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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 15, 2010

Agenda Item No. 14(A)(23)

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

From: George M. Burgess
County Manager

Resolution No. R-691-10

Subject: Resolution Authorizing Execution of an Aircraft Noise Monitoring Equipment License Agreement with the City of Miami

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RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing the Mayor or Designee to execute an Aircraft Noise Monitoring Equipment License Agreement ("License Agreement") between Miami-Dade County and the City of Miami for the installation, operation, and maintenance of certain aircraft noise monitoring equipment on City of Miami property.

SCOPE

Miami International Airport (MIA) is located within Commission District Six, Rebeca Sosa; however, the impact of this agenda item is countywide as MIA is a regional asset and generates employment for residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

The term of the License Agreement with the City of Miami is for a five (5) year term, with zero ($0) rental cost to Miami-Dade County for use of the locations. The operating and maintenance cost to the Aviation Department for the term of the agreement (5 years) for all five sites is $55,925.00. The funding source for this equipment is Aviation operating funds.

TRACK RECORD/ MONITOR

This agreement will be monitored by Mr. Jeffrey A Bunting, Division Director of General Aviation Airports, Facilities Maintenance and Aircraft Noise and Environmental Planning.

BACKGROUND

In response to community concerns over aircraft noise and aircraft operations at Miami International Airport (MIA), the Miami-Dade Aviation Department is proposing and would like to continue to install, operate and maintain permanent aircraft noise monitors (microphones) in the environ communities of MIA. The purpose of these monitors is to determine existing noise levels and to continuously monitor the area to ensure that cumulative noise levels do not rise. These monitors are part of MIA's Aircraft Noise and Operations Monitoring System (ANOMS) which utilizes both radar and the noise monitors to track aircrafts throughout the County.

After careful analysis, the Aviation Department has identified five City-owned sites as good candidates for permanent noise monitors. The City of Miami has agreed that the monitors are worthwhile and has granted the County the right to install, operate and maintain at the County's sole expense the equipment at the selected locations, with no rental cost to the County for use of the locations.

The Aviation Department also operates similar noise monitoring equipment in four additional locations within the City of Miami, but on County-owned property. In order to facilitate the installation, operation and maintenance of these monitors on City-owned property, specifically, at Kinloch Park, Bryan Park,

Dawkins Park, Alice Wainwright Park and Morningside Bayfront Park, the City of Miami has prepared the attached License Agreement.

The term of this agreement is for five years; however, MDAD may request additional monitoring if required. Such additional monitoring must be requested by MDAD at least ninety days prior to the termination date. The City Manager has the authority to extend the agreement an additional five years.

The equipment shall be installed, operated, maintained and removed at the sole cost of the County, with the City having no responsibility for any damage caused by the installation, operation, maintenance or removal of the equipment. The County further acknowledges that as lawful consideration for being granted the right to utilize and occupy the locations, the County will release the City from any legal liability resulting from the use of the locations.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the License Agreement and to exercise the renewal provisions.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: June 15, 2010

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

SUBJECT: Agenda Item No. 14(A)(23)
Resolution No. R-691-10

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(23)
6-15-10

RESOLUTION NO. R-691-10

RESOLUTION AUTHORIZING EXECUTION OF AN AIRCRAFT NOISE MONITORING EQUIPMENT LICENSE AGREEMENT WITH THE CITY OF MIAMI

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 that this Board hereby approves an Aircraft Noise Monitoring Equipment License Agreement between Miami-Dade County and the City of Miami, relating to the installation, operation, and maintenance of certain noise monitoring equipment designed for specific purpose of detecting and measuring noise levels on the ground generated by aircraft in the vicinity of Miami International Airport, and authorizes the Mayor or designee to execute the agreement between Miami-Dade County and the City of Miami in substantially the form attached hereto and to exercise any termination or cancellation provisions contained therein.

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

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Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of June, 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

AIRCRAFT NOISE MONITORING EQUIPMENT LICENSE AGREEMENT

THIS LICENSE AGREEMENT, is made and entered into as of this _____ day of _____, 2009, between the Miami-Dade Aviation Department, an administrative agency of Miami-Dade County, a political subdivision of the State of Florida, (the "MDAD"), and the City of Miami, a municipal corporation of the State of Florida, (the "CITY");

WHEREAS, the citizens of Miami-Dade County desire to have a means to monitor the amount of aircraft noise being generated from operations from Miami International Airport ("MIA"); and

WHEREAS, the parties desire to cooperate and work together to reduce off-airport noise impacts; and

WHEREAS, on July 14, 1998, the City Commission passed and adopted Resolution No. 98-755, authorizing the City Manager to enter into an agreement with MDAD for the purpose of installing, operating and maintaining certain noise monitoring equipment to be located in five City owned parks.

NOW THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto agree as follows:

1. In consideration of the benefit to be derived by the citizens of Miami-Dade County from the reduction of aircraft noise, the CITY hereby grants to MDAD the right to install, operate and maintain certain noise monitoring equipment designed for the specific purpose of detecting and measuring noise levels on the ground generated by aircraft in the vicinity of MIA (the "Equipment").

2. The Equipment shall be installed at the locations described in Exhibits "A", "B", "C", "D", and "E", attached hereto and made a part hereof (hereinafter referred to as the "Locations"). Upon the CITY"S requests, which request shall not be unreasonably denied, MDAD shall install the Equipment at additional Locations selected by the CITY.

3. The Equipment is to be installed, operated, maintained and removed at the sole cost of MDAD, with the CITY having no responsibility of any nature whatsoever for damage to the said Equipment or to any damage caused by the installation, operation maintenance or removal of the Equipment. MDAD will secure the Equipment at all Locations by installing a six foot chain link fence surrounding all the Equipment at each of the sites. If the CITY deems it is required, MDAD at its sole cost shall make all necessary repairs to the Locations caused by MDAD'S use thereof. Should MDAD fail to repair any damage caused to the Location within (10) days after receipt of written notice from CITY directing the required repairs, CITY shall have the right, but not the obligation, to cause the Location to be repaired at the sole cost and expense of MDAD. MDAD shall pay CITY the full cost of such repairs within ten (10) days of receipt of an invoice indicating the cost of such required repairs.

4. The CITY hereby grants to MDAD the right of ingress and egress over the Locations necessary or convenient for the installation, operation and maintenance of the Equipment.

5. The License Agreement shall become effective as of the date first written above, and shall extend for a term of five years. The City Manager is hereby authorized to renew the term of this License for one additional five year period, if additional monitoring is required to benefit the residents of the area, upon request of MDAD, submitted in writing at least ninety days prior to the termination date.

6. Both parties agree that in the process of installing and maintaining the monitoring Equipment, MDAD may be required to trim bushes or trees to prevent damage to the Equipment. Every

effort shall be made by MDAD to minimize trimming. MDAD must receive written approval from the Director of the CITY'S Parks and Recreation Department prior to trimming of any bushes or trees at the Locations. Such approval will not be unreasonably withheld by the CITY.

7. Subject to the Provisions of and within the limitations set forth in F.S. 768.28, the MDAD shall indemnify, held harmless and defend the CITY from and against any and all claims, suits, actions, damages or causes of action whatever nature arising during MDAD'S use and occupancy of the Locations, for any personal injury, loss of life or damage to personal and/or real property sustained in or on the Locations, by reason of or as a result of MDAD'S use or operations thereon, and from and against any orders, judgments or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in an about the defense of any such claims and the investigation thereof.

MDAD further acknowledges that a lawful consideration for being granted the right to utilize and occupy the Locations, MDAD, on behalf of its employees, agents, invitees or officials, due hereby release from any legal liability the CITY, its officers, agents and employees, from any and all claims for injury death or property damage resulting from MDAD'S use of the Locations.

8. All notices or other communications which may be given pursuant to the License shall be in writing and shall be deemed properly served if delivered by personal service or by certified mail addressed to the CITY and MDAD at the address indicated herein or as the same may be changed from time to time of for purposes of terminating or canceling the License the CITY may serve notice by posting at the Locations. Such notice shall be deemed given on the day on which personally served, or if by certified mail, on the fifth day after being posted or the date of actual receipt or if by posting, on the day it is posted at the Locations, whichever is earlier:

CITY OF MIAMI:

City of Miami
City Manager
3500 Pan American Drive
Miami, FL 33133

MDAD:

Miami-Dade Aviation Department
Aircraft Noise & Environmental Planning Division
5600 NW 36th Street, Suite 533
Miami, Fl 33166

COPY TO:

City of Miami
Office of Asset Management
444 SW 2nd Avenue
Suite 325
Miami, FL 33130

9. MDAD accepts this License and hereby acknowledges that MDAD'S strict compliance with all applicable federal, state and local laws, ordinances and regulations is a condition of this License, and MDAD shall comply therewith as the same presently exist and as they may be amended hereafter.

10. IF MDAD in any manner violates the restrictions and conditions of this License Agreement, then, and in the event, after ten (10) days written notice given to MDAD by the City Manger within which to cease such violations or correct such deficiencies, and upon failure of MDAD to do so after such written notice within said ten (10) day period, this License shall be automatically canceled as to the Location(S) in which the violation occurred without the need for further action by the CITY.

11. Notwithstanding the provisions of Paragraph 10 above, if the CITY deems this License is no longer in the best interest of the CITY this Agreement may be canceled in its entirely of the CITY may require removal or relocation of the monitoring equipment from a specific Location, upon thirty (30) days written notice to MDAD.

IN WITNESS WEREOF, each of the parties to this License Agreement has caused the same to be executed the day and year first above written.

ATTEST:

CITY OF MIAMI, a municipal corporation of the State of Florida

City Clerk

City Manager

APPROVED AS TO FORM

APPROVED AS TO INSURANCE REQUIRE

City Attorney

Risk Management Administrator

ATTEST:

HARVEY RUVIN, CLERK

By:

MIAMI-DADE COUNTY, a political Subdivision of the State of Florida

George Burgess
County Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Assistant County Attorney

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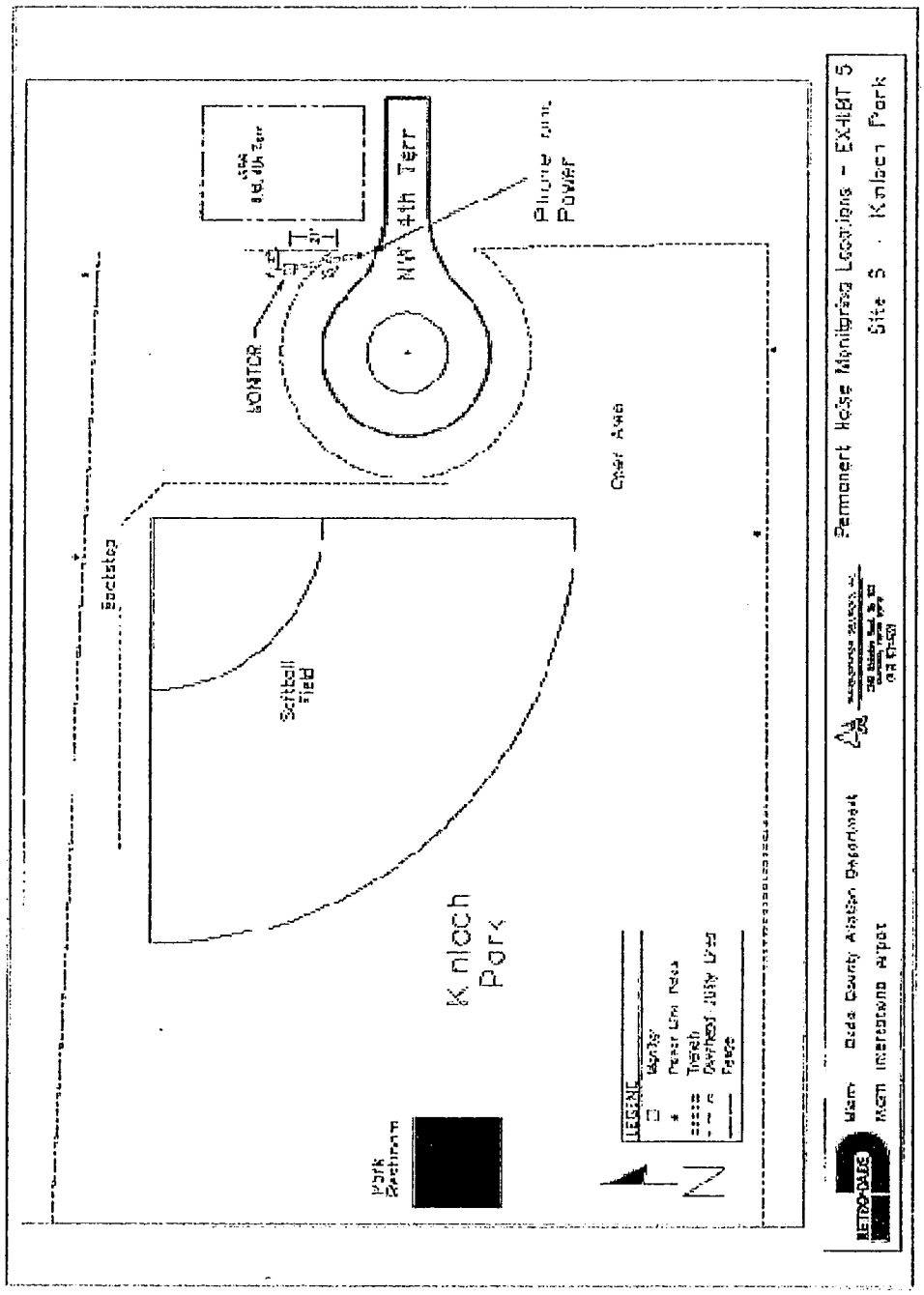
MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Exhibit A

KINLOCH PARK

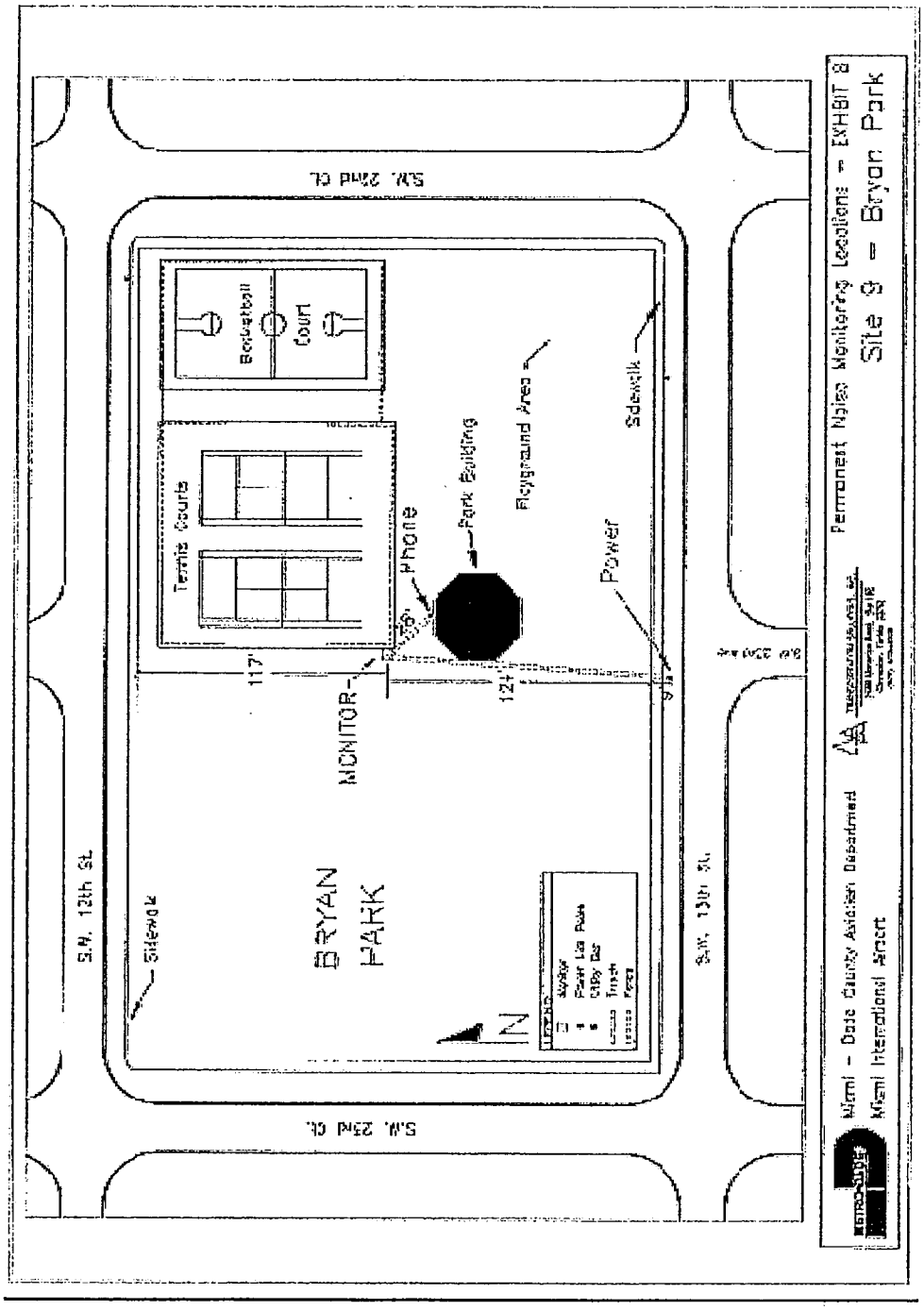


MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Exhibit B

BRYAN PARK

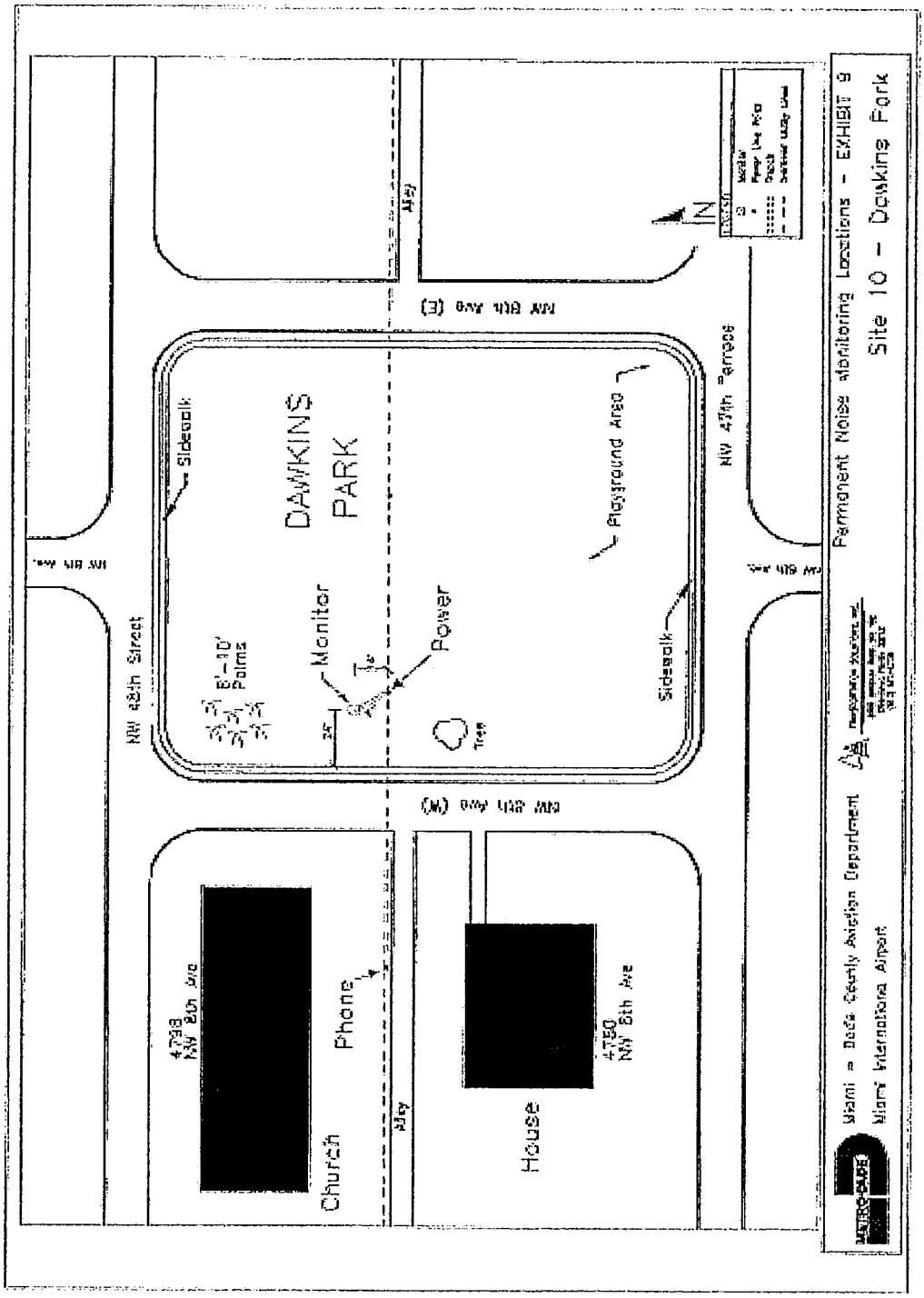


MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Exhibit C

Dawkins Park

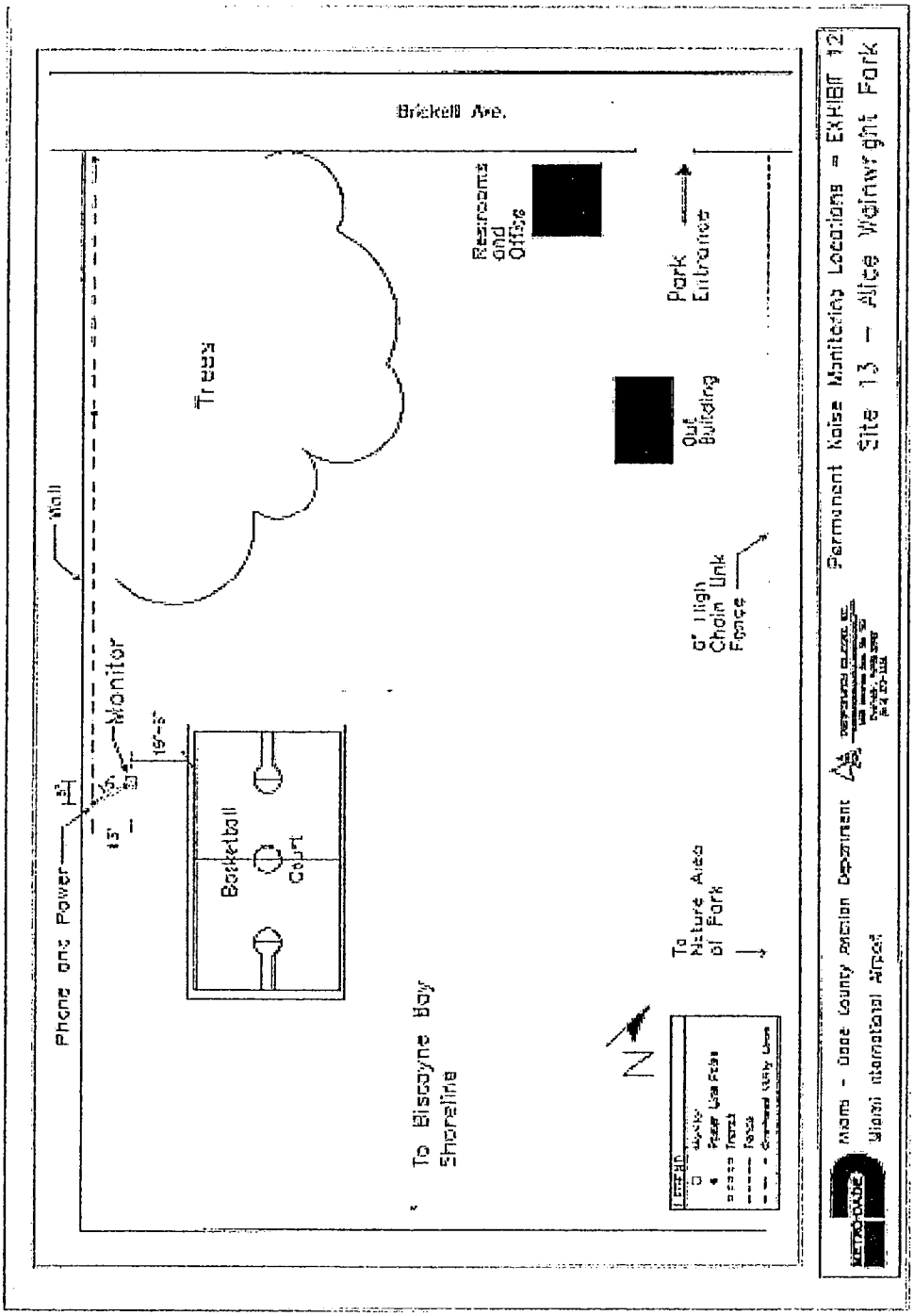


MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Exhibit D

WAINWRIGHT PARK

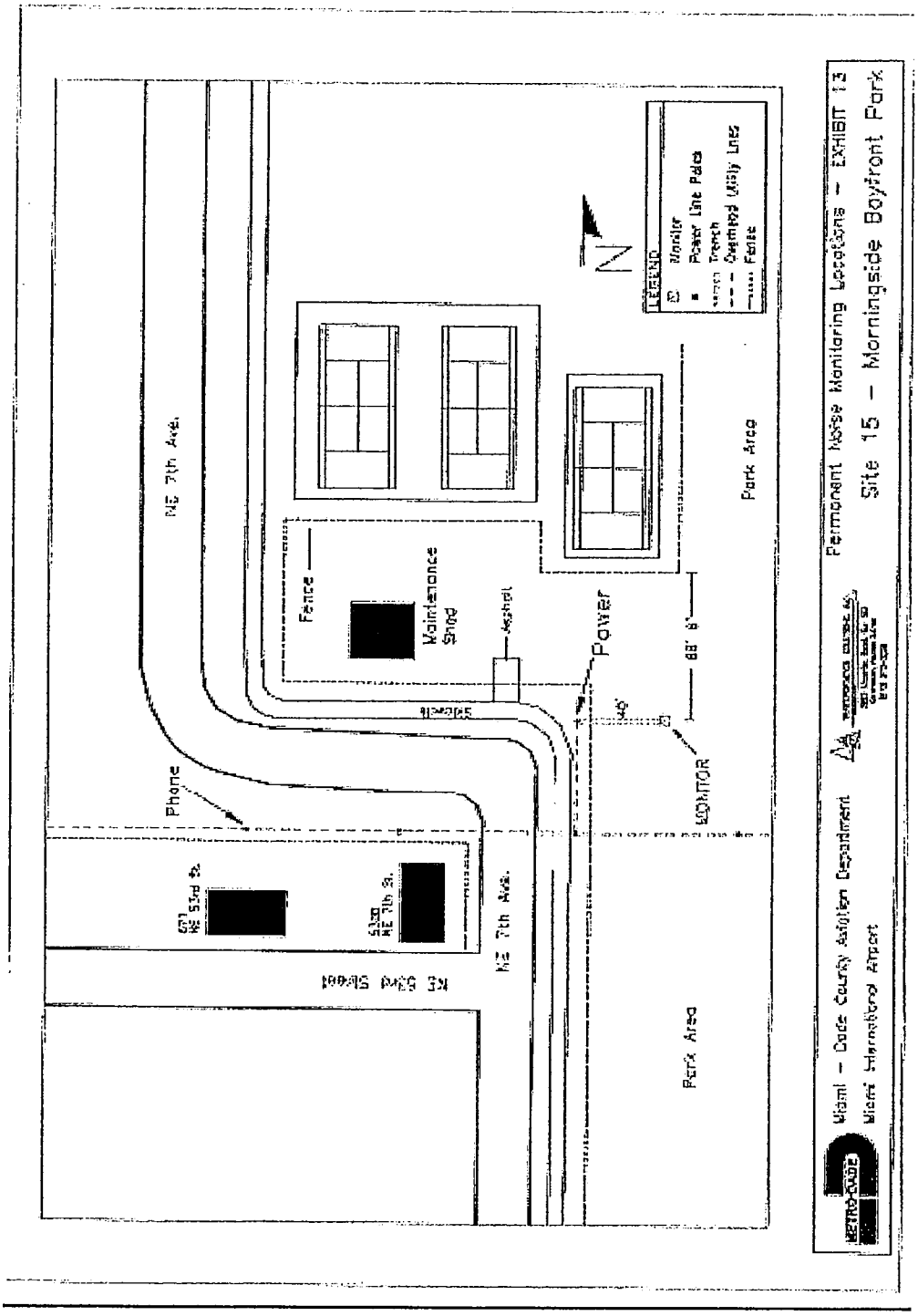


MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Exhibit E

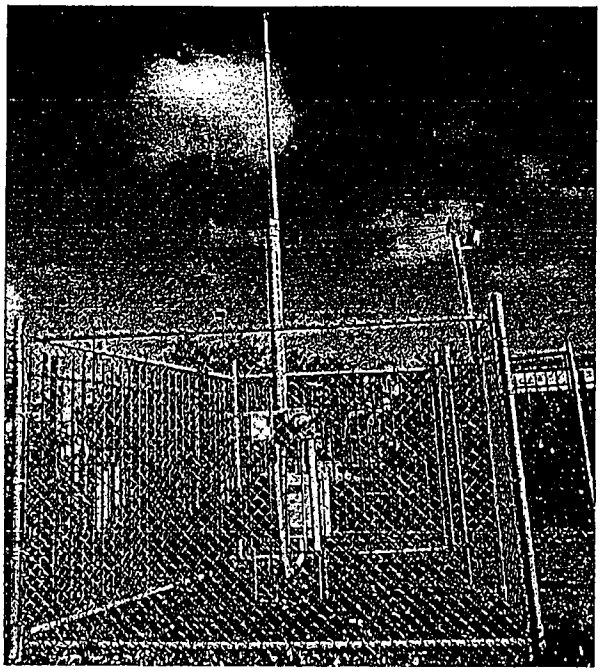
MORNING SIDE PARK



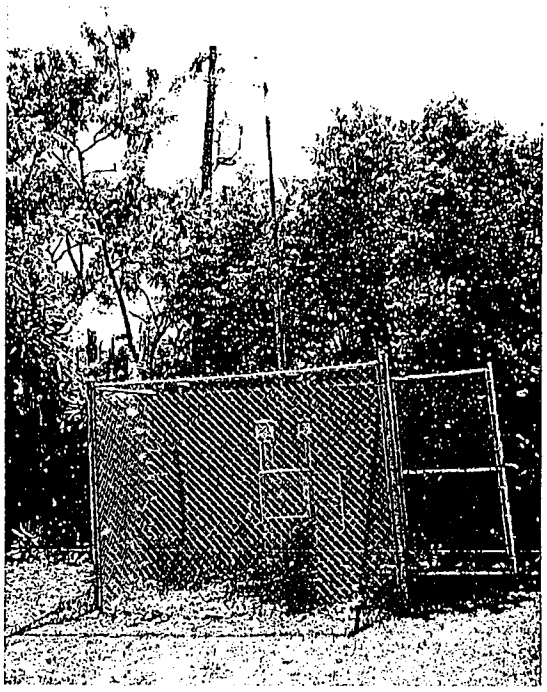
MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

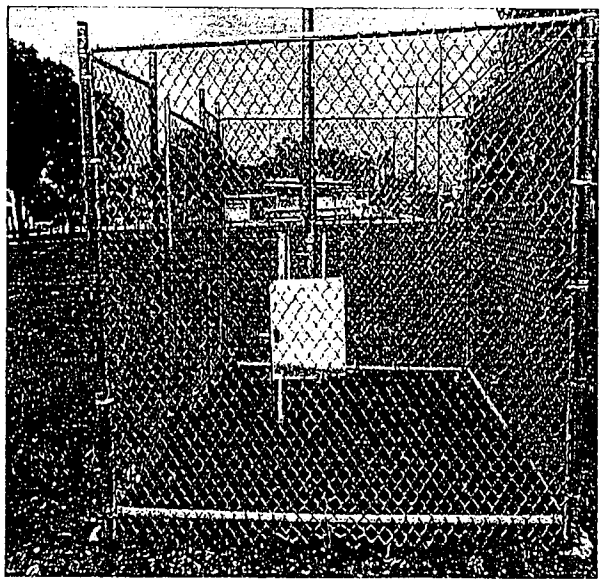
Kinloch Park



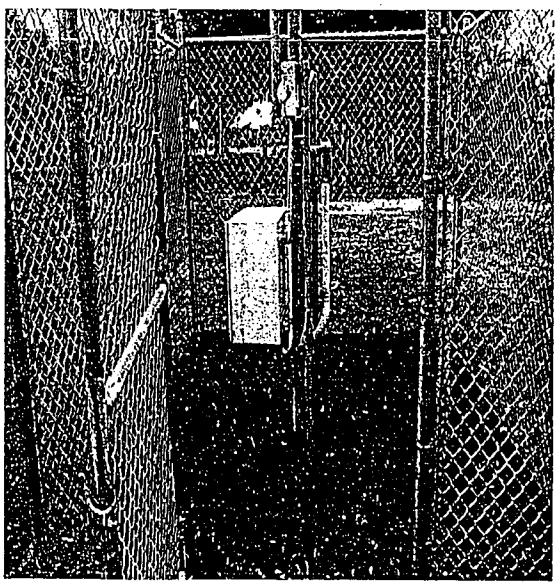
Wainwright Park



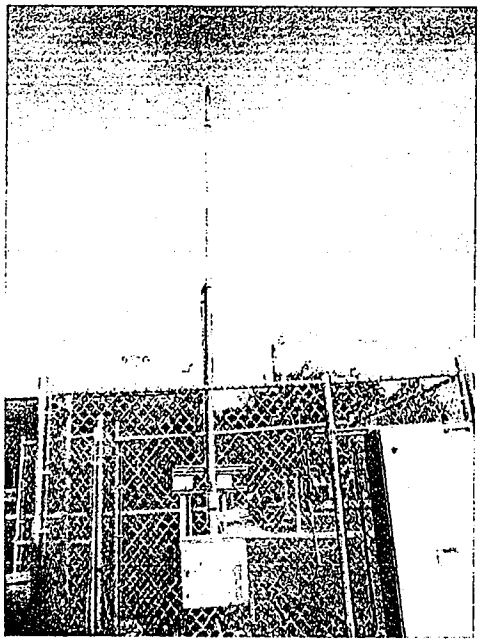
Dawkins Park



Morning Side Park



MIAMI INTERNATIONAL AIRPORT

MIAMI-DADE COUNTY

Bryan Park