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

MEMORANDUM

Agenda Item No. 13(A)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 4, 2013

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

SUBJECT: Resolution authorizing certain settlement in the amount of $3,994,500.00 in county eminent domain proceedings by County Attorney in connection with the acquisition of property on Fisher Island for the Government Cut Project and Norris Cut Project Sewer Force Main Replacement

Resolution No. R-718-13

The accompanying resolution was placed on the agenda by the County Attorney's Office.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 4, 2013

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

SUBJECT: Agenda Item No 13(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 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. 13(A)(1)
9-4-13

RESOLUTION NO. R-718-13

RESOLUTION AUTHORIZING CERTAIN SETTLEMENT IN THE AMOUNT OF $3,994,500.00 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF PROPERTY ON FISHER ISLAND FOR THE GOVERNMENT CUT PROJECT AND NORRIS CUT PROJECT SEWER FORCE MAIN REPLACEMENTS

WHEREAS, this Board by Resolution No. R-363-10 previously declared the acquisition of property needed for the Government Cut Project Sewer Force Main Replacement to be a public necessity and authorized the acquisition of a permanent easement, a temporary construction easement, and an ingress and egress easement therefore by eminent domain proceedings (sketch attached as Exhibit "A"); and

WHEREAS, this Board by Resolution No. R-244-13 previously declared the acquisition of property needed for Norris Cut Sewer Force Main Replacement to be a public necessity and authorized the acquisition of permanent easements, a temporary construction easement, and an ingress and egress easement therefor by eminent domain proceedings (sketch attached as Exhibit "B"); and

WHEREAS, the owner of Parcels 819, 719-A, 719-B, 819-PH2, 819-APH2, 719-APH2, and 719-BPH2 (the "Parcels"), as set forth in the attached land acquisition summary sheet, has offered to settle for the figure specified therein; and

WHEREAS, the owner of the Parcels is also willing to convey to the County an additional subterranean easement on a remnant parcel of land contiguous to subterranean easement 819-APH2 (Additional Parcel), created as a result of the taking and which is legally described and depicted in Composite Exhibit "C" (attached hereto); and

WHEREAS, it is beneficial to the County to acquire the Additional Parcel in order to facilitate construction of the Norris Cut Project; and

WHEREAS, the County Attorney hereby recommends the settlement amount as set forth in the attached land acquisition summary sheet,

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

Section 1. This Board ratifies and adopts the matters set forth in the foregoing recitals, and

Section 2. This Board authorizes the County Attorney to compromise and settle on behalf of the County all claims against the County in eminent domain proceedings for Parcels 819, 719-A, 719-B, 819-PH2, 819-APH2, 719-APH2, and 719-BPH2 in the amount specified in the attached land acquisition summary sheet, and

Section 3. Pursuant to Resolution No. R-974-09, the Board directs the County Mayor or the County Mayor's designee to record any instrument of conveyance accepted herein for the Additional Parcel (including the Stipulated Final Judgment) in the Public Records of Miami-Dade County, Florida; and to provide 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 a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner **Dennis C. Moss**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**aye**
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**absent**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**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 September, 2013. 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: Christopher Agrippa
Deputy Clerk

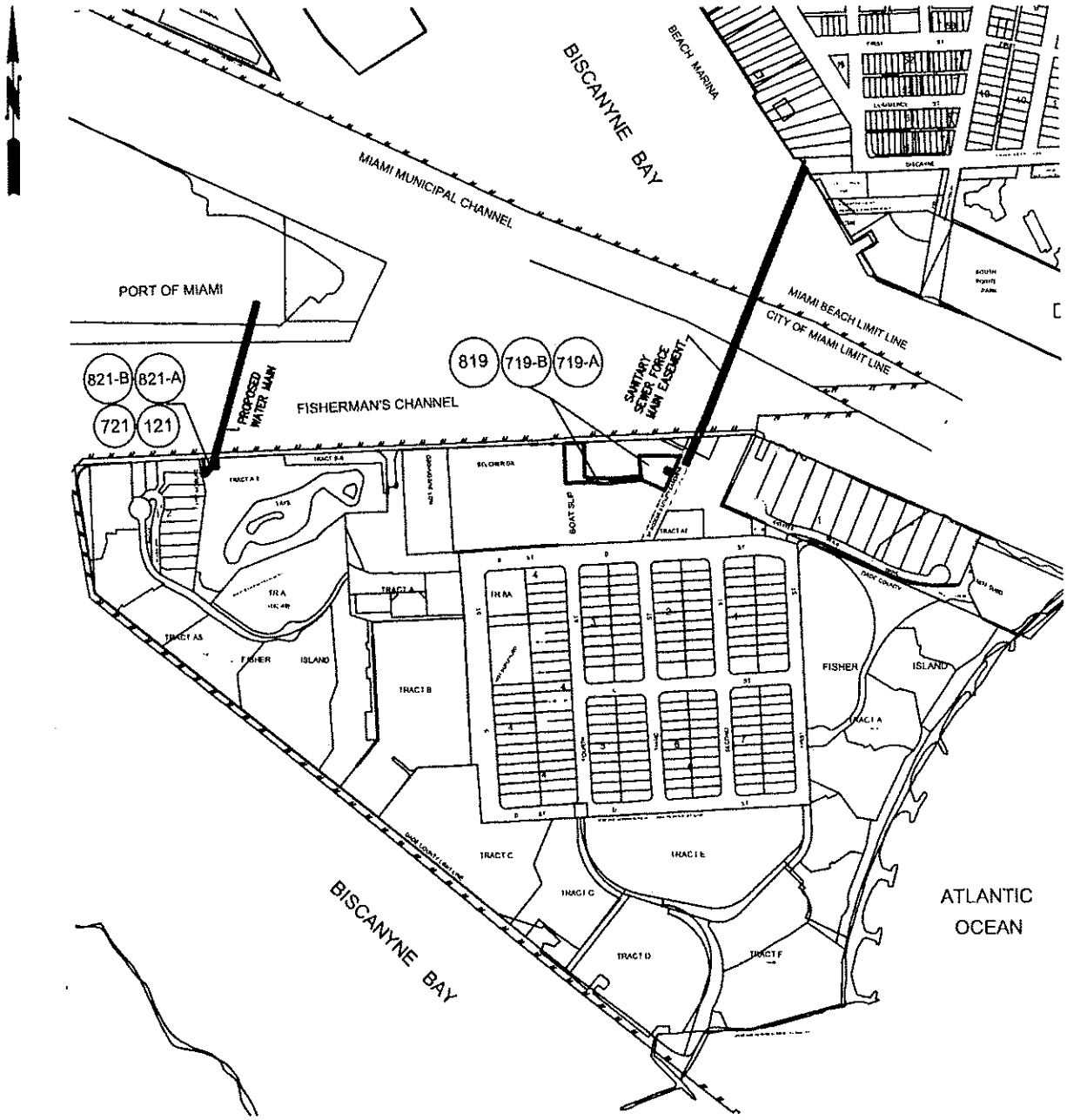
Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

LAND ACQUISITION SUMMARY SHEET

PROJECT LOCATION:	Construction and replacement of sewer force mains in connection with the Government Cut Project and the Norris Cut Project extending from Miami Beach to Fisher Island and onward to Virginia Key
PARCEL NUMBERS AND PROPERTY ACQUIRED:	Parcel No. 819 (Permanent Utility Easement) Parcel No. 719-A (temporary construction easement for 3 years) Parcel No. 719-B (temporary construction easement for 3 years) Parcel 819-PH2 (permanent utility easement) Parcel 819-APH2 (permanent subterranean utility easement) Parcel 719-APH2 (temporary construction easement for 4 years) Parcel 719-BPH2 (temporary ingress and egress easement for 4 years)
OWNERSHIP INTEREST:	Par 7, LLC
COUNTY'S APPRAISAL AND DAMAGES:	3,994,500.00 Andy Maggenheimer, MAI
OWNER'S APPRAISAL AND DAMAGES:	$4,922,810.00 (plus additional unquantified claims for damages based upon inverse condemnation) Craig Keneipp, State-Certified Appraiser
SETTLEMENT AMOUNT:	The total settlement amount is $3,994,500,000.
EXPOSURE TO COUNTY:	$928,310.00 (plus inverse claim damages) (Difference between owner's appraisal and County's appraisal)
COMMENTS:	A proposed settlement was reached in the amount stated above. In order for the County to obtain clear title to this parcel, eminent domain proceedings had to be instituted. The settlement amount of $3,994,500.00 represents compensation for the easement interests acquired, including the Additional Parcel at no further cost, all inverse claim damages, and inclusive of all attorneys' fees, expert fees, and costs of the owner. The owner is represented by the law firm of Tew Cardenas.

SEC 9
TWP 54 S
RGE 42 E



FISHER ISLAND

EXHIBIT "B"

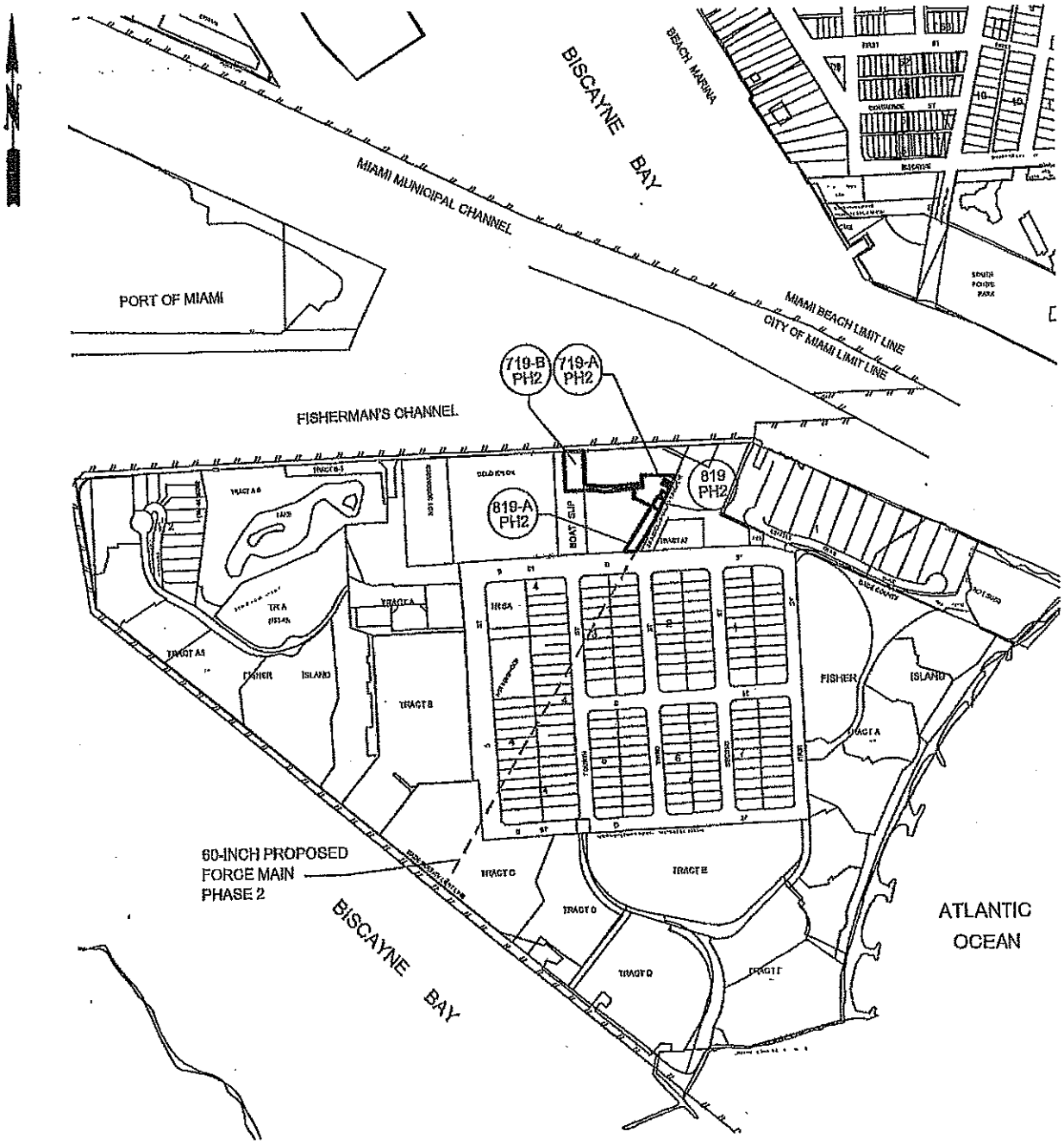
MIAMI-DADE COUNTY PUBLIC WORKS DEPT.
RIGHT OF WAY DIVISION
RIGHT OF WAY ENGINEERING SECTION

0 200 400 800 1600

SCALE 1" = 800'

SCALE 1" = 800'
PROJECT: 20090239
PREPARED BY: L.E.
DATED: 02-11-10

SEC 9&10
TWP 54 S
RGE 42 E



FISHER ISLAND

EXHIBIT "B"

MIAMI-DADE COUNTY PUBLIC WORKS AND
WASTE MANAGEMENT DEPT.
ROAD WAY ENGINEERING AND RIGHT OF WAY DIVISION
ENGINEERING SECTION

0 200 400 800 1600

" = 800'

SCALE 1" = 800'
PROJECT: 20090239
PREPARED BY: L.E.
DATED: 02-06-13

Legal Description
(Subterranean Utility Easement)

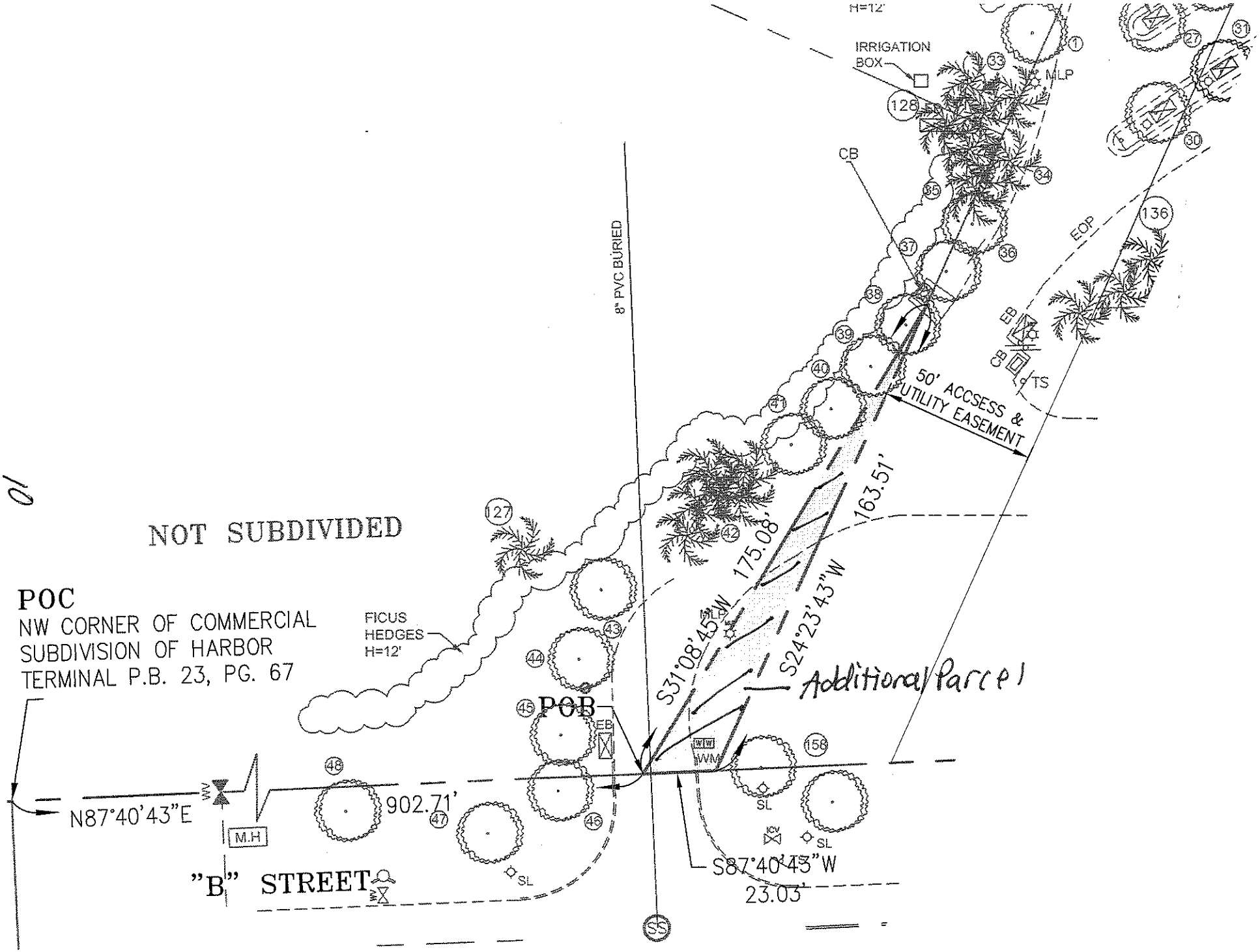
Additional Parcel

A subterranean utility easement to locate, construct, maintain, repair, replace, and operate, a water and sewer facilities together with all uses appurtenant thereto, within that space vertically enclosed above Elevation minus (-) 85.00 feet and extending to an Elevation of minus (-) 30.00 feet, according to the National Geodetic Vertical Datum of 1929 (NGVD29) as established by the United States National Geodetic Survey, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, and which is encompassed within the following horizontal limits:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 902.71 feet to a point 23.03 feet West of the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records and the **POINT OF BEGINNING**; thence N 31°08'45" E for 175.08 feet to the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of said Tract "A-7", for 163.51 feet to the North right of way line of "B" Street; thence S87°40'43"W, along the North right of way line of "B" Street, for 23.03 feet to the **POINT OF BEGINNING.**

The owner retains all rights which are not inconsistent with the County's use thereof. No permanent structure shall be erected above or upon the Additional Parcel now or in the future.

COMPOSITE EXHIBIT "C"


H=12'
IRRIGATION BOX
MLP
128
CB
8" PVC BURIED
EOP
136
EB
CB
TS
50' ACCSESS & UTILITY EASEMENT
163.51'
175.08'
S24°23'43"W
S31°08'45"W
Additional Parcel
NOT SUBDIVIDED
127
POC
NW CORNER OF COMMERCIAL SUBDIVISION OF HARBOR TERMINAL P.B. 23, PG. 67
FICUS HEDGES H=12'
POB
EB
WW
158
SL
ICV
N87°40'43"E
M.H
902.71'
"B" STREET
S87°40'43"W
23.03'
SS

10