Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 14(A)(1)

Date: November 16, 2010

To: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution approving conveyance of an easement to Florida Power and Light Company (FPL) for the construction, operation and maintenance of electric transmission and distribution lines on County-owned property located at approximately 1501 NW 3rd Street (Ballpark Site); and delegating authority to the Mayor to execute additional utility easements within the Ballpark Site as needed for the ballpark, the parking garages and the public infrastructure (Ballpark Project)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution approving the conveyance of an easement to FPL for the construction, operation and maintenance of electric transmission and distribution lines on County-owned property located at approximately 1501 NW 3rd Street (Ballpark Site). This easement is necessary to complete the underground relocation of existing FPL poles, a project that is part of the public infrastructure work for the new Marlins ballpark (Ballpark Project). Additionally, as this project progresses it may be necessary to convey additional FPL and other utility easements necessary to complete the Ballpark Project. As such, it is recommended that the Board authorize the Mayor to execute additional utility easements within the Ballpark Site which are necessary for the construction of the Ballpark Project. This delegated authority is requested solely to avoid potential negative impacts to the Ballpark Project construction schedule.

DEPARTMENT USER: Office of Capital Improvements

TAX FOLIO NUMBER: 01-4102-086-0030 and 01-4102-086-0020

LOCATION: 1501 NW 3rd Street, Miami

COMMISSION DISTRICT: 5

COMMISSION DISTRICT IMPACTED: 5

ZONING: Government and Institutions

BACKGROUND: The Florida Power and Light Company has requested a 10-foot

wide easement running from approximately NW 4th to NW 6th St along NW 14th Ave on the Ballpark Site, as shown in Exhibit "A". The easement is needed as part of an FPL pole relocation project that is part of the public infrastructure work for the new ballpark. The proposed location of the easement is along the eastern boundary of the Ballpark Site and its location has been fully coordinated with all other aspects of ballpark, parking garage, and public infrastructure construction.

MONITOR: Jose A. Galan, Office of Capital Improvements

DELEGATED AUTHORITY: Authorizes the Mayor to execute this easement in substantially the form attached hereto. Additionally, as the Ballpark Project progresses, it may be necessary to convey additional FPL or other utility easements to complete the Ballpark Project. As such, it is recommended that the Board authorize the Mayor to execute other utility easements required on the Ballpark Site which are necessary for the construction of the ballpark, parking garages, or public infrastructure work. This delegated authority is requested solely to avoid potential impacts to the Ballpark Project construction schedule.

FISCAL IMPACT/ FUNDING SOURCE: No fiscal impact to the County. The cost of this work will be funded solely by the City of Miami.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: November 16, 2010

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
11-16-10

RESOLUTION NO. _____

RESOLUTION APPROVING CONVEYANCE OF AN EASEMENT TO FLORIDA POWER AND LIGHT COMPANY FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF ELECTRIC TRANSMISSION AND DISTRIBUTION LINES ON COUNTY-OWNED PROPERTY LOCATED AT 1501 NW 3 STREET; AUTHORIZING COUNTY MAYOR TO EXECUTE SAME AND TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN; AND DELEGATING AUTHORITY TO COUNTY MAYOR TO EXECUTE ADDITIONAL UTILITY EASEMENTS WITHIN THE BALLPARK SITE IF NECESSARY FOR THE TIMELY CONSTRUCTION OF BALLPARK PROJECT AND TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board hereby authorizes the conveyance of an Easement to the Florida Power & Light Company (FPL) on County-owned property located at 1501 N.W. 3 Street (Ballpark Site), in substantially the form attached hereto as Exhibit "A" and made a part hereof subject to the receipt of a fully executed document in substantially the form attached hereto as Exhibit "B", and authorizes the County Mayor to execute said easement on behalf of Miami-Dade County and to exercise any and all other rights conferred therein.

Section 2. This Board delegates to the County Mayor the authority to convey additional utility easements within the Ballpark Site if necessary for the timely construction of the ballpark, the parking garages or the public infrastructure, in substantially the form attached hereto as Exhibit C, and authorizes the County Mayor to execute said utility easements on behalf of Miami-Dade County and to exercise any and all other rights conferred therein, subject to receipt of a fully executed document in substantially the form of Exhibit C-1.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 16th of November, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo

Exhibit A

This instrument prepared by:

Monica Rizo
Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

EASEMENT

The undersigned, Miami-Dade County ("MDC" or "County") in consideration of the payment of $1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, granted and given to Florida Power & Light Company ("FPL" or "Company"), its licensees, agents, successors, and assigns, the non-exclusive right, privilege and easement to be used for the construction, operation and maintenance of electric transmission and distribution lines, with all rights necessary and convenient for the full use thereof, including wires, poles, communication lines and necessary appurtenant equipment, within an easement described and shown as follows:

SEE ATTACHED EXHIBIT "A"

Together with the rights to reconstruct, inspect, alter, improve, add to, enlarge, change the voltage, as well as, the size of and remove or relocate such transmission lines on the County's property, with all rights necessary and convenient for the full enjoyment and use thereof for the above-mentioned purposes, including without limitation, the right of ingress and egress to the property, and to cut and keep clear all trees and undergrowth and other obstructions on the property that may interfere with the proper construction, operation, and maintenance of said electric transmission and distribution lines.

Reserving to the County and its assigns (see Exhibit "B"), however, the right and privilege to use the land described above, except as herein stated or as might interfere with the Company's use thereof, provided that no building or structures, other than fences which do not interfere with the Company's use of said parcel, will be located or constructed by the County on said property, and provided further, that the County shall not excavate any portion of the property without written permission of the Company, which permission shall not be unreasonably withheld by the Company.

This Easement shall be subject to the following restrictions:

1. Prior to the installation of any electric transmission and distribution lines, FPL shall obtain all required regulatory permits including, but not limited to, permission from the Department of Environmental Resources Management (DERM) to install said electric transmission and distribution lines.

2. Other than as expressly set forth herein, nothing in this Easement shall restrict the County's right to utilize said property.

3. FPL shall maintain the subject property in a clean and clear state free of debris, trash and vegetation overgrowth.

FPL agrees to indemnify and save harmless forever, Miami-Dade County, its officers, agents and employees from all claims, actions, judgments, liability, loss, cost and expense, including attorney's fees which may be sustained by the County, its officers, agents and other employees due to, caused by, or arising from FPL's use of said easement granted herein, and agrees to defend against any claims brought or actions filed against the County, its officers, agents, and employees in connection with the use of said easement.

This easement shall be subordinate to the rights of the County and, FPL, by acceptance hereof, does hereby release the right to be reimbursed, either now or in the future for any relocation or adjustment of said electric transmission and distribution lines located on the above described property, or if such relocation or adjustment of said electric transmission and distribution lines is caused by present or future uses of the above described property or by the County.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name by its Mayor acting under Authority of County Resolution No.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

By: _____
Mayor

Approved as to form and
legal sufficiency:

_____
Assistant County Attorney

The foregoing was accepted and approved on the ___ day of_____ , A.D. 2010, by Resolution No. _____of the Board of County Commissioners of Miami-Dade County, Florida.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this_____day of_____, 2010, by _____and_____, as Mayor and Clerk, respectively of Miami-Dade County, a political subdivision of the State of Florida, on behalf of the said county. Each is personally known to me.

_____
Notary Public Signature

_____
Print Name

(Notarial Seal)

My Commission Expires: _____

EXHIBIT "A"

LEGAL DESCRIPTION: Florida Power and Light Company Easement

A 10.0 foot Florida Power and Light Company Easement being The West 10.0 feet of the East 16.0 feet of Tract "C", STADIUM PLAT, according to the plat thereof as recorded in Plat Book 168 at Page 25, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S NOTES:

- This site lies in Section 2, Township 54 South, Range 41 East, City of Miami, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida, unless otherwise noted.
- Bearings hereon are referred to an assumed value of S01°46'29"W for the Monument Line of NW 14th Avenue, said bearing is identical with the plat of record.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.
- Dimensions shown hereon are based on Fortin, Leavy, Skiles, sketch #2009-054.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on September 24, 2010, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

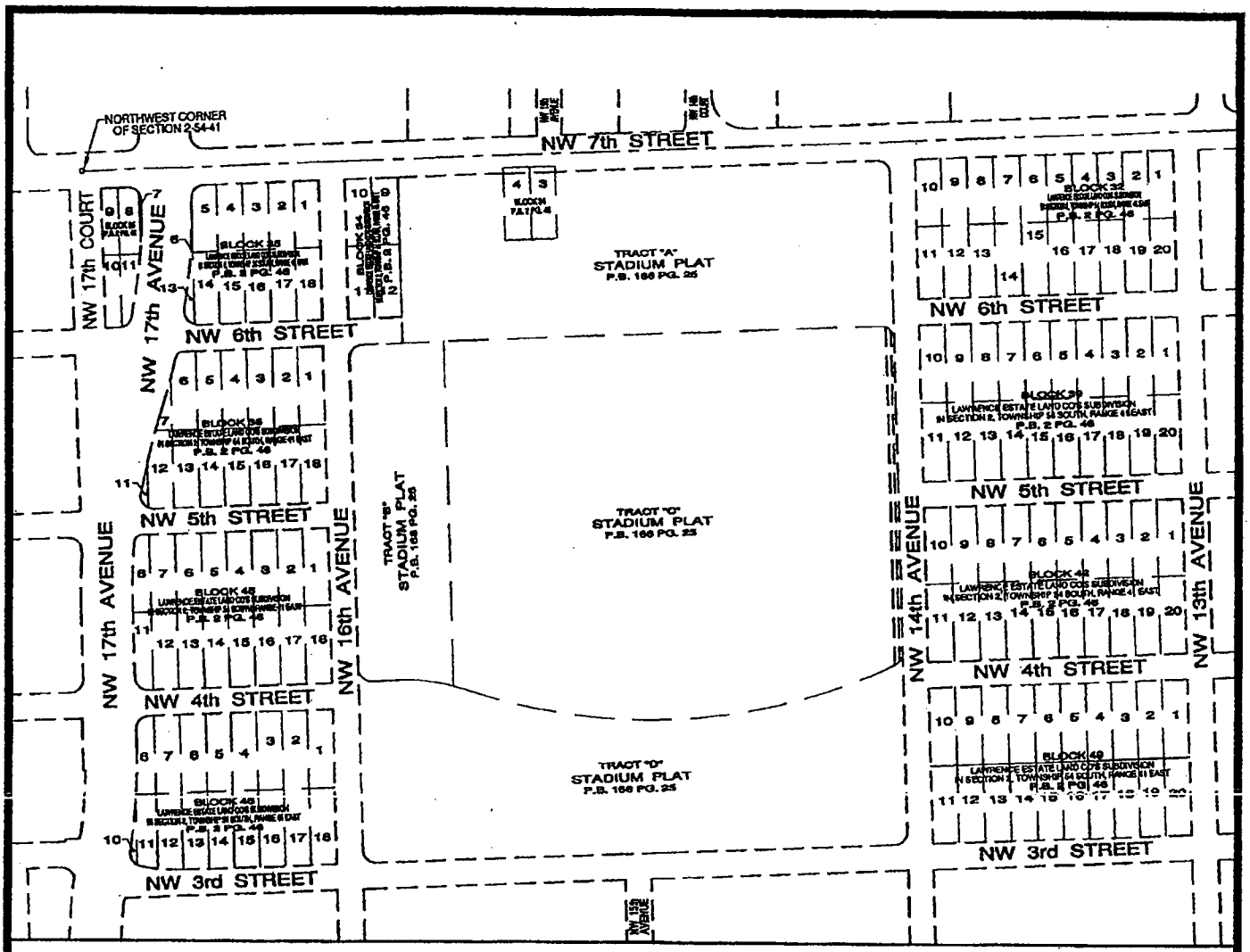
"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By: _____

Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

Drawn By	REP	Legal Description, Surveyor's Notes & Certification	Date	09/24/2010
Cad. No.	100781	FORTIN, LEAVY, SKILES, INC.	Scale	None
Ref. Dwg.	2009-054	CONSULTING ENGINEERS, SURVEYORS & MAPPERS	Job. No.	100781
		FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653	Dwg. No.	1010-060
Plotted:	10/13/2010 4:38 PM	180 Northeast 168th Street / North Miami Beach, Florida 33162	Sheet	1 of 3
		Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com		

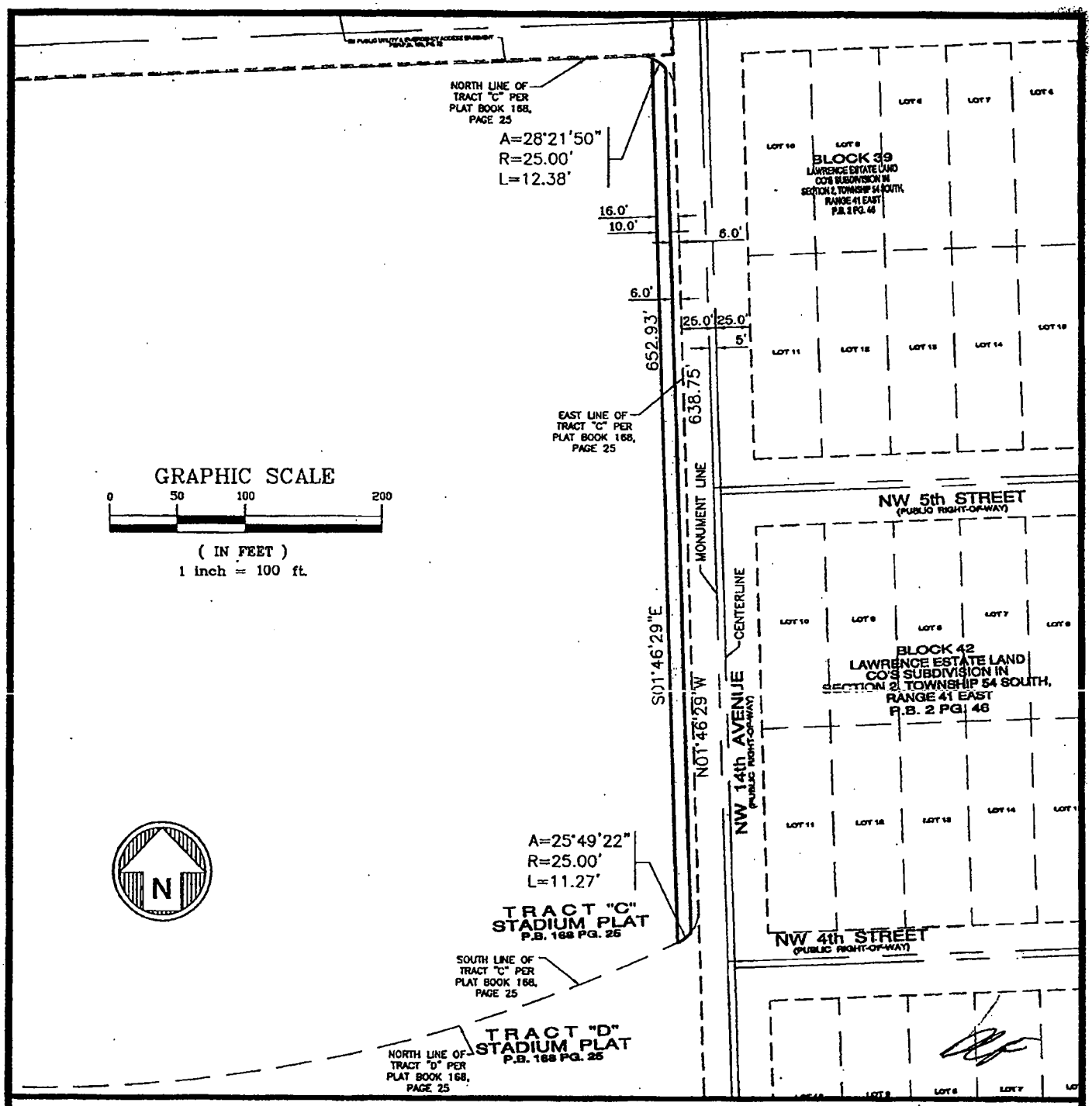


LOCATION MAP

SCALE: 1"=300'

PORTION OF THE NW 1/4 OF
SECTION 2, TOWNSHIP 54 SOUTH, RANGE 41 EAST
CITY OF MIAMI, MIAMI-DADE COUNTY, FLORIDA

Drawn By	REP	Location Map	Date 09/24/2010
Cad. No.	100781	FORTIN, LEAVY, SKILES, INC.	Scale 1" = 300'
Ref. Dwg.	2009-054	CONSULTING ENGINEERS, SURVEYORS & MAPPERS	Job. No. 100781
		FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653	Dwg. No. 1010-060
Plotted:	10/13/2010 4:38 PM	180 Northeast 168th Street / North Miami Beach, Florida 33162	Sheet 2 of 3
		Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com	



Drawn By	REP	SKETCH OF DESCRIPTION	Date 09/24/2010
Cad. No.	100781	FORTIN, LEAVY, SKILES, INC.	Scale 1" = 100'
Ref. Dwg.	2009-054	CONSULTING ENGINEERS, SURVEYORS & MAPPERS	Job. No. 100781
		FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653	Dwg. No. 1010-060
Plotted:	10/13/2010 4:39 PM	180 Northeast 168th Street / North Miami Beach, Florida 33162	Sheet 3 of 3
		Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com	

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Exhibit B

Marlins Stadium Developer, L.L.C, Marlins Stadium Operator, L.L.C, and Florida Marlins, L.P., and its successors and assigns, consent to the accompanying Easement being conveyed by Miami-Dade County on the Baseball Stadium Site and confirm that it is not contrary to the terms and provisions of the Stadium Agreements and waive any rights under the Stadium Agreements to seek claims against Miami-Dade County arising from the conveyance of this easement now or in the future.

MARLINS STADIUM OPERATOR, LLC

By:
Name and Title: David P. Samson, President

MARLINS STADIUM DEVELOPER, LLC

By:
Name and Title: David P. Samson, President

FLORIDA MARLINS, LP

By: Double Play Company, Its General Partner

Name and Title:
David P. Samson, President

Exhibit C

Work Request No. _____
Sec. ___, Twp ____, Rge. ___.
Parcel I.D.
Form 3722 (Stocked) Rev 7/94

EASEMENT

Name: _____
Co. Name: _____
Address: _____
_____

The undersigned, in consideration of the payment of $1.00 and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, grant and give to [Insert Name of Utility Company] , its licensees, agents, successors, and assigns ("Grantee"), an easement forever for the construction, operation, and maintenance of {Insert Description of Work to be Performed and Description of the Size of Easement to be Conveyed] described as follows:

Legal Descriptions and Other Exhibits to be Provided

Together with the right to permit Grantee to [Insert Description of Work]; the right to ingress and egress to said premises at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Easement Area; to trim and cut and keep trimmed and cut all dead, weak , leaning or dangerous trees or limbs outside of the Easement Area which might interfere with or fall upon the [TBD, i.e. (lines or systems of communications or power transmission or distribution0} and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the land heretofore described, over, along, under and across the said Easement Area.

The County and its assigns (see Exhibit "C-1") shall reserve the right and privilege to use the Easement Area in any manner that does not interfere with the rights, use and enjoyment granted hereunder to Grantee.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Mayor

Approved for legal sufficiency. _____

The foregoing was authorized and approved by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida, on the ___ day of _____, 2009

Exhibit C-1

Marlins Stadium Developer, L.L.C, Marlins Stadium Operator, L.L.C, and Florida Marlins, L.P., and its successors and assigns, consent to the accompanying Easement being conveyed by Miami-Dade County on the Baseball Stadium Site and confirm that it is not contrary to the terms and provisions of the Stadium Agreements and waive any rights under the Stadium Agreements to seek claims against Miami-Dade County arising from the conveyance of this easement now or in the future. .

MARLINS STADIUM OPERATOR, LLC

By: _____
Name and Title: David P. Samson, President

MARLINS STADIUM DEVELOPER, LLC

By: _____
Name and Title: David P. Samson, President

FLORIDA MARLINS, LP

By: Double Play Company, Its General Partner

Name and Title: _____
David P. Samson, President