

6. **CONSENT AGENDA**

- c. **RESOLUTION 09-012 ACCEPTING A PERPETUAL UTILITY EASEMENT; ACCEPTING A GRANTOR'S AFFIDAVIT AND BILL OF SALE FOR WASTEWATER FACILITIES, FROM ROYALE TERN CONDOMINIUM ASSOCIATION, INC.; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**

CITY OF SANIBEL

RESOLUTION NO. 09-012

A RESOLUTION ACCEPTING A PERPETUAL UTILITY EASEMENT; ACCEPTING A GRANTOR'S AFFIDAVIT AND BILL OF SALE FOR WASTEWATER FACILITIES, FROM ROYALE TERN CONDOMINIUM ASSOCIATION, INC.; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Royale Tern Condominium Association, Inc., a Florida non-profit corporation, in accordance with City of Sanibel Ordinance 92-34, has upgraded the necessary wastewater facilities and met the requirements for acceptance to the City of Sanibel.

WHEREAS, the wastewater facilities are contained within a public utility easement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Florida:

SECTION 1. The Perpetual Utility Easement, Grantor's Affidavit and Bill of Sale are hereby accepted, and the City Manager is authorized to record the originals of said document in the Official Records of Lee County, Florida.

SECTION 2. Effective Date. This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 17th day of February, 2009.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: *Kenneth B. Cuyler* 2/16/09
Kenneth B. Cuyler, City Attorney Date

Vote of Council members:
Denham _____
Ruane _____
Harrity _____
Jennings _____
Pappas _____

Date filed with City Clerk: _____

RETURN TO:

THIS DOCUMENT PREPARED BY:

TIMOTHY J. MURTY, ESQ.
Florida Bar No. 527564
1633 Periwinkle Way, Suite A
Sanibel, Florida 33957
239-472-1000

Property Appraiser's Parcel Identification (folio) No.(s) 34-46-22-T2-02800.00CE

PERPETUAL UTILITY EASEMENT

THIS INDENTURE, made this 21 day of January, 2008, by and between ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation (hereinafter referred to as "Grantor"), and the CITY OF SANIBEL, a Florida municipal corporation, located in Lee County, Florida (hereinafter referred to as "Grantee"), the mailing address of which is 800 Dunlop Road, Sanibel, Florida 33957.

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the Grantee, its successors and assigns a perpetual easement to use, operate, construct, install, maintain, repair, replace and renew a wastewater collection, transmission and reclaimed water system (as more particularly hereinafter described, the "System") on, over, under and across the following described land, or so much thereof as is owned by the Grantor, situate, lying and being in the City of Sanibel, Lee County, Florida, to-wit:

The property described on Exhibit A and shown on Exhibit B, attached hereto and made a part hereof.

For the purposes hereof, the term "System" includes, without limitation, all manholes, pipes, lines, valves, service connections and other public wastewater collection, transmission, pump station and reclaimed water facilities.

This Easement includes a reasonable right of ingress and egress, vehicular and pedestrian, for the purposes of using, operating, constructing, installing, maintaining, repairing, replacing, renewing and extending the system on, over and across the adjacent and nearby properties of the Grantor, including specifically, without limitation, all such portions of the Grantor's property constituting a roadway. In all cases, the Grantee shall have and retain title to the System.

This Easement includes, without limitation, the easement and right to trim and remove roots, trees, shrubs, bushes, plants, fences and other improvements and obstructions on and under the surface of the Easement Area and to keep same clear of any obstructions from time to time. Grantee shall, from time to time, repair damage to pavement, shell, curbs, vegetation, sod and other amenities occurring as a result of any exercise by Grantee of its easement and other rights hereunder.

Grantor covenants that Grantor is lawfully seized and possessed of the easement area, having good and lawful right and power to sell and convey said easement and, subject to existing easements and mortgages recorded in the Public Records of Lee County, Florida. Grantor will forever warrant and defend the title and terms of this Easement and the quiet possession thereof against all claims and demands of all others.

This Easement Agreement shall be binding upon, and insure to the benefit of the Grantor and Grantee and their respective heirs, personal representatives, successors and assigns. It is specifically understood that Grantee may assign and transfer this Easement to another party which hereafter owns and/or operates the System and that such assignment or transfer shall not be deemed to terminate or impair the easement and other rights granted herein.

DESCRIPTION

OF
A SANITARY SEWER EASEMENT
LYING IN GOVERNMENT LOT 2
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 22 EAST
CITY OF SANIBEL, LEE COUNTY, FLORIDA

Sanitary Sewer Easement,
over and across a parcel of land lying in Government Lot 2,
Section 34, Township 46 South, Range 22 East
City of Sanibel, Lee County, Florida

A Sewer Easement situated in the East 10 feet of Lot 10 and the West 80 feet of Lot 11, E. L. Sawyer's Subdivision as recorded in Plat Book 3 at Page 55 of the Public Records of said Lee County, and known as Royal Tern Condominium, as recorded in Official Record Book 2125 at Page 1763 of the Public Records of said Lee County, being more particularly described as follows:

Commencing at a concrete monument marking the intersection of the southerly right-of-way line of Gulf Drive (80 feet wide) with the easterly line of the westerly 80 feet of Lot 11 of said E. L. Sawyer's Subdivision, being the easterly line of a parcel of land as shown in Official Records Book 1887 at Page 4147 of said Public Records and known as said Royal Tern Condominium, thence run North 67°10'57" West along the southerly right-of-way line of said Gulf Drive for 98.29', more or less, to the westerly line of the east 10 feet of Lot 10, said E. L. Sawyer's Subdivision; thence South 01°00'00" East along the west line of said east 10 feet of Lot 10 and said Royal Tern Condominium for 255.54 feet to the Point of Beginning; thence continue South 01°00'00" East along the west line of said east 10 feet of Lot 10 and said Royal Tern Condominium for 27.00 feet; thence North 89°00'00" East departing the west line of said east 10 feet of Lot 10 and said Royal Tern Condominium along said course being 6 feet, more or less, south of the center of an existing sanitary sewer manhole for 26.00 feet; thence North 01°00'00" West parallel with the west line of said east 10 feet of Lot 10 and said Royal Tern Condominium along said course being 7.7 feet, more or less, easterly of the center of an existing lift station wet well having a 26.3 foot diameter, more or less, for 27.00 feet; thence South 89°00'00" West along said course being 9.6 feet, more or less, northerly of said wet well for 12.83 feet; thence North 02°43'51" East parallel with a 6 feet, more or less, easterly from an existing sanitary sewer force main for 48.60 feet; thence North 01°30'29" West parallel with and 6 feet, more or less, easterly from said force main for 88.03 feet; thence North 02°14'28" East parallel with and 6 feet, more or less, easterly from said force main for 93.28 feet; thence North 54°53'12" East parallel with and 6 feet, more or less, southeasterly from said force main for 18.02 feet to an intersection with the south right-of-way line of said Gulf Drive (80 feet wide); thence North 67°10'57" West along said south right-of-way line of Gulf Drive for 14.16 feet; thence South 54°53'12" West departing said south right-of-way line parallel with and 6 feet, more or less, northwesterly from said force main for 16.44 feet; thence South 02°14'28" West parallel with and 6 feet, more or less, westerly from said force main for 99.61 feet; thence South 01°30'29" East parallel with and 6 feet, more or less, westerly from said force main for 87.98 feet; thence South 02°43'51" West parallel with and 6 feet, more or less, westerly from said force main for 48.94 feet; thence South 89°00'00" West for 1.14 feet to an intersection with the west line of said east 10 feet of Lot 10 and said Royal Tern Condominium to the Point of Beginning.

Parcel contains 3,707 square feet, more or less.

Parcel subject to easements, restrictions; reservations and rights-of-way (recorded and unrecorded, written and unwritten).

Bearings are based on said Royal Tern Condominium as recorded in Official Record Book 2125 at Page 1763 and the west line of said east 10 feet of Lot 10 as bearing South 01°00'00" East.

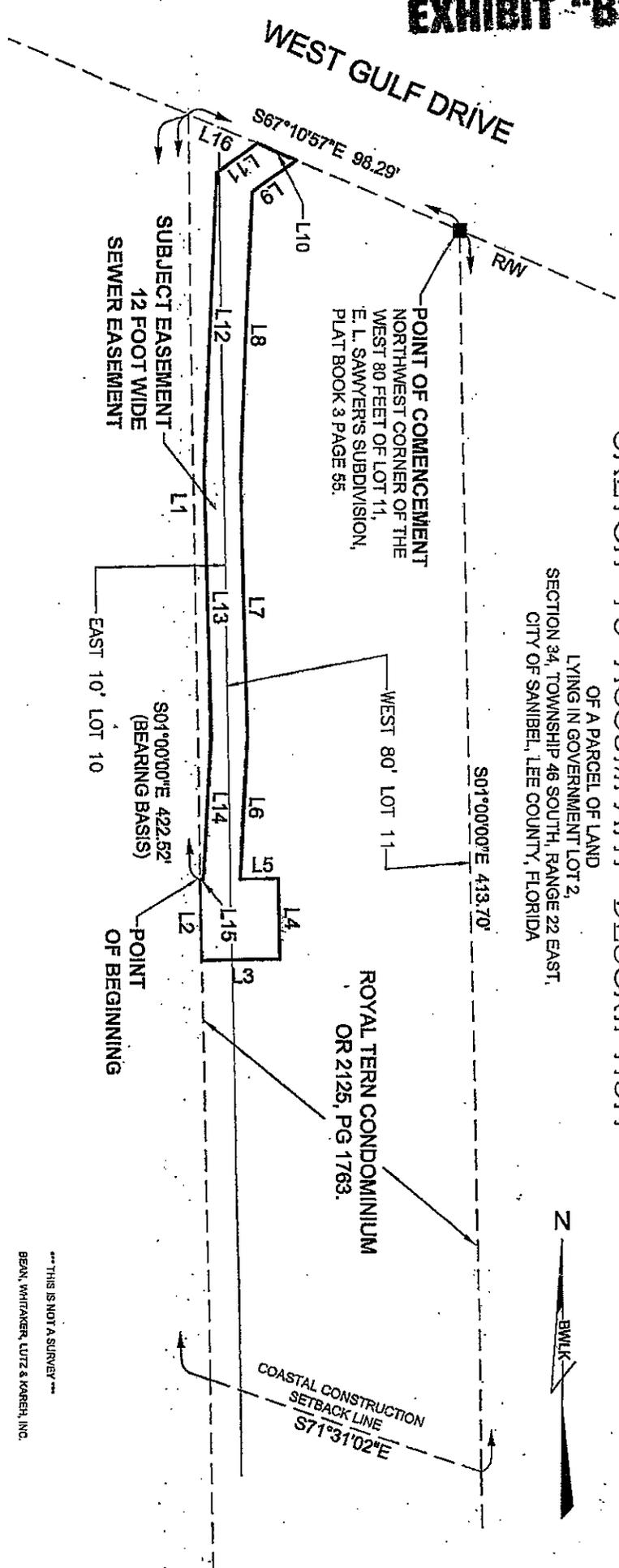
NOT FULL AND COMPLETE
WITHOUT PAGE 2 OF 2

 <p>Bean, Whitaker, Lutz & Kareh, Inc. CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS 13041 MCGREGOR BOULEVARD, FORT MYERS, FL 33919 (239) 481-1331 AUTHORIZATION NUMBER: EB4919 AND LB4919</p>	
PROJECT NUMBER: 39295	DRAWING FILE NO.: SK39295.DWG

EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND
 LYING IN GOVERNMENT LOT 2,
 SECTION 34, TOWNSHIP 46 SOUTH, RANGE 22 EAST,
 CITY OF SANIBEL, LEE COUNTY, FLORIDA



LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S01°00'00"E	255.54'	L9	N54°59'12"E	18.02'
L2	S01°00'00"E	27.00'	L10	N07°10'57"W	14.16'
L3	N89°00'00"E	28.00'	L11	S54°53'12"W	16.44'
L4	N01°00'00"W	27.00'	L12	S02°14'28"W	89.81'
L5	S89°00'00"W	12.83'	L13	S01°30'28"E	87.98'
L6	N02°43'51"E	48.80'	L14	S02°43'51"W	48.84'
L7	N01°30'29"W	88.03'	L15	S89°00'00"W	1.14'
L8	N02°14'28"E	98.28'	L16	S87°10'57"E	24.91'

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

NOT FULL AND COMPLETE WITHOUT PAGE 1 OF 2

Bean, Whitaker, Lutz & Karih, Inc.
 CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
 13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33918-5970 (239) 481-1331
 AUTHORIZATION NUMBER: EB-6119 AND LB-6119

SANITARY SEWER EASEMENT

DATE: 10-23-2007
 PROJECT NO: 39295
 DRAWN BY: JMW/AVR/RO
 SCALE: 1"=50'
 SHEET: 1 OF 1
 34-46-22

Michael Anthony Nessler
 MICHAEL ANTHONY NESSLER, P.E., M.S., N.D. LB-6410
 PROFESSIONAL SURVEYOR & MAPPER
 STATE OF FLORIDA

*** THIS IS NOT A SURVEY ***
 BEAN, WHITAKER, LUTZ & KARIEH, INC.

RETURN TO:

THIS DOCUMENT PREPARED BY:
TIMOTHY J. MURTY, ESQ.
Florida Bar No. 527564
1633 Periwinkle Way, Suite A
Sanibel, FL 33957
239-472-1000

GRANTOR'S AFFIDAVIT

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared JANE CARTER, President of ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation, who being duly sworn, on oath says:

1. That the following depicted property is owned by ROYALE TERN CONDOMINIUM ASSOCIATION, INC., and described in Exhibit "A", attached hereto and made a part hereof.

2. That the above described property is free and clear of all liens, taxes, encumbrances and claims of every kind, nature and description whatsoever; there are no assessments for local improvements and/or special assessments against the property; there have been no claims for labor or material furnished for repairing or improving the same which remain unpaid; there are no mechanics' or laborers' liens against the above described property.

3. That the personal property comprising the collection system and lift station on said property or on the said premises and which, if any, is being sold to the City of Sanibel, is also free and clear of all liens, encumbrances, claims and demands whatsoever.

4. That Affiant, in the operation of said collection system and lift system did not use said property for business purposes.

5. That there are no liens in favor of any city, town, village or port authority for unpaid service charges for service by any water system, sewer system or gas system serving the lands described above as provided by Chapter 159, Florida Statutes.

6. That Affiant knows of no violation of municipal ordinances or zoning regulations pertaining to the above described property. Affiant has undisputed possession of the property; there are no other persons or entities who are in possession or have any possessory right to/in the property.

7. That no judgement or decree has been entered in any court of this state, of the United States, against said Affiant and which remains unsatisfied.

8. That this Affiant is made for the purposes of inducing the City of Sanibel to purchase the equipment comprising the above wastewater collection system and lift station, and to use the easement to the above described property to operate, maintain and improve said system.

FURTHER AFFIANT SAYETH NOT.

ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation

Jon Peacock

Witness

Jon Peacock

Printed Name

Bonnie J. Moore

Witness

Bonnie S. Moore

Printed Name

BY: Jane P. Carter
JANE CARTER, President

ATTEST:

John Rogucki
JOHN ROGUCKI, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The forgoing instrument was acknowledged before me this 21st day of January, 2008, by JANE CARTER, President of ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation, on behalf of the corporation. X Personally known OR _____ Produced as identification _____.

Janette Mackesy
Notary Public
Commission Expires:



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OF
A SANITARY SEWER EASEMENT
LYING IN GOVERNMENT LOT 2
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 22 EAST
CITY OF SANIBEL, LEE COUNTY, FLORIDA

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	DRAFTING BY: J.A.H.	DATE: 10-29-2007
PROJECT NUMBER: 39295	DRAWING FILE NO.: SK39295.DWG	

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida corporation, c/o Island Realty & Management, P.O. Box 100, Sanibel, Lee County, Florida 33957, party of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) lawful money of the United States, to it paid by the City of Sanibel, party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell transfer and deliver unto the said party of the second part, its executors, administrators and assigns, the following goods and chattels:

LIST OF ASSETS ATTACHED HERETO AS EXHIBIT "A"

TO HAVE AND TO HOLD the same unto the said party of the second part, its executors, administrators, and assigns forever.

AND, ROYALE TERN CONDOMINIUM ASSOCIATION, INC., for itself and its heirs, executors, and administrators, covenant to and with the said party of the second part, its executors, administrators and assigns, that it is the lawful owner of the said goods and chattels; that they are free from all encumbrances; that it has good right to sell the same aforesaid; and that it will warrant and defend the sale of said property, goods and chattels hereby made, unto the said party of the second part, its executors, administrators and assigns against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the undersigned officer has hereunto set his hand and seal this 21st day of January, 2008.

ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida corporation

Jim Pearson
Witness
Bonnie S. Moore
Witness

BY: Jane Carter
JANE CARTER, President

ATTEST:
John Rogicki
JOHN ROGICKI, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 21st day of January, 2008, by JANE CARTER, President of ROYALE TERN CONDOMINIUM ASSOCIATION, INC., a Florida Corporation, on behalf of the corporation. Personally known OR Produced as identification _____

[Signature]
Notary Public
Commission Expires:

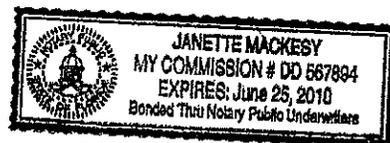


EXHIBIT "A"

ITEM	SIZE	QUANTITY	UNIT
Manholes	4'	2	each
Lift Station Complete		1	each
Forcemain	4"	311	feet