



MEMORANDUM

Agenda Item No. 8(L)(4)

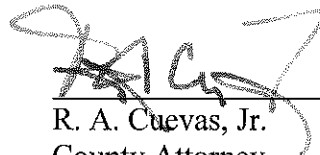
TO: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 4, 2012

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

SUBJECT: Resolution accepting a right-
of-way deed and authorizing
the granting of a permanent
subterranean easement
for \$61,000.00
Resolution No. R-1024-12

The accompanying resolution was prepared by the Public Works and Waste Management Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

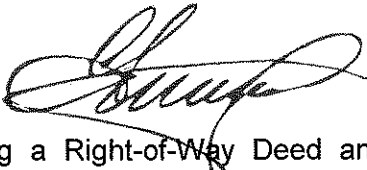
RAC/Imp

Memorandum



Date: December 4, 2012

To: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Accepting a Right-of-Way Deed and Authorizing the Granting of a Permanent Subterranean Easement for \$61,000 within a County Right-of-Way known as NE 17 Street, between North Miami Avenue and NE Miami Court in Section 36, Township 53 South, Range 41 East

Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing the acceptance of a right-of-way deed (attached hereto as Exhibit 'A') to complete the dedication of the right-of-way on the South side of NE 17 Street, a County Road, between North Miami Avenue and NE Miami Court to the full planned width and that the BCC approve and authorize the conveyance of a Permanent Subterranean Easement (attached hereto as Exhibit 'B') in consideration for the negotiated amount of \$61,000, that will allow certain essential underground structural components of an existing ten (10) story building shell to remain in place, encroaching into said right-of-way beneath a portion of NE 17 Street on its South side between North Miami Avenue and NE Miami Court. Negotiation started from an appraisal report provided by the property owner which was reviewed by Public Works Waste Management (PWWM) staff. This resolution further authorizes the waiver of Administrative Order 8-4 as it pertains to review by the Planning Advisory Board, authorizes the County Mayor or County Mayor's designee to execute such documents, and authorizes the recordation thereof among the Public Records of Miami-Dade County, Florida.

Scope

This subject County right-of-way is located within Commission District 3, in the City of Miami.

Fiscal Impact/Funding Source

There will be no County or other governmental funding required for this project. As consideration for the granting of the Permanent Subterranean Easement within public right-of-way, the owner of the Benefited Property shall pay to the County the negotiated amount of \$61,000.

Track Record/Monitor

PWWM is the entity overseeing this item and the person responsible is Mr. Wayne Sutton, PLS, Section Head, Right-of-Way Engineering Section.

Background

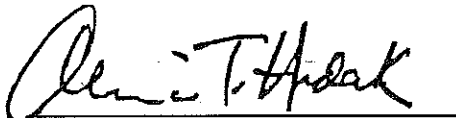
The Filling Station Lofts (Project) is a mixed use development of 77 residential loft condominium units above four (4) ground floor commercial spaces. It is located within the City of Miami, a few blocks North of the Performing Arts Center between North Miami Avenue and Biscayne Boulevard.

Prior to the beginning of construction on the Project, the City of Miami approved closure of a 10 foot wide alley by Resolution R-05-0106. Pursuant to Sec. 54-4 of the City of Miami Code, road closure triggers the need for a re-plat. After a tentative plat was filed, a permit was issued for the Project by the City of Miami, and construction began. When pilings were driven for the foundation it was discovered that the Northern row was located outside of the City of Miami's base building line. The Project engineer attempted to correct this mistake by capping the pilings and shifting the footprint of the building back to its proper location outside the zoned right-of-way. The Project was approximately 70% complete when the Developer ran into financial difficulties.

On January 18, 2012, PAC Capital, LLC (Owners) obtained title to the property through non-residential foreclosure. A photograph of the Project in its current state is included as Exhibit 'C'. The Owners plan to convey the property to a new developer who will complete the Project. However, plans show that existing subterranean pilings and pile caps that support the structure encroach into the zoned right-of-way that is to be dedicated by plat. Also, a number of the pilings encroach into a portion of the previously dedicated right-of-way. The Owners approached the County in an effort to determine a remedy to the issue without destroying the existing building. The existing encroachments are below the surface of the ground and will not interfere with the public use of the right-of-way for transportation purposes. The proposed Permanent Subterranean Easement will allow these essential structural components to remain in place so that the Project can be completed. Accepting the dedication and granting the easement will place the encroachment outside of the limits of a proposed plat, allowing the plat to go forward. In a letter attached hereto as Exhibit 'D', the Owners have agreed to pay the County the negotiated amount of \$61,000 for the Subterranean Easement.

Florida Statute Section 125.35(2) provides that if a property is of insufficient size and shape to be issued a building permit for development to be constructed on the property, and if, when due to the size, shape, location and value, it is determined by the BCC that the parcel is of use only to one or more adjacent property owners, the BCC may effect a private sale of the property. The property at issue is a portion of the right-of-way for NW 17 Street that could not be developed as a standalone property without attachment to the adjacent property, and is therefore of use only to the adjacent property owners.

PWWM recommends the acceptance of the attached right-of-way deed and the conveyance of the attached Subterranean Easement in substantially the form attached hereto.



Alina T. Hudak
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 4, 2012

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

SUBJECT: Agenda Item No. 8(L)(4)

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. 8(L)(4)
12-4-12

RESOLUTION NO. R-1024-12

RESOLUTION ACCEPTING A RIGHT-OF-WAY DEED AND AUTHORIZING THE GRANTING OF A PERMANENT SUBTERRANEAN EASEMENT FOR \$61,000.00 WITHIN A COUNTY RIGHT-OF-WAY KNOWN AS NE 17 STREET, BETWEEN NORTH MIAMI AVENUE AND NE MIAMI COURT IN SECTION 36, TOWNSHIP 53 SOUTH, RANGE 41 EAST

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

WHEREAS, The segment of NE 17 Street lying between North Miami Avenue and NE Miami Court, is a County Road within the City of Miami; and

WHEREAS, PAC Capital, LLC, hereinafter "the Owner", is the owner of the property immediately adjacent to the South side of said segment of NE 17 Street; and

WHEREAS, PAC Capital, LLC has offered to Miami-Dade County, hereinafter "the County," a right-of-way deed for the portion of the zoned right-of-way for said segment of NE 17 Street that has not yet been dedicated; and

WHEREAS, this Board finds that the acceptance of said right-of-way deed would be in the public interest; and

WHEREAS, the Owner has requested from the County an easement for the benefit of their property that will allow certain essential subterranean structural components (the "Encroachments") of an existing ten (10) story building shell to remain in place, encroaching into the right-of-way of said segment of NW 17 Street; and

WHEREAS, this Board finds that completion of the project on the Owner's property consisting of 77 condominium units above four (4) ground floor commercial and retail spaces, currently approximately 70% complete, would be preferable to demolition of the building for the sole purpose of removing the Encroachments; and

WHEREAS, this Board finds that the Encroachments, as they are now located, will not be detrimental to the public transportation purpose of the right-of-way, nor will they cause a hazard to public health or safety; and

WHEREAS, pursuant to Sec. 125.35(2) of the Florida Statutes, this Board finds that the easement area is of insufficient size and shape to be issued a building permit independent of attachment to the Owner's abutting property and that the easement would only be of use to the Owner due to its location and existing use by the Encroachments from the Owner's adjoining property; and

WHEREAS, this Board finds that it is in the best interest of the County and that it serves a public purpose to convey the requested easement to the adjoining property so that the project begun thereon may be brought to completion and thereby expand residential availability in the urban core and promote business and create jobs in the community,

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

Section 1. This Board adopts the foregoing recitals as if incorporated fully herein.

Section 2. This Board accepts and approves the attached right-of-way deed from PAC Capital, LLC, and the Chairperson of the Board is hereby authorized to accept said right-of-way

deed in substantially the same form as attached hereto and made a part hereof as Exhibit "A" on behalf of Miami-Dade County and to exercise all of the provisions therein.

Section 3. This Board approves the granting of a Permanent Subterranean Easement in substantially the form attached hereto and made a part hereof as Exhibit "B," for consideration in the negotiated amount of \$61,000.00 as a condition of same.

Section 4. This Board waives review under Administrative Order 8-4 by the Planning Advisory Board, and authorizes the County Mayor or County Mayor's designee to take all actions necessary to accomplish the conveyance of said easement, including execution of such documents, and exercising all provisions and rights contained therein.

Section 5. This Board directs the County Mayor or County Mayor's designee to record the instruments of conveyance accepted herein in the Public Records of Miami-Dade County and to provide a recorded copy of said instruments to the Clerk of the Board within thirty (30) days of execution of said instruments; and directs the Clerk of the Board to attach and permanently store a recorded copy of said instruments together with this resolution.

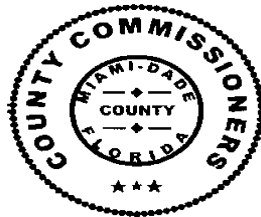
The foregoing resolution was offered by Commissioner **José "Pepe" Diaz**,
who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa**
and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	absent
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	absent
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	absent	Juan C. Zapata	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2012. 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



Christopher Agrippa

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

Instrument prepared by:
Ryan D. Bailine, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130

Folio No. Being a portion of
User Department: Public Works

**RIGHT-OF-WAY DEED TO MIAMI-DADE COUNTY
CONVEYS THE TITLE FOR PUBLIC RIGHT OF WAY
LIMITED LIABILITY COMPANY**

STATE OF FLORIDA)

) : SS

COUNTY OF MIAMI-DADE)

THIS INDENTURE, is made this 15th day of Oct, A.D. 2012, by and between **PAC Capital, LLC**, a Florida limited liability company, whose address is 4770 Biscayne Boulevard, Suite 1400, Miami, Florida 33137, party of the first part, and **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, and its successors in interest, whose Post Office address is 111 N.W. 1st Street, Miami, Florida 33128-1970, party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, and for other and further good and valuable consideration, does hereby grant, bargain and sell to the party of the second part, and its successors in interest, for the purpose of a public right of way and purposes incidental thereto, all right, title, interest, claim or demand of the party of the first part, in and to the following described land, situate, lying and being in Miami-Dade County, State of Florida, to-wit:

See Composite Exhibit "A" attached hereto

It is the intention of the party of the first part, by this instrument, to convey to the said party of the second part, and its successors in interest, the land above described for use as a public right of way and for all purposes incidental thereto.

It is expressly provided that if and when said right of way shall be lawfully and permanently discontinued, the title to the said above described land shall immediately revert to the party of the first part, its successors and assigns, and it or they shall have the right to immediately re-possess the same.

And the said party of the first part will defend the title to said land against the lawful claims of all persons whomsoever, claiming by, through or under it.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in its name, and its Corporate Seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed, Attested and delivered
in our presence:

(2 witnesses for each signature
or for all).

X M. Kraft
Witness

MORRIS KRAFT
Printed Name

Sabrina Kiplman
Witness

PATRICIA KRIZELMAN
Printed Name

PAC CAPITAL, LLC, a Florida
limited liability company

Nancy Galbut (Sign)
By: Manager/President

Nancy K. Galbut
Printed Name

Address if different.

STATE OF FLORIDA

)
) SS:

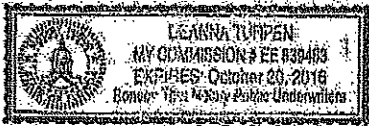
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY, that on this 15 day of October, A.D. 2012, before me, an officer duly authorized to administer oaths and take acknowledgments personally appeared Nancy K. Galbut, personally known to me, or proven, by producing the following identification: _____ to be the Manager and President of PAC CAPITAL, LLC, a Florida limited liability company. She executed the foregoing freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

[Handwritten Signature]

Notary Signature



Printed Notary Name

NOTARY SEAL/STAMP

Notary Public, State of Florida

My commission expires: _____

Commission/Serial No. _____

The foregoing was accepted and approved on the _____ day of _____, A.D. 2012, by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida.

Assistant County Manager

ATTEST: HARVEY RUVIN,
Clerk of said Board

Approved as to form
and legal sufficiency

By: _____
Deputy Clerk

Assistant County Attorney

EXHIBIT "A"

LEGAL DESCRIPTION: Right of Way Dedication

A portion of a Lots 1 and 2, Block "D" and Lot 1, Block "C", T.W. PALMER'S RESUBDIVISION, according to the plat thereof, as recorded in Plat Book 4 at Page 60, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Lot 1, Block "D"; thence S 00°39'45" W along the East line of said Lot 1, Block "D" for 5.00 feet to the Point of Beginning; thence continue S 00°39'45" W along said East line of Lot 1, Block "D" for 5.00 feet to a point hereinafter referred to as Point "A"; thence S 90°00'00" W along a line parallel with and 10.00 feet South of the North line of said Lot 1, Block "D" for 65.21 feet to a point of curvature; thence Southwesterly along a 25.00 foot radius curve leading to the left through a central angle of 89°20'20" for an arc distance of 38.98 feet to a point of cusp; thence N 00°39'40" E along a line parallel with and 10.00 feet East of the West line of said Lot 1, Block "D" for 29.71 feet; thence N 90°00'00" E along a line parallel with and 5.00 feet South of said North line of Lot 1, Block "D" for 89.93 feet to the Point of Beginning.

Said portion containing approximately 580 square feet.

AND

Commence at aforementioned Point "A"; thence N 90°00'00" E for 10.00 feet to the Point of Beginning; thence continue N 90°00'00" E along a line parallel with and 10.00 feet South of the North line of said Lot 1, Block "C" for 74.64 feet to a point of curvature; thence Southeastery along a 25.00 foot radius curve leading to the right through a central angle of 90°39'50" for an arc distance of 39.56 feet to a point of cusp; thence N 00°39'50" E along the East line of said Lot 1, Block "C" for 28.29 feet; thence S 90°00'00" W along a line parallel with and 7.00 feet South of said North line of Lot 1, Block "C" for 99.93 feet; thence S 00°39'45" W along the West line of said Lot 1, Block "C" for 3.00 feet to the Point of Beginning.

Said portion containing approximately 438 square feet.

SURVEYOR'S NOTES:

- This site lies in Section 36, Township 53 South, Range 41 East, City of Miami, Miami-Dade County, Florida.
- Elevations shown hereon are relative to National Geodetic Vertical Datum of 1929, based on a City of Miami Bench Mark, Elevation +11.21 (10.95 NGVD), located at the Southeast corner of the intersection of NE Miami Court and NE 17th Street.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of S 90°00'00" W for the centerline of N.E. 17th Street.
- 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 #2010-143.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on October 10, 2012, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

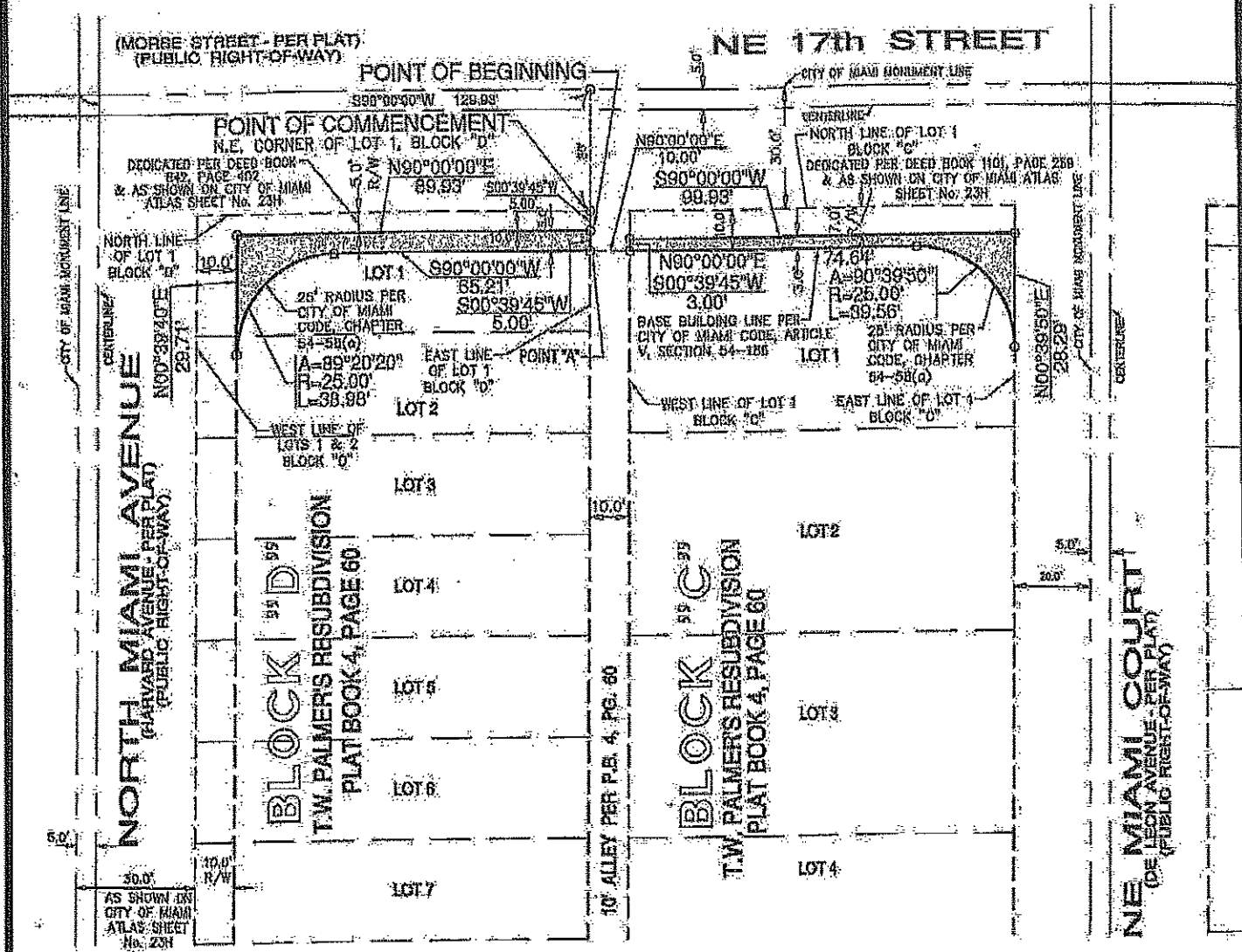
"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

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

Drawn By MAP	LEGAL NOTES & CERTIFICATION	Date 10/10/12
Cad. No. 040873	FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th Street / North Miami Beach, Florida, 33162 Phone: 305-652-4493 / Fax 305-651-7152 / Email: fls@flsurvey.com	Scale N/A
Ref. Dwg. 2010-143		Job. No. 120592
Plotted: 10/12/12 10:04		Dwg. No. 1011-024-2
		Sheet 1 of 3

EXHIBIT "A"



LEGEND

- A = CENTRAL ANGLE
- R = RADIUS
- L = ARC LENGTH
- Rb = RADIAL BEARING



(IN FEET)
 1 inch = 40' ft.

[Handwritten signature]

Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

SKETCH OF DESCRIPTION

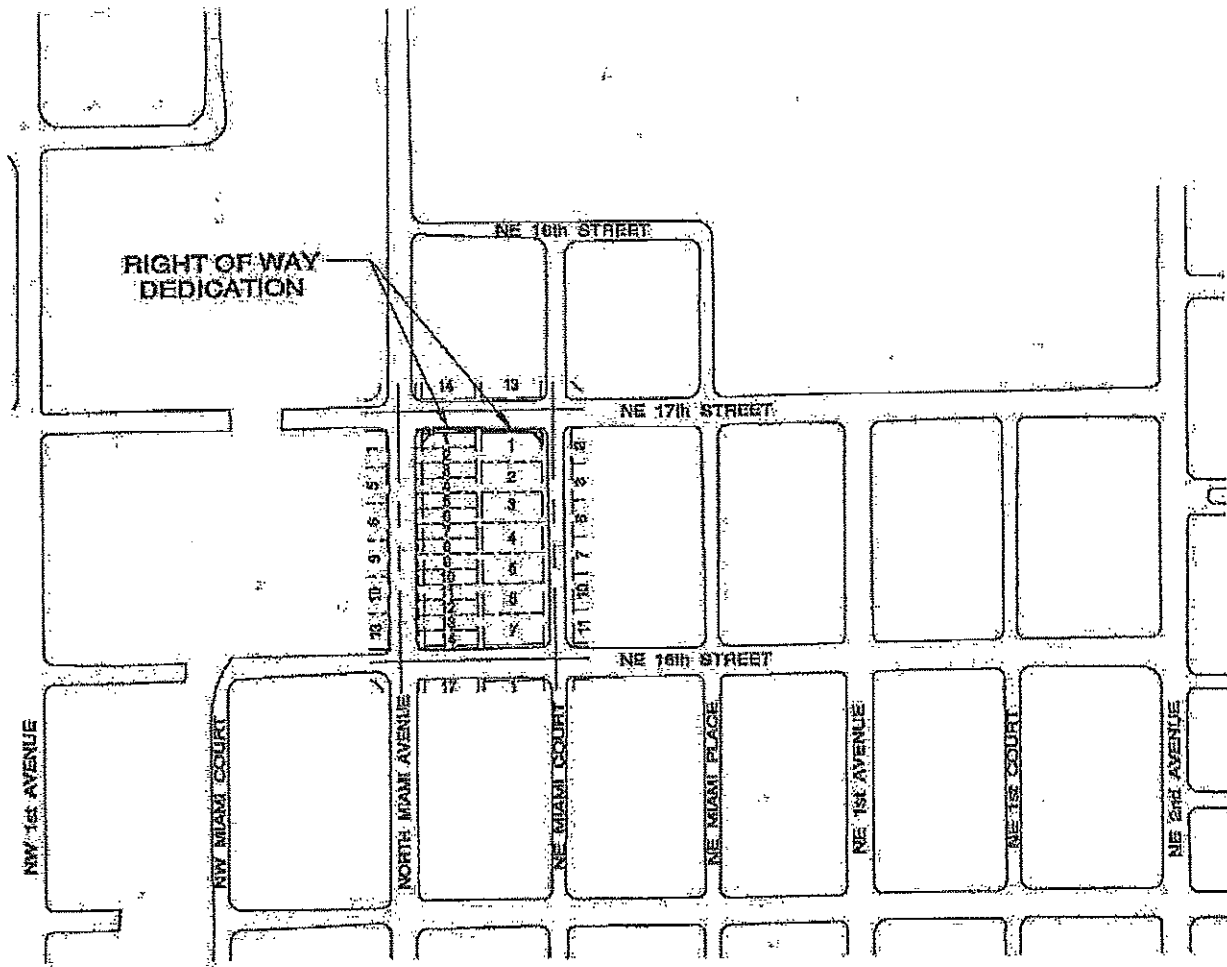
FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
 180 Northeast 163th Street / North Miami Beach, Florida. 33162
 Phone: 305-653-4453 / Fax 305-651-7152 / Email fls@flesurvey.com

Date	10/10/12
Scale	1"=40'
Job. No.	120592
Dwg. No.	1011-024-2
Sheet	2 of 3

B

EXHIBIT "A"

EXHIBIT "A"



Lying in Section 36, Township 53 South, Range 41 East, City of Miami,
Miami-Dade County, Florida.

Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

LOCATION SKETCH

FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003693
 180 Northeast 168th Street / North Miami Beach, Florida, 33162
 Phone: 305-659-4493 / Fax: 305-651-7152 / Email: fls@flsurvey.com

Date	10/10/12
Scale	N/A
Job. No.	120592
Dwg. No.	1011-024-2
Sheet	3 of 3

Return to:
Right-of-Way Division, Miami-Dade County
Public Works and Waste Management Department
111 NW 1ST Street
Miami, Florida 33128-1970

Instrument prepared by:
Folio No.

Section 36-53-41
NE 17TH Street (N. Miami Ave - NE Miami Court)

PERMANENT SUBTERRANEAN EASEMENT

State of Florida
Miami-Dade County

THIS EASEMENT is made this _____ day of _____, A.D. 20____, by and between MIAMI-DADE COUNTY a political subdivision of the State of Florida and its successors in interest, hereinafter called COUNTY, whose post office address is 111 NW 1ST Street, Miami, Florida 33128-1970, as grantor, and PAC CAPITAL, LLC, a limited liability company organized under the laws of the State of Florida, hereinafter called GRANTEE, having its office and principal place of business at 4770 Biscayne Boulevard, Suite 1400, Miami, Florida 33137, as grantees.

WITNESSETH:

WHEREAS, the public Right-of-Way known as NE 17 Street lying between North Miami Avenue and NE Miami Court, hereinafter called the Right-of-Way, is a County Road under the jurisdiction of said COUNTY; and

WHEREAS, GRANTEE is the owner of the Benefited Property described in Exhibit "B", attached hereto and made a part hereof; and

WHEREAS, GRANTEE is seeking from the COUNTY an easement appurtenant to said Benefited Property allowing certain essential subterranean structural components of an existing building, to remain in place, encroaching within said public Right-of-Way to the benefit of said Benefited Property; and

WHEREAS, COUNTY finds that said subterranean structural components, as they are now located, will not be detrimental to the public transportation purpose of the Right-of-Way nor will they cause a hazard to public health or safety;

NOW, THEREFORE, said COUNTY for and in consideration of the sum of _____, and for other good and valuable consideration, and subject to the terms, conditions and limitations as set forth herein, does hereby grant unto said GRANTEE and unto its successors in interest, a permanent subterranean easement, hereinafter called "the Easement", for the purpose of retaining in their present locations, certain underground pilings and piers,

hereinafter called "the Encroachments" within said public Right-of-Way beneath the public sidewalk and roadway facilities within the following described horizontal and vertical boundaries:

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

Terms, Conditions, Limitations:

1. The Easement is appurtenant to the Benefited Property and shall run with the land.
2. "GRANTEE" shall be construed to include GRANTEE's successors in interest.
3. The Easement serves the building now constructed upon said Benefited Property and shall extinguish, terminate, and be of no further force and effect upon the demolition thereof, if any, or upon any partial demolition if same eliminates the necessity for such Encroachments; following such demolition and termination the COUNTY may file a Notice of Termination of Easement in the Public Records.
4. The Easement shall remain in force permanently unless extinguished by demolition in accordance with Condition number three above.
5. Upon termination of the Easement, COUNTY may, at its option, within three years of said termination, require GRANTEE to remove the Encroachments from the Right-of-Way at GRANTEE's own expense, by providing written notice to GRANTEE. If GRANTEE has not removed the Encroachments within 120 day of receipt of notice, then COUNTY may, at its option, remove same and GRANTEE shall pay COUNTY all costs of removal.
6. GRANTEE's use of the Easement shall in no way interfere with the COUNTY's or the Public's use of the Right-of-Way, which shall be determined in COUNTY's sole discretion.
7. In the event that repair or maintenance of the Encroachments requires temporary closure of the Right-of-Way, or any portion thereof, GRANTEE shall provide written notice to the COUNTY Public Works and Waste Management Department at least 30 days in

advance and shall obtain all required permits for said repairs and temporary closure prior to commencing work.

8. GRANTEE shall promptly repair any damage to or injury to the roadway, sidewalks or public landscaping or other public facilities caused by GRANTEE's repair or maintenance of the Encroachments. Restoration of public facilities within the Right-of-Way shall be in accordance with the standards of the COUNTY and shall be equal to or better than the condition existing at the time of damage or injury, which shall be determined in the COUNTY's sole discretion.
9. GRANTEE shall indemnify and hold harmless the COUNTY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the COUNTY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of the rights conveyed hereunder or Grantee's use of the Easement area. GRANTEE shall investigate and defend all claims, suits or actions of any kind or nature in the name of the COUNTY, where applicable, including appellate proceedings, and shall pay all reasonable costs, judgments, and attorney's fees which may issue thereon. GRANTEE expressly understands and agrees that any insurance protection required by any required permit or otherwise provided by GRANTEE shall in no way limit the responsibility to indemnify, keep and save harmless and defend the COUNTY or its officers, employees, agents and instrumentalities as herein provided. It is understood that COUNTY assumes no responsibility for the personal safety of any persons, equipment, or personal property brought into or installed within the public Right-of-Way by GRANTEE, including any loss, theft, damage, or injury. GRANTEE shall promptly notify the COUNTY of any loss, damage, injury or death arising out of GRANTEE's use of this Easement or in connection with the Encroachment(s). This obligation survives the termination of this Easement.
10. Notwithstanding any other provision of this Easement, the COUNTY retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped or otherwise prevented from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Encroachment(s) or be liable for the same. Furthermore, the COUNTY shall not by virtue of this Easement be obligated to grant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Encroachment(s) or appurtenant building.

This grant of easement conveys only the interest of the County and its Board of County Commissioners in the Right-of-Way described in said Exhibit "A" and shall not be deemed to warrant title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF the COUNTY has caused this easement to be executed in its name by the County Mayor as authorized by the Board of County Commissioners effective upon the day and year aforesaid.

(Official Seal)

ATTEST:

HARVEY RUVIN, CLERK OF THE BOARD
OF COUNTY COMMISSIONERS.

MIAMI-DADE COUNTY
a political subdivision of the State of Florida.

By: _____
Name:
Title:

By: _____
Name:
Title:

Approved as to legal sufficiency

Print name

The foregoing was approved on the _____ day of _____, 20____
by Resolution No. _____ of the Board of County Commissioners of Miami-Dade
County, Florida, a political subdivision of the State of Florida.

EXHIBIT "A"

LEGAL DESCRIPTION: SUBTERRANEAN EASEMENT

That subterranean portion of Lot 1, Block "C", of T.W. PALMER'S RESUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 60, of the Public Records of Miami-Dade County, Florida, and a portion of a 10.00 foot alley lying between said Block "C" and Block "D" of said T.W. PALMER'S RESUBDIVISION, which lies below the elevation of 8.5, (National Geodetic Vertical Datum of 1929) within the following described horizontal boundary:

Commence at the Northeast corner of said Lot 1, Block "D"; thence S 00°39'45" W along the East line of said Lot 1, Block "D" for 2.50 feet to the Point of Beginning; thence N 90°00'00" E along a line parallel with and 2.50 feet South of the North line of said Block "C", for 92.06 feet; thence S 00°00'00" E for 8.66 feet to a point on a circular curve concaved to the Southwest and whose radial point bears S 17°29'37" W; thence run Northwesterly along a 25.00 foot radius leading to the left through a central angle of 17°29'37" for an arc distance of 7.63 feet to a point of tangency; thence S 90°00'00" W along a line parallel with and 10.00 feet South of the North line of said Blocks "C" and "D", for 84.84 feet; thence N 00°39'45" E along the East line of said Lot 1, Block "D" for 7.50 feet to the Point of Beginning.

AND

That subterranean portion of Lot 1, Block "D", of T.W. PALMER'S RESUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 60, of the Public Records of Miami-Dade County, Florida, which lies below the elevation of 11.0, (National Geodetic Vertical Datum of 1929) within the following described horizontal boundary:

Commence at the Northeast corner of said Lot 1, Block "D"; thence S 00°39'45" W along the East line of said Lot 1, Block "D" for 2.50 feet to the Point of Beginning; thence continue S 00°39'45" W along said East line for 7.50 feet; thence S 90°00'00" W along a line parallel with and 10.00 feet South of the North line of said Blocks "C" and "D", for 65.21 feet to a point on a circular curve; thence Southwesterly along a 25.00 foot radius curve leading to the left through a central angle of 10°20'54" for an arc distance of 4.52 feet; thence N 00°00'00" E for 7.91 feet; thence N 90°00'00" E along a line parallel with and 2.50 feet South of the North line of said Block "D" for 69.79 feet to the Point of Beginning.

Both portions of subterranean easement containing approximately 1,217 square feet.

SURVEYOR'S NOTES:

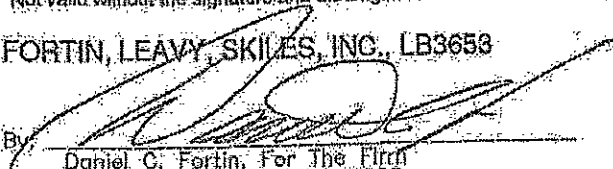
- This site lies in Section 36, Township 53 South, Range 41 East, City of Miami, Miami-Dade County, Florida.
- Elevations shown hereon are relative to National Geodetic Vertical Datum of 1929, based on a City of Miami Bench Mark, Elevation +11.21 (10.95 NGVD), located at the Southeast corner of the intersection of NE Miami Court and NE 17th Street.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of S 90°00'00" W for the centerline of NE 17th Street.
- 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 #2010-143.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on October 11, 2012, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

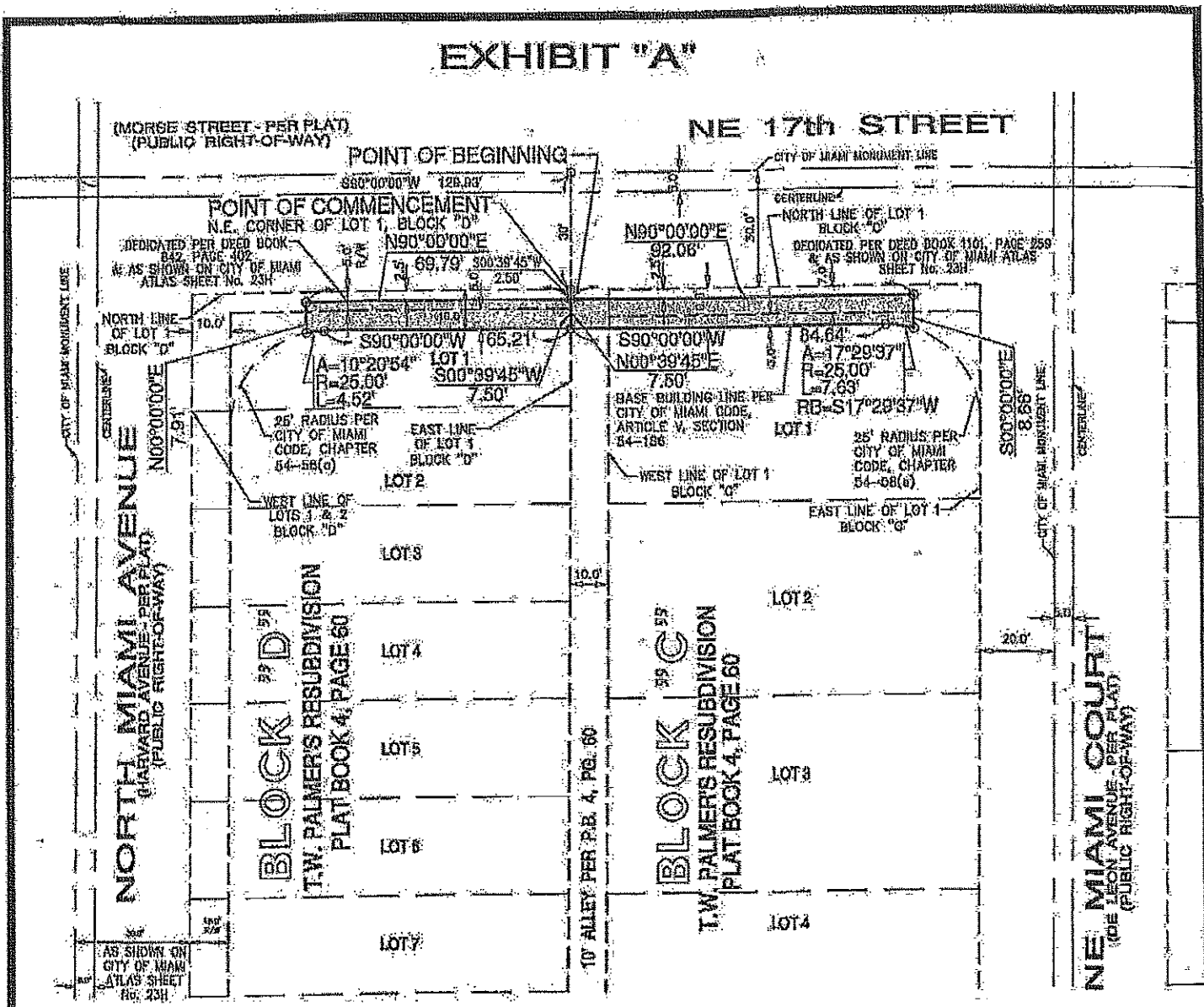
"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

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

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Drawn By</td> <td style="padding: 2px;">MAP</td> </tr> <tr> <td style="padding: 2px;">Ord. No.</td> <td style="padding: 2px;">040873</td> </tr> <tr> <td style="padding: 2px;">Ref. Dwg.</td> <td style="padding: 2px;">2010-144</td> </tr> <tr> <td style="padding: 2px;">Plotted:</td> <td style="padding: 2px;">10/12/12; 10/09/12</td> </tr> </table>	Drawn By	MAP	Ord. No.	040873	Ref. Dwg.	2010-144	Plotted:	10/12/12; 10/09/12	<h3 style="margin: 0;">LEGAL, NOTES & CERTIFICATION</h3> <p style="margin: 5px 0 0 0;">FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th Street / North Miami Beach, Florida 33162 Phone: 305-653-4493 / Fax 305-653-1152 / Email fls@flsurvey.com</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Date</td> <td style="padding: 2px;">10/11/12</td> </tr> <tr> <td style="padding: 2px;">Scale</td> <td style="padding: 2px;">N/A.</td> </tr> <tr> <td style="padding: 2px;">Job No.</td> <td style="padding: 2px;">120592</td> </tr> <tr> <td style="padding: 2px;">Dwg. No.</td> <td style="padding: 2px;">1011-024-1</td> </tr> <tr> <td style="padding: 2px;">Sheet</td> <td style="padding: 2px;">1 of 5</td> </tr> </table>	Date	10/11/12	Scale	N/A.	Job No.	120592	Dwg. No.	1011-024-1	Sheet	1 of 5
Drawn By	MAP																			
Ord. No.	040873																			
Ref. Dwg.	2010-144																			
Plotted:	10/12/12; 10/09/12																			
Date	10/11/12																			
Scale	N/A.																			
Job No.	120592																			
Dwg. No.	1011-024-1																			
Sheet	1 of 5																			

EXHIBIT "A"



[Handwritten Signature]

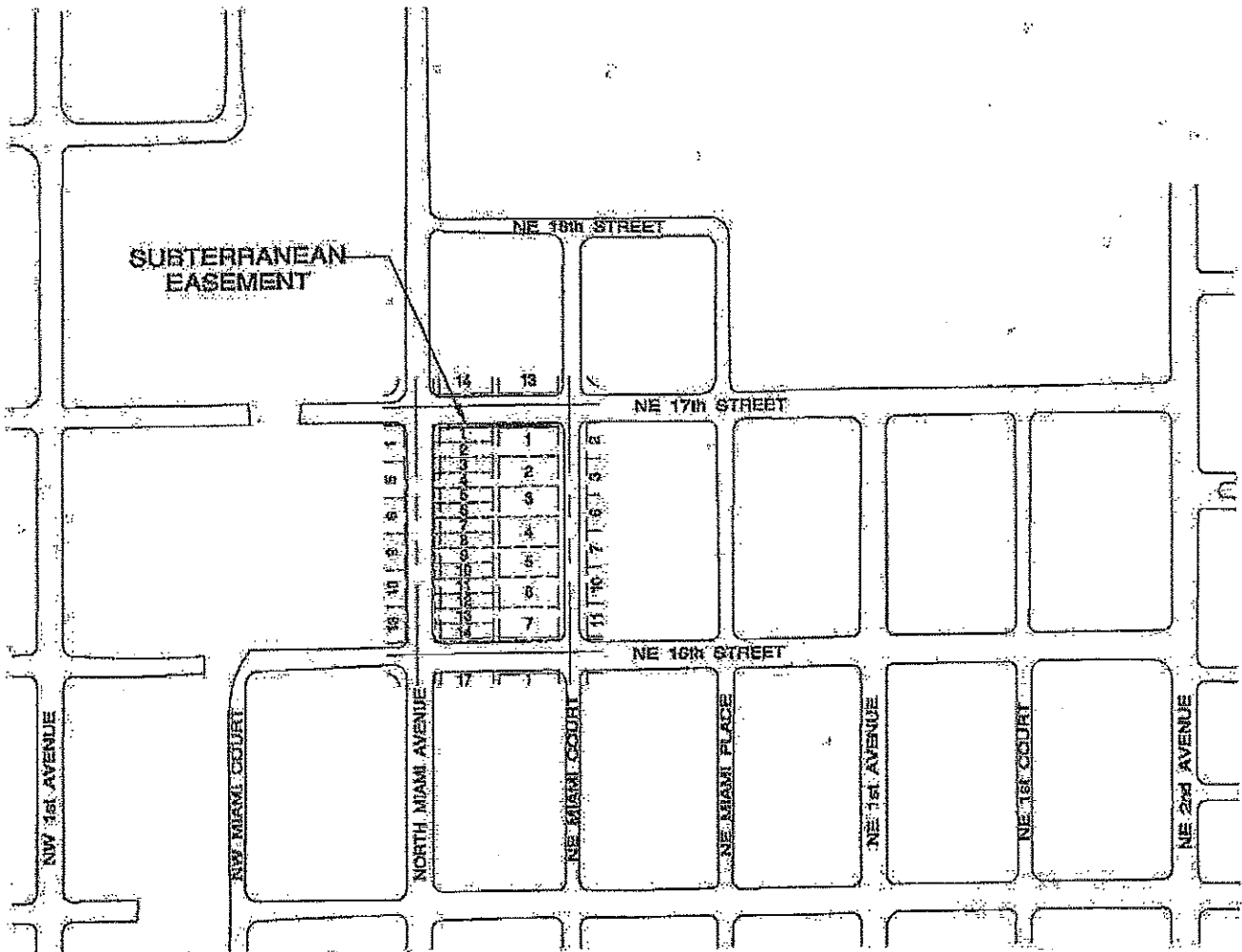
Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

SKETCH OF DESCRIPTION

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida, 33162
Phone: 305-653-4493 / Fax 305-653-1132 / Email fls@flsurvey.com

Date	10/11/12
Scale	1"=40'
Job. No.	120592
Dwg. No.	1011-024-1
Sheet	2 of 5

EXHIBIT "A"



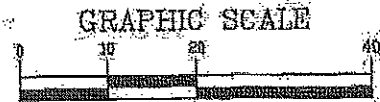
Lying in Section 36, Township 53 South, Range 41 East, City of Miami,
Miami-Dade County, Florida.

Drawn By: MAP Cad. No.: 040873 Ref. Dwg.: 2010-144 Plotted: 10/12/12 10:04	<h2>LOCATION SKETCH</h2> <p>FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th Street / North Miami Beach, Florida, 33162 Phone: 305-683-4493 / Fax 305-152 / Email flc@flsurvey.com</p>	Date: 10/11/12 Scale: N/A Job. No.: 120592 Dwg. No.: 1011-024-1 Sheet: 3 of 5
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21

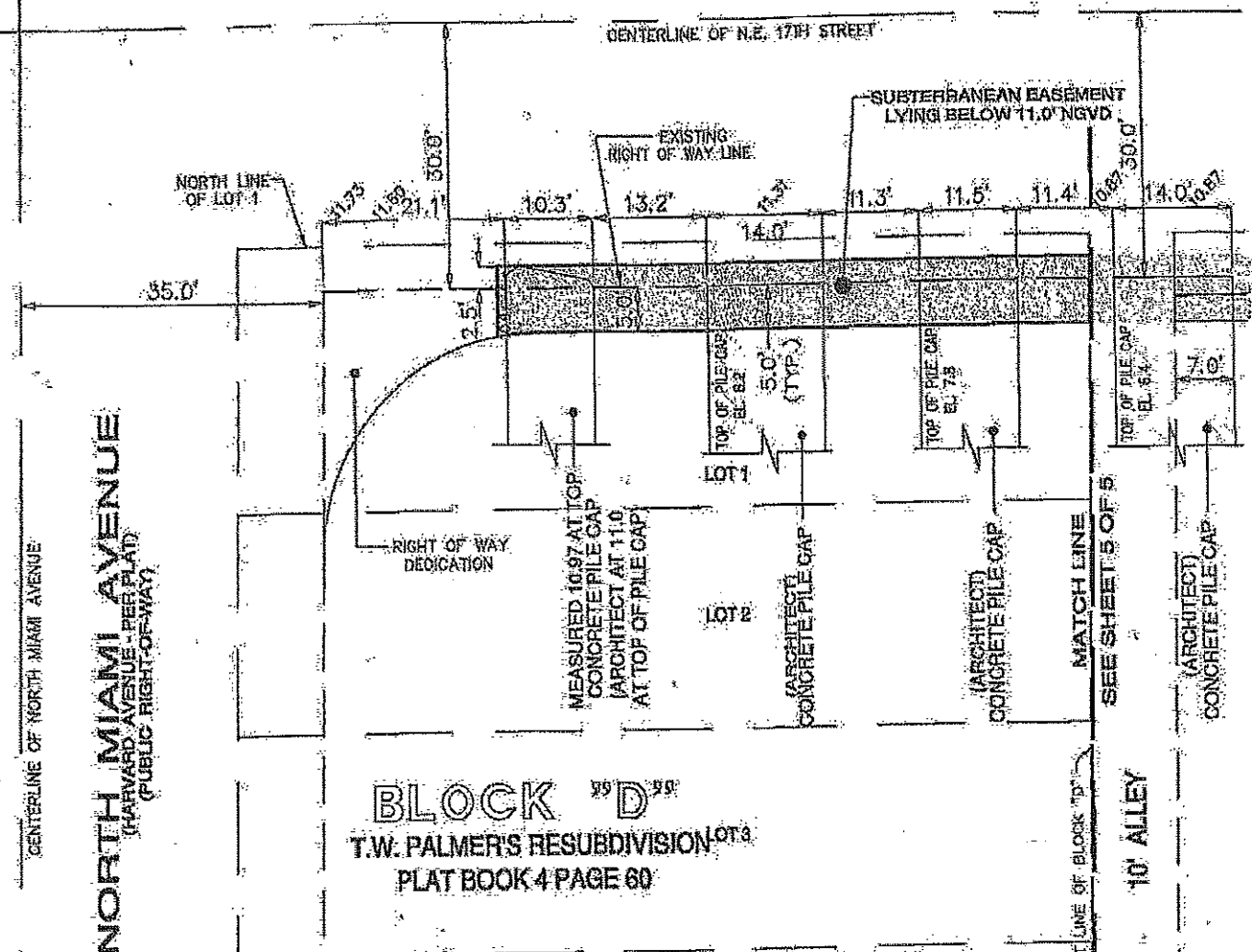
EXHIBIT "B"

EXHIBIT "A"



(IN FEET)
1 inch = 20' ft.

NE 17TH STREET
(MORSE STREET - PER PLAT)
(PUBLIC RIGHT-OF-WAY)



BLOCK "D"
T.W. PALMER'S RESUBDIVISION
PLAT BOOK 4 PAGE 60

NOTES:

- PILE CAPS SHOWN AS (AS-BUILT) WERE LOCATED BY FORTIN, LEAVY, SKILES, INC. ON AUGUST 29, 2012 THAT WERE VISIBLE, EXCEPT AS SHOWN HEREON.
- PILE CAPS SHOWN AS (ARCHITECT) ARE LOCATIONS AND TOP OF PILE CAP ELEVATIONS THAT ARE BASED ON PLANS PREPARED BY DONNELL, JUQUESNE, & ALBAISA, P.A. CONSULTING ENGINEERS & DATED JULY 5, 2006, AND HAVE NOT BEEN FIELD VERIFIED OR LOCATED.
- ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D.) OF 1929.

Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

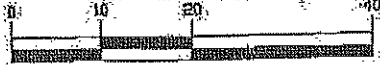
SUBTERRANEAN PILING/COLUMNS

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003693
180 Northeast 168th Street / North Miami Beach, Florida: 33162
Phone: 305-653-4493 / Fax: 305-7152 / Email: fls@fls survey.com

Date:	10/11/12
Scale:	1"=20'
Job. No.:	120592
Dwg. No.:	1011-024-1
Sheet:	4 of 5

EXHIBIT "B"

GRAPHIC SCALE



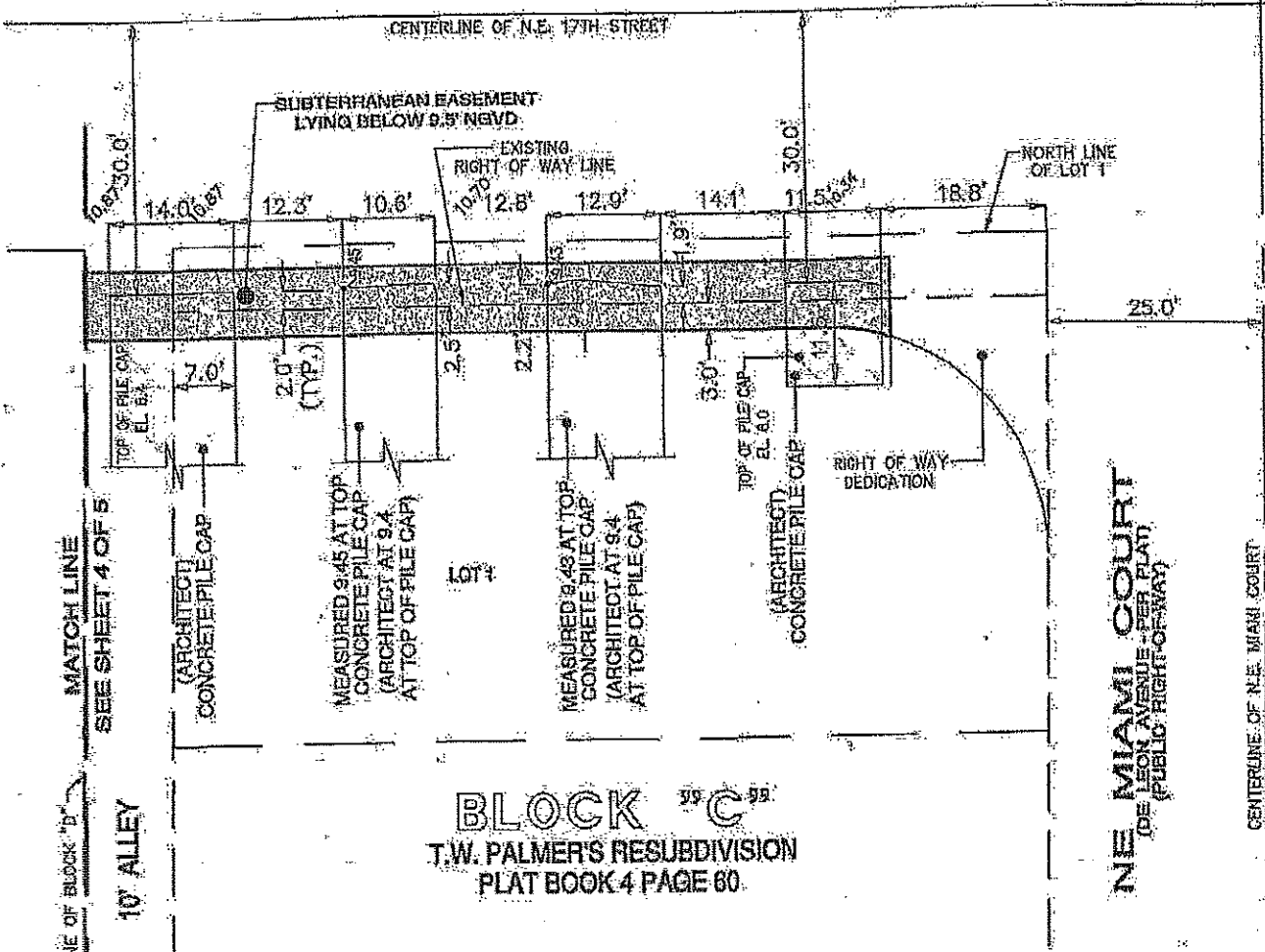
(IN FEET)
1 inch = 20' ft.

EXHIBIT "A"



NE 17TH STREET

(MORSE STREET - PER PLAT)
(PUBLIC RIGHT-OF-WAY)



BLOCK C

T.W. PALMER'S RESUBDIVISION
PLAT BOOK 4 PAGE 60.

LOT 2

NOTES:

- PILE CAPS SHOWN AS (AS-BUILT) WERE LOCATED BY FORTIN, LEAVY, SKILES, INC. ON AUGUST 20, 2012 THAT WERE VISIBLE EXCEPT AS SHOWN HEREON.
- PILE CAPS SHOWN AS (ARCHITECT) ARE LOCATIONS AND TOP OF PILE CAP ELEVATIONS THAT ARE BASED ON PLANS PREPARED BY DONNELL, DUQUESNE & ALBAISA, P.A. CONSULTING ENGINEERS & DATED JULY 6, 2006, AND HAVE NOT BEEN FIELD VERIFIED OR LOCATED.
- ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D) OF 1929.

Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

SUBTERRANEAN PILINGS/COLUMNS

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 165th Street / North Miami Beach, Florida, 33162
Phone: 305-653-4492 / Fax 305-7152 / Email fls@flsurvey.com

Date:	10/11/12
Scale:	1"=20'
Job: No.	120592
Dwg. No.	1011-024-1
Sheet	5 of 5

EXHIBIT "B"

LEGAL DESCRIPTION: Benefited Property

A portion of Lots 1, 2, 3, 4 and 5, all in Block "D", and a portion of Lots 1 and 3, and all of Lot 2, Block "C", T.W. PALMER'S RESUBDIVISION, Plat Book 4, Page 60, of the Public Records of Miami-Dade County, Florida, and a portion of a 10 foot wide Alley lying East of Lots 1, 2, 3, 4 and 5, said Block "D", all being more particularly described as follows:

Commence at the Northeast corner of said Lot 1, Block "D", thence S 00°39'45" W along the East line of said Lot 1, Block "D" for 10.00 feet to the Point of Beginning; thence N 90°00'00" E along a line parallel with and 10.00 South of the North line of said Lot 1, Block "C", for 84.64 feet to a point of curvature; thence Southeastery along a 25.00 foot radius curve leading to the right through a central angle of 90°39'50" for an arc distance of 39.56 feet to a point of tangency; thence S 00°39'50" W along the East line of said Block "C" for a distance of 107.16 feet; thence S 89°59'52" W along the South line of the North 37.50 feet of said Lot 3, Block "C", for 99.92 feet; thence N 00°39'45" E along the West line of said Lot 3, Block "C", for 12.51 feet; thence S 89°59'50" W along the South line of said Lot 5, Block "D", and its Easterly extension, for 99.92 feet; thence N 00°39'40" E along a line parallel with and 10.00 East of the West line of said Block "D", for 95.23 feet to a point of curvature; thence Northeastery along a 25.00 foot radius curve leading to the right through a central angle of 89°20'20" for an distance of 38.98 feet to a point of tangency; thence N 90°00'00" E along a line parallel with and 10.00 feet South of the North line of said Lot 1, Block "D" for 65.21 feet to the Point of Beginning.

Said portion containing approximately 24,951 square feet.

SURVEYOR'S NOTES:

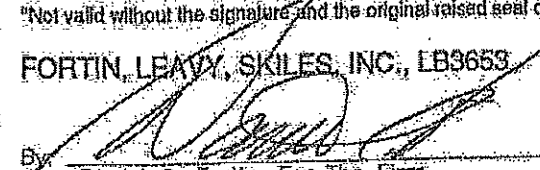
- This site lies in Section 36, Township: 53 South, Range 41 East, City of Miami, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida, unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of S 90°00'00" W for the centerline of N.E. 17th Street.
- 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 #2010-143.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on October 11, 2012, 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., LB9653

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

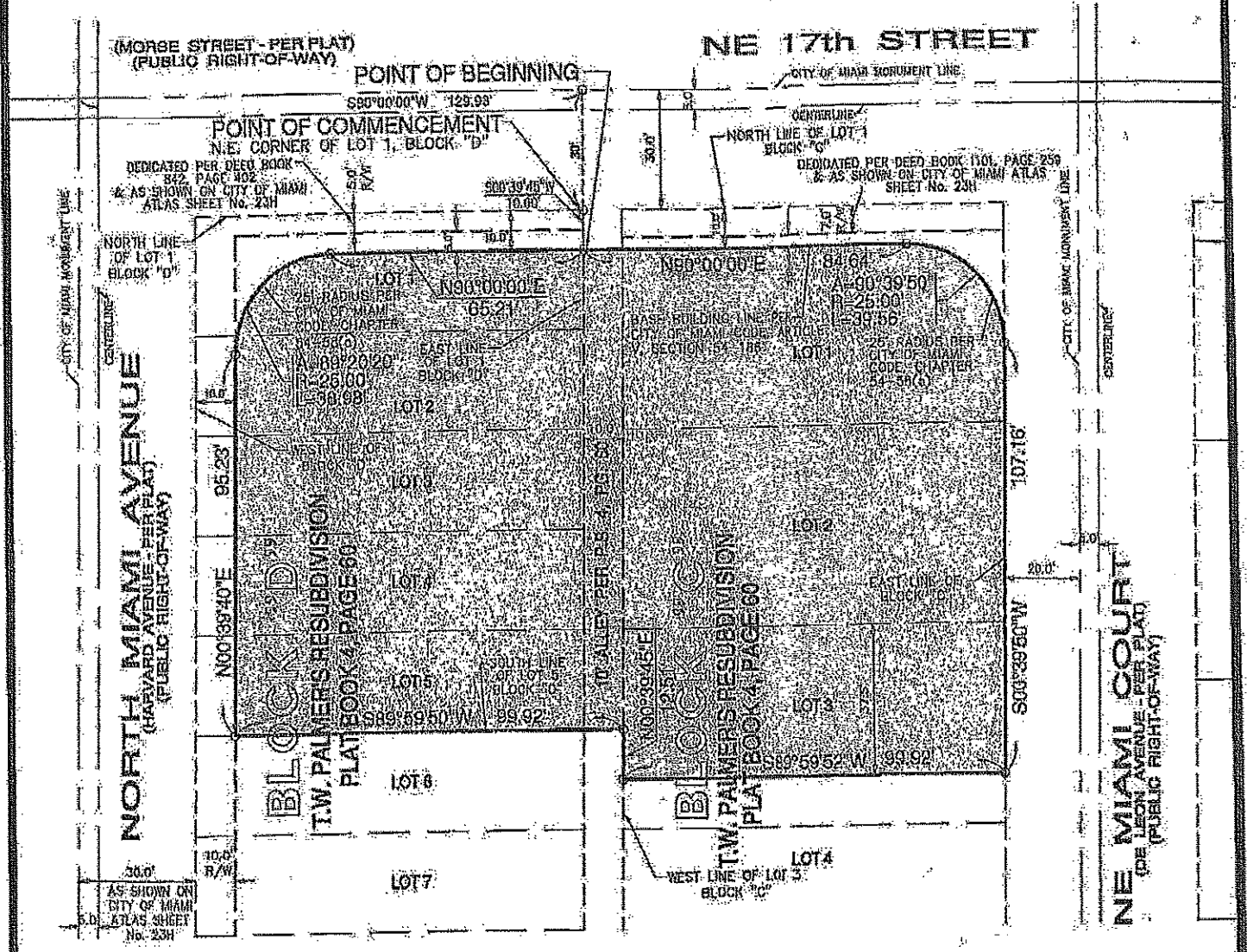
Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04a

LEGAL NOTES & CERTIFICATION

FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 06003653
 180 Northeast 168th Street / North Miami Beach, Florida, 33162
 Phone: 305-653-4493 / Fax: 905 7152 / Email: fls@flsurvey.com

Date	10/11/12
Scale	N/A
Job. No.	120592
Dwg. No.	1011-024-3
Sheet	1 of 3

EXHIBIT "B"

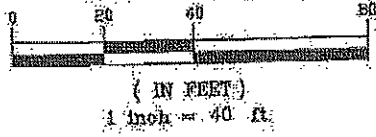


LEGEND

- A = CENTRAL ANGLE
- R = RADIUS
- L = ARC LENGTH
- RB = RADIAL BEARING



GRAPHIC SCALE



Handwritten signature/initials

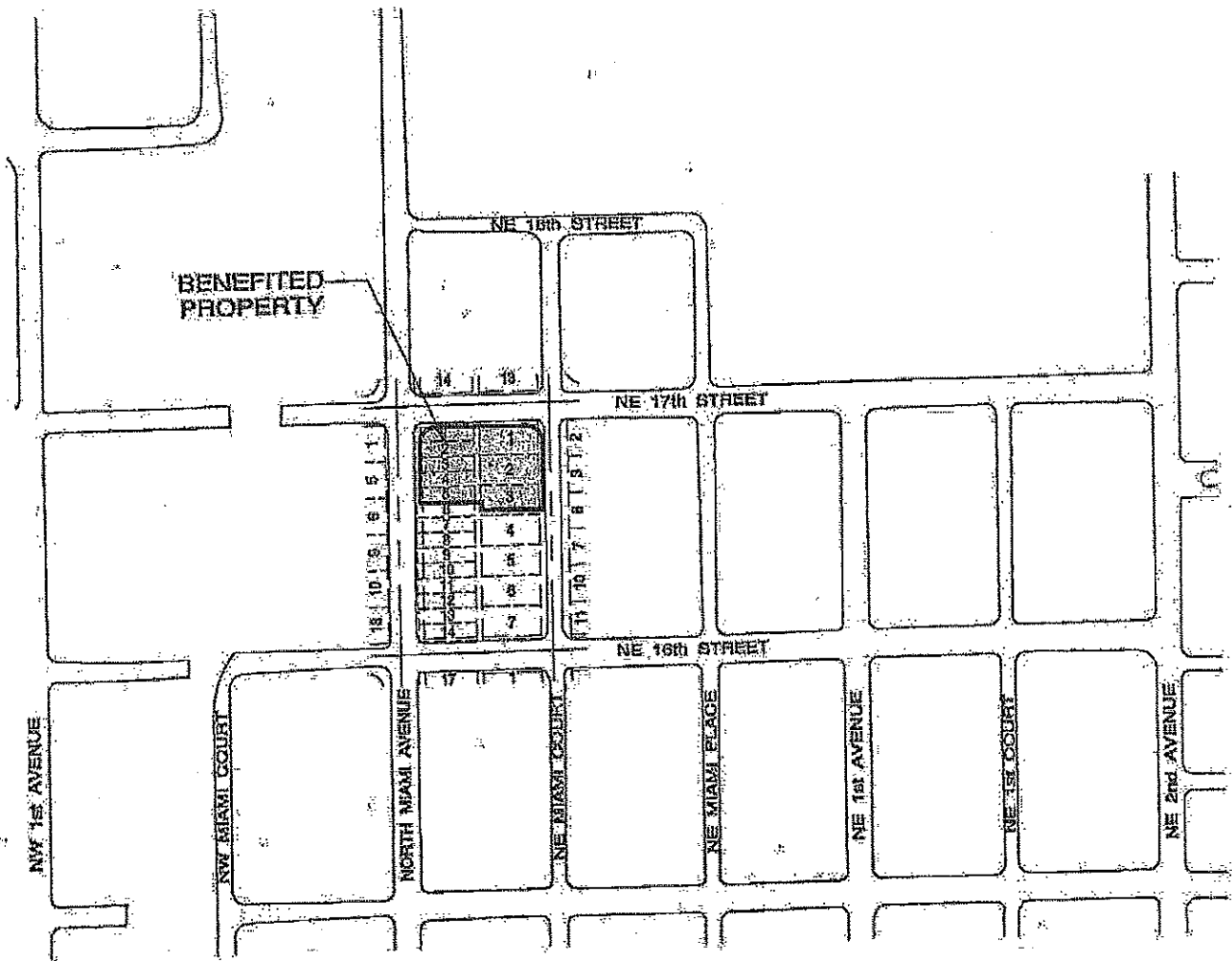
Drawn By:	M.A.P.
Cad. No.:	040873
Ref. Dwg.:	2010-144
Plotted:	10/12/12 10:04

SKETCH OF DESCRIPTION

FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00803659
 180 Northeast 166th Street / North Miami Beach, Florida, 33162
 Phone: 305-633-4493 / Fax 305-633-7152 / Email fls@flsurvey.com

Date:	10/11/12
Scale:	1"=40'
Job. No.:	120592
Dwg. No.:	1011-024-3
Sheet:	2 of 3

EXHIBIT "B"



Lying in Section 36, Township 53 South, Range 41 East, City of Miami,
Miami-Dade County, Florida.

Drawn By	MAP
Cad. No.	040873
Ref. Dwg.	2010-144
Plotted:	10/12/12 10:04

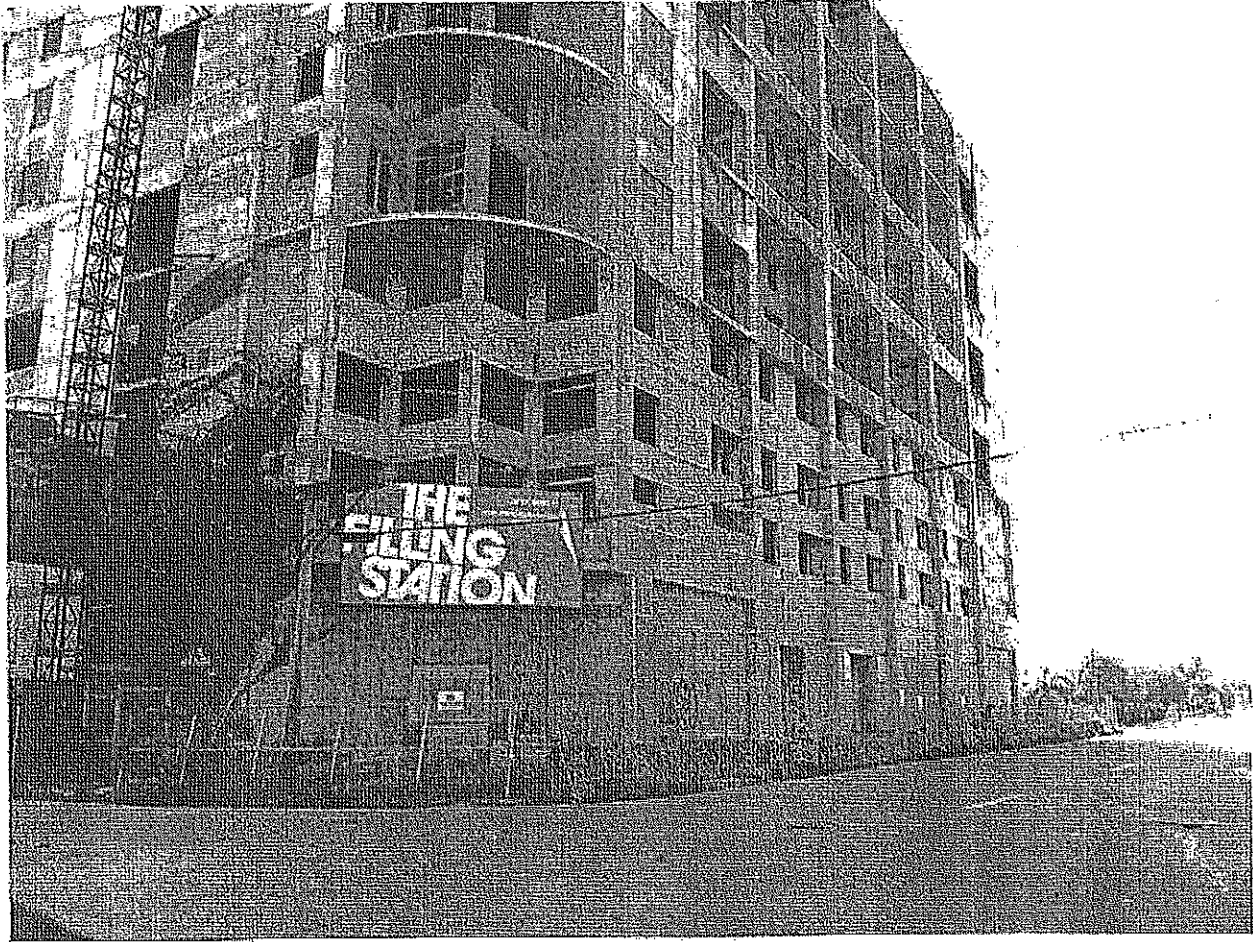
LOCATION SKETCH

FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
 180 Northeast 168th Street / North Miami Beach, Florida: 33162
 Phone: 305-653-4493 / Fax 305-7152 / Email fl@lfsurvey.com

Date	10/11/12
Scale	N/A
Job. No.	120592
Dwg. No.	1011-024-3
Sheet	3 of 3

26

EXHIBIT "B"



Photograph was taken 10-22-2012 looking Southwesterly from the intersection of NE 17th Street and NE Miami Court. Proposed Subterranean Easement is located approximately behind the orange barriers.

PAC CAPITAL, LLC

November 2, 2012

Ryan D. Baillie, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson
Museum Tower -- Suite 2200
150 West Flagler Street
Miami, Florida 33130

**RE: JERSEY Plat: Purchase of Subterranean Easement from Miami-Dade County
(the "Easement")**

Dear Ryan:

This letter will confirm that PAC Capital, LLC will pay Miami-Dade County the sum of Sixty-One Thousand and NO/100 (\$61,000.00) for the purchase of the above-referenced Easement upon approval of the transaction by the Board of County Commissioners ("Board").

You have advised us that the payment must be made by Cashier's Check, payable to the Board of County Commissioners. Upon confirmation that the Board has approved the purchase of the Easement, we will immediately deliver the Cashier's Check to your office for processing with the Board to finalize this transaction.

Sincerely,


Abraham Galbut

cc: Debra Herman, Esq.
Mr. Michael Bernstein
Linda Christian, FRP