

RETURN TO:

Frank H. Fee, III, Esq.
FEE, KOBLEGARD & DEROSS
Courthouse Box #25

AGREEMENT FOR EASEMENTS

This Agreement for Easements (the "Agreement") dated this 30th day of Sept., 2003, is by and between SARAH FENDER, the unmarried surviving spouse of ROBERT FENDER, deceased ("Fender") and TOJO ENTERPRISES, LLC, a Kentucky limited liability company qualified to do business in the State of Florida ("Tojo").

WITNESSETH:

WHEREAS, Fender was formerly the owner of the entire parcel of real property situate and being in St. Lucie County, Florida, bounded on the North by State Road 70 (Okeechobee Road) and on the East by McNeil Road which is more fully described on Exhibit "A" to this Agreement (the "Parent Tract"); and

WHEREAS, Fender has completed the sale and conveyance to Tojo of a portion of the Parent Tract as more fully described on Exhibit "B" to this Agreement (the "Tojo Property") and Fender now retains ownership of the remainder of the Parent Tract as more fully described on Exhibit "C" to this Agreement (the "Fender Property"); and

WHEREAS, the Tojo Property and Fender Property are as more fully delineated and described by a Boundary Survey prepared by Allen E. Beck, Inc., Job No. 02-7326, dated June 24, 2002 (the "Survey"), and by an existing, proposed site development plan for improvements upon the Tojo Property and Fender Property as shown on the site plan for Hurricane Car Wash prepared by Friscia Engineering, Job No. 02511, dated September 4, 2002 (the "Site Plan"); and

WHEREAS, in consideration of the prior purchase by Tojo and sale by Fender of the Tojo Property, Tojo and Fender agreed to provide for certain easements, rights-of-way,

* Doc. Assesment: \$ 0.00
* Doc. Tax: \$ 0.70
* Int. Tax: \$ 0.00

JOANNE HOLMAN, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
File Number: 2320059 OR BOOK 1861 PAGE 1009
Recorded: 12/11/03 10:38

installations of common utility, and to the apportionment of the costs of same by a certain Declaration of Restrictive Covenants and Agreements for Rights-of-Way and Easements dated October 14, 2002, recorded in O.R. Book 1598, page 1027 of the Public Records of St. Lucie County, Florida (the "Declaration"); and

WHEREAS, the Site Plan (as defined in the Declaration) has been finalized and the locations surveyed for the interior service road and for the drainage easements and water retention/detention facility referenced in the Declaration; and

WHEREAS, it is now necessary and proper that Fender and Tojo grant or exchange, as may be appropriate, suitable easements for the facilities described in the Declaration.

NOW, THEREFORE, in consideration of the premises above set forth, and of the Declaration heretofore agreed upon by Fender and Tojo, it is mutually agreed as follows:

1. **Recitals and Intentions True and Correct.** The above recitals of facts and intentions set forth in the Declaration are, and remain, true and correct.
2. **Incorporation of Declaration, Survey and Site Plan.** The Declaration and the Survey and Site Plan incorporated therein are incorporated into this Agreement as if set forth in full, and by this reference shall be used in the interpretation of this Agreement and of the interpretation of the Declaration as affected by this Agreement.
3. **Right-of-Way and Easement for Ingress and Egress.** Fender and Tojo reciprocally grant, convey and declare as to their respective properties, a perpetual, non-exclusive easement and right-of-way for the purpose of vehicular and pedestrian ingress and egress to and from Okeechobee Road (S.R. 70) and McNeil Road, over and upon the Fender Property and the Tojo Property as is delineated, described and depicted upon Exhibit "D" attached hereto, and

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incorporated herein. The described easement may also accommodate necessary submerged utilities and utilities crossings as well as necessary drainage facilities. The easement and right-of-way hereby granted or declared shall serve as an interior service road, and Fender confirms that it shall be appropriately paved and improved at the expense of Fender. Following installation utilizing the design specifications of Friscia Engineering, such interior service road shall be maintained at the joint expense of Fender, Tojo and their successors in interest, in proportion that the size of their respective properties bears to the size of the Parent Tract.

4. **Easement for Connection and for Water Retention/Detention Facility.**

Fender hereby gives, grants and conveys to Tojo a non-exclusive easement for storm water connection and for use of a water retention/detention facility located at the Southwesterly corner of the Fender Property adjacent to North St. Lucie River Water Control District Canal No. 38. The easement area is as more fully delineated, described and depicted upon Exhibit "E" hereto. Tojo shall make submerged connection installations as designed by Friscia Engineering at its sole cost and expense, and restore the surface of the Fender Property traversed to its pre-construction condition following completion of submerged installations. Any expansion or upgrade of the size and capacity of the existing water retention/detention facility required to serve the Tojo property, shall be apportioned as to cost among Fender and Tojo as is reasonably determined by Friscia Engineering.

5. **Compliance with Laws and Regulations - Indemnification.** Fender and Tojo covenant and agree, with respect to their own properties, to comply with all laws, rules, regulations and requirements of all public authorities, and to indemnify, defend and hold each other harmless against all claims, demands, losses, damages, liabilities and expenses and all suits.

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actions and judgments (including, but not limited to, costs and attorney's fees) arising out of, or in any way related to, Fender's or Tojo's failure to maintain their respective properties in a safe condition. Fender and Tojo shall give prompt and timely notice of any claim made, or suit or action commenced, against the other party which would in any way result in indemnification under this Agreement. The covenants herein contained shall not be deemed a third party beneficiary contract for the benefit of employees, customers or business invitees of either of the parties.

6. **Grants and Covenants Running with the Land.** The grants and covenants contained in this Agreement shall run with the land and inure to, and be for the benefit of, Fender and Tojo, their successors and assigns, and the tenants, sub-tenants, licensees, concessionaires, or mortgagees in possession of both. Only the right of ingress and egress over the service road easement and right-of-way created hereby shall inure to the benefit of customers and business invitees of the parties.

7. **Covenants of Title and Quiet Enjoyment.** Fender and Tojo warrant, each to the other, that they have good and indefeasible fee simple title to their respective properties, and they will warrant and defend the title to the easements premises owned by them, and will indemnify the other against any damage and expense which such other may suffer by reason of any lien, encumbrance, restriction or defect in the title or description of the easement premises.

8. **Construction.** The rule of strict construction does not apply to this Agreement. This Agreement shall be given a reasonable construction so that the intentions of the parties are carried out. This Agreement shall be construed under Florida Law.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on this 30 day of September, 2003.

Signed, Sealed and Delivered in the Presence of:

Norma Thomas
Print Name: Norma Thomas

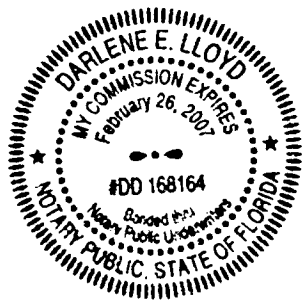
Patricia A. Faulkner
Print Name: Patricia A. Faulkner

TOJO ENTERPRISES, LLC, a Kentucky limited liability company

By *John G. Thomas*
John G. Thomas, Member

STATE OF FLORIDA
COUNTY OF Broward

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 30 day of September, 2003, by JOHN G. THOMAS as Member of TOJO ENTERPRISES, LLC, a Kentucky limited liability company, on behalf of the company, who is personally known to me or who provided _____ as identification and who did not take an oath.



Darlene E. Lloyd
Darlene E. Lloyd, NOTARY PUBLIC
My Commission Expires: 2-26-07
My Commission No.: DD168164

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Signed, Sealed and Delivered
in the Presence of:

Malissa Short
Print Name: Malissa Short

Mary Lakin
Print Name: Mary Lakin

TOJO ENTERPRISES, LLC, a Kentucky limited
liability company

By: Thomas L. Burnette, Member
Thomas L. Burnette, Member

STATE OF KENTUCKY
COUNTY OF Boyd

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 2 day of October, 2003 by THOMAS L. BURNETTE as Member of TOJO ENTERPRISES, LLC, a Kentucky limited liability company, on behalf of the company, who is personally known to me or who provided as identification and who did not take an oath.

Jane E. Zimmer
3/28/07, NOTARY PUBLIC
My Commission Expires: 3-28-07
My Commission No.:



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(Fender Execution and Acknowledgment appears on the following page.)

Signed, Sealed and Delivered
in the Presence of:

Lisa L. Bolton
Print Name: Lisa L. Bolton

Connie S. Moore
Print Name: Connie S. Moore

Sarah E. Fender
SARAH E. FENDER

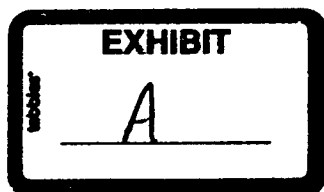
STATE OF FLORIDA
COUNTY OF St. Lucie

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 10th day of Dec. 2003, ~~2002~~, by ~~ROBERT C. FENDER, SR.~~ and SARAH E. FENDER, ~~his wife~~, who are ~~is~~ personally known to me or who provided personally known as identification and who did not take an oath.



Lisa L. Bolton
Lisa L. Bolton, NOTARY PUBLIC
My Commission Expires: 12-4-2007
My Commission No.: DD249981

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LEGAL DESCRIPTION

PARENT TRACT

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTH OF STATE ROAD 70 (OKEECHOBEE ROAD), DESCRIBED AS FOLLOWS:

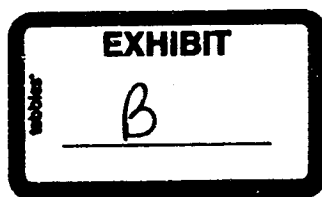
BEGINNING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD AND THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 (OKEECHOBEE ROAD), RUN THENCE SOUTHWESTERLY ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 A DISTANCE OF 742.69 FEET; THENCE RUN SOUTHEASTERLY TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 19 WHICH IS 410.99 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD; THENCE RUN EAST ALONG SAID QUARTER SECTION LINE TO THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD; THENCE RUN NORTH ALONG SAID WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD TO THE POINT OF BEGINNING. THE SOUTH 20.00 FEET OF THE FOREGOING DESCRIBED LAND IS SUBJECT TO A NON-EXCLUSIVE PERPETUAL EASEMENT OF INGRESS AND EGRESS. THE SAID 20.00 FEET BEING MEASURED AT RIGHT ANGLES AND PARALLEL TO SAID ONE-QUARTER SECTION LINE.

LESS AND EXCEPT THE 100' x 200' PARCEL OF LAND AS DESCRIBED IN O.R.B. 251, PG. 1065.

ALSO, LESS AND EXCEPT THAT PART OF LOT 9, MODEL LAND COMPANY SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 3, AT PAGE 63 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED IN O.R.B. 691, PG. 1174.

ALSO LESS AND EXCEPT RIGHT-OF-WAY AS DESCRIBED IN O.R.B. 1542 AT PG. 348 PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

RESULTING PARCEL CONTAINING 329,9866.60 SQ.FT./7.568 ACRES MORE OR LESS.



LEGAL DESCRIPTION
PARCEL "A"

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTH OF STATE ROAD 70 (OKEECHOBEE ROAD), DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD (66' RIGHT-OF-WAY) AND THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70(OKEECHOBEE ROAD, 120' RIGHT-OF-WAY), THENCE S 52°29'53" W ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 A DISTANCE OF 326.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE S 37°30'07" E FOR 212.00 FEET; THENCE S 52°29'53" W FOR 200.00 FEET; THENCE N 37°30'07" W FOR 212.00 FEET (TO THE SOUTH R/W LINE OF SAID STATE ROAD 70-120R/W); THENCE N 52°29'53" E (ALONG SAID R/W LINE) FOR ~~200.00~~ FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT RIGHT-OF-WAY AS DESCRIBED IN O.R.B. 1542 AT PG. 948 PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.
RESULTING PARCEL CONTAINNING 41.766.40 / 0.959 ACRES MORE OR LESS.



LEGAL DESCRIPTION

PARENT "B"

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTH OF STATE ROAD 70 (OKEECHOBEE ROAD), DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD AND THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 (OKEECHOBEE ROAD), RUN THENCE SOUTHWESTERLY ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 A DISTANCE OF 742.69 FEET; THENCE RUN SOUTHEASTERLY TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 19 WHICH IS 410.99 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD; THENCE RUN EAST ALONG SAID QUARTER SECTION LINE TO THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD; THENCE RUN NORTH ALONG SAID WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD TO THE POINT OF BEGINNING. THE SOUTH 20.00 FEET OF THE FOREGOING DESCRIBED LAND IS SUBJECT TO A NON-EXCLUSIVE PERPETUAL EASEMENT OF INGRESS AND EGRESS. THE SAID 20.00 FEET BEING MEASURED AT RIGHT ANGLES AND PARALLEL TO SAID ONE-QUARTER SECTION LINE.

LESS AND EXCEPT THE 100' x 200' PARCEL OF LAND AS DESCRIBED IN O.R.B. 251, PG. 1065.

ALSO LESS AND EXCEPT THAT PART OF LOT 9, MODEL LAND COMPANY SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 3, AT PAGE 63 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED IN O.R.B. 691, PG. 1174.

ALSO LESS AND EXCEPT RIGHT-OF-WAY AS DESCRIBED IN O.R.B. 1542 AT PG. 948 PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTH OF STATE ROAD 70 (OKEECHOBEE ROAD), DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MCNEIL ROAD (66' RIGHT-OF-WAY) AND THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 (OKEECHOBEE ROAD, 120' RIGHT-OF-WAY), THENCE S 52°29'53" W ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 70 A DISTANCE OF 326.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE S 37°30'07" E FOR 212.00 FEET; THENCE S 52°29'53" W FOR 200.00 FEET; THENCE N 37°30'07" W FOR 212.00 FEET (TO THE SOUTH R/W LINE OF SAID STATE ROAD 70-120R/W); THENCE N 52°29'53" E (ALONG SAID R/W LINE) FOR 200.00 FEET TO THE POINT OF BEGINNING.

RESULTING PARCEL CONTAINING 287,900.20 / 6.609 ACRES MORE OR LESS.

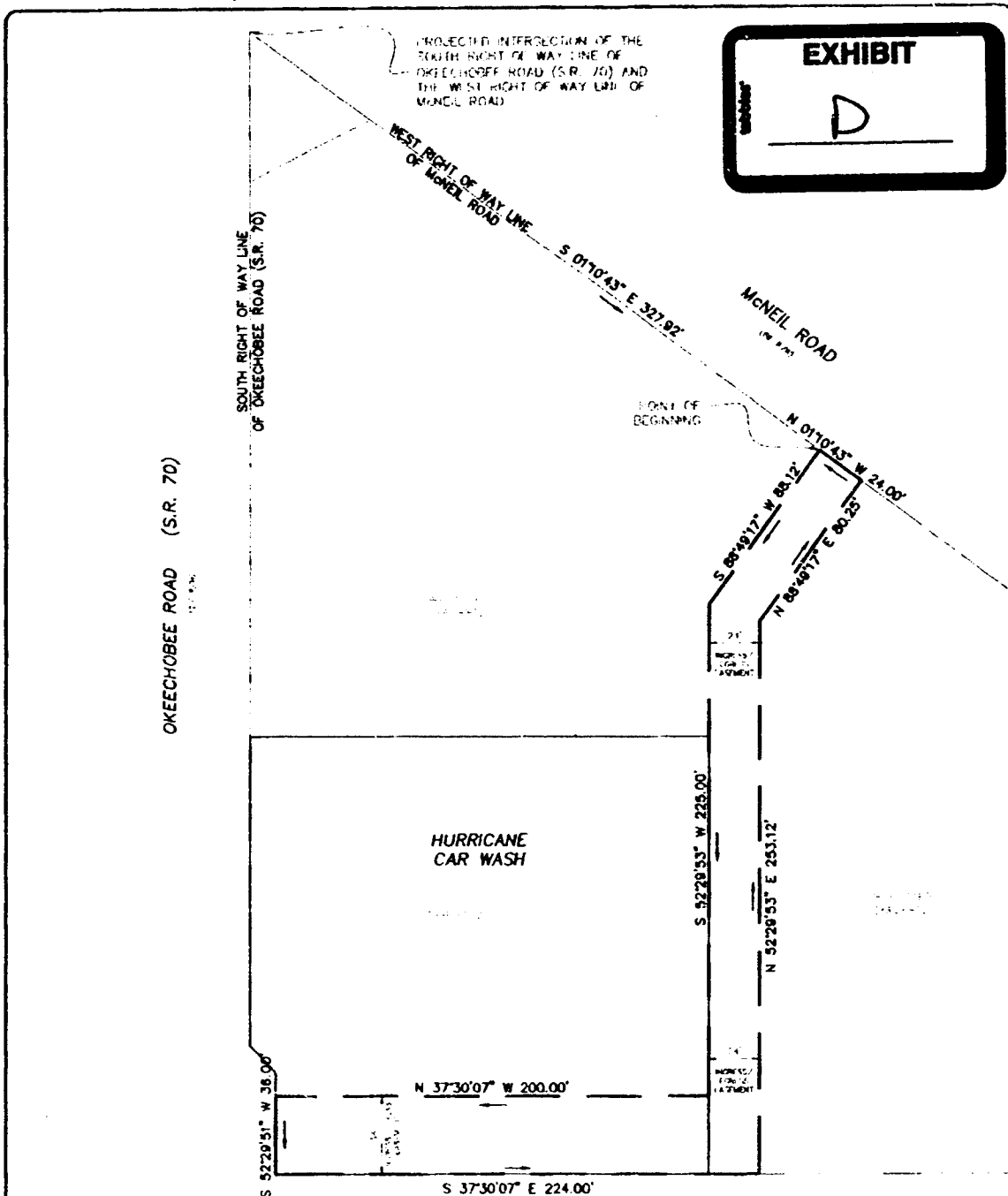


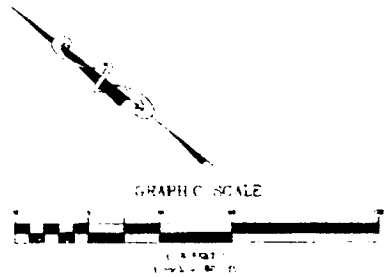
EXHIBIT
D

LEGAL DESCRIPTION FOR AN INGRESS/EGRESS EASEMENT:

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTHEAST OF STATE ROAD 70 (OKEECHOBEE ROAD) AND WEST OF McNEIL ROAD, DESCRIBED AS FOLLOWS:

FOR A POINT BEGINNING, START AT THE INTERSECTION OF WEST RIGHT OF WAY LINE OF McNEIL ROAD AND THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE ROAD (S.R. 70), THENCE RUN S 01°10'43" E A DISTANCE OF 327.92', TO SAID POINT BEING ON THE WEST RIGHT OF WAY LINE OF McNEIL ROAD,
 THENCE RUN S 88°49'17" W A DISTANCE OF 88.12';
 THENCE RUN S 52°29'53" W A DISTANCE OF 225.00';
 THENCE RUN N 37°30'07" W A DISTANCE OF 200.00';
 THENCE RUN S 52°29'51" W A DISTANCE OF 36.00';
 THENCE RUN S 37°30'07" E A DISTANCE OF 224.00';
 THENCE RUN N 52°29'53" E A DISTANCE OF 253.12';
 THENCE RUN N 88°49'17" E A DISTANCE OF 88.25';
 THENCE RUN ALONG THE WEST RIGHT OF WAY LINE OF McNEIL ROAD A DISTANCE OF 24.00' TO THE POINT OF BEGINNING;

CONTAINING 15,389.70 S.F., 0.353 ACRES ±.



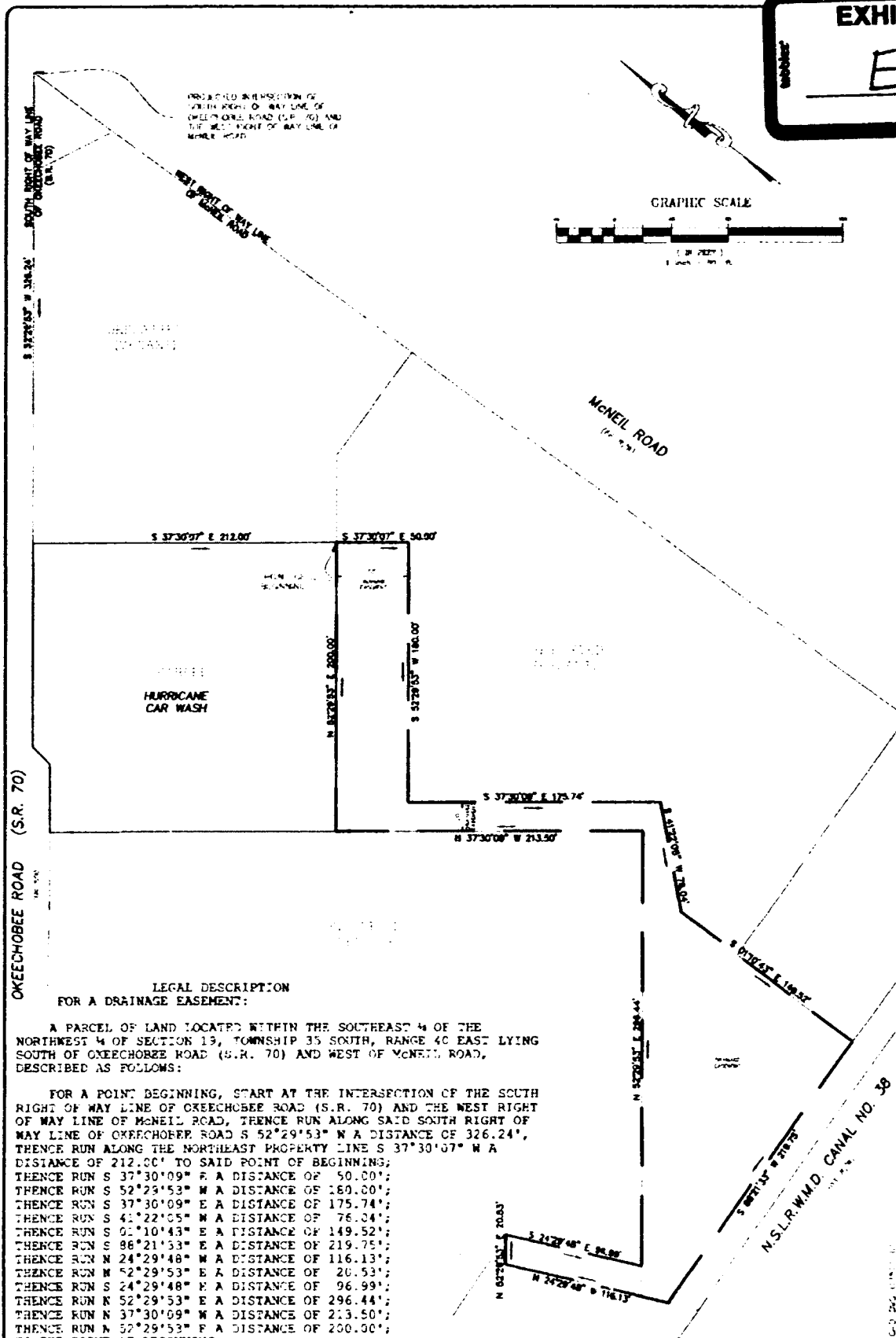
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EXHIBIT "B"
INGRESS/EGRESS EASEMENT
HURRICANE CAR WASH
SKETCH AND LEGAL
DESCRIPTION

FRISCIA ENGINEERING
 601 S.W. NETWORK BL. PORT ST. LUCIE FL 34984
 PH: (772) 343-4398 FAX: (772) 343-7996
 e-mail: info@frisciaeng.com

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EXHIBIT
E



**LEGAL DESCRIPTION
FOR A DRAINAGE EASEMENT:**

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 35 SOUTH, RANGE 40 EAST LYING SOUTH OF CREECHOBEE ROAD (S.R. 70) AND WEST OF McNEIL ROAD, DESCRIBED AS FOLLOWS:

FOR A POINT BEGINNING, START AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF CREECHOBEE ROAD (S.R. 70) AND THE WEST RIGHT OF WAY LINE OF McNEIL ROAD, THENCE RUN ALONG SAID SOUTH RIGHT OF WAY LINE OF CREECHOBEE ROAD S 52°29'53" W A DISTANCE OF 326.24', THENCE RUN ALONG THE NORTHEAST PROPERTY LINE S 37°30'07" W A DISTANCE OF 212.00' TO SAID POINT OF BEGINNING;

THENCE RUN S 37°30'09" E A DISTANCE OF 50.00';
 THENCE RUN S 52°29'53" W A DISTANCE OF 180.00';
 THENCE RUN S 37°30'09" E A DISTANCE OF 175.74';
 THENCE RUN S 41°22'05" W A DISTANCE OF 76.04';
 THENCE RUN S 01°10'43" E A DISTANCE OF 149.52';
 THENCE RUN S 86°21'53" E A DISTANCE OF 219.75';
 THENCE RUN N 24°29'48" W A DISTANCE OF 116.13';
 THENCE RUN N 52°29'53" E A DISTANCE OF 20.53';
 THENCE RUN S 24°29'48" E A DISTANCE OF 96.99';
 THENCE RUN N 52°29'53" E A DISTANCE OF 296.44';
 THENCE RUN N 37°30'09" W A DISTANCE OF 213.50';
 THENCE RUN N 52°29'53" E A DISTANCE OF 200.00';
 TO THE POINT OF BEGINNING;

CONTAINING 39,133.78 S.F., 0.896 ACRES ±.

1 1

EXHIBIT "B"
DRAINAGE EASEMENT
HURRICANE CAR WASH
SKETCH AND LEGAL
DESCRIPTION

FRISCIA ENGINEERING

NO. 218 WILSON DR. POST ST. LAKE CHARLES, LA 70604
 PH. (713) 449-1700 FAX (713) 343-7700
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