

ORDINANCE NO. ~~2020-033~~

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING AND JOINING IN THE COVENANT IN FAVOR OF MIAMI-DADE COUNTY BY THE PROPERTY OWNER JVC MANAGEMENT CORP., WHEREIN THE CITY HOLDS AN EASEMENT TO MAINTAIN, OPERATE AND PRESERVE A STORMWATER MANAGEMENT SYSTEM ALONG N.W. 102 AVENUE, FROM N.W. 138 STREET TO N.W. 142 STREET, AS MORE PARTICULARLY DESCRIBED IN THE FORM COVENANT, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF AS "EXHIBIT 1"; AUTHORIZING THE EXECUTION OF THE COVENANT BY THE MAYOR AND CITY CLERK, ON BEHALF OF THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has planned to construct certain roadway improvements on N.W. 102 Avenue in and about N.W. 138 Street to N.W. 142 Street; and

WHEREAS, in order to complete the roadway improvements and as part of the regulatory permits, Miami-Dade County Regulatory and Economic Resources Division of Environmental Resources Management requires the City to join in the covenant by the owner of the property JVC Management Corp., to ensure the protection and preservation of the stormwater management system; and

WHEREAS, preservation of the stormwater management system is in the public's best interest.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby approves and joins in the form covenant in favor of Miami-Dade County for the purpose of constructing a stormwater management system, its maintenance, protection and preservation as designed for the public right of way along N.W. 102 Avenue, From N.W. 138 Street to N.W. 142 Street as more particularly described in the covenant attached hereto and made a part hereof as "Exhibit 1".

Section 2: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk to execute the covenant on behalf of the City.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

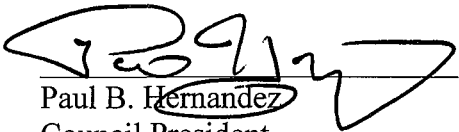
Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

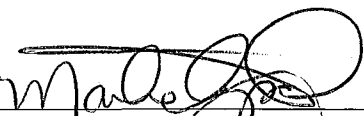
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

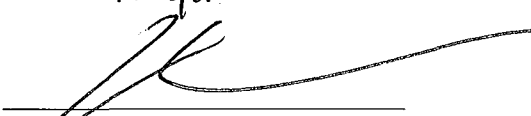
PASSED and ADOPTED this 28 day of July, 2020.


Paul B. Hernandez
Council President

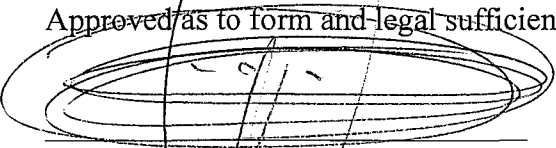
Attest:

Approved on this 10 day of August, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, Hernandez, Garcia-Roves, Perez, Tundidor, and Zogby, voting "Yes" and with Council Vice President De la Rosa absent.

EXHIBIT "1"

Prepared by

Sign _____

Print Robert J. Behar, PE

Address 6861 SW 196 Avenue, Suite 302
Pembroke Pines, FL 33332

COVENANT RUNNING WITH THE LAND OF **JVC MANAGEMENT CORP.**, A FLORIDIA CORPORATION, IN FAVOR OF THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, CONCERNING THE PROTECTION AND MAINTENANCE OF STORMWATER MANAGEMENT SYSTEM LOCATED **ALONG N.W. 102 AVENUE, FROM N.W. 138 STREET TO N.W. 142 STREET**, MIAMI-DADE COUNTY, FLORIDA.

The undersigned owner(s) of a parcel of real property, legally described as set forth in Exhibit "A", attached hereto and incorporated herein by reference, located along N.W. 102 Avenue, from N.W. 138 Street to N.W. 142 Street, Miami-Dade County, Florida, and further identified for ad valorem tax purposes by all or part of folio number(s) **04-2020-001-0050** (hereinafter referred to as the "Property").

The undersigned owner(s) has submitted and the Miami-Dade County Department of Regulatory and Economic Resources Division of Environmental Resources Management (DERM) or its successors or assigns department has reviewed and approved: the site plan, stormwater management plan, and the maintenance plan for the control of impediments to the function of the stormwater management system.

The undersigned owner, in order to guarantee the permanency of all features depicted in the approved site plan, does hereby create(s) a covenant (the "Covenant") on behalf of the undersigned owner(s) and his/their heirs, successors, assigns and grantees (hereafter collectively referred to as the "Undersigned"), running with the land, to and in favor of the Board of County Commissioners of Miami-Dade County, Florida (hereafter referred to as the "Board"), their successors and assigns, with respect to the Property, as follows:

1. The Undersigned covenant(s) and represent(s) that the Undersigned owner(s) is/are the owner(s) in fee simple of the Property and that, except for the CITY OF HIALEAH, FLA., having an easement interest of record and who consents to the making of these covenants by the owner, no other person or other legal entity has any fee interest in the Property.
2. The Undersigned agree(s) and covenant(s) that, if applicable, it shall form a Florida non-profit Homeowners Association to which all third party purchasers of any part of the Property shall be members, which Homeowners Association (the "Association") shall be obligated to maintain the stormwater management system at the sole cost and expense of the Association. The Undersigned agree(s) and covenant(s) that, if applicable, it shall form the Association upon the earlier of twelve (12) months from the date hereof or before the issuance of the first building permit.

3. This Covenant shall remain in effect unless and until an Improvement District is created to maintain and operate the stormwater management system as it relates to the Property. At the time that the Improvement District is created, the Miami-Dade Public Works Department or its successor department shall assume financial responsibility for the stormwater management system, at which time, this Covenant may be released by the County.
4. The Undersigned agree(s) and covenant(s) that, prior to entering into a landlord-tenant relationship with respect to granting an easement upon, encumbering or selling the stormwater management area or any portion thereof, the undersigned shall notify, in writing, all proposed tenants, easement holders, mortgagees or purchasers of the existence and contents of this Covenant, and shall provide the RER-DERM with copies of all such written notifications. Failure of the current Property owner(s) to provide such written notice to all successors, heirs, assigns and grantees shall not, however, affect the validity of this Covenant or the ability of the RER-DERM to enforce this Covenant against any successors, heirs, assigns and grantees.
5. The Undersigned has attached hereto as Exhibit "B", the site plan titled, "**NW 102 AVENUE – STORMWATER MANAGEMENT PLAN**", and Exhibit "C" the stormwater management and maintenance plan. The Undersigned agree(s) and covenant(s) that any and all portion(s) of the Property designated as the stormwater management system, including all open, pervious, impervious and lake areas, as well as structural components of the conveyance system shall be maintained:
 - A) in the condition depicted on the approved plans;
 - B) free of silt, debris, solid waste or fill,
 - C) free of noxious vegetation; and
 - D) in accordance with the maintenance schedule and control techniques approved by the RER-DERM for the control of noxious vegetation, as applicable.

The Undersigned agree(s) and covenant(s) that the same shall not be used for the placement or storage of any materials. The stormwater management area shall not be altered in size or shape without the approval of the RER-DERM.

6. The Undersigned agree(s) and covenant(s) to prevent any clearing or removal of native plants not defined as noxious vegetation pursuant to Section 24-5 of the Code of Miami-Dade County, Florida, and plants required to be planted by Miami-Dade County in the stormwater management area(s), except as required to maintain the stormwater management area(s) in a functional condition, in accordance with the approved management plan(s).
7. The Undersigned agree(s) and covenant(s) to prevent and prohibit adverse impacts to the stormwater management system. In the event RER-DERM determines that the stormwater management system is being adversely impacted, then RER-DERM may require the installation of protective barriers around the impacted portions of the stormwater management system.
8. The Undersigned agree(s) and covenant(s) that the RER-DERM shall have the right to inspect the Property at reasonable times to determine whether the Property is being used and maintained in the manner consistent with this Covenant. Should RER-DERM determine, after such an inspection, that curative action is required in order to achieve compliance with this Covenant, the RER-DERM shall notify the current Property owner(s) in writing by certified mail, return receipt requested, of the particular curative action is required in order to achieve compliance with this Covenant, the RER-DERM shall notify the current Property owner(s) in writing by certified mail, return receipt requested, of the particular curative action to be taken and the reasons therefor. The owner(s) shall take such curative action within a reasonable time, provided, however, that the owner(s) shall have the right to appeal RER-DERM's actions or decisions to the Miami-Dade County Environmental Quality Control Board in accordance with the provisions of Section 24-6 of the Code of Miami-Dade County. The owner(s)

shall be entitled to seek judicial review of any decisions of the Miami-Dade County Environmental Quality Control Board in accordance with the Florida Rules of Appellate Procedure.

9. Upon agreement by Miami-Dade County, this instrument may be modified, amended or released for any portion of the Property by a written instrument executed by the fee simple owner(s) of the Property, or any portion thereof, that would be affected by such modification, amendment or release. The director of RER-DERM shall have the authority to approve modifications or amendments to the site plans required under this instrument and require same to be recorded in the Public Records of Miami-Dade County. No other provisions of this Covenant shall be subject to cancellation, revision, alteration or amendment without the consent of the Board.
10. This instrument shall constitute a covenant running with the land binding upon the Undersigned and his/their heirs, successors, assigns and grantees upon the recording of the same in the Public Records of Miami-Dade County, Florida. The conditions contained herein shall apply to all present and future owners of any portion of the Property. This Covenant shall remain in full force and effect and shall be binding upon the Undersigned and his/their heirs, successors, assigns and grantees for an initial period of thirty (30) years from the date that this instrument is recorded in the Public Records of Miami-Dade County, Florida, and shall be automatically extended for successive periods of ten (10) years thereafter unless released prior to the expiration thereof as set forth in Paragraph 9 above.
11. The Undersigned agree(s) and covenant(s) that this Covenant and the provisions contained herein may be enforced by the Director of the RER-DERM or its successor agency by preliminary and permanent, prohibitory and mandatory injunctions as well as otherwise provided for by law or ordinance.
12. After this Covenant is accepted by the RER-DERM, the Covenant, together with a certified copy of the Board's resolution authorizing the RER-DERM to accept covenants in substantially the form of this Covenant, shall be promptly filed with the Clerk of Court for recording in the official records of Miami-Dade County.
13. Invalidations of any one of the covenants herein, to the extent it is not material, shall in no way affect any of the other provisions of this Covenant which shall remain in full force and effect.

IN WITNESS WHEREOF, the Undersigned, being the owner(s) of the Property, agree(s) to the terms of this Covenant, hereby create same as a covenant running with the land, and set their hands and seal unto this Covenant this _____ day of _____, 20__.

Witnesses:

Sign _____

Print _____

Address _____

Witnesses:

Sign _____

Print _____

Address _____

Property Owner(s):

Sign _____

Print _____

Corporate Seal (if applicable)

Sign _____

Print _____

Corporate Seal (if applicable)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC

Sign _____

Print _____

State of Florida at Large (seal)

My Commission Expires: _____

The City of Hialeah, Florida, hereby acknowledges that it has received and reviewed a complete copy of this Covenant running with the land made by JVC Management, Corp. for the benefit of Miami-Dade County, Florida and agrees that upon execution by its duly authorized officer, the City of Hialeah, Florida, shall be bound by and subject to, all of the covenants, terms and conditions of this Covenant.

Attest:

For the City of Hialeah, Florida

Marbelys Fatjo, City Clerk

Carlos Hernandez, Mayor

Accepted by the Miami-Dade County Mayor or designee, on behalf of the Board of County Commissioners of Miami-Dade County, Florida

Sign _____ Date _____

Print _____

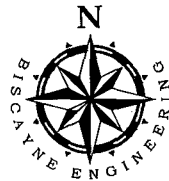
By: County Mayor or designee

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "A"

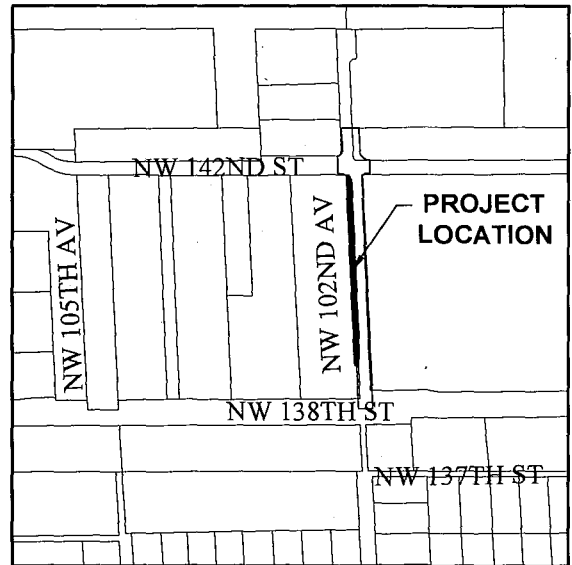
LEGEND:

- PB - PLAT BOOK
- PG - PAGE
- ℄ - CENTERLINE
- ORB - OFFICIAL RECORD BOOK
- P.O.C - POINT OF COMMENCEMENT
- P.O.B - POINT OF BEGINNING
- R/W - RIGHT OF WAY
- MDCSS - MIAMI-DADE COUNTY SECTION SHEET



NOTES:

1. THIS IS NOT A SURVEY.
2. THE SUBJECT AREA PROPERTIES LIE IN THE S 1/2 OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 40 EAST, CITY OF HIALEAH, MIAMI-DADE COUNTY, FLORIDA.
3. THE PURPOSE OF THIS SKETCH AND LEGAL DESCRIPTION DOCUMENT IS TO DESCRIBE THE EXISTING AND PROPOSED RIGHT OF WAY WITHIN THE AREA DESIGNATED FOR FLOOD COMPENSATION PURPOSES AND TO ACCOMPANY COVENANT DOCUMENTS.
4. RECORD INFORMATION SHOWN HEREON WAS OBTAINED FROM THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA, THE CITY OF HIALEAH, AND MIAMI-DADE COUNTY, PROPERTY APPRAISER'S WEB-SITE.
5. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN DATUM OF 1983/2011 ADJUSTMENT AS BROADCAST BY THE FLORIDA PERMANENT REFERENCE NETWORK (FPRN). A BEARING OF N02°36'35" WAS OBTAINED BETWEEN THE SOUTHEAST AND NORTHEAST CORNERS OF THE SW 1/4 OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 40 EAST.

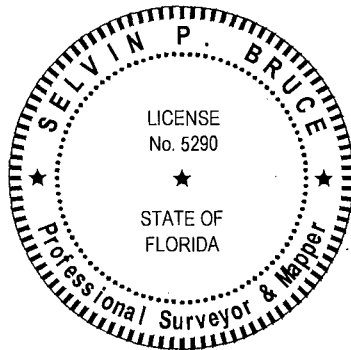


**LOCATION MAP
(NOT TO SCALE)**

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY:



ON THE DATE ADJACENT TO THE SEAL

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

BISCAYNE ENGINEERING COMPANY, INC.
529 WEST FLAGLER STREET, MIAMI, FL. 33130
TEL: (305)-324-7671, FAX: (305)-324-0809
STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
CERTIFICATE OF AUTHORIZATION LB-0000129
SELVIN P. BRUCE, PSM, NO. 5290, FOR THE FIRM

THIS DOCUMENT IS VALID ONLY WHEN ALL SHEETS ARE COMBINED, FORMING THE COMPLETE SET.

DATE: Aug 07, 2019 - 2:51pm EST FILE: F:\SURVEY\PROJECTS\86000's\86001\DWG\86001-sketch and legal-DE.dwg

DRAWING No. 2283-SS-06-DE

BEC ORDER # 05-86001

PROJECT: NW 102ND AVENUE - DRAINAGE EASEMENT

DATE: 10/03/2018	REV DATE: N/A	FIELD BOOK N/A	SHEET 1 OF 4	DRAWN BY W.J.R.	CLIENT R.J. BEHAR AND COMPANY
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BISCAYNE

SURVEYORS
ENGINEERS

529 W. FLAGLER ST, MIAMI, FL 33130
TEL (305) 324-7671

449 NW 35TH ST, BOCA RATON, FL 33431
TEL. (561) 609-2329

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN THE SOUTH 1/2 OF SECTION 20, TOWNSHIP 52 SOUTH, RANGE 40 EAST, SAID PARCEL ALSO BEING A PORTION OF TRACTS 5, 6, 7 AND 8 OF SECTION 20, CHAMBERS LAND COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 68, OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE NORTH 02°36'35" WEST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 20, A DISTANCE OF 252.44 FEET; THENCE SOUTH 87°23'25" WEST, DEPARTING THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON A LINE 35 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SOUTHWEST 1/4 OF SAID SECTION 20; THENCE NORTH 02°36'35" WEST, CONTINUING ALONG THE WEST LINE OF THE EAST 25 FEET OF SAID TRACTS 8, 7, 6, AND 5 OF SAID CHAMBERS SUBDIVISION, A DISTANCE OF 1011.13 FEET, TO A POINT ON A CURVE CONCAVE TO THE SOUTHWEST, HAVING FOR ITS ELEMENTS A RADIUS OF 55.00 FEET AND A CENTRAL ANGLE OF 33°14'31", SAID POINT BEING ON THE PROPOSED WESTERLY RIGHT-OF-WAY LINE OF NW 102nd AVENUE; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 31.91 FEET TO A POINT ON A LINE 26.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 20, SAID LINE ALSO BEING THE WEST LINE OF THE EAST 16.00 FEET OF SAID TRACTS 5, 6, 7, AND 8 AND THE PROPOSED WEST RIGHT-OF-WAY LINE OF NW 102nd AVENUE; THENCE SOUTH 02°36'35" EAST, CONTINUING ALONG SAID PROPOSED WEST RIGHT-OF-WAY LINE, A DISTANCE OF 910.98 FEET; THENCE SOUTH 04°43'00" WEST, CONTINUING ALONG SAID PROPOSED WEST RIGHT-OF-WAY LINE, A DISTANCE OF 70.58 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 8,698 SQUARE FEET OR 0.20 ACRES MORE OR LESS.

THIS DOCUMENT IS VALID ONLY WHEN ALL SHEETS ARE COMBINED, FORMING THE COMPLETE SET.

THIS IS NOT A SURVEY

DATE: Aug 07, 2019 - 2:51pm EST FILE: F:\SURVEY\PROJECTS\86000's\86001\DWG\86001-sketch and legal-DE.dwg

DRAWING No. 2283-SS-06-DE

BEC ORDER # 05-86001

PROJECT: NW 102ND AVENUE - DRAINAGE EASEMENT

DATE: 10/03/2018	REV DATE: N/A	FIELD BOOK N/A	SHEET 2 OF 4	DRAWN BY W.J.R.	CLIENT R.J. BEHAR AND COMPANY
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RISCAVNE

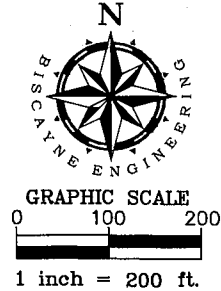
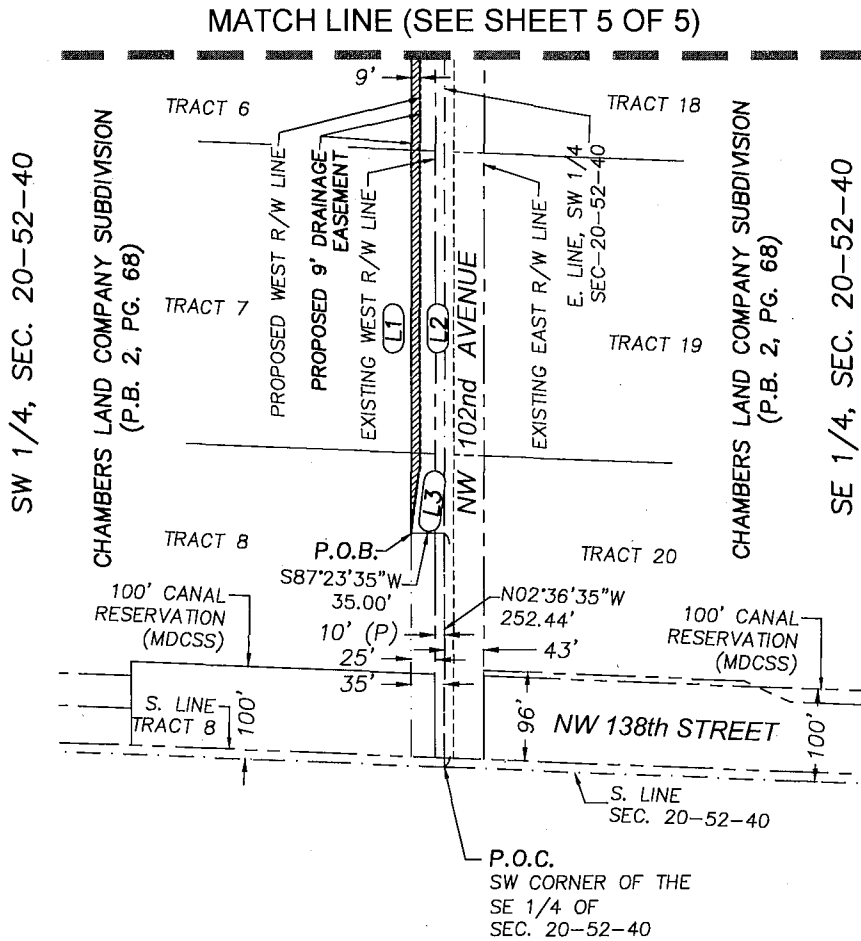
SURVEYORS
ENGINEERS

529 W. FLAGLER ST, MIAMI, FL 33130
TEL (305) 374-7671

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TEL (561) 609-2329

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "A"



Line Table		
Line #	Length	Direction
L1	1011.13	N02°36'35"W
L2	910.98'	S02°36'35"E
L3	70.58'	S04°43'00"W

Curve Table					
Curve #	Length	Radius	Delta	Chord	Chord Bearing
C1	31.91	55.00'	33°14'31"	31.46'	N19°13'51"W

LINE TYPES

EXISTING R/W LINE

SECTION LINE

TRACT LINES

ORIGINAL TRACT LINE

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DRAWING No. 2283-SS-06-DE

BEC ORDER # 05-86001

PROJECT: NW 102ND AVENUE - DRAINAGE EASEMENT

DATE: 10/03/2018 REV DATE: N/A FIELD BOOK: N/A SHEET: 3 OF 4 DRAWN BY: W.J.R. CLIENT: R.J. BEHAR AND COMPANY

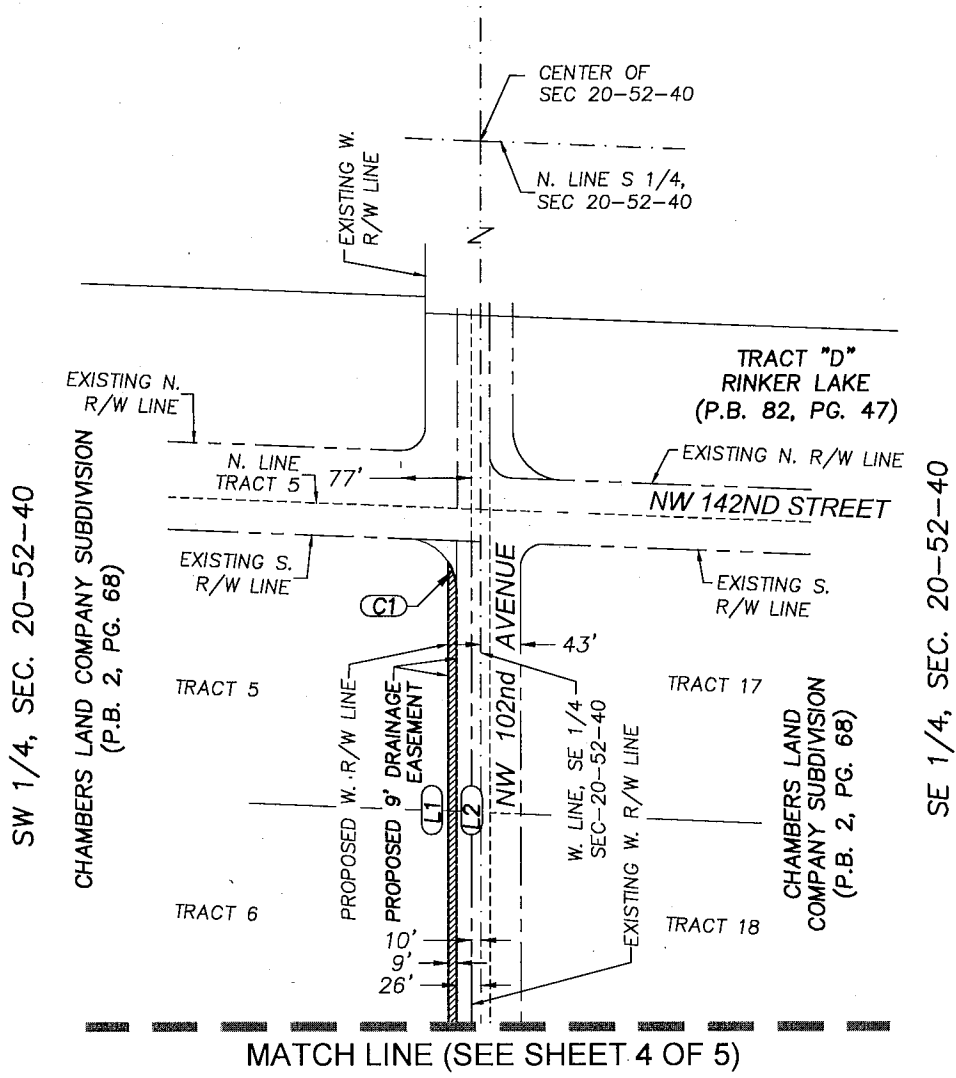
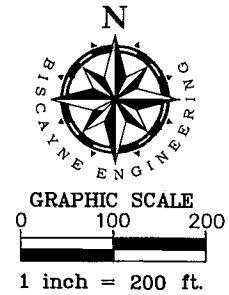
RISCAVNE SURVEYORS ENGINEERS

529 W. FLAGLER ST, MIAMI, FL 33130

449 NW 35TH ST, BOCA RATON, FL 33431

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "A"



Line Table		
Line #	Length	Direction
L1	1011.13'	N02°36'35"W
L2	910.98'	S02°36'35"E
L3	70.58'	S04°43'00"W

LINE TYPES

- EXISTING R/W LINE
- SECTION LINE
- TRACT LINES
- ORIGINAL TRACT LINE

Curve Table

Curve #	Length	Radius	Delta	Chord	Chord Bearing
C1	31.91	55.00'	33°14'31"	31.46'	N19°13'51"W

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PROJECT: NW 102ND AVENUE - DRAINAGE EASEMENT

DATE: 10/03/2018	REV DATE: N/A	FIELD BOOK N/A	SHEET 4 OF 4	DRAWN BY W.J.R.	CLIENT R.J. BEHAR AND COMPANY
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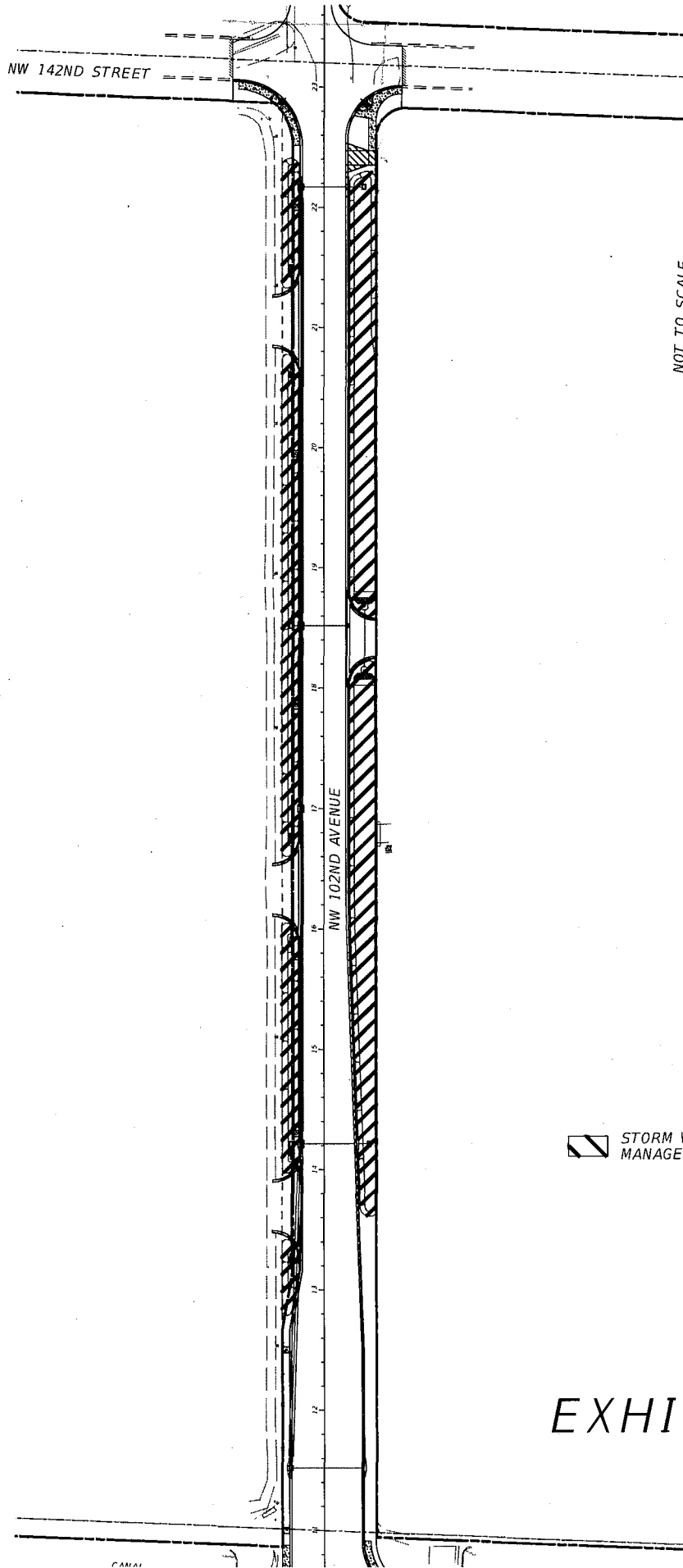


Exhibit C

File #: CF- 779

File Name:

**Stormwater Area Maintenance Plan
Exhibit C to Stormwater Covenant
Folio No. 04-2020-001-0050**

This Maintenance Plan is to be performed on a quarterly basis, in perpetuity (unless legally released), regardless of ownership, and is important to ensure proper functioning of the retention area, the purpose of which is to provide flood protection for the folio numbers referenced above. Deviation from this plan requires prior approval from the Department of Regulatory and Economic Resources/Environmental Resources Management (RER/ERM).

Maintenance Activities include the following activities:

- Maintenance of the configuration, slopes and elevations as detailed on the site plan.
- Removal of any silt, debris, solid waste and/or fill illegally placed in the Stormwater Management Area
- Free of noxious and/or exotic vegetation with the exotic removal to be completed by a licensed herbicide applicator registered in the State of Florida
- Maintenance of the Stormwater Management Area will be in accordance with the approved schedule referenced above and control techniques approved by RER/ERM for the control of noxious and/or exotic vegetation, as applicable
- Maintenance of native plant communities.

The property owner hereby covenants to allow Miami-Dade RER/ERM access to the site at reasonable times to ensure compliance with the covenant. In the event RER/ERM determines that modifications are required to ensure property operation of the stormwater maintenance area, the property owner will make said revisions within a set timeframe. Said decision can be presented for appeal at the RER/ERM EQCB (Environmental Quality Control Board).

By reference in this document, the property owner agrees to comply with any and all conditions listed in the stormwater covenant.