

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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<b>Meeting Date:</b>	<b>June 16, 2009</b>	<b>Consent [X]</b>	<b>Regular [ ]</b>
		<b>Public Hearing [ ]</b>	

**Submitted By:** Water Utilities Department  
**Submitted For:** Water Utilities Department

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a Potable Water and Wastewater Development Agreement with Willie H. Day and Frankie J. Day.

**Summary:** On February 28, 2006 the Board approved an Agreement (R-2006-0410) with the Village of Royal Palm Beach (Village) for the purchase and sale of the Village's potable water and wastewater utility. As part of that purchase the County assumed responsibility for certain active development agreements on properties contained within the Village's former service area. One of those agreements required the property owner, Willie H. Day (Day), to install certain oversized potable water and wastewater facilities to serve adjoining properties. The Village and Day also entered into a refund agreement (Refund Agreement) requiring the Village to collect third-party reimbursements from owners of adjoining properties whose projects benefitted from the oversized facilities and remit said third-party reimbursements to Day. Because the County has interconnected its pipelines with those installed by Day, it is impossible to identify which future projects would benefit solely from the oversized facilities and, subsequently, to determine the amount of the reimbursement associated with a project. Day and the Water Utilities Department desire to resolve this issue by applying the full amount of the reimbursement (\$66,415) as a credit against certain fees associated with this Development Agreement, which relates to an adjoining parcel of property not encumbered by the original development agreement with the Village. These fees include Installation, Guaranteed Revenue, Connection, Plan Review, Inspection, and Franchise Fees. Any remaining balance may be assigned to a subsequent purchaser, but will not be refunded to Day. This Development Agreement replaces and supersedes the original Refund Agreement, and Day agrees to release the County from any liability related to the Refund Agreement. District 6 (MJ)

**Background and Justification:** While the Department Director has been delegated the authority to enter into Standard Development Agreements, Board approval is being sought in this case because the Agreement contains non-standard provisions relating to the over-sizing credits due the developer.

**Attachments:**

1. Location Map.
2. Two (2) Original Development Agreements - DA No. 11-01012-000.
3. Refund Agreement between Willie H. Day and the Village of Royal Palm Beach.

Recommended By:  6/11/09  
Department Director Date

Approved By:  6/15/09  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Operating Expense	\$66,415.00	0	0	0	0
External Revenues	0	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match County	0	0	0	0	0
<b>NET FISCAL IMPACT</b>	<b>\$66,415.00</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

**Budget Account No:** Fund 4011 Dept 721 Unit W006 Object 6543

Is Item Included in Current Budget? Yes  No

Reporting Category N/A

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

One-time reimbursement to be funded from user fees.

**C. Department Fiscal Review:** Rev Equator

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

M. S. [Signature]  
OFMB  
6/11/09

Don J. Jacobson  
Contract Development and Control  
6/11/09

This Contract complies with our contract review requirements.

**B. Legal Sufficiency:**

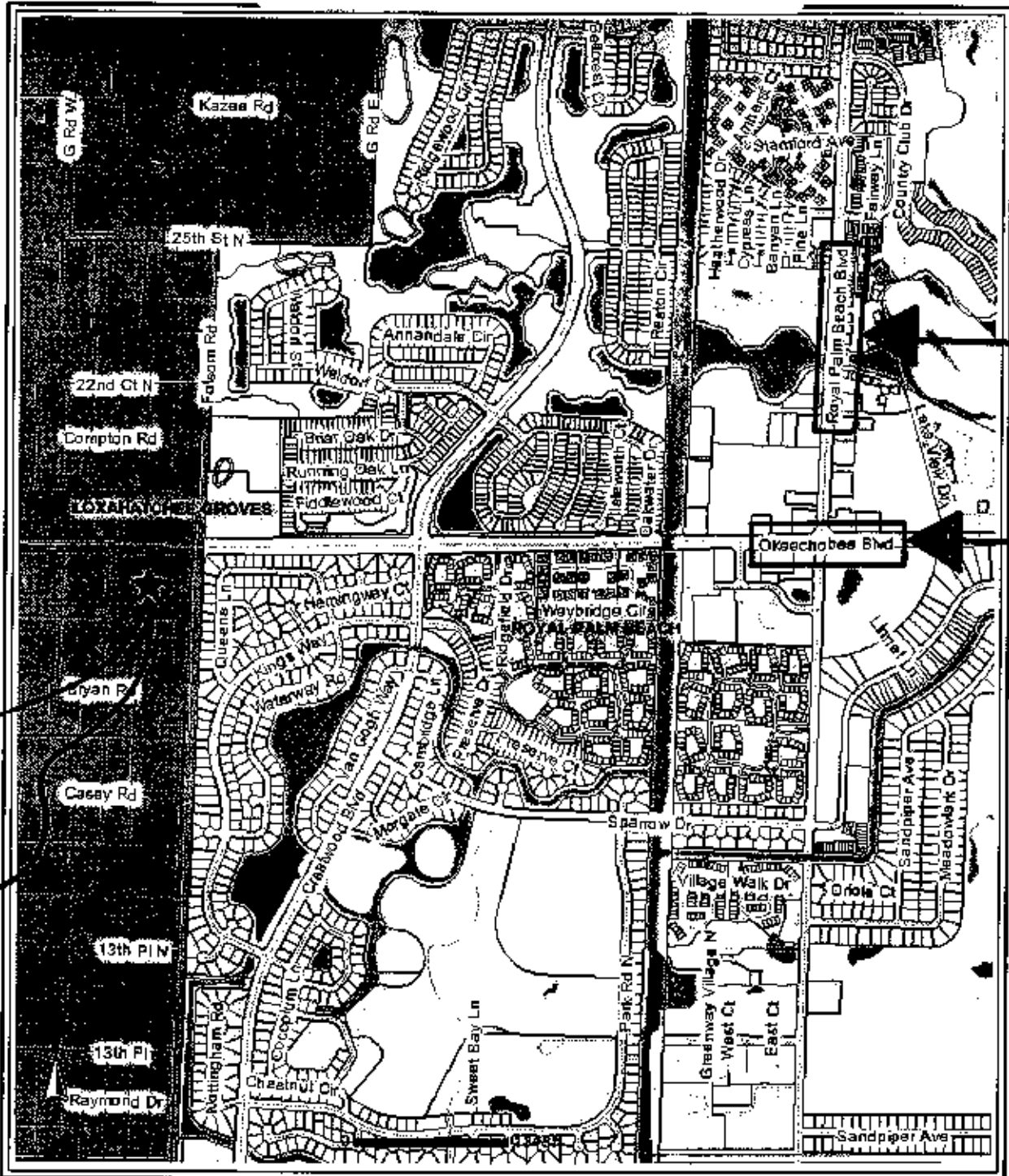
[Signature]  
Assistant County Attorney  
6/12/09

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.

# ATTACHMENT 1



**41-41-43-17-01-633-0010 (WILLIE H. AND FRANKIE J. DAY)**

Map Scale 1:16176

Map produced on 11/25/2008

<http://cwgisweb.co.palm-beach.fl.us/GeoNav/presentation/mapping/printnew.asp?MAPU...> 11/25/2008

POTABLE WATER AND WASTEWATER

CHARGE #1023 RETURN VIA WILL CALL #133  
ATTN: MARK FALLON, CONTRACT MANAGEMENT,  
PBC WATER UTILITIES DEPT.,  
8100 FOREST HILL BLVD, WPB, FL 33413

DA # 11-01012-000

POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (DA)

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and WILLIE H. DAY AND FRANKIE J. DAY, hereinafter referred to as "Property Owner."

WITNESSETH

WHEREAS, Property Owner owns property located in Palm Beach County, Florida, and as more fully described in Exhibit "A", attached hereto and made a part hereof and hereinafter referred to as "Property", whereupon Property Owner has or is about to develop the Property by erecting thereon residential or non-residential improvements; and

WHEREAS, Property Owner desires to construct potable water and wastewater facilities hereinafter referred to as "facilities"; and

WHEREAS, upon the conditions set forth herein, Utility desires to accept ownership of the completed potable water and wastewater facilities for operation and maintenance purposes; and

WHEREAS, Property Owner understands that this contract for service in no way entitles Property Owner to densities which are greater than those allowed under the density provisions of the Comprehensive Plan of Palm Beach County, or to densities or development rights as may otherwise be limited by the Board of County Commissioners; and

WHEREAS, in the interest of public health and to encourage the use of central water and wastewater facilities, Utility desires to enter into this Agreement.

NOW THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, Property Owner and Utility hereby covenant and agree as follows:

1. The foregoing statements are true and correct.
2. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:
  - (a) "UPAP" - the Uniform Policies and Procedures Manual of the Palm Beach County Water Utilities Department as may be amended from time to time, which is incorporated herein by reference;
  - (b) "Service" - the readiness and ability on the part of Utility to furnish potable water to and to collect wastewater from the property;
  - (c) "Point of Service" - generally, the point where the pipes or meters of Utility are connected with pipes of Property Owner as further defined in Chapter 1 of the UPAP;
  - (d) "Equivalent Residential Connection (ERC)" - a system capacity equivalency unit which corresponds to the peak demand of the 3/4" x 3/4" meter sub-category of the single-family residential category of Customer usage. This system capacity equivalency unit is utilized to establish the system demand for various sized connections for the purpose of assessing fees;
  - (e) "Mandatory Agreement Payment (MAP)" - twelve months of Guaranteed Revenue Fees plus applicable Franchise Fees payable to Utility upon submission of an SDA or renewal agreement for each ERC (or ERIC) represented in the Agreement;

## POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
  - (g) "Guaranteed Revenue Fee" - the fee designed to recover the carrying costs of system capacity which has been or is being constructed in anticipation of future service requests. Carrying costs include fixed operating and renewal and replacement expenses necessary to maintain excess system capacity for future use. Guaranteed Revenue does not recover variable operating expenses;
  - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
  - (i) "Standard Development Renewal Agreement (SDRA)" -- an agreement between Utility and Property Owner extending the capacity reservation for unused ERCs/ERICs in a Standard or Non-Standard Development Agreement for an additional five (5) years; and
  - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the Utility's Service Area with said fees collected by Utility and distributed to another governmental entity.
3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the potable water and wastewater facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will use due diligence in ascertaining all easement locations; however, should Utility install any of its facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner hereby further agrees that the foregoing grants include the necessary rights of ingress and egress to any part of the Property which Utility requests for the maintenance, operation or expansion of the potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installation; provided, all such installations by Utility shall be made in such a manner as not to interfere with the then primary use of such Property. Property Owner shall obtain written approval from Utility prior to installing any structure or object, including, but not limited to, fences, gates, signs, trees or poles, within an easement area. In consideration of Utility's consent to an encroachment, Property Owner shall agree to indemnify and hold Utility harmless from and against all liabilities, damages, penalties, claims costs and expenses, including attorney's fees at all levels, which may be imposed upon or asserted against Utility as a result of or in any way connected to an encroachment approved by Utility. In the event Utility determines that it is necessary to construct, maintain, repair, remove, or replace any of its facilities located under, over or upon an easement, Property Owner shall immediately remove the encroachment from the easement upon the request of Utility at Property Owner's sole cost and expense. If Property Owner fails to remove the encroachment, Utility shall have the right to remove the encroachment from the easement. Property Owner shall pay all costs related to removing the encroachment from the easement incurred by Utility.

Property Owner, as further consideration of this Agreement, and in order to effectuate the foregoing grants to Utility, hereby places the following covenant, as a covenant running with the land, upon the Property and thereby subjecting it to a reservation, condition, limitation or restriction in favor of Utility, as follows:

Utility, or its successors, has the sole and exclusive right to provide all potable water and wastewater facilities and services to the Property described in Exhibit "A" and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their potable water and wastewater service from the aforesaid Utility and shall pay for the

## POTABLE WATER AND WASTEWATER

same and shall abide by the terms and intent of this Agreement, and the UPAP, for as long as the aforesaid Utility provides such services to the property. Further, all occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the property, or any portion thereof, agree, by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct or otherwise make available or use potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

Further, in order to give an additional and supplementary notice to all the future Property Owners of any of the Property of the rights of Utility to provide the Property with potable water and wastewater facilities and services, Property Owner hereby covenants and agrees to have the above restrictive covenant or its equivalent included in the general subdivision restrictions and to place the same of record in the Public Records of Palm Beach County, Florida.

4. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Property Owner, Utility covenants and agrees that it will allow the connection of the potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
5. Property Owner is required to pay Guaranteed Revenue Fees plus applicable Franchise Fees in order to support investment in plant facilities, as well as the fixed costs of maintaining such facilities and the unused capacity it represents. Therefore, Property Owner agrees to pay in accordance with the UPAP:

(a) a MAP per each ERC for the requested capacity upon submission of this Agreement; and

(b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater facilities will be completed in phases designed to coincide with the need for service to Property Owner and other Property Owners in the service area. Utility should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

Potable Water:	\$163.44 per ERC x	0.5 ERCs =	\$81.72
Wastewater:	\$229.44 per ERC x	1.5 ERCs =	\$344.16
		<b>TOTAL</b>	<b>\$425.88</b>
		<b>Franchise Fee (Royal Palm Beach &amp; Loxahatchee Groves)</b>	<b>\$85.18</b>
		<b>Balance due</b>	<b>\$511.06</b>

Upon receipt of the MAP, Utility agrees to reserve 0.5 ERCs of Potable Water and 1.5 ERCs of Wastewater system capacity for Property Owner until **June 30, 2014**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee

## POTABLE WATER AND WASTEWATER

must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, whichever is greater, by an amendment to this Agreement. The MAP required for the amendment shall be paid at the rate applicable to the original Agreement. Any amendments to the SDA shall be binding upon both Utility and Property Owner and subject to all applicable rules and regulations of Utility; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. Property Owner shall cause to be prepared engineering plans and specifications prepared by and sealed by a professional engineer registered in the State of Florida, showing the on-site and off-site potable water distribution and wastewater collection systems for the Property. Utility will advise Property Owner's engineer of any sizing requirements as mandated by the UPAP. Such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Utility concurrent with or prior to submission of plans for the first phase. All such plans and specifications, including hard copy and electronic media, submitted to Utility's engineer shall be subject to the approval of Utility and shall conform to Utility's standards as set forth in the UPAP, and no construction shall commence until Utility has approved such plans and specifications in writing. After approval, Property Owner shall cause to be constructed, at Property Owner's expense, the potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems by Property Owner, Utility may from time to time inspect such installation to determine compliance with the plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration, line and grade, and all other normal engineering tests to determine that the system has been installed in accordance with the approved plans and specifications and the UPAP. Inspection by Utility shall in no way relieve Property Owner of his responsibility to install the facilities in accordance with the approved plans and specifications and the UPAP. Complete as-built plans, including hard copy and electronic media when utilized, shall be submitted to Utility upon completion of construction.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey to Utility by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection system as constructed by Property Owner and approved by Utility, along with the required Cost Documentation and Property Owner's No Lien Affidavit. Subsequent to construction of the facilities and prior to receiving a meter(s) from Utility, Property Owner shall convey to Utility all easements and/or rights-of-way covering areas in which potable water and wastewater lines are installed by a recordable document in a form supplied by Utility. All conveyance of easements or rights-of-way shall be accompanied by a paid title policy for the benefit of Utility in a minimum amount of:

## POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights to convey such easements or rights-of-way, and further, evidencing Utility's right to the continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement. The use of easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection system installed by Property Owner shall be in accordance with the provisions as set forth in the UPAP. All installations by Property Owner or its contractor shall be warranted for one year (or five years in the case of lift station pumps and motor assemblies) from date of Final DEP Certification. Mortgagees holding liens on such properties shall be required to release such liens, subordinate their position, or join in the granting of the easements or rights-of-way. All potable water distribution and wastewater collection facilities shall be located within an easement if not located within platted or dedicated rights-of-way.

Property Owner hereby agrees to pay to Utility Guaranteed Revenue Fees, Connection Fees, Service Installation Fees, Franchise Fees, and any other applicable fees as set forth in the UPAP at the then current rate.

The timely payment by Property Owner of all fees in accordance with the terms set forth herein shall be considered essential to the continued performance by Utility of the terms and conditions of this Agreement. The construction and transfer of ownership of the potable water distribution and wastewater collection system does not and will not result in Utility waiving or offsetting any of its fees, rules or regulations. Property Owner shall not have any present or future right, title, claim, or interest in and to the potable water and wastewater facilities transferred to or owned by Utility.

7. Upon submission of this Agreement, Property Owner, at his expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Any mortgagee or lien holder having an interest in the Property shall be required to execute a Consent and Joinder of Mortgagee/Lienholder as supplied by Utility. Property Owner must submit either a title policy or a letter from an attorney licensed to do business in Florida confirming that there is no mortgage or lien on the Property. The title policy or letter must be issued within thirty (30) days of submittal of the SDA.
8. Property Owner agrees with Utility that all potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater service to the Property, shall at all times remain in the complete and exclusive ownership of Utility, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose. In addition, Utility shall have the exclusive right and privilege to provide potable water and wastewater services to the Property and to the occupants of each residence or building constructed thereon.
9. Notwithstanding any provision in this Agreement, Utility may establish, revise, modify, and enforce rules, regulations, and fees covering the provision of potable water and wastewater service to the Property. Such rules, regulations, and fees are subject to the approval of the Palm Beach County Board of County Commissioners. Such rules, regulations, and fees shall be reasonable and subject to regulation as may be provided by law or contract. Fees charged to Property Owner or Customers located upon the Property shall be identical to fees charged for the same classification of service in the particular service area. All rules, regulations and fees as set forth in the UPAP, shall be binding upon Property Owner, upon any other entity holding by, through or under Property Owner, and upon any Customer of the potable water and wastewater service provided to the Property by Utility. Said rules and regulations include, but are not limited to, Service Initiation, oversizing of facilities, use of previously oversized facilities or extension of facilities. Any fee or rate delinquent more than 120 days will automatically void this Development Agreement.



## POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater facilities of Utility until approval for such connection has been granted by Utility. The parties hereto further agree that the expense of construction, operation, and maintenance of all improvements beyond the Point of Service shall be the sole cost and expense of Property Owner or other than Utility.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement upon the sale, conveyance, transfer or assignment of the Property, or any portion thereof, as described in Exhibit "A" of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP. Property Owner further acknowledges and agrees that documenting the transfer or assignment of this Agreement in a form acceptable to Utility is the sole responsibility of Property Owner. Failure to provide documentation to Utility of an assignment or transfer within thirty (30) days after the sale, conveyance, transfer, or assignment of the Property, or any portion thereof, may result in the cancellation of the capacity reserved and/or loss of the Mandatory Agreement Payment identified herein.
12. All notices provided for herein shall be in writing and transmitted by mail or by courier and, if to Property Owner shall be mailed or delivered to Property Owner at:

**119 Meadowlark Dr.  
Royal Palm Beach, FL 33411-2966;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in Exhibit "A", this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Special Conditions:

Property Owner entered into a Refund Agreement with the Village of Royal Palm Beach on October 5, 2000, as recorded in Official Records of Palm Beach County, Book 12084, at Page 705 ("Refund Agreement"). Utility assumed the Refund Agreement pursuant to Palm Beach County's purchase of the Village of Royal Palm Beach utility system (County Resolution No. 2006-0410). Section 2 of said Refund Agreement provided for a reimbursement of \$66,415 for Property Owner's installation of certain potable water and wastewater facilities (Facilities) to serve an adjoining property formerly owned by Property Owner, as well as serve other adjoining properties, including the Property set forth in Exhibit "A." The following are agreed to by Utility and Property Owner:

- (a) Property Owner may use the \$66,415 reimbursement toward the current MAP and any renewal MAP as may be required in the future, and any Installation, Guaranteed Revenue, Connection, Plan Review, Inspection, and Franchise Fee required by Utility to provide potable water, wastewater, and/or reclaimed water to the existing dwelling unit on the Property and any future residential or non-residential units as may be constructed on the Property; and
- (b) Construction shall be deemed complete upon acceptance of legal documents (Bill of Sale, Cost Documentation, and Property Owner's Affidavit) and approved record drawings by Utility, passing of final inspection by Utility and the receipt of a Health Department final project release.

## POTABLE WATER AND WASTEWATER

- (c) Property Owner may assign any reimbursement balance to a subsequent purchaser as part of an assignment of this Agreement to that purchaser. The assignment of this Agreement must be in a form acceptable to Utility, and Utility shall not unreasonably withhold acceptance of the assignment.
- (d) The parties agree that this Agreement completely replaces and supersedes the Refund Agreement. Property Owner hereby for itself and its successors, assigns, predecessors, affiliated entities, directors, officers, employees, principals, agents and servants, releases, acquits, and forever discharges any and all claims it may have against Utility, its departments, divisions, elected officials and employees, related to the Refund Agreement.
- (e) A "privately owned and maintained" wastewater pump station will be acceptable to Utility to discharge wastewater from any proposed non-residential development.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

**POTABLE WATER AND WASTEWATER**

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

**ATTEST:**

\_\_\_\_\_  
Clerk & Comptroller (or Deputy Clerk)

**PALM BEACH COUNTY, FLORIDA, BY  
ITS BOARD OF COUNTY  
COMMISSIONERS**

By: \_\_\_\_\_  
John F. Koons, Chairman

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
County Attorney

**APPROVED AS TO TERMS AND  
CONDITIONS**

By: \_\_\_\_\_  
Bevin A. Beaudet,  
Department Director or Designee

**WITNESSES:**

\_\_\_\_\_  
*Brian Hively*  
Typed or Printed Name  
\_\_\_\_\_  
*Ashley Elliott*  
Typed or Printed Name  
\_\_\_\_\_  
*Ashley Elliott*  
Typed or Printed Name

**PROPERTY OWNER:**

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
*WILLIE H DAY*  
Typed or Printed Name  
\_\_\_\_\_  
*OWNER*  
Title

[ Corporate  
Seal ]

**NOTARY CERTIFICATE**

STATE OF Missouri  
COUNTY OF Dunklin

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of April, 2009  
by Willie H. Day and \_\_\_\_\_  
known to me or has produced driver's license as identification. He/she is personally

\_\_\_\_\_  
Signature of Notary

*Julie Cupples*  
Typed, Printed, or Stamped Name  
of Notary

Notary Public **NOTARY SEAL** Julie Cupples, Notary Public  
Serial Number Dunklin County, State of Missouri  
My Commission Expires 8/18/2010  
Commission Number 06429452

**WATER UTILITIES DEPARTMENT  
FINANCE AND ADMINISTRATION  
APPROVAL**

By: \_\_\_\_\_  
Director of Finance and Administration  
PBC Water Utilities Department

*(Signature)*

POTABLE WATER AND WASTEWATER

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ATTEST:

PALM BEACH COUNTY, FLORIDA, BY  
ITS BOARD OF COUNTY  
COMMISSIONERS

\_\_\_\_\_  
Clerk & Comptroller (or Deputy Clerk)

By: \_\_\_\_\_  
John F. Koons, Chairman

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By: \_\_\_\_\_  
County Attorney

By: \_\_\_\_\_  
Bevin A. Beaudet,  
Department Director or Designee

WITNESSES:

PROPERTY OWNER:

\_\_\_\_\_  
Typed or Printed Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

[ Corporate  
Seal ]

NOTARY CERTIFICATE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of APRIL, 2009  
by FRANKIE J. DAY and \_\_\_\_\_ He/she is personally  
known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Typed, Printed, or Stamped Name  
of Notary

James M. Gann  
Notary Public Commission # DD477941  
Serial Number \_\_\_\_\_ Expires January 7, 2010  
Guaranteed Trust For - Insurance, Inc. 888-366-7018

WATER UTILITIES DEPARTMENT  
FINANCE AND ADMINISTRATION  
APPROVAL

By: \_\_\_\_\_  
Director of Finance and Administration  
PBC Water Utilities Department

**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"  
LEGAL DESCRIPTION**

LOT 33, LESS THE WEST 1158.6 FEET THEREOF, BLOCK F, LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 12, PAGE 29, OF THE PUBLIC RECORDS.

LESS AND EXCEPT THE FOLLOWING PARCEL:

PARCEL 126

A PARCEL OF LAND LYING IN SECTION 27, TOWNSHIP 43 SOUTH, RANGE 41 EAST, AND BEING A PORTION OF TRACT 33, BLOCK F OF THE PLAT OF LOXAHATCHEE GROVES AS RECORDED IN PLAT BOOK 12, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT 33, RUN SOUTH 02°16'10" WEST, ALONG THE EAST LINE OF SAID TRACT 33 A DISTANCE OF 568.55 FEET, THENCE NORTH 89°12'34" WEST A DISTANCE OF 50.02 FEET ALONG THE SOUTH LINE OF SAID TRACT 33; THENCE NORTH 02°16'10" EAST A DISTANCE OF 516.75 FEET; THENCE NORTH 43°36'10" WEST A DISTANCE OF 71.79 FEET; THENCE SOUTH 89°29'31" EAST A DISTANCE OF 101.58 FEET ALONG THE NORTH LINE OF SAID TRACT 33 AND ALONG THE SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD TO THE POINT OF BEGINNING.

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**

OK  
04/30/09 G

ATTACHMENT 3

Record and Return To:

Mary Anne Gould, Village Clerk  
Village of Royal Palm Beach  
1050 Royal Palm Beach Boulevard  
Royal Palm Beach, Fl. 33411

Oct-19-2000 04:26pm 00-401046  
DRB 12084 Pg 705

REFUND AGREEMENT

THIS REFUND AGREEMENT is made and entered into this 5th day of October, 2000 by and between Willie H. Day, hereinafter referred to as "Developer", and the VILLAGE OF ROYAL PALM BEACH, hereinafter referred to as "Village".

WHEREAS, Developer and Village have entered into that certain Developer Agreement on January 7, 2000, recorded at Official Records Book 11558, Pages 1229-1254, and further amended on January 7, 2000 and March 22, 2000, recorded respectively at Official Records Book 11558, Pages 1297-1300 and Official Records Book 11694, Pages 1181-1182 (the "Agreement") to which this Refund Agreement is made a part of and attached as an exhibit; and

WHEREAS, the Agreement contemplates, among other things, that Developer will advance certain costs and then be entitled to partial reimbursement and refund thereof; and

WHEREAS, the parties hereto intend to establish hereby the method and procedure for the aforesaid reimbursement and refund;

NOW, THEREFORE, in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, ten dollars (\$10.00) in hand paid by each party hereto to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and Village, intending to be legally bound, hereby covenant and agree as follows:

Section 1. Definitions:

1. All terms used in this Refund Agreement shall have the same meaning as such terms have in the Agreement, except as may be provided in this Section or elsewhere in this Refund Agreement to the contrary.
2. "Facilities" means those water and wastewater utility lines, as shown on Exhibit "A" attached hereto and made a part hereto, which are to be constructed by Developer as contemplated by the Agreement.
3. "Serviced Parcel" means each parcel of real property which shall or may utilize and thereby benefit from the Facilities.
4. "Beneficiary" means the developers, owners, and/or other users, other than the Developer, of each Serviced Parcel.
5. "Total Construction Cost" means the total costs associated with construction of the applicable Facilities, including, but not limited to, all easement acquisition costs other than those located on the Serviced Parcel, engineering, surveying, legal and administrative.
6. "Hydraulic Share" means the equitable share of the Total Construction Cost of the applicable Facilities through which utility service is rendered to each Serviced Parcel apportioned according to the service to be generated to or from such Serviced Parcel as developed or proposed to be developed relative to the overall ultimate capacity of such applicable improvements.

Carbelle White  
505 South Flagler Dr.  
SVC 1903  
West Palm Beach, FL 33411

RECEIVED  
OCT 20 2000  
VILLAGE OF ROYAL PALM BEACH

7. "Equivalent Residential Connection (ERC)" means a connection to the utility system by a system user which is a single family detached residential dwelling unit or has a water consumption equivalent to that of one (1) single family detached residential dwelling unit. One (1) ERC of water consumption is defined as an average daily use of three hundred fifty (350) gallons of water per day and/or three hundred fifty (350) gallons of wastewater per day.

**Section 2. General Reimbursement Policies:**

In consideration of Developer advancing the Total Construction Cost of the Facilities, and for a period of ten (10) years from date, prior to permitting any new utility systems with respect to each Served Parcel to connect into the Village utility system, Village shall collect from the Beneficiary of such Served Parcel the Hydraulic Share attributable to such Served Parcel. Further, Village shall not give final approval to any application for a permit for utility systems which will service, in whole or in part, any Served Parcel until the Beneficiary proposing such new systems shall have paid for its Hydraulic Share of all or the applicable portion of the Facility. Upon receipt of each such payment, Village shall forthwith forward the applicable amount thereof (\$66,415) to Developer at the address provided herein, less a service charge of 5% for processing.

**Section 3. Reimbursable Costs for the Facilities:**

Since it is not possible at or prior to the execution hereof to accurately define future usage and applicable Served Parcels which shall or may utilize the Facilities, a Hydraulic Share schedule with respect to those Served Parcels to be serviced by such Facilities cannot be determined or even estimated at or prior to the execution hereof. Notwithstanding the immediately preceding sentence, the parties hereto contemplate that Developer shall be entitled to equitable reimbursement and refund with respect to the Facilities based on the applicable procedure herein.

**Section 4. Term:**

The terms and provisions of this Refund Agreement shall remain in full force and effect from the date of execution hereof through and including ten (10) years from the date hereof, or the date upon which Developer receives the last refund and reimbursement in full to which it is entitled, as herein contemplated, whichever is sooner. In that regard, Village hereby waives any and all rights which it might otherwise have had absent this waiver to limit the life or term of this Refund Agreement.

**Section 5. Invalid Provisions:**

If any section or portion of this Refund Agreement is determined by any court of competent jurisdiction to be unlawful, unenforceable, or otherwise invalid for any reason whatsoever, the remaining portions hereof shall remain in full force and effect as if such unlawful, unenforceable, or invalid section or portion did not appear.

IN WITNESS WHEREOF, Developer and Village have executed or have caused this Refund Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of the Refund Agreement.

COPY

VILLAGE OF ROYAL PALM BEACH

Lisa Nast

Witness

Denise Kuzdas

Witness

By: David A. Lodwick

David A. Lodwick, Mayor



(Village Seal)

ATTEST:

Mary Anne Gould

Mary Anne Gould, Village Clerk

DEVELOPER

By: Willie H. Day

Willie H. Day

(Title) Owner

(Address) 119 Meadowlark

Royal Palm Beach, FL 33411

Amore

Witness

James P. G. [unclear]

Witness

(Company Seal)

ATTEST:

By: \_\_\_\_\_

Center Copy



THE STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the State and County first named above to take acknowledgments, personally appeared Willie H. Day of \_\_\_\_\_, to me known to be the person(s) who signed the foregoing instrument, and as such officer had each of which I do hereby certify that he is duly qualified to perform the duties of such office for the purposes therein mentioned, and they affixed thereto the official seal of the corporation, and that the said instrument is the act and deed of the corporation who did not take an oath.

SWORN TO and subscribed before me this 26th day of September, 2000.

(Seal)



*Lindsey Arthur Walter*

NOTARY PUBLIC Lindsey Arthur Walter

THE STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the State and County first named above to take acknowledgments, personally appeared DAVIDA. LODWICK, Village Mayor, personally known to me or who produced DRIVERS LICENSE as identification, and he acknowledged before me that he executed the foregoing instrument as said officer and that he also affixed thereto the official seal of the Village.

SWORN TO and subscribed before me this 5th day of October, 2000.

(Seal)

NOTARY PUBLIC



EXHIBIT "A" (IN 12 SHEETS)

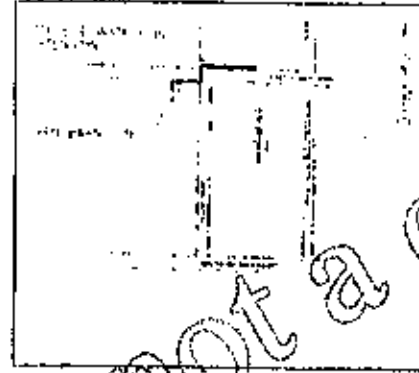
RECORDER'S MEMO: Legibility of document  
unsatisfactory when received.

ORB 12084 Pg 709

# THE RED BARN MUPD

ON SITE PAVING, DRAINAGE, WATER  
AND SEWER SYSTEM PLANS  
AND

OFF SITE 16" WATERMAIN EXTENSION PLAN  
ON OKEECHOBEE ROAD



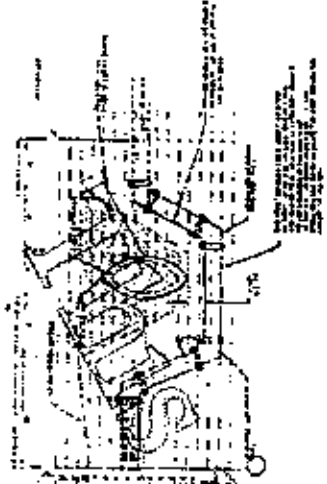
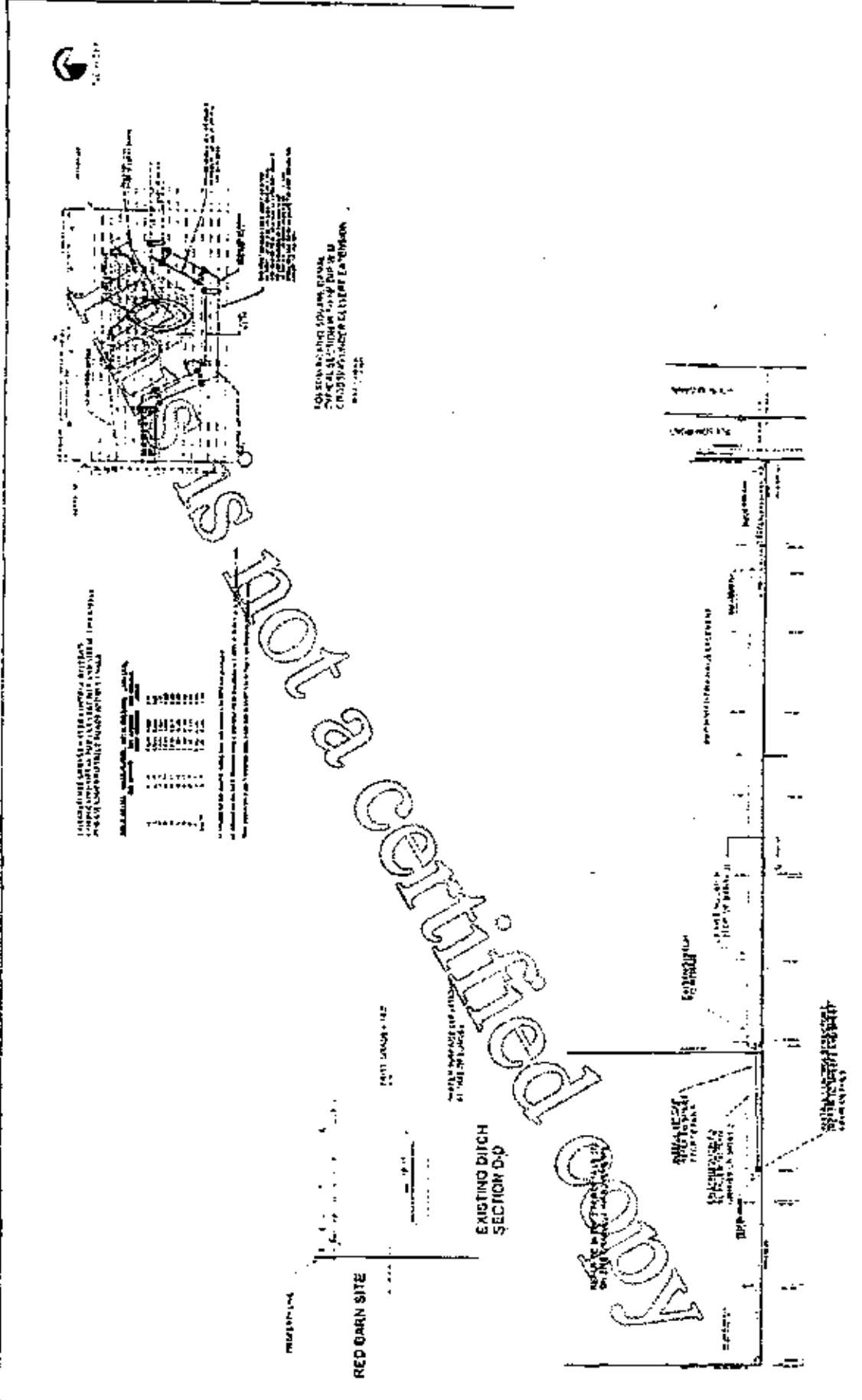
*This is not a certified copy*

FOR THE RECORD  
 ALL INFORMATION  
 HEREON IS UNCLASSIFIED  
 DATE 08-11-2010 BY 60322  
 1043 1043

APPROVED BY  
 [Signature]

RECORDS SECTION  
 10/11/2010 10:43 AM  
 1043 1043

7/1/2010



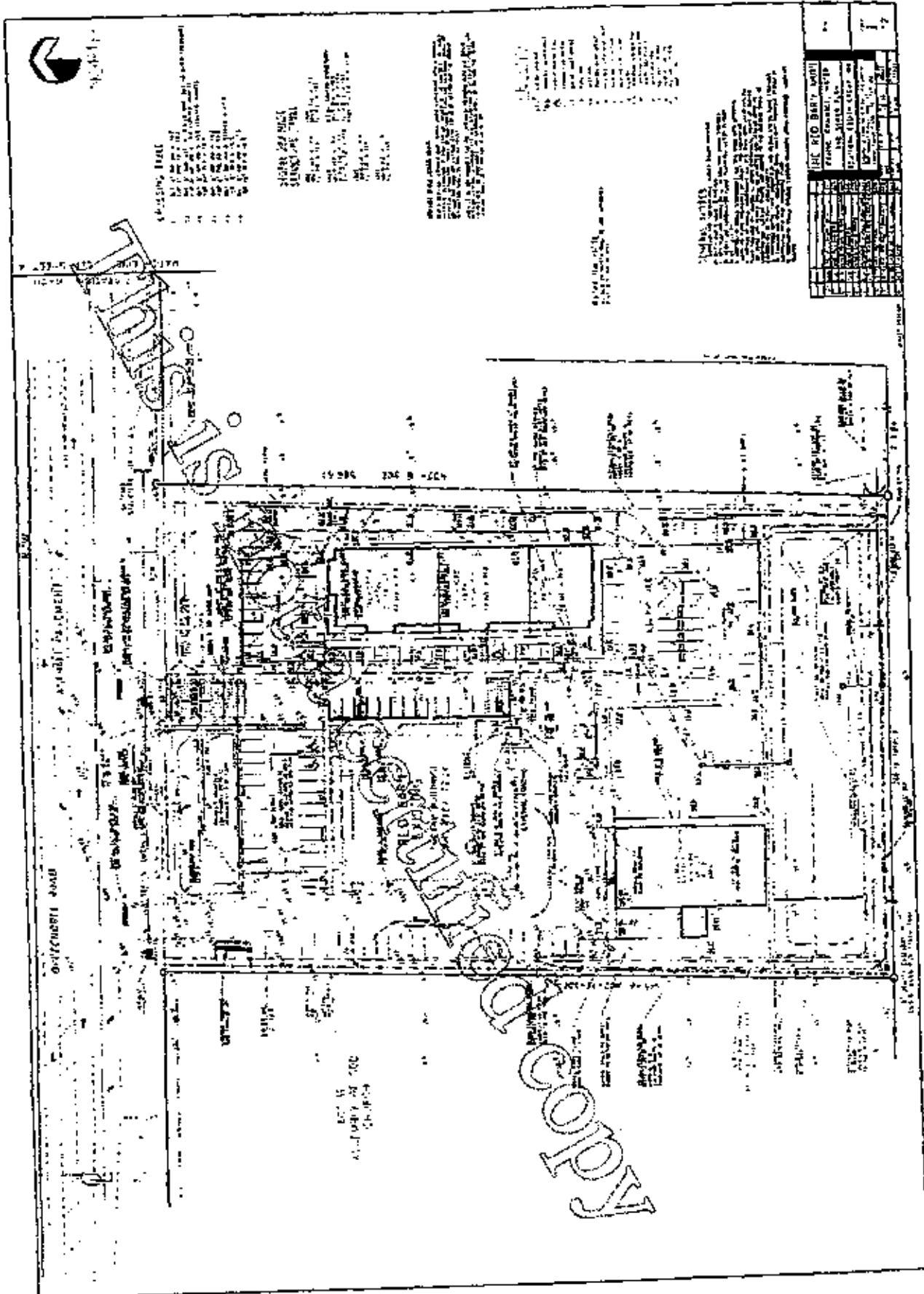
FOR SEWERING SQUARE PLANS, SEE SEWERING PLAN AND CROSS SECTION UNDER ELEVATED EXTENSION.

CONSTRUCTION OF THIS PROJECT IS SUBJECT TO THE APPROVAL OF THE DRB AND THE STATE DEPARTMENT OF TRANSPORTATION.

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	10/15/03
2	ISSUED FOR PERMITTING	10/15/03
3	ISSUED FOR PERMITTING	10/15/03
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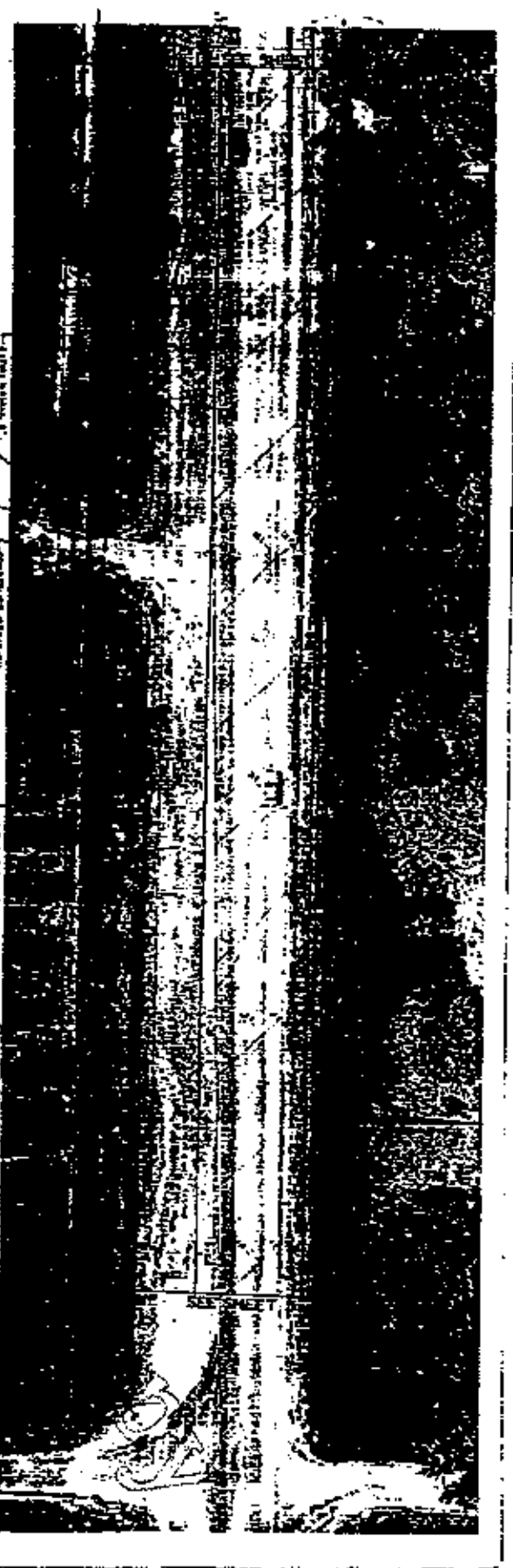
THE RED BARN ROAD OFF-DISBURG ROAD CAPITAL PROJECT	
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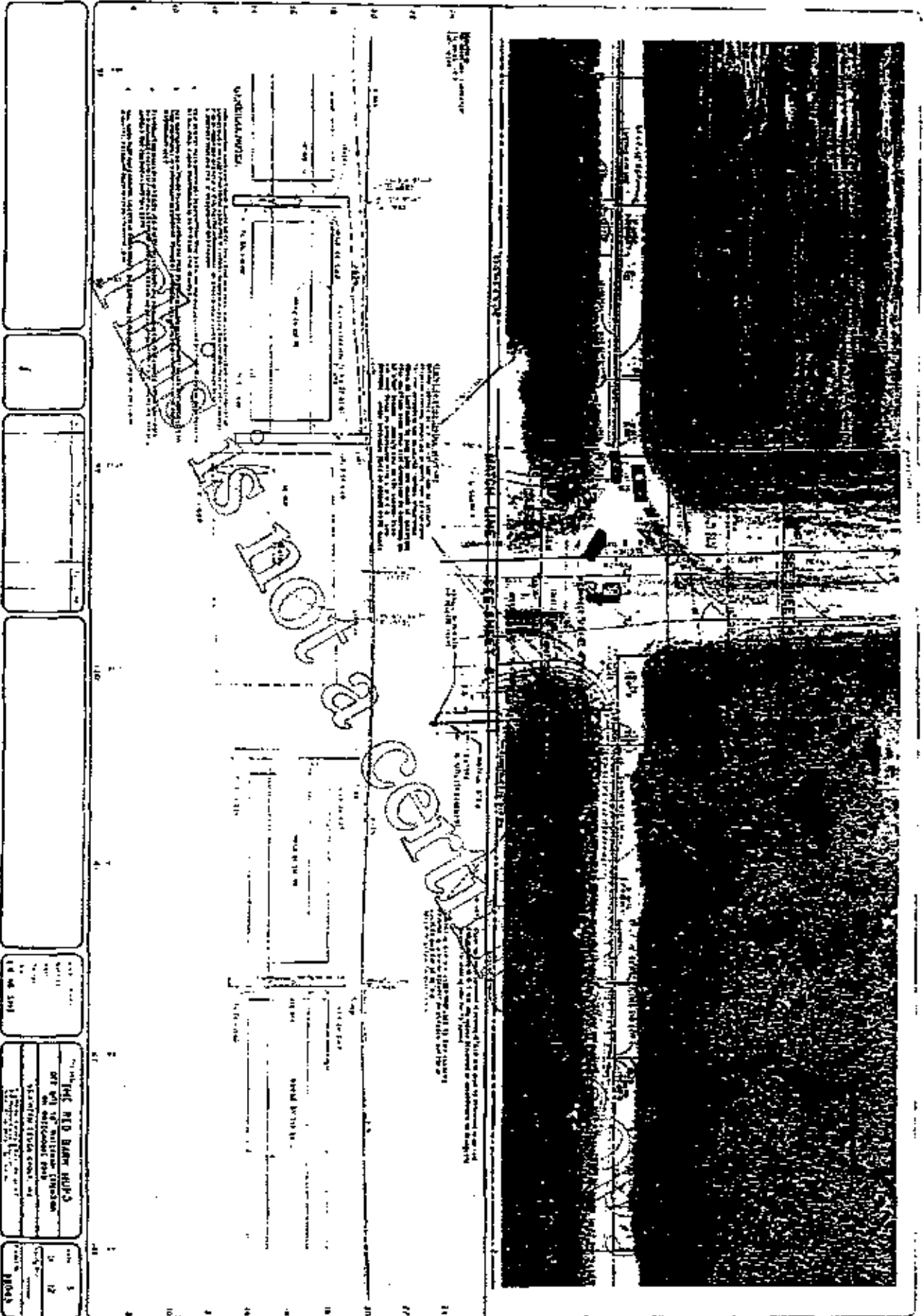
THIS DOCUMENT IS SUBJECT TO THE APPROVAL OF THE DRB AND THE STATE DEPARTMENT OF TRANSPORTATION.

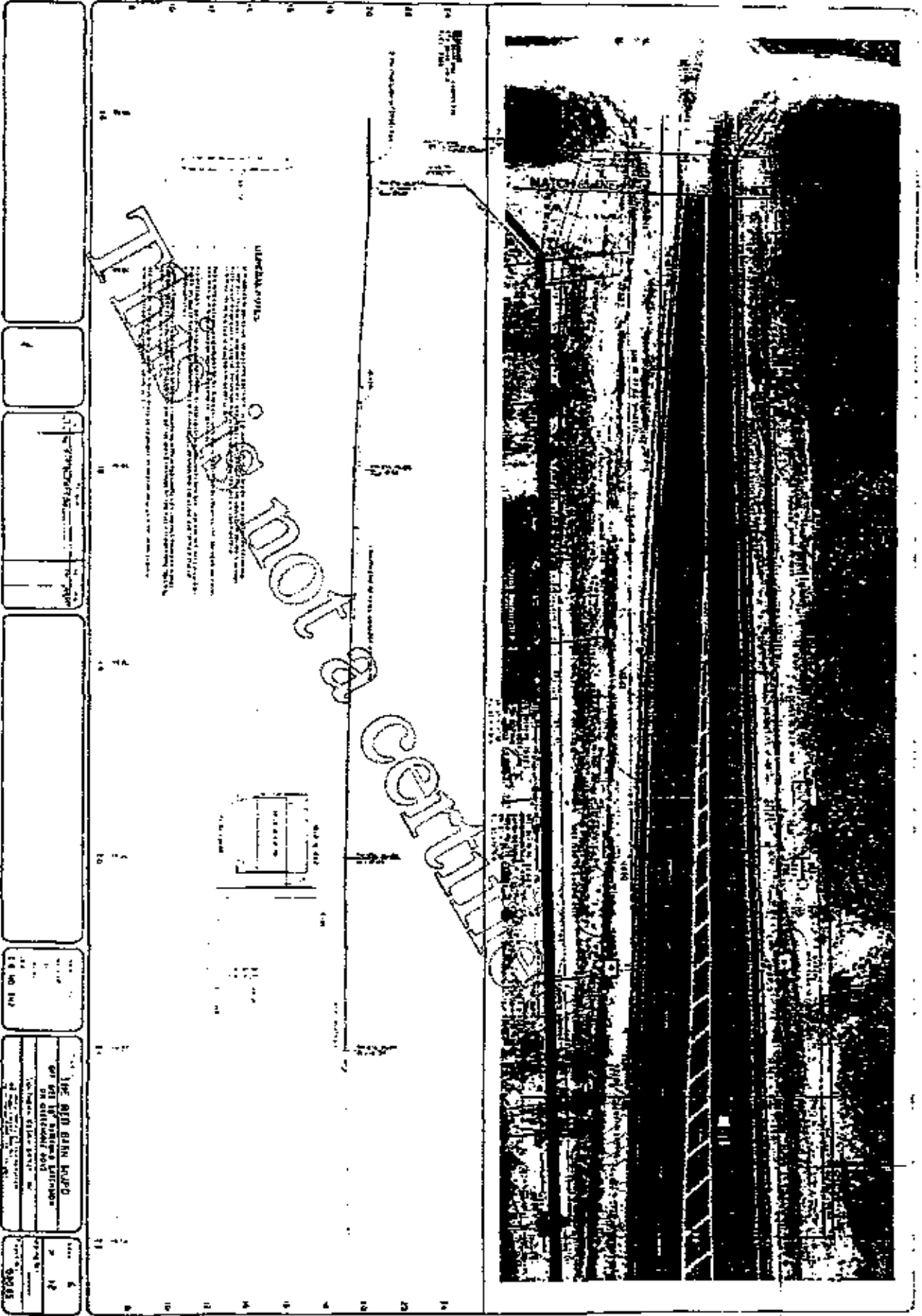


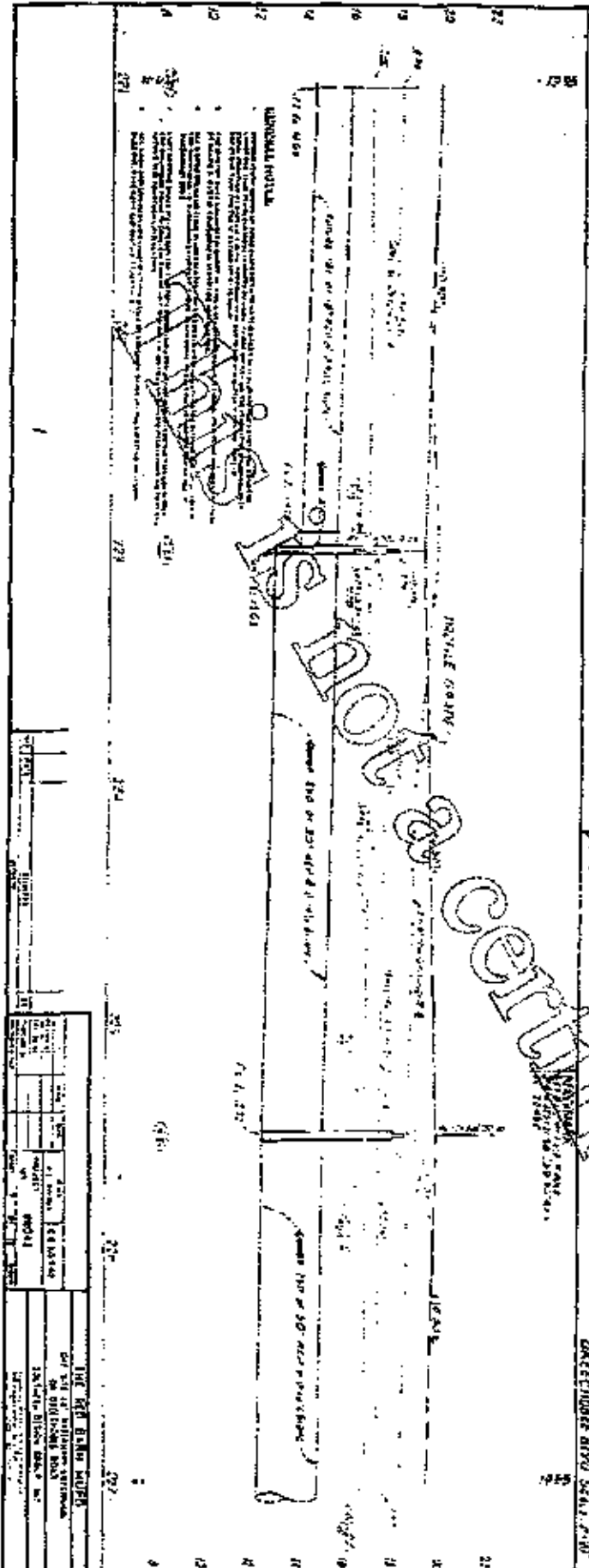
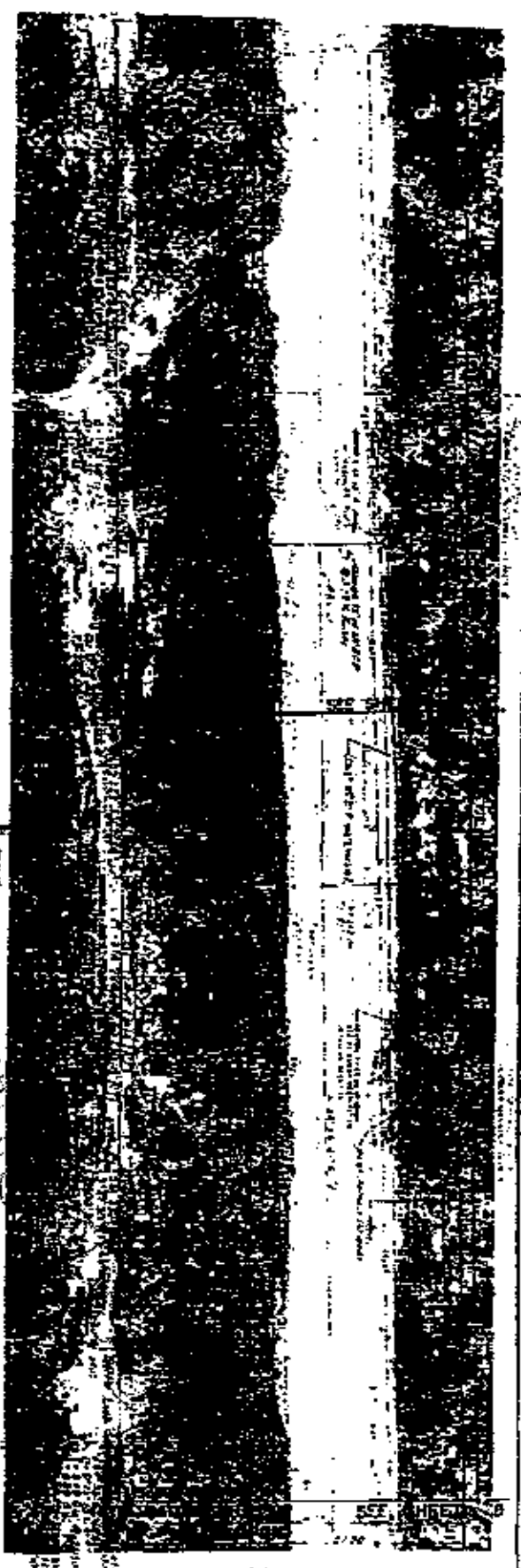
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THIS IS NOT A CERTIFIED COPY



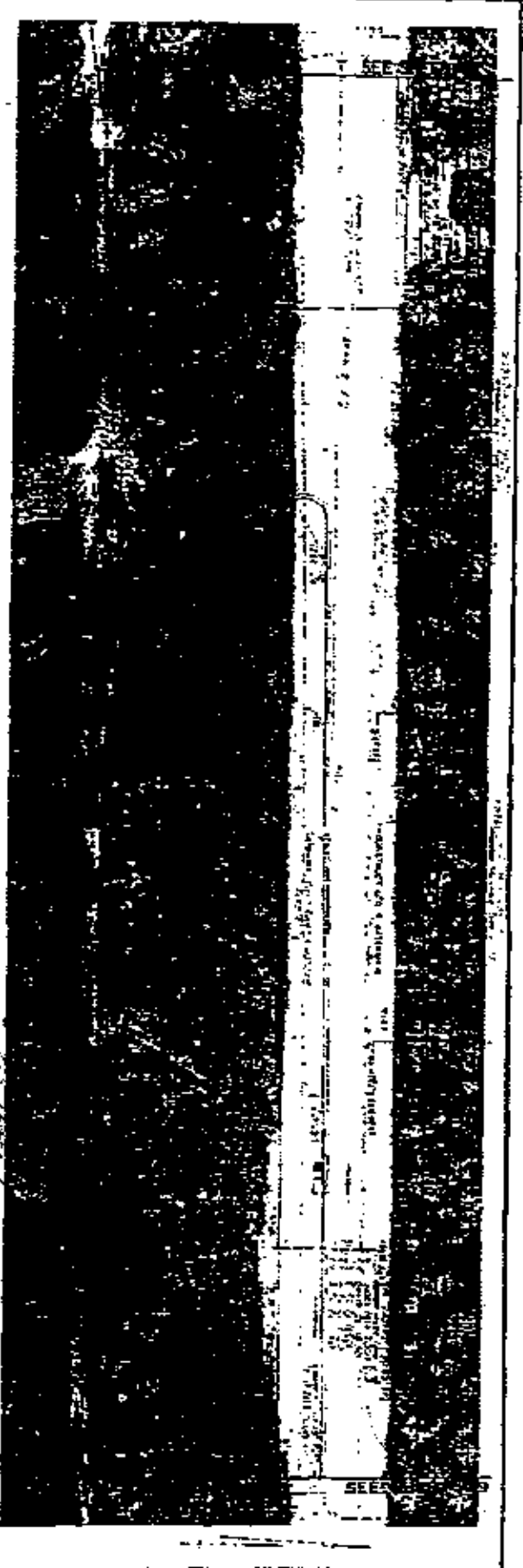
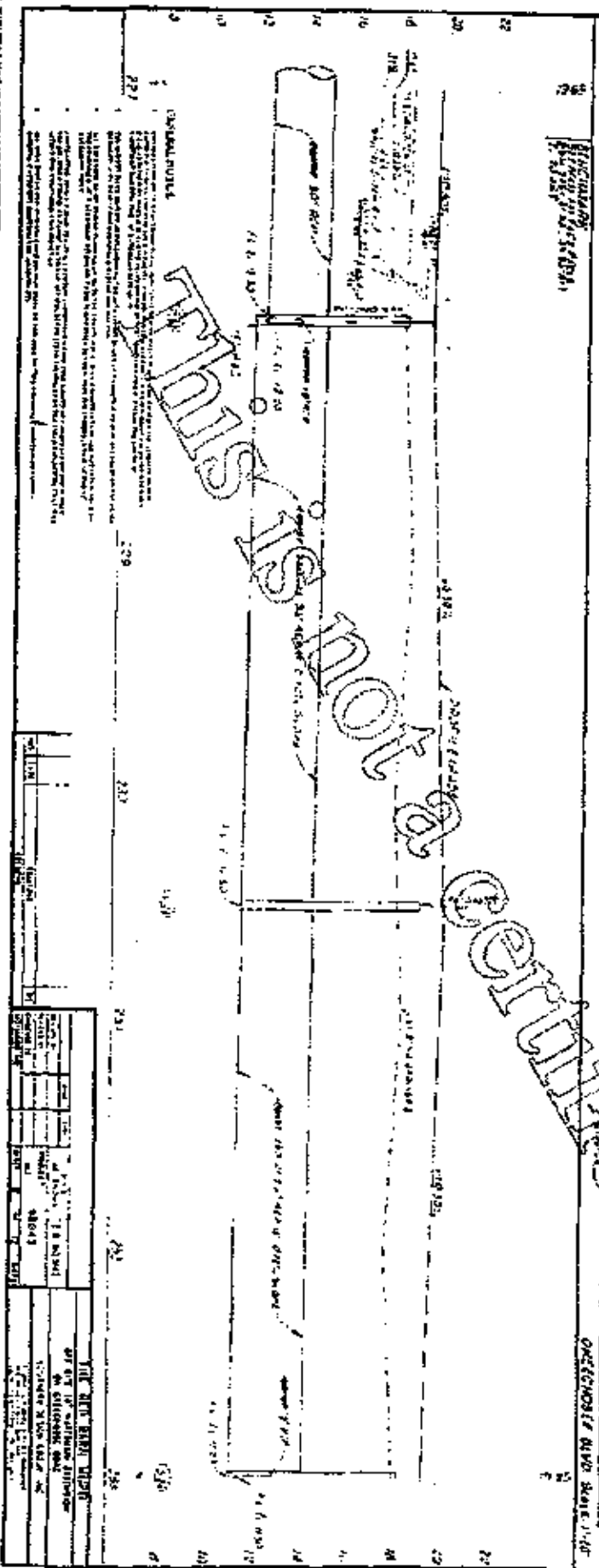




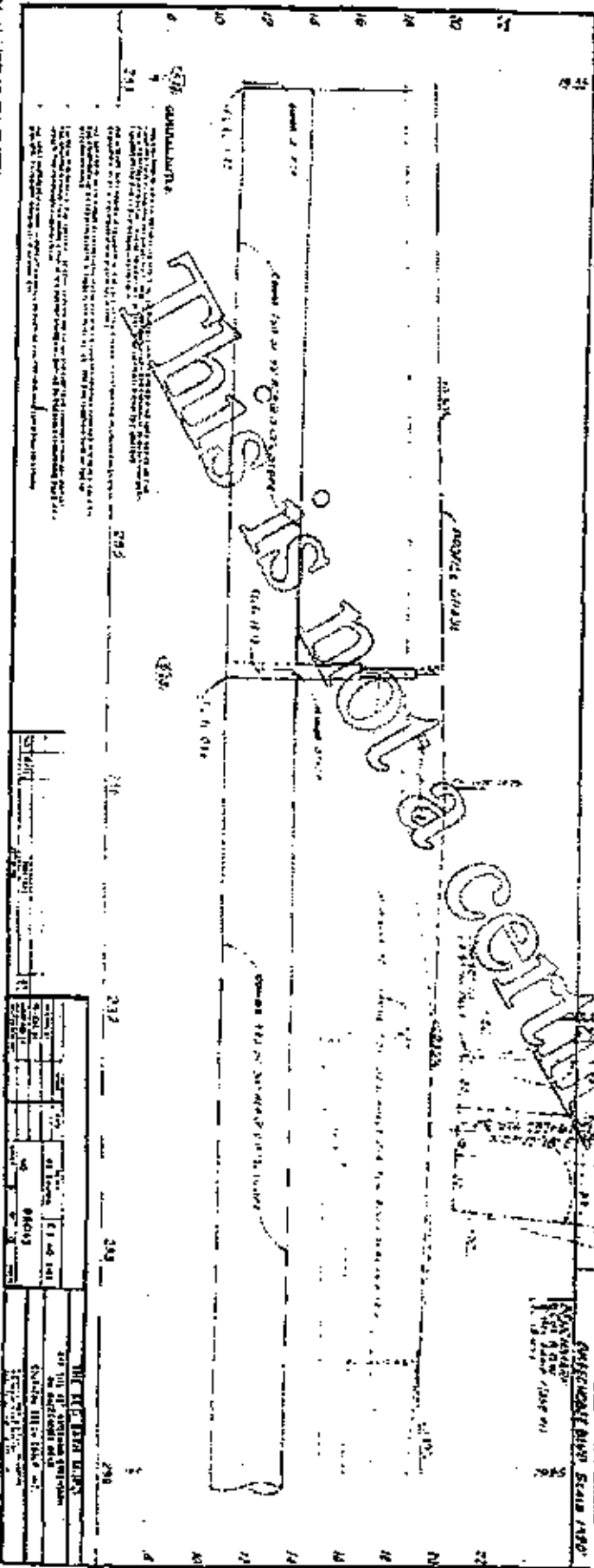
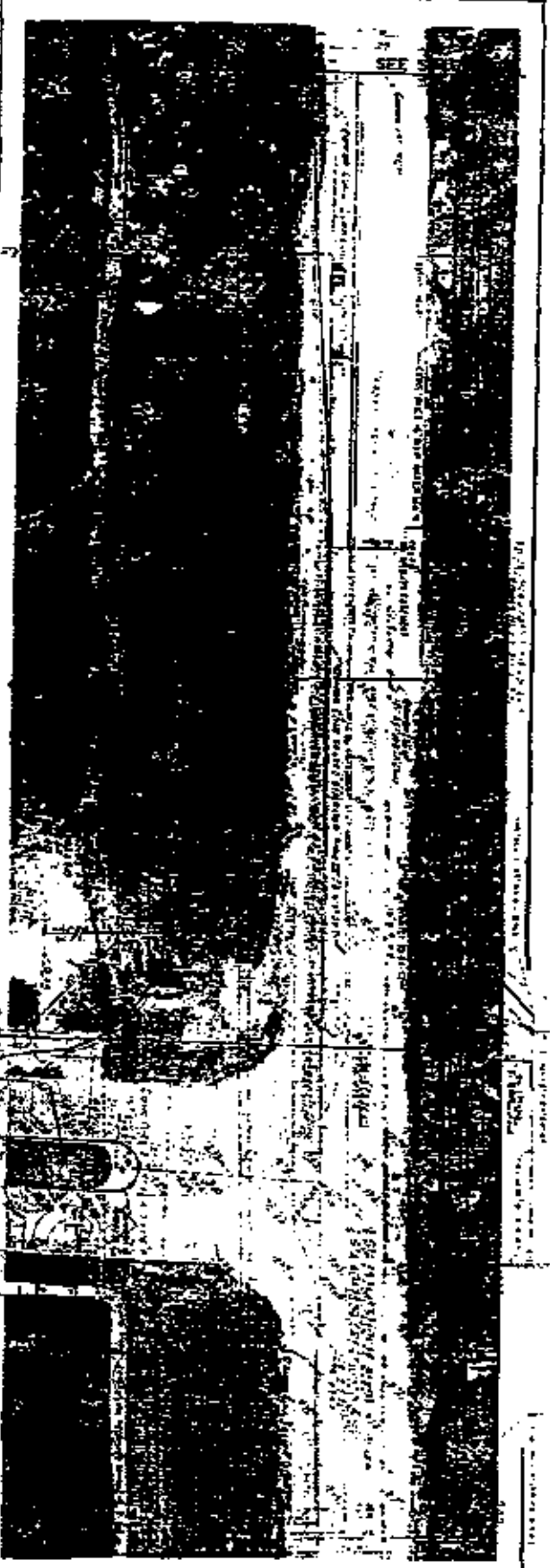


THE 1ST BANK MORTGAGE	
DATE OF 1ST MORTGAGE	11/15/2011
DATE OF 2ND MORTGAGE	11/15/2011
DATE OF 3RD MORTGAGE	11/15/2011
DATE OF 4TH MORTGAGE	11/15/2011
DATE OF 5TH MORTGAGE	11/15/2011
DATE OF 6TH MORTGAGE	11/15/2011
DATE OF 7TH MORTGAGE	11/15/2011
DATE OF 8TH MORTGAGE	11/15/2011
DATE OF 9TH MORTGAGE	11/15/2011
DATE OF 10TH MORTGAGE	11/15/2011
DATE OF 11TH MORTGAGE	11/15/2011
DATE OF 12TH MORTGAGE	11/15/2011





NOT A PART OF THE DRAWING



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**GENERAL NOTES AND SPECIFICATIONS**

1. All work shall be in accordance with the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc., and the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc., and the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

2. All materials shall be of the best quality obtainable and shall conform to the requirements of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

3. All work shall be done in a neat and workmanlike manner and shall be subject to inspection and approval by the Engineer.

4. All dimensions shall be in feet and inches, unless otherwise specified.

5. All materials shall be tested and approved by the Engineer before being used in the work.

6. All work shall be done in accordance with the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

7. All materials shall be of the best quality obtainable and shall conform to the requirements of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

8. All work shall be done in a neat and workmanlike manner and shall be subject to inspection and approval by the Engineer.

9. All dimensions shall be in feet and inches, unless otherwise specified.

10. All materials shall be tested and approved by the Engineer before being used in the work.

11. All work shall be done in accordance with the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

12. All materials shall be of the best quality obtainable and shall conform to the requirements of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

13. All work shall be done in a neat and workmanlike manner and shall be subject to inspection and approval by the Engineer.

14. All dimensions shall be in feet and inches, unless otherwise specified.

15. All materials shall be tested and approved by the Engineer before being used in the work.

16. All work shall be done in accordance with the latest edition of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

17. All materials shall be of the best quality obtainable and shall conform to the requirements of the Standard Specifications for Highway Construction, published by the American Road & Builders Builders' Exchange, Inc.

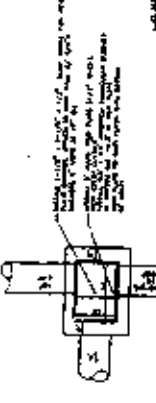
18. All work shall be done in a neat and workmanlike manner and shall be subject to inspection and approval by the Engineer.

19. All dimensions shall be in feet and inches, unless otherwise specified.

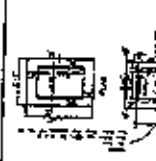
20. All materials shall be tested and approved by the Engineer before being used in the work.



**CONCRETE CURB WITH INLET**  
 SHOWING CURB AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



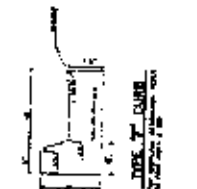
**CATCH BASIN (INLET) COLLAR DETAIL**  
 SHOWING COLLAR AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



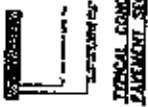
**12" CATCH BASINS (INLETS)**  
 SHOWING BASIN AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



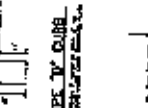
**TYPICAL PAVING SECTION**



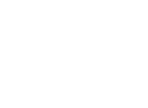
**12" CURB**  
 SHOWING CURB AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



**TYPICAL CONCRETE PAVEMENT SECTION**



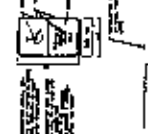
**12" CURB**  
 SHOWING CURB AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



**CONCRETE CURB WITH INLET**  
 SHOWING CURB AND INLET  
 (SEE DRAWING FOR DIMENSIONS)



**9.5" WIDE CURB AND SIDEWALK COMBINATION**  
 SHOWING CURB AND SIDEWALK  
 (SEE DRAWING FOR DIMENSIONS)



**HANDICAP PARKING AND STOPPING DETAIL**  
 SHOWING PARKING SPACE AND STOPPING AREA  
 (SEE DRAWING FOR DIMENSIONS)



**CONCRETE WHEEL STOP**  
 SHOWING WHEEL STOP AND CONCRETE  
 (SEE DRAWING FOR DIMENSIONS)



**CONCRETE CURB DETAIL**  
 SHOWING CURB AND CONCRETE  
 (SEE DRAWING FOR DIMENSIONS)



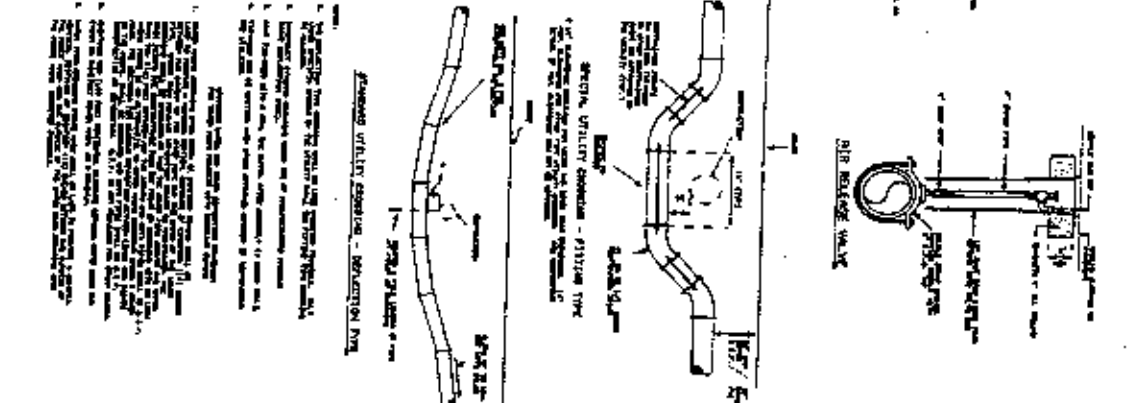
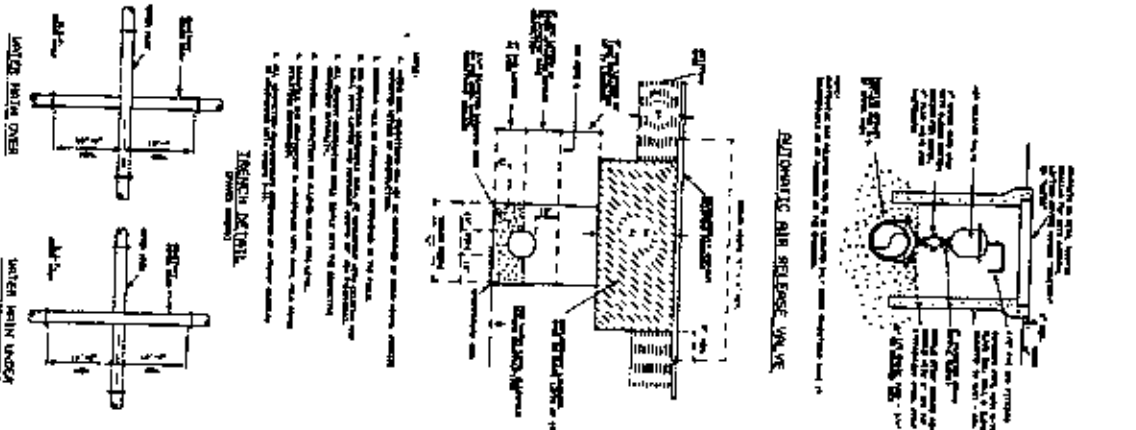
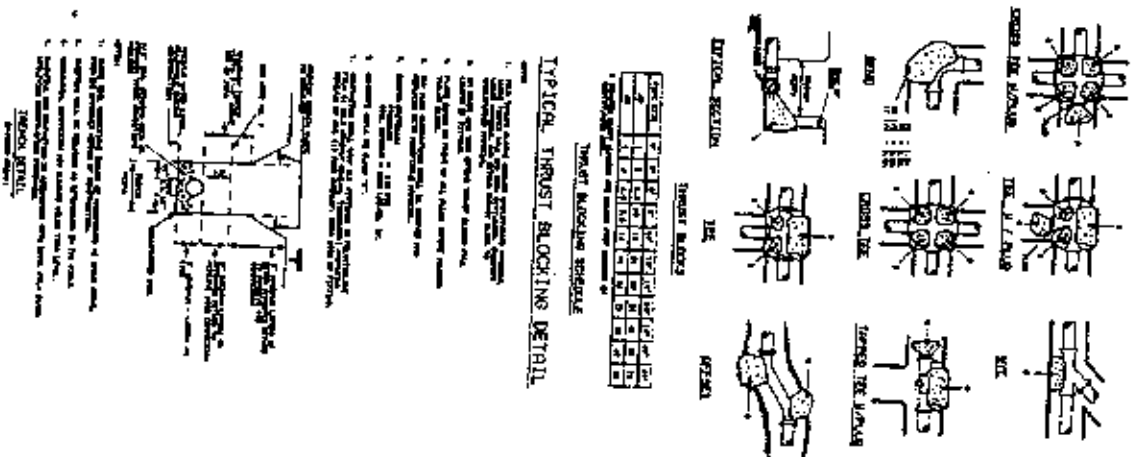
**STANDARD TRENCHING PROCEDURE**  
 SHOWING TRENCHING PROCEDURE  
 (SEE DRAWING FOR DIMENSIONS)



**CURB RAMP DETAIL**  
 N.T.S.  
 SHOWING CURB RAMP DETAIL  
 (SEE DRAWING FOR DIMENSIONS)

NO.	DESCRIPTION	DATE	BY	CHECKED
1	PREPARED BY			
2	CHECKED BY			
3	DATE			
4	SCALE			
5	PROJECT NO.			
6	SHEET NO.			
7	TOTAL SHEETS			
8	PROJECT TITLE			
9	PROJECT LOCATION			
10	PROJECT OWNER			
11	PROJECT ENGINEER			
12	PROJECT ARCHITECT			
13	PROJECT CONTRACTOR			
14	PROJECT SUBCONTRACTOR			
15	PROJECT MATERIALS			
16	PROJECT EQUIPMENT			
17	PROJECT LABOR			
18	PROJECT COST			
19	PROJECT STATUS			
20	PROJECT NOTES			





**NOTES:**

1. The thrust blocking shall be cast in place against the pipe and shall be cast in place against the pipe.
2. The thrust blocking shall be cast in place against the pipe and shall be cast in place against the pipe.
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9. The thrust blocking shall be cast in place against the pipe and shall be cast in place against the pipe.
10. The thrust blocking shall be cast in place against the pipe and shall be cast in place against the pipe.

**THE RED BARN MUPD**  
 STANDARD WATER AND SANITARY ENGINEERING DETAILS AND NOTES  
 SHEET 26 OF 26  
 DWG 93-04

Village of Royal Palm Beach  
 Engineering Department  
 1000 Royal Palm Beach Blvd  
 Royal Palm Beach, FL 33411  
 Phone: (561) 765-5000 Fax: (561) 760-1111

**STANDARD WATER AND SANITARY  
 SEWER - DETAILS AND NOTES**

Revision table and other project information.

NO.	DATE	DESCRIPTION

