign on Outparcel B, in the area depicted on the Racetrac Site Plan attached hereto as Exhibit "B", said sign being substantially similar to the sign appearing in the rendering attached hereto as Exhibit "C".

5. Notwithstanding the terms of Section 2.02(a) of the REA, the parties hereto hereby agree that unless the Owner of Outparcel B is the Requesting Party, the Owner of Outparcel B shall not share in any costs associated with keeping East-West Drive or North-South Drive lighted after Normal Lighting Hours, and such shall be the case whether or not the business operated on Outparcel B remains open during additional hours as referenced in Section 2.02(a).

6. Section 2.02(b) is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"(b) The foregoing provisions of Section 2.02(a) to the contrary notwithstanding, all exterior lighting fixtures and facilities serving the driveways, roadways and parking areas on all of the Outparcels except for Outparcel B (including, without limitation, the North-South Drive) shall (i) initially be high-pressure sodium lighting fixtures and facilities, (ii) not exceed an average light output of three (3) foot candles, (iii) at all times be subject to the requirements, specifications and restrictions set forth in or established pursuant to the Development Agreement, and (iv) be operated, maintained and controlled solely by HD as further described in Section 2.03 hereof. The parties hereto hereby agree that any 'Racetrac Petroleum' site on Outparcel B (and any successor site that utilizes 'Racetrac Petroleum' improvements) may install and maintain its prototypical exterior lighting on Outparcel B under its canopy, the awning connecting the canopy to the building, if any, and any light utilizing a soffit. All other lights on Outparcel "B" shall remain subject to the foregoing in the first sentence of this Section 2.02(b)."

7. The parties hereto agree to add the following to the end of Section 2.03(b): "; provided that with specific reference to Outparcel B, 'Common Facilities' shall mean those areas identified by cross-hatching on Exhibit "D" attached hereto and incorporated by this reference and those exterior light fixtures and facilities located on Outparcel B which have been or will be installed along North-South Drive specifically to illuminate North-South Drive."

8. The parties hereto agree that the following shall be added to the end of Section 3.01(a): "Notwithstanding anything contained in this Section 3.01(a) to the contrary, no blockage or closing of North-South Drive shall occur without the prior written consent of the Owner of Outparcel B."

9. The parties hereto agree that the following shall be added to the end of Section 3.01(d): "The use of Outparcel B as a 'Racetrac Petroleum' site shall not, *per se*, constitute a business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; is a public or private nuisance; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; or creates unusual fire, explosive or other hazards."

10. Notwithstanding the terms of Section 3.01(g) of the REA, promotion, entertainment, amusement or other activities as contemplated in Section 3.01(g) shall not be prohibited (i) on the sidewalks immediately adjacent to the building on Outparcel B, or (ii) the Canopy Areas, as hereinafter defined, on Outparcel B.

11. The parties hereto agree that the following shall be added to the end of Section 3.01(h): "The parties hereto hereby approve the curb cut from the western border of Outparcel B onto North-South Drive as is depicted on the Racetrac Site Plan attached hereto as Exhibit "B"."

12. Section 3.01(i) is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"No building constructed on Outparcel B shall exceed twenty-five (25) feet in height or Seven Thousand (7,000) square feet in floor area. Any exterior gasoline pumps

and islands and any open-air areas beneath any canopies covering gasoline pumps and islands (herein referred to as "Canopy Area") shall not be deemed a part of the building area for purposes of computing the 7,000 square foot limitation on buildings contained in Section 3.01(i)."

13. Notwithstanding the terms of Section 3.01(k) of the REA, any construction or maintenance of that portion of the Canal which is located on Outparcel B shall only commence with the prior written approval of the Owner of Outparcel B, which approval shall not be unreasonably withheld, and provided that any such construction or maintenance of said portion of the Canal shall in no way unreasonably interfere with regard to the operation of business on and the use and enjoyment of Outparcel B.

14. If HD does not respond to a request for approval by the Owner of Outparcel B made pursuant to and in accordance with the terms of the REA within ten (10) business days after receipt of such request by HD, then such request shall be deemed approved by HD in the event that: (i) the Owner of Outparcel B sends a second request for such approval to HD, which request contains a bold caption in at least 24-point type that "This request shall be deemed approved if no response is received within ten (10) business days of your receipt of this request", and (ii) HD fails to respond to such second request within ten (10) business days of its receipt of same.

15. Capitalized terms utilized in this Amendment and not defined herein shall have the meanings attributed to such terms in the REA. As used herein, "business days" shall exclude Saturdays, Sundays, and holidays recognized by the New York Stock Exchange.

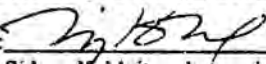
16. This Amendment shall be governed by and construed in accordance with the laws of the State of Florida.

17. All terms, conditions and provisions of the REA not expressly amended or modified by this Amendment shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the day and year first above written.

LANDHOLDER:

RK Holdings, a Florida General Partnership

By: 

Sidney Kohl, its sole remaining General Partner

WITNESSES:

G. Diaz Granados

Name: G. DIAZ-GRANADOS

Ann Jenkins

Name: ANN JENKINS

SIGNATURES FOR FIRST AMENDMENT CONTINUED ON FOLLOWING PAGE

SIGNATURES FOR FIRST AMENDMENT CONTINUED FROM PRECEDING PAGE

STATE OF FLORIDA)

COUNTY OF Palm Beach)

SS:

The foregoing instrument was acknowledged before me this 14 day of MAY, 1998, by Sidney Kohl, as sole remaining General Partner of RK Holdings, a Florida General Partnership. He personally appeared before me, and is personally known to me or produced _____ as identification.



Leslie P. Moss
Commission # CC 737183
Expires June 5, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

[NOTARIAL SEAL]

Notary: Leslie P. Moss
Print Name: LESLIE P. MOSS
Notary Public, State of FLORIDA
My commission expires: 6-5-02

HD:

WITNESSES:

HOME DEPOT U.S.A., INC.,
a Delaware corporation

Barbara Lawrence
Name: Barbara Lawrence

By: Kathryn E. Lee
Name: Kathryn E. Lee
Title: Senior Corporate Counsel/Real Estate

Pamela Coleman
Name: Pamela Coleman

[CORPORATE SEAL]

STATE OF GEORGIA)
COUNTY OF COBB)

SS:

The foregoing instrument was acknowledged before me this 8 day of March, 1998, by Kathryn E. Lee, as Corp. Counsel - Real Estate of HOME DEPOT U.S.A., INC., a Delaware corporation, on behalf of the corporation. She/they personally appeared before me, and is/are personally known to me or produced _____ as identification.

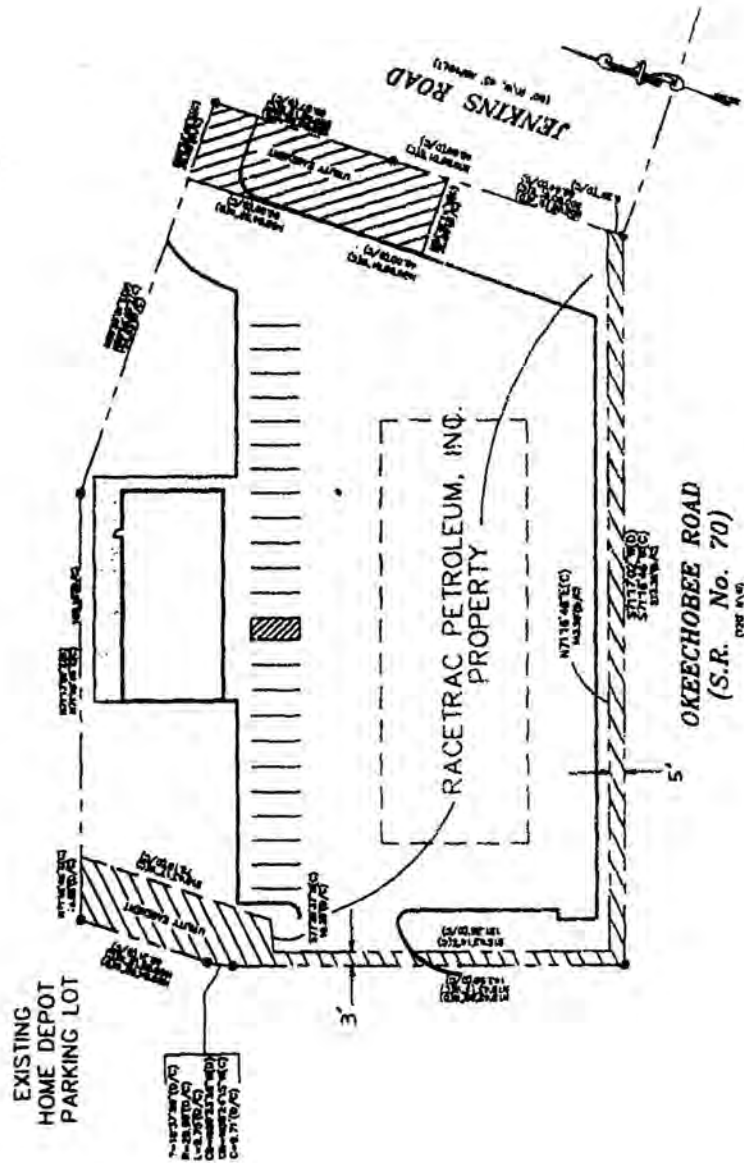
[NOTARIAL SEAL]

Notary: Michelle Roseman-Ducere
Print Name: MICHELLE ROSEMAN-DUCERE
Notary Public, State of Georgia, Cobb County, Georgia
My commission expires: Oct. 5, 2002

EXHIBIT "A"

Utility Area is shown hatched below:

OR BOOK 1210 PAGE 0922



Racetrac Site Plan

OR BOOK 1210 PAGE 0923

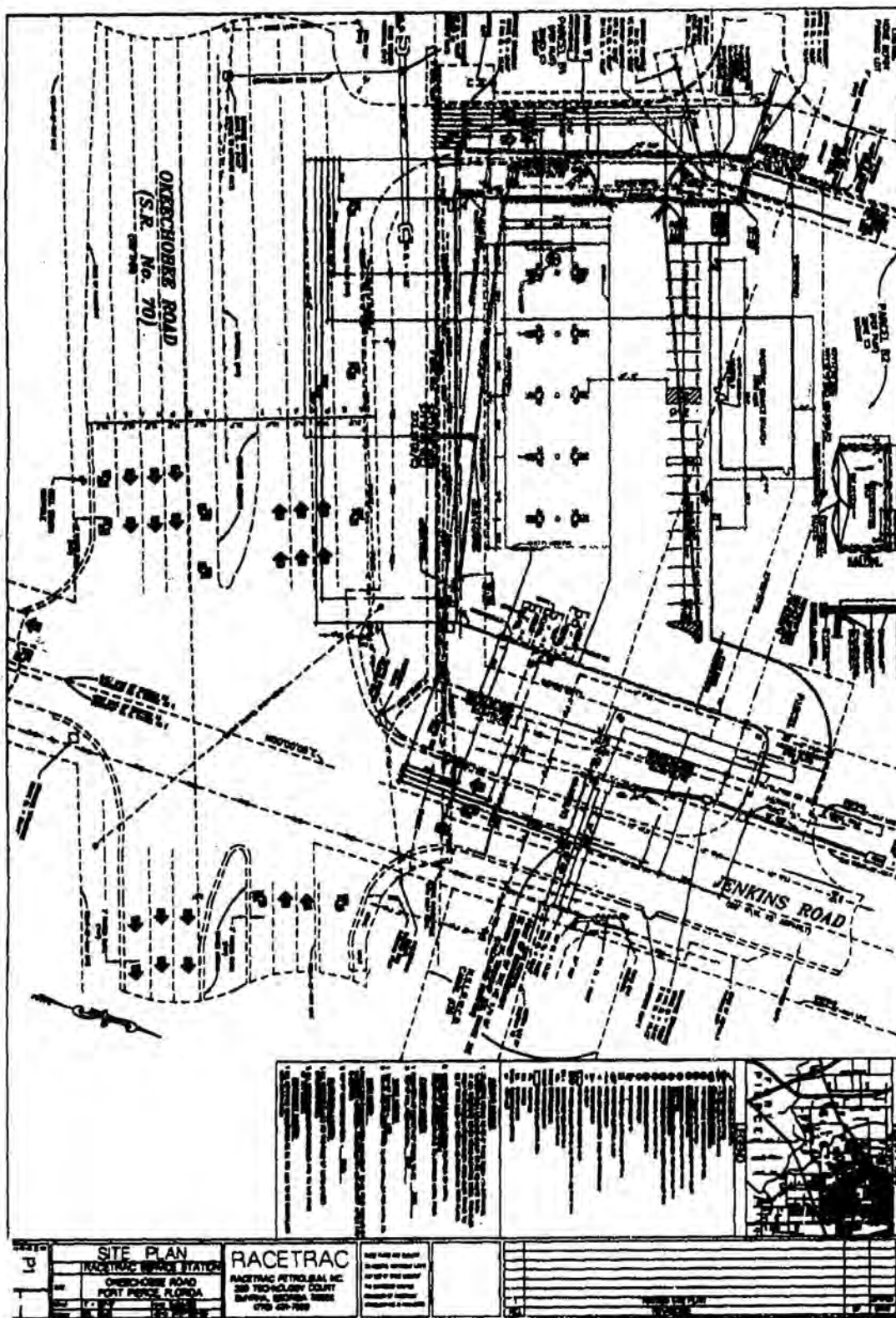
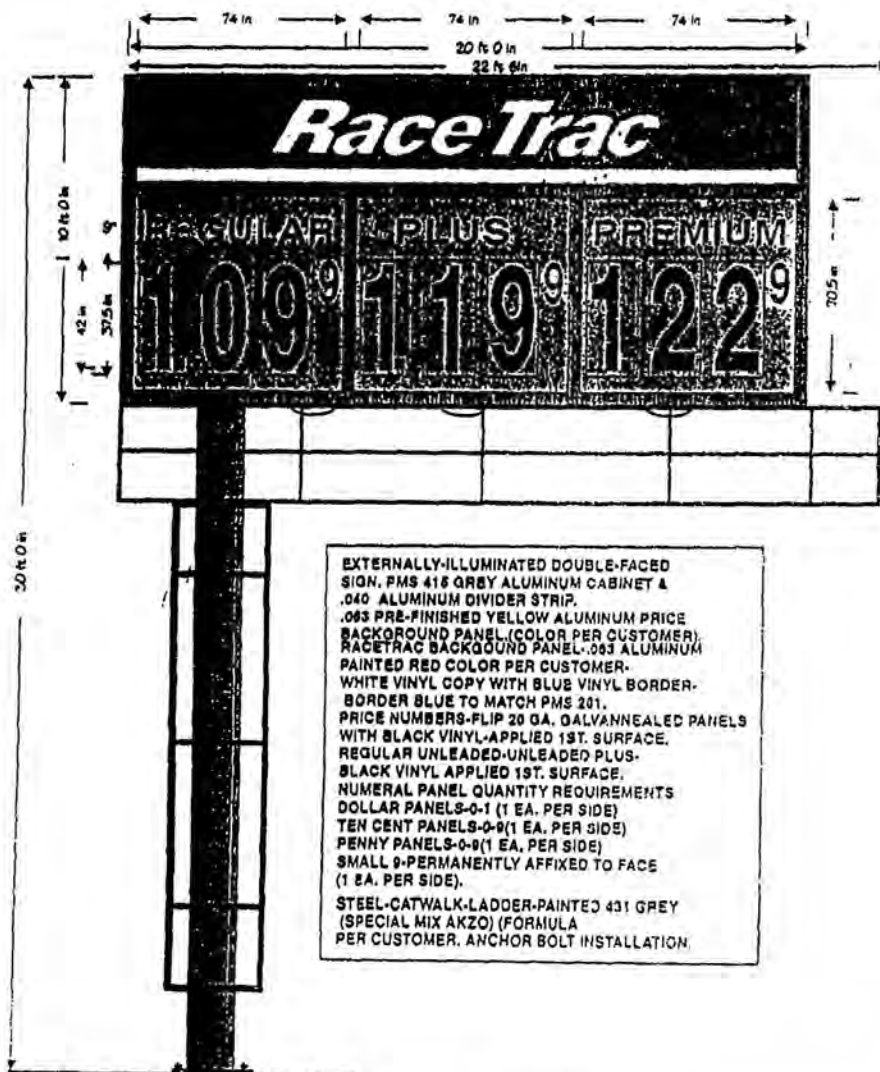


EXHIBIT "C"

Racetrac Sign is shown cross-hatched below:

200 SQ.FT. SIGN

RaceTrac



ACKEN SIGNS

P.O. BOX 1538 100 PINE STREET
BLUEFIELD, WY 24701 (304)327-3541

DATE: 12-22-97	SCALE: 1/4"=1'	DRAWING #: 12531A	FILE: 10X203PR
SALES: T. FRENCH		CLIENT: RACETRAC	LOCATION: VARIOUS

EXHIBIT "D"

Common Facilities are shown hatched below:

DR BOOK 1210 PAGE 0925

