MEMORANDUM

Agenda Item No. 8(N)(1)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution authorizing the acceptance of a Perpetual Easement from the Florida Department of Transportation for the Miami-Dade County Department of Transportation and Public Works to exercise the continued operation and maintenance of the existing Brickell Loop Metromover System, along SE 1 Avenue between SE 5 Street and SE 6 Street, Miami, Florida; and authorizing the County Mayor to exercise any and all rights conferred therein

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

Abigail Price-Williams
County Attorney

APW/smm

Memorandum

MIAMI-DADE COUNTY

Date: July 6, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Acceptance of a Perpetual Easement from the Florida Department of Transportation for the Miami-Dade County Department of Transportation and Public Works to Exercise the Continued Operation and Maintenance of the Existing Brickell Loop Metromover System along SE 1 Avenue between SE 5 Street and SE 6 Street, Miami, Florida; and Authorizing the County Mayor or the County Mayor's Designee to Exercise Any and All Rights Conferred Therein

---

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution for the acceptance of a perpetual easement from the Florida Department of Transportation (FDOT) for the Miami-Dade County Department of Transportation and Public Works (DTPW) to exercise the continued operation and maintenance of the existing Brickell Loop Metromover System along FDOT owned SE 1 Avenue between SE 5 Street and SE 6 Street, Miami, Florida; and authorizing the County Mayor or the County Mayor's Designee to exercise any and all rights conferred therein.

SCOPE

The easement is located within Commissioner Bruno A. Barreiro's District 5.

FISCAL IMPACT

There is no fiscal impact to the County with the conveyance of this easement.

TRACK RECORD/MONITOR

It is customary for FDOT, or the County, to convey or donate easements for public necessities. The person responsible for monitoring this easement is Froilan I. Baez, Chief, DTPW's Right of Way, Utilities and Joint Development Division.

BACKGROUND

In 1980, FDOT acquired a parcel of land for a project along South Miami Avenue, as scoped in its Financial Project ID No. 251039-1-52-01. The parcel was to provide vehicular and pedestrian connection between SE 5 Street and SE 6 Street. Prior to the construction of the Brickell Loop Metromover System the County constructed a two (2) lane road upon said parcel for access needed to the local neighborhood. The City of Miami (City) has been maintaining this roadway since 1988 without any formal transfer of ownership. As such, FDOT desires to transfer SE 1 Avenue between SE 5 Street and SE 6 Street to the City since this road is not part of its State Road Highway System.

As part of this transfer DTPW requests an easement be granted to the County for the purpose of operating and maintaining the existing Brickell Loop Metromover System. FDOT previously conveyed to the County easements for roadway crossings along the same Metromover path at SE 7 Street, SE 8 Street, and SE 13 Street pursuant to Resolution R-1338-90. Unfortunately, SE 1 Avenue between SE 5 and SE 6 Streets was unidentified as a state road crossing and was, therefore, not included in the resolution.

The easement described in Exhibit "A" is required before the conveyance of the roadway to the City as referenced in the Perpetual Easement attached to the resolution.

Alina T. Hudak
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(N)(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**

_____ **Statement of social equity required**

_____ **Ordinance creating a new board requires detailed County Mayor'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**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(1)
7-6-16

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PERPETUAL EASEMENT FROM THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION FOR THE MIAMI-DADE COUNTY DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS TO EXERCISE THE CONTINUED OPERATION AND MAINTAINANCE OF THE EXISTING BRICKELL LOOP METROMOVER SYSTEM, IN, ON AND OVER SE 1ST AVENUE BETWEEN SE 5TH STREET AND SE 6TH STREET, MIAMI, FLORIDA; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN

WHEREAS, as part of the South Miami Avenue bridge reconstruction project, Miami-Dade County (County) constructed a two (2) lane roadway upon property acquired by State of Florida, Department of Transportation (FDOT) to provide the connect needed to access the local neighborhood (Brickell Area); and

WHEREAS, the City of Miami (City) has been maintaining the roadway since 1988 although title to the road remained in FDOT's name; and

WHEREAS, FDOT desires to formally transfer the roadway, SE 1St Avenue, between SE 5th Street and SE 6th Street to the City; and

WHEREAS, it is in the best interest of the County to approve this Resolution and accept the conveyance of the Perpetual Easement prior to the roadway transfer to the City; and

WHEREAS, this Easement is for the continued operation and maintenance of the Brickell Loop Metromover System; and

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 incorporates the foregoing recitals as if fully set forth herein.

Section 2. This Board authorizes the approval and acceptance of a Perpetual Easement from FDOT to the County for public purpose in substantially the form attached hereto and made a part hereof.

Section 3. This Board further authorizes the Mayor or the Mayor's Designee, to execute said Easement on behalf of the County, to take all actions necessary to effectuate same, and to exercise all provisions therein.

Section 4. Pursuant to Resolution 974-09, records the Easement conveyance instrument accepted herein in the Public Records of Miami-Dade County, Florida and to provides a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument, and directs the Clerk of the Board to attach and permanently store the recorded copy together with this Resolution:

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:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of July, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

Bruce Libhaber

This instrument prepared by,
or under the direction of,
Alicia Trujillo, Esq._____
District Chief Counsel
Florida Department of Transportation
1000 NW 111th Avenue
Miami, Florida 33172

Item/Seg No.:	2510391
Sec/Job No.	87513-2646
FAP No.:	6181-003-U
SR No.:	N/A
County:	Miami-Dade
Parcel No.:	5671

PERPETUAL EASEMENT
(Public Purpose)

THIS EASEMENT made this _____ day of _____, 2016, by the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, Grantor, to MIAMI-DADE COUNTY, a political subdivision of the State of Florida, Grantee.

WITNESSETH: That the Grantor for and in consideration of the sum of One Dollar and other valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants unto the Grantee, its successors and assigns, an Easement for transportation use for the purpose of operating and maintaining an elevated Metromover Bridge and the supporting Underground Foundation Piers/Columns related thereto (the "Facility") over the following described land (the "Easement Area") in Miami-Dade County, Florida:

See Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said premises unto the Grantee, subject, however, to the following conditions:

THAT this easement is solely for the purpose of operating and maintaining the existing elevated Metromover Bridge and the supporting underground foundation piers/columns and no other uses of the Easement Area are permitted. Grantor reserves the right to use the Easement Area so long as such use does not interfere with the rights and uses of Grantee hereunder.

THAT in the event said transportation use is permanently discontinued or abandoned, Grantee's easement shall terminate, and title to the Easement Areas shall immediately revert to the Grantor, its successor(s) or assign(s) and Grantor, its successor(s) or assign(s) shall have the right to immediately possess same. In the event Grantee's Easement terminates and Grantor, its successor(s) or assign(s) deems it necessary to request the removal of the Facility occupying the Easement Area, Grantee shall remove the Facility and restore the Easement Areas to a like or similar condition as existed prior to this Easement, at its sole cost and expense.

Item/Seg No.:	2510391
Sec/Job No.	87513-2646
FAP No.:	6181-003-U
SR No.:	N/A
County:	Miami-Dade
Parcel No.:	5671

THAT Grantee shall not obstruct the right-of-way located immediately underneath the Easement Area, except as may be required temporarily from time to time to effect the construction, inspections, maintenance, repairs, improvements and replacement of the Facility.

Any such work is subject to formal approval by Grantor and the issuance of a permit(s) if so required by Grantor. Grantee shall promptly repair any damage to the Grantor's right-of-way, resulting from Grantee's exercising its rights hereunder.

To the extent provided by law, Grantee shall indemnify, defend and hold harmless Grantor against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Grantee, or any of its officers, agents or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Grantee hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Grantee to indemnify Grantor for the negligent acts or omissions of Grantor, its officers, agents or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Grantee to be sued by third parties in any manner arising out of this agreement.

In the event of any construction, Grantee shall require its construction contractor(s) to maintain Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Construction Contract and Grantor shall be added as Certificate Holder and additional insured under the Contractor(s)' insurance policy, a copy of which certificate shall be provided to Grantor.

THAT this Easement is subject to all applicable permit requirements and any other required agreements or approvals, and concurrences.

THAT the provisions of this Easement may be enforced by all appropriate actions at law and in equity by the respective parties.

THAT Grantor makes no representations as to the title or condition of the property within the Easement Areas or the suitability of the Easement Areas for the use intended hereunder.

Item/Seg No.:	2510391
Sec/Job No.	87513-2646
FAP No.:	6181-003-U
SR No.:	N/A
County:	Miami-Dade
Parcel No.:	5671

THAT this Easement is accepted and approved by the Grantee pursuant to Resolution No. _____ passed by the Miami-Dade Board of County Commissioners, a copy of which is attached hereto and forms part hereof;

The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successor(s) and assign(s).

This instrument may be amended or modified only by written instrument, executed and acknowledged by the parties hereto or their successors and assigns, and recorded in the Public Records of Miami-Dade County.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

Item/Seg No.:	2510391
Sec/Job No.	87513-2646
FAP No.:	6181-003-U
SR No.:	N/A
County:	Miami-Dade
Parcel No.:	5671

IN WITNESS WHEREOF, the said grantor has caused these presents to be executed in its name by its proper officers thereunto duly authorized, the day and year first above written.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
James Wolfe, P.E.
District Secretary

Witness: _____

_____
Name/Title

Attest: _____
Executive Secretary

Witness: _____

Affix Department Seal

_____
Name/Title

LEGAL REVIEW:

_____
Alicia Trujillo, Esq.
District Chief Counsel

State of Florida)
County of Miami-Dade)

The foregoing instrument was acknowledged before me this _____day of _____, 2016, by James Wolfe, P.E., District Secretary for District Six, FDOT, who is personally known to me, or has produced _____as identification.

_____
Notary Public in and for the County and State as mentioned above.

(Affix Notary Seal)

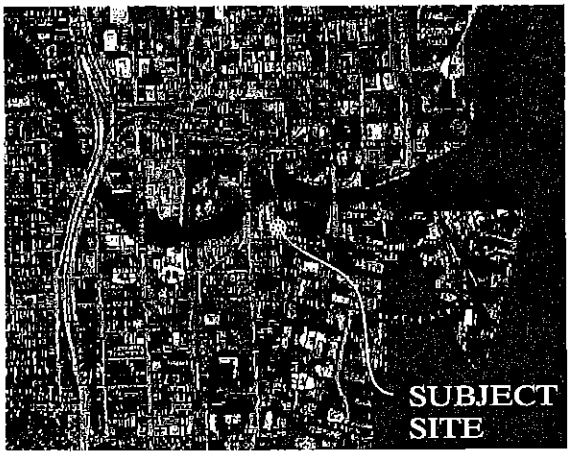
My Commission Expires: _____

EXHIBIT "A"

EASEMENT
SKETCH AND DESCRIPTION

Notes

1. This is not a boundary survey, but only a Legal Description and Sketch.
2. This survey is not valid without the signature and the original raised seal of the attesting registered Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party or parties are prohibited without written consent of the signing party or parties.
3. No Title Opinion or Abstract to the subject property has been provided; it is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made by the Surveyor.
4. Bearings shown hereon are referenced to the west boundary line of Lot8, Block 108S of said PATTERSON AND OLIVE SUBDIVISION, having an assumed bearing of S 2° 12' 45" E, and is the Basis of Bearing.
5. Field work date: 11/12/2014
6. Legend: POB = Point of begining, POC = Point of commencement, PB = Plat Book, PG = Page, ℄ = Center Line, SEC = Section, TWP = Township, RGE = Range, (R) = Record, (C) = Calculated.



LOCATION MAP
A PORTION OF MIAMI-DADE COUNTY, FLORIDA
(NOT TO SCALE)

Certification

I hereby certify to Miami-Dade Transit that this Sketch and Description is true and correct to the best of my knowledge and belief as prepared under my direction. I also certify that the methods and procedures used in connection therewith meet the intent of the applicable provisions of the "Minimum Technical Standards for Land Survey in the State of Florida", pursuant to Chapter 472.027, Florida Statutes and in Chapter 5J-17.050 through 5J-17.052 of the Florida Administration Code.

2016-01-26

John A. Cestnick, PSM
Florida Registration No. 5994
Woolpert, Inc., LB No. 6777
Woolpert Project # 074948

SEAL

REVISIONS

2015.12.22 Labeled lot 7 & 11, and added plat street names

2016.01.21 Added FDOT project information

SHEET NO. 1 OF 3

WOOLPERT
DESIGN | GEOSPATIAL | INFRASTRUCTURE

WOOLPERT, INC. LB No.6777
10900 NW 25th Street, Suite 100
Miami, Florida 33172
Phone: 305.418.9370
Fax: 305.418.9377

Florida Department of Transportation, District VI
Item/Seg. No.: 2510391
Sect/Job No.: 87513-2646
FAP No.: 6181-003-U
SR No.: N/A (S.E. 1st Ave. - Not a State Road)
County: Miami-Dade
Parcel No.:5671

EXHIBIT "A"

EASEMENT
SKETCH AND DESCRIPTION

Aerial Easement
All that airspace above elevation 54.00 feet according to the National Geodetic Vertical Datum of 1929 (NGVD29) as established by the United States National Geodetic Survey, and which is encompassed within the following horizontal limits.

A portion of Lot 8, in Block 108S, of PATTERSON AND OLIVE SUBDIVISION, according to the Plat thereof as recorded in Plat Book "B", at Page 77, of the Public Records of Miami-Dade County, Florida, and being more particularly described as follows:

The West 25.00 feet of Lot 8 as measured perpendicular to the West Line of Lot 8 and defined by a line 25.00 feet east of and parallel to the West Line of Lot 8, in Block 108S, of said PATTERSON AND OLIVE SUBDIVISION.

All lying within Section 1, Township 54 South, Range 41 East, Miami-Dade County, Florida. Containing 3125 square feet more or less.

Together with:
Easement for Miami-Dade Transit Metromover column support (BK-59-NS)

A portion of Lot 8, in Block 108S, of PATTERSON AND OLIVE SUBDIVISION, according to the Plat thereof as recorded in Plat Book "B", at Page 77, of the Public Records of Miami-Dade County, Florida, and being more particularly described as follows:

COMMENCE at the Southwest corner of said Lot 8; thence run N 2° 12' 45" W along the West Line of said Lot 8, for 10.77 feet; thence run N 87° 47' 15" E perpendicular to the West Line of Lot 8, for 2.92 feet to the POINT OF BEGINNING. Thence run in the same direction, perpendicular to the West Line of Lot 8, N 87° 47' 15" E, for 9.41 feet; thence run N 2° 12' 45" W, perpendicular to the preceding course, for 6.71 feet; thence run S 87° 47' 15" W, perpendicular to the preceding course, for 9.41 feet; thence run S 2° 12' 45" E, perpendicular to the preceding course, for 6.71 feet to the POINT OF BEGINNING.

All lying within Section 1, Township 54 South, Range 41 East, Miami-Dade County, Florida. Containing 63 square feet more or less.

Together with:
Easement for Miami-Dade Transit Metromover column support (BK-60-NS)

A portion of Lot 8, in Block 108S, of PATTERSON AND OLIVE SUBDIVISION, according to the Plat thereof as recorded in Plat Book "B", at Page 77, of the Public Records of Miami-Dade County, Florida, and being more particularly described as follows:

COMMENCE at the Northwest corner of said Lot 8; thence run S 2° 12' 45" E along the West Line of said Lot 8, for 16.03 feet; thence run N 87° 47' 15" E, perpendicular to the West Line of Lot 8, for 2.68 feet to the POINT OF BEGINNING. Thence run in the same direction, perpendicular to the West Line of Lot 8, N 87° 47' 15" E, for 9.41 feet; thence run N 2° 12' 45" W, perpendicular to the preceding course, for 6.71 feet; thence run S 87° 47' 15" W, perpendicular to the preceding course, for 9.41 feet; thence run S 2° 12' 45" E, perpendicular to the preceding course, for 6.71 feet to the POINT OF BEGINNING.

All lying within Section 1, Township 54 South, Range 41 East, Miami-Dade County, Florida. Containing 63 square feet more or less.

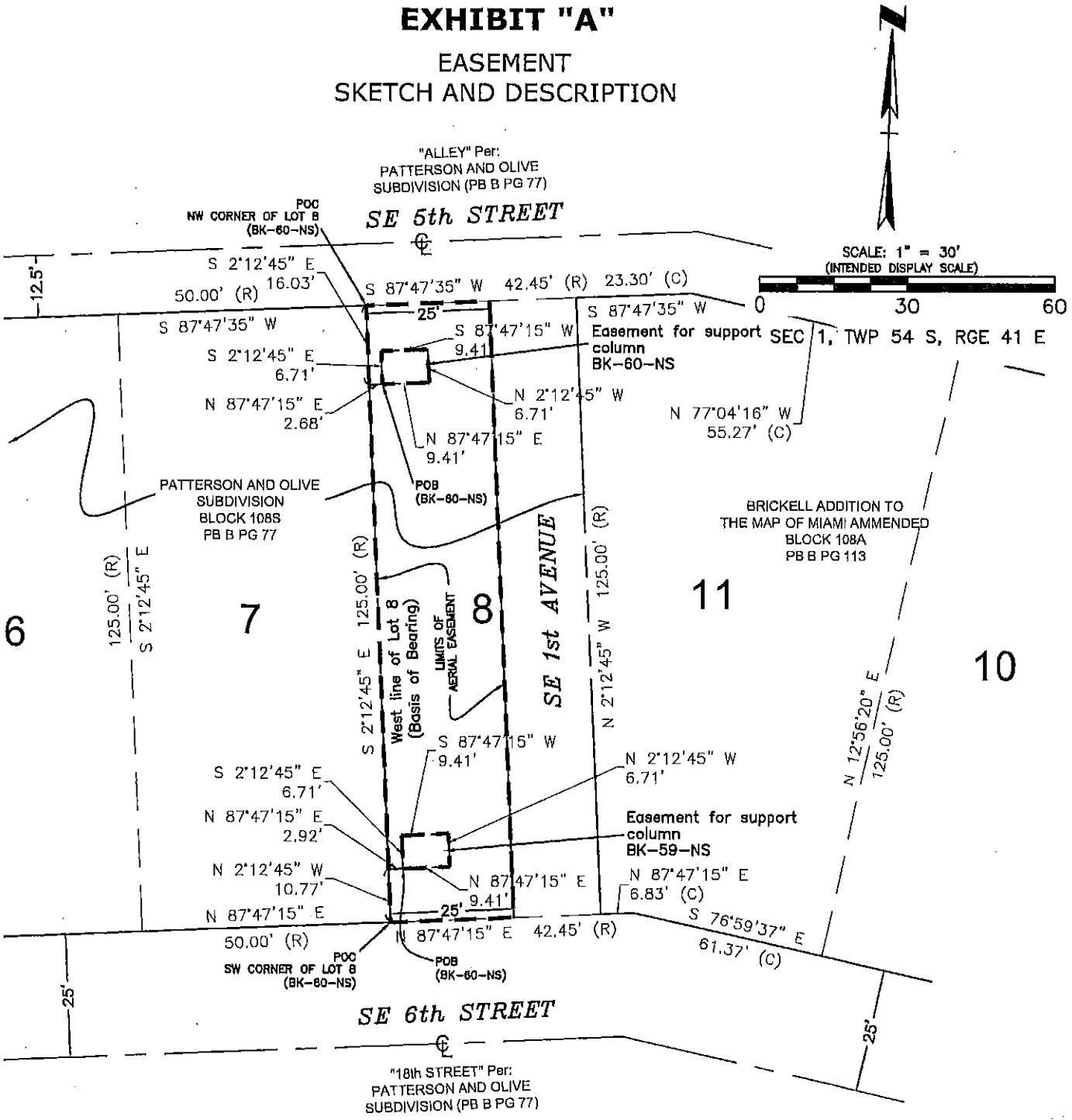
THIS IS NOT A SURVEY

WOOLPERT
DESIGN | GEOSPATIAL | INFRASTRUCTURE
WOOLPERT, INC. LB No.6777
10900 NW 25th Street, Suite 100
Miami, Florida 33172
Phone: 305.418.9370
Fax: 305.418.9377

Florida Department of Transportation, District VI
Item/Seg. No.: 2510391
Sect/Job No.: 87513-2646
FAP No.: 6181-003-U
SR No.: N/A (S.E. 1st Ave. - Not a State Road)
County: Miami-Dade
Parcel No.:5671

EXHIBIT "A"

EASEMENT
SKETCH AND DESCRIPTION



THIS IS NOT A SURVEY

SHEET NO. 3 OF 3

WOOLPERT
DESIGN | GEOSPATIAL | INFRASTRUCTURE

WOOLPERT, INC. LB No.6777
10900 NW 25th Street, Suite 100
Miami, Florida 33172
Phone: 305.418.9370
Fax: 305.418.9377

Florida Department of Transportation, District VI
Item/Seg. No.: 2510391
Sect/Job No.: 87513-2646
FAP No.: 6181-003-U
SR No.: N/A (S.E. 1st Ave. - Not a State Road)
County: Miami-Dade
Parcel No.:5671