



Prepared by:
Thomas H. Gunderson, Esq.
P. O. Box 280
Fort Myers, FL 33902

INSTR # 5741833
Official Records BK 03868 PG 1070
RECORDED 03/11/2003 09:16:01 AM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 55.50
DEPUTY CLERK S Jensen

**TEMPORARY INGRESS, EGRESS, DRAINAGE AND UTILITY
EASEMENT AGREEMENT**

THIS TEMPORARY INGRESS, EGRESS, DRAINAGE AND UTILITY EASEMENT AGREEMENT (the "Agreement") is made and entered into this 25th day of February 2003 by and between S.C.P., LLC, a Florida limited liability company, ("SCP"), whose address is 1601 Jackson St., Suite 202, Fort Myers, FL 33901 and ANDRE'S STEAK HOUSE, , INC., a Florida corporation, whose address is 18767 S. Tamiami Trail, Fort Myers, FL 33908 ("Andre").

Background

SCP is the owner of that certain real property described on Exhibit "A" attached hereto (the SCP Property).

Andre is the owner of that certain real property described on Exhibit "B" attached hereto (the "Andre Property").

SCP desires to grant to Andre a non-exclusive ingress, egress and utility easement over the portion of the SCP property designated as a proposed roadway shown on attached Exhibit "C" (the "Access Easement") for the benefit of the Andre Property and the SCP Property. SCP shall construct and maintain, at SCP's expense, a roadway over the Access Easement to provide access to the Andre Property and the remaining property owned by SCP.

At SCP's request, Andre agrees to join in a dedication of the Access Easement to the public or to a property owners' association to include the SCP Property and the Andre Property, provided Andre is permitted to be a member of the property owners' association, without costs or expense to Andre. Notwithstanding the foregoing, the roadway may be maintained by the property owners' association, at the expense of the members of the property owners' association.

SCP and Andre agree that the Access Easement granted hereunder will terminate upon the recording of the subdivision plat of the SCP Property and dedication of the Access Easement to either the public or a property owners' association.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 (\$10.00) Dollars and other good and valuable consideration paid to SCP by Andre, the receipt and sufficiency of which is hereby acknowledged, the parties hereto intending to be legally bound, hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.
2. **Access Easement.** SCP hereby grants, conveys, bargains and sells to Andre and Andre's successors and permitted assigns, a temporary non-exclusive easement for ingress and egress and utilities over and across the Access Easement situated in Lee County, Florida and more particularly described on Exhibit "C" attached hereto and made a part hereof.
3. **Reservation of Rights.** SCP reserves the right and privilege to use the Access Easement in common with Andre for all purposes except as might interfere with Andre's permitted use thereof.
4. **Dedication.** It is SCP's and Andre's intent to dedicate the Access Easement including all easement improvements located thereon installed by SCP for roadway and utility purposes, to either Lee County, Florida (the "County"), the SCP Property owners' association, or other applicable public or private utility service provider in connection with and/or upon recordation of

the SCP Property plat. Upon such dedication and acceptance thereof of the SCP Property plat, this Agreement shall terminate and be of no further force or effect.

5. Termination of this Agreement. From the date of dedication of the Access Easement in accordance with the foregoing paragraph, this Agreement shall terminate and be of no further force and effect and the parties hereto shall be relieved of all further obligations hereunder.

6. Prevailing Party. In the event of any litigation arising out of the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs at all trial and appellate levels.

7. Remedies. In the event of a default hereunder, in addition to the remedies set forth above, the non-defaulting party shall be entitled to seek all remedies available at law or in equity.

8. Notices. Any and all notices required or desired to be given hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or three (3) business days after deposit in the United States mail, by registered or certified mail, return receipt requested, postage prepaid, and addressed to the parties at the address set forth on page 1 of this Agreement (or to such other address as either party shall hereafter specify to the other in writing).

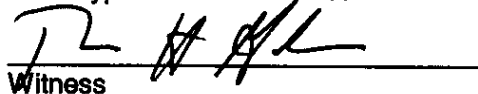
9. Governing Laws/Severability. This Agreement shall be governed by and construed under the laws of the State of Florida. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed in full force and effect.

10. Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement, binding on all the parties hereto, notwithstanding that all the parties are not signatories to the original or same counterpart.

IN WITNESS WHEREOF, the said SCP and Andre have hereunto set their hands and seals the day and year first above written.


Witness

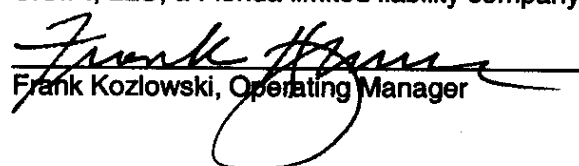
DOUGLAS C. MEHLE
Print/Type Name of Witness


Witness

Thomas H. Gunderman
Print/Type Name of Witness

S.C.P., LLC, a Florida limited liability company

By:


Frank Kozlowski, Operating Manager

Douglas C. Mehle
Witness

DOUGLAS C. MEHLE
Print/Type Name of Witness

Thomas H. Gunderson
Witness

Thomas H. Gunderson
Print/Type Name of Witness

By: Stephen L. Nease
Stephen L. Nease, Operating Manager

John F. Hotte, Esq.
Witness

JOHN F. HOTTE, ESQ.
Print/Type Name of Witness

Barbara E. Allen
Witness

BARBARA E. ALLEN
Print/Type Name of Witness

ANDRE'S STEAK HOUSE, INC., a Florida corporation

By: Andre Cottoloni
Andre Cottoloni, President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 19 day of February 2003 by FRANK KOZLOWSKI, Operating Manager of S.C.P., LLC., a Florida limited liability company, on behalf of the company, and who is personally known to me or who produced _____ as identification.

My Commission Expires:

Thomas H. Gunderson
Notary Public



Thomas H. Gunderson
MY COMMISSION # CC917543 EXPIRES
March 24, 2004
BONDED THRU TROY FAIN INSURANCE, INC.

Print/Type Name of Notary

Commission No: _____

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 19 day of February 2003 by STEPHEN L. NEASE, Operating Manager of S.C.P., LLC., a Florida limited liability company, on

behalf of the company, and who is personally known to me or who produced
_____ as identification.

My Commission Expires:



Thomas H. Gunderson
MY COMMISSION # CC917543 EXPIRES
March 24, 2004
BONDED THRU TROY FAIN INSURANCE, INC.

[Signature]
Notary Public

Print/Type Name of Notary

Commission No: _____

STATE OF FLORIDA

COUNTY OF ~~LEE~~ Broward

The foregoing instrument was acknowledged before me this 25th day of February 2003
by ANDRE COTTOLONI, President of ANDRE'S STEAK HOUSE, INC., a Florida corporation, on
behalf of the corporation, and who is personally known to me or who produced
_____ as identification.

My Commission Expires:



Anne Marie DeOlden
My Commission DD039413
Expires December 08 2003

[Signature]
Notary Public

Print/Type Name of Notary

Commission No: _____

*SCP Property Description***EXHIBIT "A"**

A parcel of land situated in the State of Florida, County of Lee, being a part of Section 17, Township 46 South, Range 25 East, and further bounded and described as follows:

Starting at the west one quarter (W $\frac{1}{4}$) corner of said Section 17; thence N88°40'10"E along the north line of the southwest one quarter (SW $\frac{1}{4}$) of said Section for 941.76 feet to the easterly right-of-way line of U.S. 41- Tamiami Trail - S.R. 45; thence continue N88°40'10"E along said north line for 374.36 feet to the northwest corner of the west one half (W $\frac{1}{2}$) of the northeast one quarter (NE $\frac{1}{4}$) of said southwest one quarter (SW $\frac{1}{4}$); thence S00°22'06"E along the west line of said fraction for 862.25 feet to the Point of Beginning; thence continue S00°22'06"E along said west line for 158.46 feet to said easterly right-of-way line and an intersection with a curve concave to the northeast having a radius of 2159.83 feet and to which point a radial line bears S68°05'57"W; thence southeasterly along said curve and said right-of-way line through a central angle of 08°10'53" for 308.40 feet to the south line of the west one half (W $\frac{1}{2}$) of the northeast one quarter (NE $\frac{1}{4}$) of said southwest one quarter (SW $\frac{1}{4}$); thence N88°03'31"E along the south line of said fraction for 527.96 feet to the southeast corner of said fraction and the west line of Unit 8, San Carlos Park, an unrecorded subdivision shown in Deed Book 319, at page 515, Public Records of Lee County, Florida; thence N00°29'56"W along said fractional line and said subdivision for 808.04 feet; thence S88°03'31"W for 323.55 feet; thence S00°29'56"E for 368.11 feet; thence S88°03'31"W for 336.72 feet to the Point of Beginning.

TOGETHER WITH that certain property described on attached Exhibit "B".

LESS AND EXCEPT that certain property described on attached Exhibit "C".

Bearings are based on the centerline survey of U.S. 41 - Tamiami Trail - S.R. 45.

Barraco
and Associates, Inc.

www.barraco.net

Civil Engineers, Land Surveyors and Consultants

DESCRIPTION

Parcel in
Section 17, Township 46 South, Range 25 East
Lee County, Florida

A tract or parcel of land lying in Section 17, Township 46 South, Range 25 East, Lee County, Florida.
Said tract or parcel being more particularly described as follows:

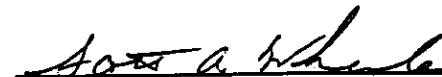
From the southeast corner of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW 1/4) of said Section 17 run S88°03'31"W along the south line of said fraction for 230.34 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING run S00°22'06"W for 6.17 feet; thence run S45°02'26"W for 160.07 feet; thence run S56°12'54"W for 96.79 feet to an intersection with the easterly right-of-way line of Tamiami Trail (S.R. 45) (U.S. 41) (200 feet wide), said point being on a non-tangent curve; thence run northwesterly along the arc of said curve to the right of radius 2159.83 feet (delta 05°08'10") (chord bearing N32°37'49"W) (chord 193.55 feet) for 193.61 feet to an intersection with the south line of said fraction; thence run N88°03'31"E along said south line for 298.21 feet to the POINT OF BEGINNING.

Containing 27,199 square feet, more or less.

Bearings herein above mentioned are based on the south line of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW 1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida to bear S88°03'31"W.

21753s01desc.doc

 1/22/03

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

Barraco
and Associates, Inc.

EXHIBIT "C"
(To Exhibit "A")

www.barraco.net

Civil Engineers, Land Surveyors and Consultants

DESCRIPTION

Parcel in
Section 17, Township 46 South, Range 25 East
Lee County, Florida

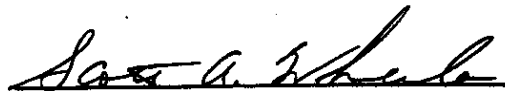
A tract or parcel of land lying in Section 17, Township 47 South, Range 25 East, Lee County, Florida.
Said tract or parcel being more particularly described as follows:

Beginning the southeast corner of the west half (W-1/2) of the northeast quarter (NE-1/4) of the southwest quarter (SW 1/4) of said Section 17 run S88°03'31"W along the south line of said fraction for 230.34 feet; thence run N00°22'06"W for 149.56 feet; thence run N89°37'54"E for 229.90 feet to an intersection with the east line of said west half (W-1/2) of said fraction; thence run S00°30'40"E along said east line for 143.23 feet to the point of beginning.

Containing 33,682 square feet, more or less.

Bearings herein above mentioned are based on the south line of the west half (W-1/2) of the northeast quarter (NE-1/4) of the southwest quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida to bear S88°03'31"W.

21753s02desc.doc


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

11/22/03

COMMITMENT SCHEDULE A

COMMITMENT NO.: C-4010468

FILE NO.: 4010468

Andre Property Description

EXHIBIT 'B'

Beginning at the Southwest corner of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 17, Township 48 South, Range 25 East; thence East 485 feet; thence Southwesterly 435 feet, more or less, to the Northeastly right of way line of the Tamiami Trail; thence Northwestly along the Northeastly right of way line of the Tamiami Trail to the Point of Beginning. Beginning at the Southwest corner of the Northeast 1/4 of the Southwest 1/4 of Section 17, Township 48 South, Range 25 East; run East 485 feet to the Point of Beginning of land herein described; thence Southwesterly 435 feet to the Tamiami Trail; thence Southeast along the Trail to the East line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4; thence North to the Northeast corner of the West 1/2 of the Southeast 1/4 of the Southwest 1/4; thence West 165 feet, more or less, to the Point of beginning.

EXCEPTING THEREFROM:

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southwest 1/4 of Section 17, Township 48 South, Range 25 East, and further bounded and described as follows:

Starting at the Southeast corner of said Southwest 1/4; thence South 87 degrees 32'10" West along the South line of said fraction of a Section a distance of 274.73 feet to a point on the Northeastly right of way line of State Road #45 (U.S. - #41 Tamiami Trail 200.00 feet wide); thence North 38 degrees 36'00" West along said right of way line a distance of 654.08 feet to a point and the principal place of beginning of the herein described parcel, and said point being at the intersection of said Northeastly right of way line and the East line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 17; thence continue North 88 degrees 55'00" West along said right of way line a distance of 810.33 feet; thence North 05 degrees 08'50" East parallel with and 254.13 feet South of, as measured on a perpendicular, the North line of said West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 17, a distance of 383.33 feet to a point on the East line of said fraction of a section; thence South 0 degrees 28'10" East along said fraction of a section line a distance of 300.48 feet to the Point of Beginning.

Said parcel also known as:

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southwest one quarter (SW 1/4) of Section 17, Township 48 South, Range 25 East, and further bounded and described as follows:

Beginning at the Northeast corner of the West one half (W 1/2) of the Southeast one quarter (SE 1/4) of the Southwest one quarter (SW 1/4) of said Section 17; thence S 00 degrees 28'50" E along the East line of a fraction of a Section for 254.21 feet to an intersection with the North line of a parcel described in Official Records Book 1855 at Page 1078 of the public records of said Lee County; thence S 88 degrees 03'31" W along said North line, parallel with and 254.13 feet South of (as measured on a perpendicular), the North line of said fraction of a Section for 383.45 feet to an intersection with the Northeastly right-of-way line of State Road #45 (Tamiami Trail - U.S. #41 - 200.00 feet wide); thence N 38 degrees 59'07" W along said right-of-way for 39.34 feet to the beginning of a curve concave to the Northeast having a radius of 3156.33 feet; thence Northerly along said curve and right-of-way through a central angle of 86 degrees 54'16" for 260.21 feet to an intersection with said North fractional line; thence N 88 degrees 03'31" E along said North fractional line for 327.06 feet to the Point of Beginning.

Bearings are based on State of Florida State Road Department right-of-way maps for S.R. #45.

Together with that certain property described on attached Exhibit I.

Less and except that certain property described on attached Exhibit II.

Barraco
and Associates, Inc.

EXHIBIT "1"
(To Exhibit "B")
Andre Property Description

Official Records BK 03868 PG 1078

www.barraco.net

Civil Engineers, Land Surveyors and Consultants

DESCRIPTION

Parcel in
Section 17, Township 46 South, Range 25 East
Lee County, Florida

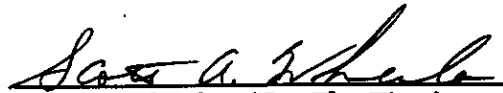
A tract or parcel of land lying in Section 17, Township 47 South, Range 25 East, Lee County, Florida.
Said tract or parcel being more particularly described as follows:

Beginning the southeast corner of the west half (W-1/2) of the northeast quarter (NE-1/4) of the southwest quarter (SW 1/4) of said Section 17 run S88°03'31"W along the south line of said fraction for 230.34 feet; thence run N00°22'06"W for 149.56 feet; thence run N89°37'54"E for 229.90 feet to an intersection with the east line of said west half (W-1/2) of said fraction; thence run S00°30'40"E along said east line for 143.23 feet to the point of beginning.

Containing 33,682 square feet, more or less.

Bearings herein above mentioned are based on the south line of the west half (W-1/2) of the northeast quarter (NE-1/4) of the southwest quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida to bear S88°03'31"W.

21753s02desc.doc


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

11/22/03

Barraco
and Associates, Inc.

(To Exhibit "B")

Andre Property Description

www.barraco.net

Civil Engineers, Land Surveyors and Consultants

DESCRIPTION

Parcel in
Section 17, Township 46 South, Range 25 East
Lee County, Florida

A tract or parcel of land lying in Section 17, Township 46 South, Range 25 East, Lee County, Florida.
Said tract or parcel being more particularly described as follows:

From the southeast corner of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW 1/4) of said Section 17 run S88°03'31"W along the south line of said fraction for 230.34 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING run S00°22'06"W for 6.17 feet; thence run S45°02'26"W for 160.07 feet; thence run S56°12'54"W for 96.79 feet to an intersection with the easterly right-of-way line of Tamiami Trail (S.R. 45) (U.S. 41) (200 feet wide), said point being on a non-tangent curve; thence run northwesterly along the arc of said curve to the right of radius 2159.83 feet (delta 05°08'10") (chord bearing N32°37'49"W) (chord 193.55 feet) for 193.61 feet to an intersection with the south line of said fraction; thence run N88°03'31"E along said south line for 298.21 feet to the POINT OF BEGINNING.

Containing 27,199 square feet, more or less.

Bearings herein above mentioned are based on the south line of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW 1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida to bear S88°03'31"W.

21753s01desc.doc

Scott A. Wheeler 2/6/03
Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

page 3 OF 3 TO EXHIBIT "B"

Barraco
and Associates, Inc.

www.barraco.net

Civil Engineers, Land Surveyors and Consultants

*Access Easement Description***DESCRIPTION**

Parcel in
Section 17, Township 46 South, Range 25 East
Lee County, Florida

A tract or parcel of land lying in Section 17, Township 46 South, Range 25 East, Lee County, Florida. Said tract or parcel being more particularly described as follows:

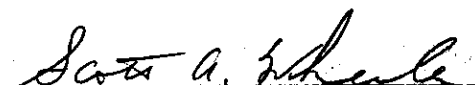
From the southeast corner of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW1/4) of said Section 17, run S88°03'31"W along the south line of said fraction for 230.34 feet to the POINT OF BEGINNING

From said POINT OF BEGINNING run S00°22'06"E for 6.17 feet; thence run S45°02'26"W for 160.07 feet; thence run S56°12'54"W for 96.79 feet to an intersection with the easterly right-of-way line of Tamiami Trail (S.R. 45) (U.S. 41) and a point on a non tangent curve; thence run northwesterly along said right-of-way line and the arc of said curve to the right of radius 2,159.83 feet (delta 02°07'21") (chord bearing N34°08'14"W) (chord 80.00 feet) for 80.01 feet; thence run N56°12'54"E for 68.79 feet; thence run N63°41'35"E for 106.33 feet; thence run N45°02'26"E for 50.87 feet; thence run N00°22'06"W for 134.81 feet; thence run N89°37'54"E for 50.00 feet; thence run S00°22'06"E for 149.56 feet to the POINT OF BEGINNING.

Containing 23,201 square feet, more or less.

Bearings herein above mentioned are based on the south line of the west half (W1/2) of the northeast quarter (NE1/4) of the southwest quarter (SW 1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida to bear S88°03'31"W.

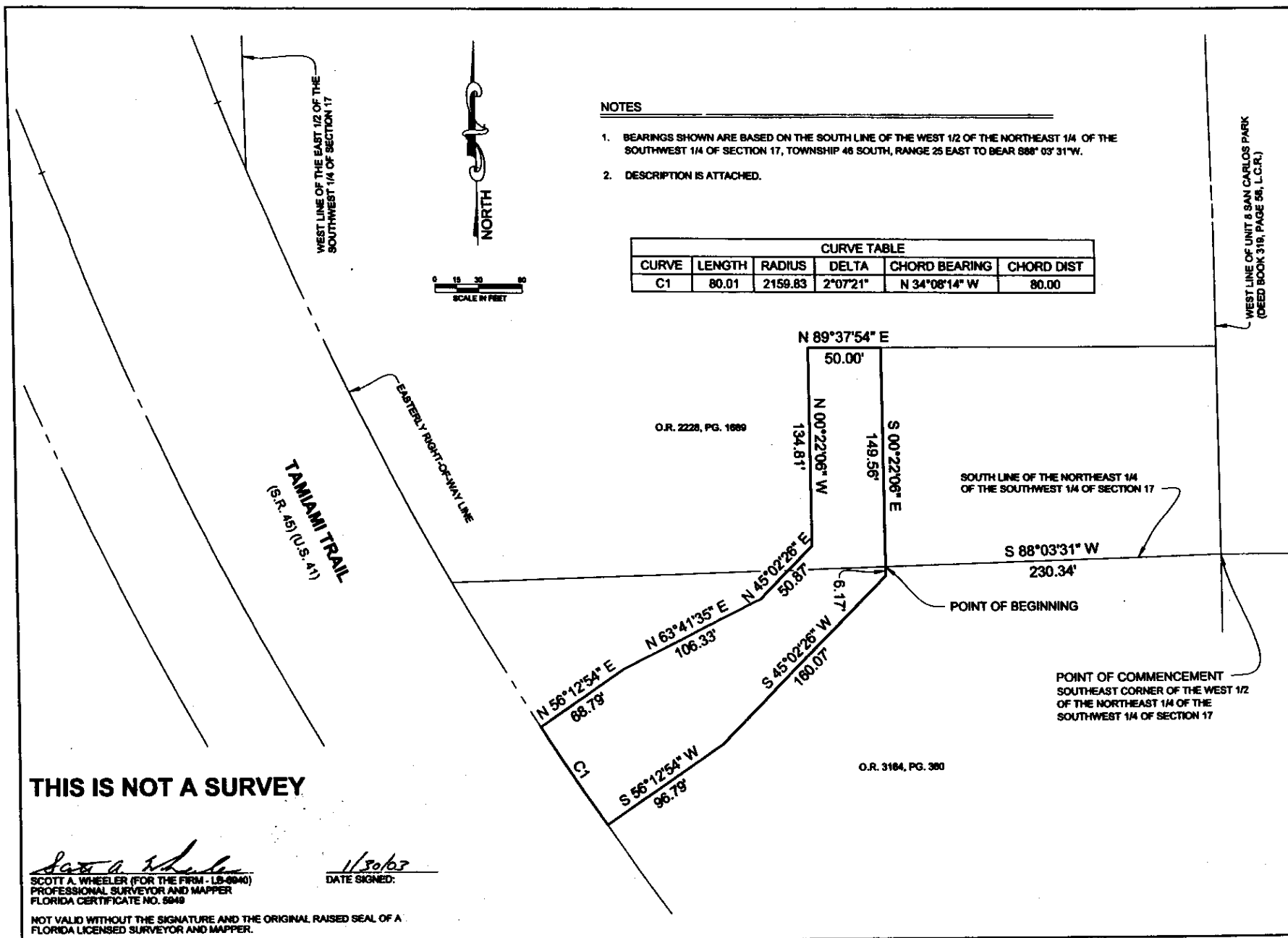
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 1/30/03
Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

PAGE 1 OF 2 TO EXHIBIT "C"

Post Office Drawer 2800 • Fort Myers, FL 33902
Phone (239) 461-3170 • Fax (239) 461-3169

Page 1 of 2



Barraco
and Associates, Inc.
CIVIL ENGINEERS, SURVEYORS AND
LAND DEVELOPMENT CONSULTANTS
www.barraco.net
2271 MADISON BOULEVARD
PORT OFFICE SUITE 200
FORT MYERS, FLORIDA 33902-3000
PHONE (239) 461-3178
FAX (239) 461-3188

FLORIDA CERTIFICATE OF AUTHORIZATION
ENGINEERING 7366 - SURVEYING (LS-6842)

NEASE
INCORPORATED
CONSTRUCTION & REAL ESTATE
1601 JACKSON STREET, SUITE 100
FORT MYERS, FL 33901
PHONE (239) 334-0999
FAX (239) 334-1771
EMAIL: NEASE@NEASE.COM

PROJECT DESCRIPTION

**NEASE US 41
PROPERTY**

SECTION 17
TOWNSHIP 46 SOUTH
RANGE 25 EAST
LEE COUNTY, FLORIDA

PROJECT SURVEYOR

NOT VALID WITHOUT THE SIGNATURE
AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER

FILE NAME	DATE
17-46-25	11-30-03

DATE SIGNED: 11/30/03

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT / FILE NO.	SHEET NUMBER
17-46-25	2 OF 2