

Document prepared by:
Roetzel & Andress, LPA
Sarah E. Spector, Esquire
2320 First Street, Suite 1000
Fort Myers, FL 33901

ROAD CONSTRUCTION, MAINTENANCE AND HOLD HARMLESS AGREEMENT

THIS AGREEMENT entered into this _____ day of _____ 2019, by and between Lee County, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902 ("County"), H. Charles Tapalian ("Tapalian" or "Principal"), whose address is 4740 11th Ave SW, Naples, FL 34116, and Sunset Lakes Townhouses, Inc., a Florida corporation ("Developer"), whose address is 4740 11th Ave SW, Naples, FL 34116.

WHEREAS, Tapalian is the owner of certain property described as set forth on Exhibit "A" attached hereto and incorporated herein by reference ("Property") and President of Developer, which will be constructing the Sunset Lakes subdivision on the Property; and

WHEREAS, the County owns the fee title to a one hundred and fifty foot (150') wide public right-of-way and a seventy five foot (75') wide public right-of-way that, together, will provide access to the Sunset Lakes subdivision, as described on Exhibit "B1" attached hereto and incorporated herein by reference (the "Lee County-owned Road Right-of-Way"); and

WHEREAS, Developer desires to construct a local public road and associated landscaping improvements within the Lee County-owned Road Right-of-Way, as depicted and identified on Exhibit "B2" attached hereto and incorporated herein by reference (the "Sunset Lakes Entrance Road"); and

WHEREAS, as a condition of approval, Developer will be required to ensure that the local public road and associated improvements proposed to be constructed within the Lee County-owned Road Right-of-Way are constructed, maintained and replaced as necessary by the Developer or its successors in interest at no cost to the County; and

WHEREAS, Developer is required to obtain a development order from the County in order to construct the proposed road and other improvements; and

WHEREAS, County approval of a development order (the "Development Order") to allow the construction of the Sunset Lakes Entrance Road within the Lee County-owned Road Right-of-Way, including roadway, drainage, and sidewalks, is contingent upon an agreement establishing construction and maintenance responsibility for the Sunset Lakes Entrance Road.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct and incorporated by reference into this Agreement. The following agreements on the part of the Developer are contingent upon receiving

County approval of the Development Order and any other County approvals needed to proceed with the construction of the Sunset Lakes Entrance Road within the Lee County-owned Road Right-of-Way in accordance with the project application submitted by the Developer (the "Project").

2. Construction.

a. The Developer agrees to bear the total cost of the Project and agrees to construct the Sunset Lakes Entrance Road within the Lee County-owned Road Right-of-Way to County Road Standards.

b. The Developer understands and agrees that no signage may be placed in the County Right-of-Way.

c. The Developer is solely responsible for obtaining at its expense all necessary federal, state and local permits to install and maintain the Sunset Lakes Entrance Road. The Developer also agrees to give all required notices associated with work on the project, including those outlined in Lee County Administrative Code 11-11 (Lee County Roadway Landscaping Policy).

d. The Developer assumes all risk and responsibility for any loss or injury to property or persons occasioned by the neglect or accident of Developer, its agents or employees during the progress of work until the Project is complete and obtains County approval ("Project Completion"). The Developer agrees to repair any damage that may occur to adjoining buildings, structures, utility easements, roadways or private property during the course of the Project.

e. In accordance with the responsibilities assumed by each party to this Agreement, the Developer and its successors and assigns agree to indemnify, hold harmless and defend the County, its employees and agents, from and against all claims, losses, demands, payments, actions, judgments and liabilities, including litigation costs and attorneys' fees, due to any act or omission by the Developer, its employees, agents, or subcontractors, that arise during the progress of work until Project Completion.

f. During the progress of work until Project Completion, the Developer shall obtain and maintain an insurance policy meeting the minimum insurance requirements set forth in Exhibit "C." Ten (10) days prior to the commencement of work on the Project under this Agreement, the Developer will provide to the Risk Manager for Lee County a Certificate of Insurance for review and approval. This certificate must name "Lee County, a Political Subdivision and Charter County of the State of Florida, its agents, employees and public officials" as an "Additional Insured" on the general liability policy. Lee County must be given thirty (30) days' notice prior to cancellation or modification of the stipulated insurance. The notification must be in writing, sent by registered mail, return receipt requested and addressed to Lee County Risk Management, P.O. Box 398, Fort Myers, FL 33902-0398. A new certificate of insurance will be provided annually to the County Attorney's Office until Project Completion.

g. Developer shall, as a condition of approval by the County of the Project, provide a Right-of-Way Permit Bond or performance assurance bond in the amount of one hundred and ten percent (110%) of the estimated construction costs, for each Permit issued, or a Right-of-Way Permit Bond covering multiple Permits. Such bond or bonds shall be in a form acceptable to the County. An escrow agreement or letter of credit will not be accepted. Developer shall comply with all bond requirements as described in Administrative Code (AC) 11-12 and other applicable ordinances and regulations in the Land Development Code and elsewhere. The Bond shall remain in place until the Developer lawfully transfers ownership of the Project to a property owner

association, at which time the County may consent to release the Bond, if it is satisfied that the Association is capable of assuming responsibility for all maintenance, repairs and other obligations of the Developer under this Agreement.

3. Ongoing Maintenance, Repair, and Replacement.

a. Developer agrees to bear the cost of and responsibility for the ongoing maintenance, repair, and replacement of the Sunset Lakes Entrance Road to County Road Standards, which responsibility shall commence immediately following the Project Completion (the "Maintenance Phase"). All sidewalks will be constructed and maintained in compliance with applicable ADA standards and the road pavement will be kept at a road rating of 65 or better at all times.

b. Developer assumes the risk and responsibility for any loss or injury to property or persons occasioned by the failure to properly maintain the local road and all other improvements within the Lee County-owned Road Right-of-Way or due to neglect or accident during the Maintenance Phase. Developer agrees to repair damage that may occur to any adjoining building, structure, utility easement, sidewalk, roadway or private property during the Maintenance Phase.

c. In accordance with the responsibilities assumed by each party to this Agreement, Developer and Principal and their respective successors and assigns agree to indemnify, hold harmless and defend the County, its employees and agents, from and against all claims, losses, demands, payments, actions, judgments and liabilities, including litigation costs and attorneys' fees, due to any act or omission by Developer, its employees, agents, or subcontractors, that arise during construction and thereafter during the Maintenance Phase.

d. During the Maintenance Phase, Developer shall obtain and maintain an insurance policy meeting the minimum insurance requirements set forth in Exhibit "C." Within ten (10) days after Project Completion, Developer will provide to the Risk Manager for Lee County a Certificate of Insurance for review and approval. This certificate must name "Lee County, a Political Subdivision and Charter County of the State of Florida, its agents, employees and public officials" as an "Additional Insured" on the general liability policy. Lee County must be given thirty (30) days' notice prior to cancellation or modification of the stipulated insurance. The notification must be in writing, sent by registered mail, return receipt requested and addressed to Lee County Risk Management, P.O. Box 398, Fort Myers, FL 33902-0398. A new certificate of insurance will be provided annually or prior to the cancellation of the existing policy to the County Attorney's Office during the Maintenance Phase.

4. This Agreement will continue in full force and effect until the Lee County-owned Road Right-of-Way is closed, abandoned, vacated, discontinued or reconstructed. Upon closure, abandonment, vacation, discontinuation or alteration of the Lee County-owned Road Right-of-Way, the County has the option to require the Developer, Owner or their successor(s) in interest to remove the Sunset Lakes Entrance Road improvements at no cost to the County.

5. This instrument is binding upon and inures to the benefit of the parties' heirs, executors, successors and assigns. The Developer and Principal shall be jointly and severally responsible and liable for all obligations created hereunder. This provision shall survive termination of the Agreement, unless the parties mutually agree otherwise.

6. This Agreement and all obligations, terms and conditions created hereunder shall be governed by and construed in accordance with the laws of the State of Florida. Venue for the purposes of enforcing this Agreement shall be in the Circuit Court for Lee County, Florida. In the event of litigation to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, including any appeals.

7. BOCC Approval. This Agreement is contingent upon approval by the Lee County Board of County Commissioners at a public meeting.

8. This Agreement is the entire agreement between the parties and cannot be amended or modified except by written instrument executed with the same formality.

[Signatures on following pages.]

In Witness whereof, the parties have signed below.

[Signature]
Witness
DAVID SAAD
Printed Name

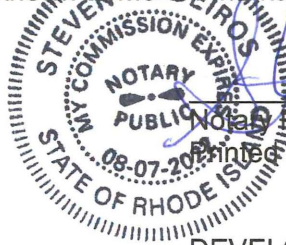
[Signature]
Witness
CHRISTOPHER PALLONE
Printed Name

PRINCIPAL

[Signature]
H. Charles Tapalian

STATE OF RI
COUNTY OF Providence

The foregoing Agreement was acknowledged before me this 22nd day of Jan 2019 by H. Charles Tapalian, who is personally known to me and who has produced Driver License as Identification.



[Signature]
Notary Public
Printed name: Steven Medeiros

DEVELOPER

Sunset Lakes Townhouses, Inc.,
a Florida corporation

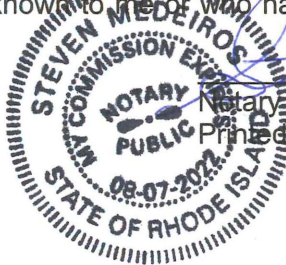
[Signature]
Witness
DAVID SAAD
Printed Name

[Signature]
Witness
CHRISTOPHER PALLONE
Printed Name

By: [Signature]
Haig Tapalian, President

STATE OF RI
COUNTY OF Providence

The foregoing Agreement was acknowledged before me this 22nd day of Jan 2019 by Haig Tapalian, as President of Sunset Lakes Townhouses, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me and who has produced Driver License as Identification.



[Signature]
Notary Public
Printed name: Steven A. Medeiros

ATTEST:
LINDA DOGGETT, CLERK

By: _____
Deputy Clerk

LEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: _____

APPROVED AS TO FORM

Office of County Attorney

Exhibits:

- A. Description of Property
- B1. Description of Lee County-owned Road Right-of-Way
- B2. Sketch of Sunset Lakes Entrance Road
- C. Minimum Insurance Requirements

LEGEND:

P.U.E. PUBLIC UTILITY EASEMENT
D.E. DRAINAGE EASEMENT
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
P.C. POINT OF CURVATURE
D.R. OFFICIAL RECORDS BOOK
(1) CURVE NUMBER
L1 LINE NUMBER
R/W RIGHT-OF-WAY
C CENTERLINE

EXHIBIT "A"
PAGE 1 OF 2 PAGES

SKETCH TO ACCOMPANY DESCRIPTION:

A PLOT OR PARCEL OF
LAND LYING IN A
PORTION OF THE
SOUTHWEST QUARTER
(SW $\frac{1}{4}$) OF SECTION 28.

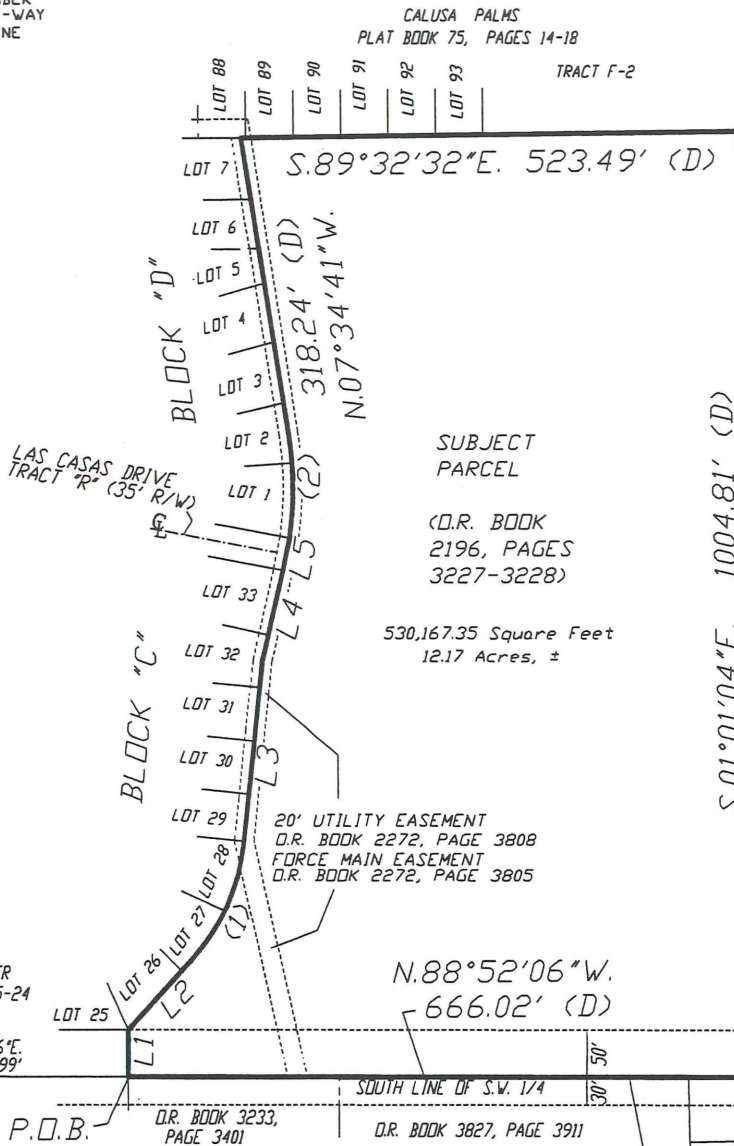
TOWNSHIP 45 SOUTH, RANGE 24 EAST,
PUBLIC RECORDS OF LEE COUNTY,
FLORIDA

NOT A BOUNDARY SURVEY

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH LINE OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY AS BEING "ASSUMED" AS S.88°52'06"E.
2. FIELD NOTES IN STA. 2 IN DRAFT FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
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VENETIAN VILLAGE- PHASE 3B
(PLAT BOOK 78, PAGES 63-66)



SUBJECT
PARCEL

(D.R. BOOK
2196, PAGES
3227-3228)

530,167.35 Square Feet
12.17 Acres, ±

20' UTILITY EASEMENT
D.R. BOOK 2272, PAGE 3808
FORCE MAIN EASEMENT
D.R. BOOK 2272, PAGE 3805

N.88°52'06"W.
666.02' (D)

P.O.C.
SOUTHWEST CORNER
OF SECTION 28-45-24

SOUTHEAST CORNER
OF THE SOUTHWEST 1/4 OF
SECTION 28-45-24

P.O.B.
D.R. BOOK 3233,
PAGE 3401

D.R. BOOK 3827, PAGE 3911

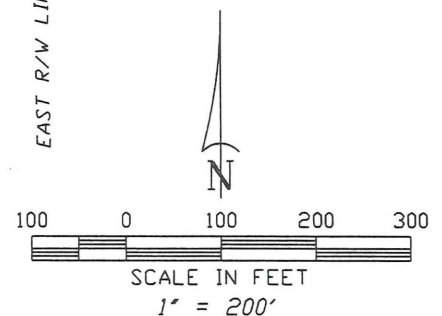
FORMER IDNA DRAINAGE DISTRICT
CANAL C-2
80' WIDE

LINE TABLE

Line	Bearing	Distance
L1 (D)	N.01°07'54"E.	50.00'
L2 (D)	N.43°08'01"E.	99.06'
L3 (D)	N.07°00'00"E.	193.82'
L4 (D)	N.14°05'00"E.	98.30'
L5 (D)	N.12°12'26"E.	35.00'

CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
1 (D)	222.50'	36°08'01"	140.32'	138.01'	N.25°04'01"E.
2 (D)	372.50'	17°09'58"	111.60'	111.19'	N.01°00'18"E.

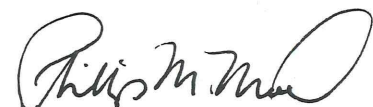


HARRIS-JORGENSEN, LLC
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE RUN SOUTH 88 DEGREES 52 MINUTES 06 SECONDS EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28 FOR A DISTANCE OF 1988.99 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN NORTH 01 DEGREES 07 MINUTES 54 SECONDS EAST FOR A DISTANCE OF 50.00 FEET; THENCE RUN NORTH 43 DEGREES 08 MINUTES 01 SECONDS EAST FOR A DISTANCE OF 99.06 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHWESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 222.50 FEET, THROUGH A CENTRAL ANGLE OF 36 DEGREES 08 MINUTES 01 SECONDS, SUBTENDED BY A CHORD OF 138.01 FEET AT A BEARING OF NORTH 25 DEGREES 04 MINUTES 01 SECONDS EAST, FOR A DISTANCE OF 140.32 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 07 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 193.82 FEET; THENCE RUN NORTH 14 DEGREES 05 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 98.30 FEET; THENCE RUN NORTH 12 DEGREES 12 MINUTES 26 SECONDS EAST FOR A DISTANCE OF 35.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 372.50 FEET THROUGH A CENTRAL ANGLE OF 17 DEGREES 09 MINUTES 58 SECONDS, SUBTENDED BY A CHORD OF 111.19 FEET AT A BEARING OF NORTH 01 DEGREES 00 MINUTES 18 SECONDS EAST, FOR A DISTANCE OF 111.60 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 07 DEGREES 34 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 318.24 FEET; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 32 SECONDS EAST FOR A DISTANCE OF 523.49 FEET; THENCE RUN SOUTH 00 DEGREES 01 MINUTES 04 SECONDS EAST FOR A DISTANCE OF 1004.81 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 28; THENCE RUN NORTH 88 DEGREES 52 MINUTES 06 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28, FOR A DISTANCE OF 666.02 FEET TO THE POINT OF BEGINNING.

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CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921



PHILLIP M MOULD
LS #6515
MAY 8, 2018

LEGEND:

P.U.E. PUBLIC UTILITY EASEMENT
 D.E. DRAINAGE EASEMENT
 P.O.C. POINT OF COMMENCEMENT
 P.O.B. POINT OF BEGINNING
 P.C. POINT OF CURVATURE
 O.R. OFFICIAL RECORDS BOOK
 (1) CURVE NUMBER
 L1 LINE NUMBER
 R/W RIGHT-OF-WAY
 CL CENTERLINE

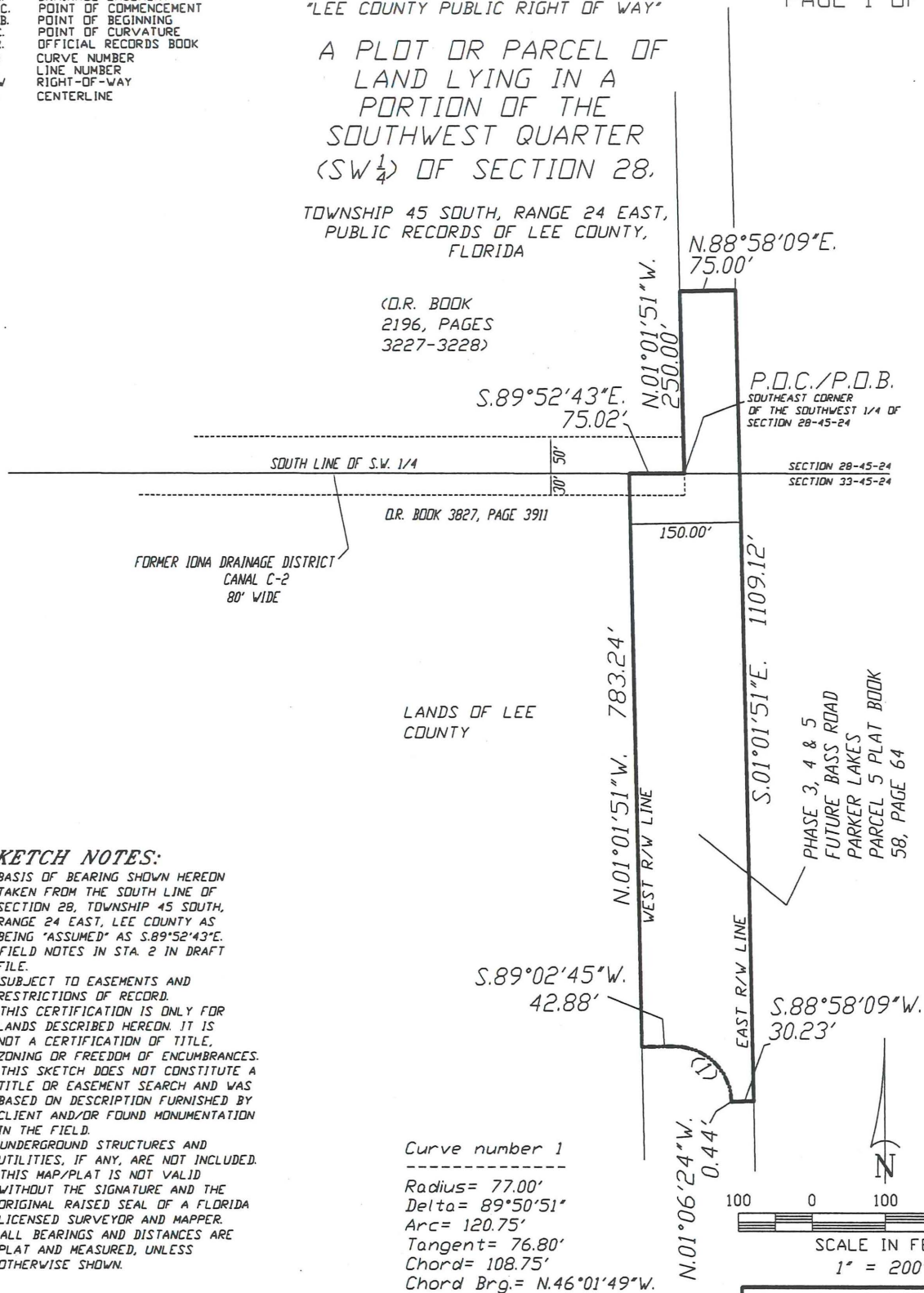
SKETCH TO ACCOMPANY DESCRIPTION:**"LEE COUNTY PUBLIC RIGHT OF WAY"**

A PLOT OR PARCEL OF
 LAND LYING IN A
 PORTION OF THE
 SOUTHWEST QUARTER
 (SW $\frac{1}{4}$) OF SECTION 28.

TOWNSHIP 45 SOUTH, RANGE 24 EAST,
 PUBLIC RECORDS OF LEE COUNTY,
 FLORIDA

EXHIBIT "B1"

PAGE 1 OF 2 PAGES

**SKETCH NOTES:**

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH LINE OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY AS BEING "ASSUMED" AS S.89°52'43"E.
2. FIELD NOTES IN STA. 2 IN DRAFT FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
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8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.

NOT A BOUNDARY SURVEY

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 3046 DEL PRADO BLVD. S. 3A
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 PHONE: (239) 257-2624
 FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION:

NOT A BOUNDARY SURVEY

"LEE COUNTY PUBLIC RIGHT OF WAY"

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 28 AND 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

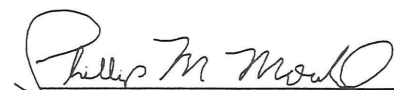
COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.01°01'51"W. FOR 250.00 FEET; THENCE RUN N.88°58'09"E. FOR 75.00 FEET; THENCE RUN S.01°01'51"E. INTO SECTION 33, TOWNSHIP 45 SOUTH RANGE 24 EAST, LEE COUNTY, FLORIDA FOR 1109.12 FEET; THENCE RUN S.88°58'09"W. FOR 30.23 FEET; THENCE RUN N.01°06'24"W. TO A POINT OF CURVATURE FOR 0.44 FEET; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT FOR 120.75 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 77.00 FEET, A CENTRAL DELTA ANGLE OF 89°50'51", A CHORD THAT BEARS N.46°01'49"W. AND A CHORD DISTANCE OF 108.75 FEET; THENCE RUN S.89°02'45"W. FOR 42.88 FEET; THENCE RUN N.01°01'51"W. FOR 783.24 FEET; THENCE RUN S.89°52'43"E. TO THE AFORESAID SOUTHEAST CORNER OF THE SOUTHWEST QUARTER, SECTION 28, TOWNSHIP 45 SOUTH, RANGE 24 EAST LEE COUNTY, FLORIDA, FOR 75.02 FEET TO THE POINT OF BEGINNING.

CONTAINING: 139,683.2 SQUARE FEET, MORE OR LESS.

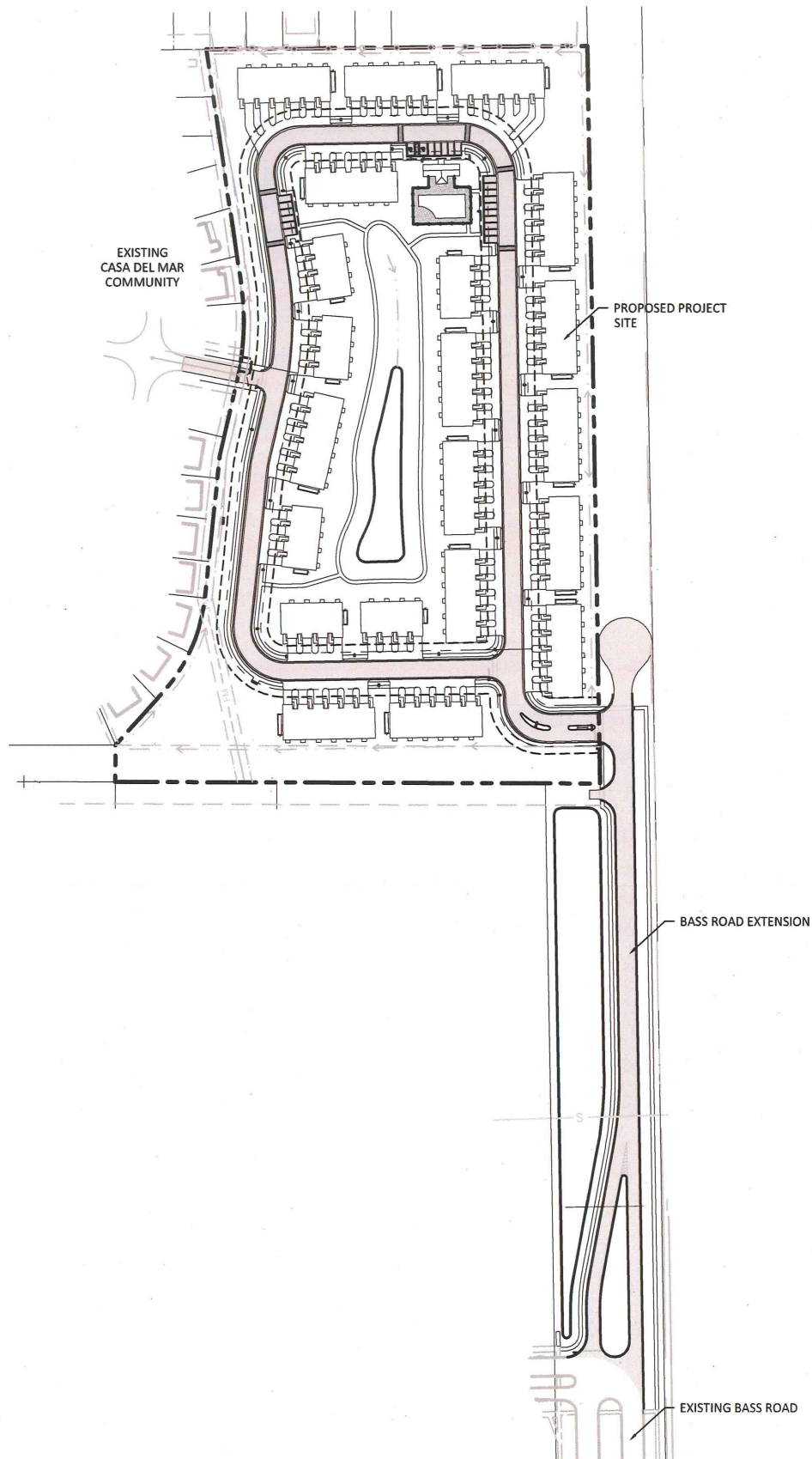
EXHIBIT "B1" PAGE 2 OF 2 PAGES

*** NOT A BOUNDARY SURVEY***

HARRIS-JORGENSEN, LLC
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921



PHILLIP M MOULD
LS #6515
AUGUST 13, 2018



2401 FIRST STREET, SUITE 201 • FORT MYERS, FLORIDA 33901
 PH: (239) 226-0024 FX: (239) 226-0094
 EB-26544 CA-LC26000374
 WWW.EN-SITE.COM

PROJECT:
SUNSET AT CASA DEL MAR

TITLE:
SUNSET LAKES ENTRANCE ROAD

OWNER/CLIENT:
 SUNSET LAKES TOWNHOUSES, INC
 4740 11TH AVE SW
 NAPLES, FL 34116

Exhibit
B2

Project Number: 1349-03
 Cad File: 1349-03 EX-1
 Date: 8-2-18

P:\Projects\1349 MSI Holdings\1349-03 12 Acres Bass Road Paving\CAD\Exhibit\1349-03-Bass

EXHIBIT "C"

Minimum Insurance Requirements

a. Workers' Compensation - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this agreement to apply to all owners, officers, and employees regardless of the number of employees. Individual employees may be exempted per State Law. Employers' liability will have minimum limits of:

\$100,000 per accident
\$500,000 disease limit
\$100,000 disease limit per employee

b. Commercial General Liability - Coverage must apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$1,000,000 bodily injury per person (BI)
\$1,000,000 bodily injury per occurrence (BI)
\$1,000,000 property damage (PD) or
\$1,000,000 combined single limit (CSL) of BI and PD

c. Business Auto Liability - The following Automobile Liability will be required and coverage must apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$1,000,000 bodily injury per person (BI)
\$1,000,000 bodily injury per occurrence (BI)
\$1,000,000 property damage (PD) or
\$1,000,000 combined single limit (CSL) of BI and PD

****The required limit of liability shown in Standard Contract: 1.a; 1.b; 1.c; may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."***

It is the responsibility of the Developer/Association to ensure that all contractors and subcontractors comply with all insurance requirements.