

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made this ____ day of _____, 20__, by and between **CITY OF FORT LAUDERDALE**, a Municipal Corporation of the State of Florida, its successors and assigns ("Grantor" or "City") and **RAHN BAHIA MAR WALKWAY, LLC, a Florida limited liability company**, its successors and assigns ("Grantee"). Grantee and Grantor are individually a "Party" and collectively "Parties".

WITNESSETH:

WHEREAS, Grantor is the owner of the A1A crossover bridge with appurtenant access thereto from the City's Fort Lauderdale beach to the eastern boundary of the Bahia Mar property ("Bahia Mar Property") leased under separate agreement by the City to Rahn Bahia Mar, LLC ("Rahn") ("Crossover Bridge"), in the area as generally shown on **Schedule 1** ("Easement Area"); and

WHEREAS, Grantee desires to have exclusive use of the Crossover Bridge for among other things, to provide access to/from the Bahia Mar Property from/to Fort Lauderdale beach to permit Grantee and its designees access from/to Fort Lauderdale beach to/from the Bahia Mar Property (including the right to reasonably restrict access and to only permit access to such parties as specifically designated by Grantee or its designee), together with all other legal uses with respect to the Crossover Bridge (collectively "Permitted Use"), subject to the terms of this Agreement; and

WHEREAS, Grantee wishes to obtain from Grantor and Grantor wishes to grant to Grantee an exclusive easement during the "Term" (as hereinafter defined) to utilize the Crossover Bridge for the Permitted Use ("Easement").

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easement. Grantor hereby grants Grantee (and its designees) the exclusive Easement to use, maintain, repair and operate the Crossover Bridge during the Term for the Permitted Uses. Notwithstanding anything herein to the contrary, Grantee's exclusive use of the Easement Area shall not restrict Grantor's or the Florida Department of Transportation's ("FDOT") right of entry to the Easement Area pursuant to that certain District Four Maintenance Memorandum of Agreement dated July 20, 2020 by and between the City and FDOT ("MMOA"). Grantor hereby reserves unto itself, the FDOT and their respective agents and employees, the right of entry to the Easement Area to survey, inspect, maintain and, if necessary, repair the Crossover Bridge as determined by Grantor or FDOT in their respective sole and reasonable discretion as needed to enforce the MMOA.

2. Repair. The Grantor and Grantee recognize that the Crossover Bridge is in need of the work set forth in the MMOA (“Repairs”), which repair list is incorporated herein by reference. The Grantor hereby delegates all duties and responsibilities of repair and maintenance of the Crossover Bridge as prescribed by the MMOA to the Grantee and, during the term of this Agreement, Grantee accepts such delegation by Grantor to satisfactorily complete all repairs and carry out all maintenance responsibilities prescribed therein. Grantee agrees to proceed with reasonable diligence to apply to applicable governmental authorities to obtain the necessary governmental permits to complete the Repairs (“Permits”). Upon Grantee obtaining the Permits, the Grantee agrees to promptly commence and proceed with commercially reasonable diligence to complete the Repairs (the date that such Repairs have been completed is the “Completion Date”). The Grantee agrees that it shall complete the Initial Repairs in a good and workmanlike manner, free of liens and in material compliance with the Permits granted to Grantee for such purpose.

The Grantor and Grantee hereby agree that any injury to person(s), damage to property, or liability directly caused by the acts or omissions of the City associated with the Crossover Bridge and/or the general condition of the Crossover Bridge which occurred prior to the Completion Date will be the sole and exclusive obligation and responsibility of the City, which obligation shall include but not be limited to any claims, liabilities or damages in connection therewith.

3. Maintenance. From and after the Completion Date and during the balance of the Term: (i) Grantee shall, at its expense, maintain and repair the Crossover Bridge in good condition, normal wear and tear accepted, (ii) Grantee shall, at its expense, operate and maintain the Crossover Bridge, including, but not limited to, covering the cost of all utilities, insurance and all other costs and expenses in connection with the use and operation of the Crossover Bridge, provided, however, that Grantee shall not be responsible for any ad valorem or non-ad valorem taxes and/or assessments against the Easement Area or Crossover Bridge, and (iii) Grantee shall, at its expense, subject to obtaining applicable governmental approvals to do so shall repair any damage caused to the Crossover Bridge in connection with the use thereof, which repairs shall be made in a good and workmanlike manner, free of lien and in material compliance with any applicable governmental requirements. Notwithstanding anything contained herein to the contrary, during the term of this Agreement Grantee shall, in addition to the maintenance obligations set forth herein, perform all maintenance of the Crossover Bridge as prescribed in the Assumption of Liability and Hold Harmless Agreement between Grantor and Grantee (“Hold Harmless Agreement”), incorporated herein by reference.

4. Term and Scope of Easement. The Easement rights herein granted to Grantee shall be deemed an exclusive easement in favor of Grantee (and its designees) for the Permitted Uses set forth herein. The term of this Agreement (“Term”) shall commence on the date of the execution of this Agreement by Grantor and Grantee and shall continue until a date which is the earlier to occur of (i) termination of the right to utilize the “Improvement” as provided in the MMOA or (ii) the date set forth in a written notice from Grantee to Grantor wherein Grantee elects in writing to terminate this Easement.

5. Liens. During the Term, in the event that any claim of lien is filed against the Crossover Bridge for any activities conducted by Grantee, its agents or designees, Grantee shall, within thirty (30) days after written notice from Grantor to Grantee of such matter, satisfy such lien or transfer such lien to bond in accordance with Florida law so that such lien is no longer a lien against the City's interest in the Crossover Bridge.

6. Risk of Loss and Insurance. Grantee and its designees shall use the Crossover Bridge at their own risk and Grantor shall not be liable to Grantee for any injury resulting from Grantee's use and/or occupancy of the Crossover Bridge. Notwithstanding the foregoing, the Parties hereby agree that the Grantor is responsible for any injury to persons or damage to property resulting from the condition of the Crossover Bridge occurring prior to the Completion Date, as more fully described in Section 2 hereinabove.

At all times during the Term of this Easement, Grantee, at its expense, shall keep or cause to be kept in effect the insurance coverages set forth in Section 14 of the MMOA and Grantee shall cause such coverage to be extended to the Grantor as an additional insured and shall furthermore provide Certificates of Insurance to Grantor prior to commencing work by the contractor retained by Grantee to perform the work set forth in the MMOA and annually thereafter on the anniversary date of the policies during the period such insurance is required thereunder.

Indemnification and Hold Harmless. At all times during the Term of this Easement, Grantee agrees to indemnify and hold harmless Grantor to the extent set forth in Section 6 of the Hold Harmless Agreement.

7. Default. The term "Default" shall mean in the event of a breach of the covenants and agreements of either Party hereunder (such party being the "Defaulting Party"), not cured within thirty (30) days after written notice by Grantor or Grantee to the other, as applicable; provided, however, if the default is not reasonably curable within said period, the cure period shall be extended for a reasonable period necessary to cure the default if such Defaulting Party does, in good faith, commence efforts to cure the default within such period, and diligently and continuously prosecutes the cure to completion. Upon a Default not cured within the cure period, either Party shall have rights and remedies available at law or in equity including, but not limited to termination of this Easement upon the termination of the MMOA or the Hold Harmless Agreement pursuant to the terms and conditions of each respective agreement.

8. Notice. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either Party shall be in writing and shall be either hand delivered or sent by email, overnight delivery (with any nationally recognized overnight delivery service such as FedEx) or certified mail, postage prepaid, return receipt requested. If sent by email to the below email address, such notice will be deemed received upon the sender receiving an electronic confirmation that the email was received by the other Party. If sent by overnight delivery, such notice shall be deemed received on the next business day. If sent by certified mail, such notice shall be deemed received on the third (3rd) business day after the notice was properly placed in the United States mail. Such written notice shall be addressed as follows:

If to Grantee: Rahn Bahia Mar Walkway, LLC
1175 N.E. 125th Street, Suite 102
North Miami, FL 33161
Attn: James D. Tate
Telephone: (305) 891-1107
Email: jimmy@tatecapital.com

If to Grantor: City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Attn: Office of the City Manager
Telephone: (954) 828-5959
Email: clagerbloom@fortlauderdale.gov

Either Party shall have the right to change its address by providing written notice to the other Party of such new address in the manner for sending notices set forth above.

9. Amendment. This Agreement may not be modified or amended except by a written instrument executed by Grantor and Grantee.

10. Captions. The captions and paragraph headings contained in this Agreement are for convenience and reference only and are in no way to define, describe, extend or limit the scope or intent of this Agreement nor the intent of any provision hereof.

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

12. Governing Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Florida and venue for any litigation hereunder shall be Broward County, Florida.

13. Effective Date. The Effective Date of this Agreement shall be the last date that this Agreement is executed by Grantor and Grantee.

14. WAIVER OF TRIAL BY JURY. GRANTOR AND GRANTEE HEREBY WAIVE TRIAL BY JURY IN CONNECTION WITH ANY DISPUTES BETWEEN GRANTOR AND GRANTEE PERTAINING TO THIS AGREEMENT.

15. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

[SIGNATURES ON FOLLOWING PAGES]

**GRANTOR:
CITY OF FORT LAUDERDALE, A
MUNICIPAL CORPORATION OF THE
STATE OF FLORIDA**

Print Name:_____

By:_____
Dean J. Trantalis, Mayor

Print Name:_____

Print Name:_____

By:_____
Christopher J. Lagerbloom, ICMA-CM,
City Manager

Print Name:_____

ATTEST:

Jeffrey A. Modarelli, City Clerk

Approved as to Form:

Alain E. Boileau, City Attorney

James Brako, Assistant City Attorney

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____, 20__, by Dean J. Trantalis, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me or produced _____ as identification.

(SEAL)

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____, 20____, by Christopher J. Lagerbloom, ICMA-CM, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me or has produced _____ as identification.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

GRANTEE:

RAHN BAHIA MAR WALKWAY, LLC, a Florida
limited liability company

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by _____, the _____ of RAHN BAHIA MAR WALKWAY, LLC, a Florida limited liability company, freely and voluntarily under authority duly vested in him/her by said company. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2020.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

SCHEDULE 1
EASEMENT AREA



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE (954) 763-7611 * FAX (954) 763-7615

*Refer to hand copy
for different sign-off*

SKETCH AND DESCRIPTION
BAHIA MAR A-1-A
OVERPASS EASEMENT
SHEET 1 OF 2 SHEETS



LEGAL DESCRIPTION:

A portion of State Road A-1-A right-of-way lying West of and adjacent to Parcel 37 AND East of and adjacent to the Entrance Road, all as shown of the plat of BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, above elevation 21.50 North American Vertical Datum (1988), more fully described as follows:

Commencing at the Northeast corner of Parcel 33 of said BAHIA MAR thence; North 07°38'43" East, on the West right-of-way line of said State Road A-1-A, a distance of 39.16 feet to the Point of Beginning; thence continuing North 07°38'43" East, on the said West right-of-way line, a distance of 20.00 feet; thence South 82°11'40" East, a distance of 58.00 feet; thence South 07°38'43" West, on the East right-of-way line of said State Road A-1-A, a distance of 20.00 feet; thence North 82°11'40" West, a distance of 58.00 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 1,160 square feet or 0.0266 acres more or less.

NOTES:

- 1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s).

The subject property was not abstracted for other

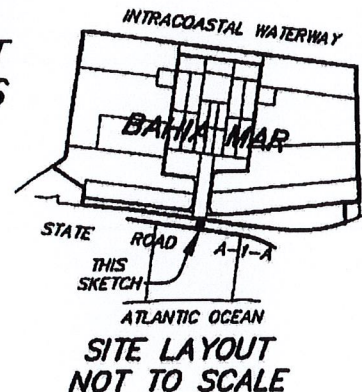
easements road reservations or rights-of-way of record by McLaughlin Engineering Company.

- 2) Legal description prepared by McLaughlin Engineering Co.

- 3) This drawing is not valid unless sealed with an appropriate surveyors seal.

- 4) THIS IS NOT A BOUNDARY SURVEY.

- 5) Bearings shown refer to record plat (35/39) and assume the West right-of-way line of A-1-A as North 07°38'43" East.



CERTIFICATION:

Certified Correct. Dated at Fort Lauderdale, Florida this 17th day of July, 2020.

McLAUGHLIN ENGINEERING COMPANY

[Signature]
JERALD A. McLAUGHLIN
Registered Land Surveyor No. 5269
State of Florida.

FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-5358

CHECKED BY: _____

REF. DWG.: A-20(14)

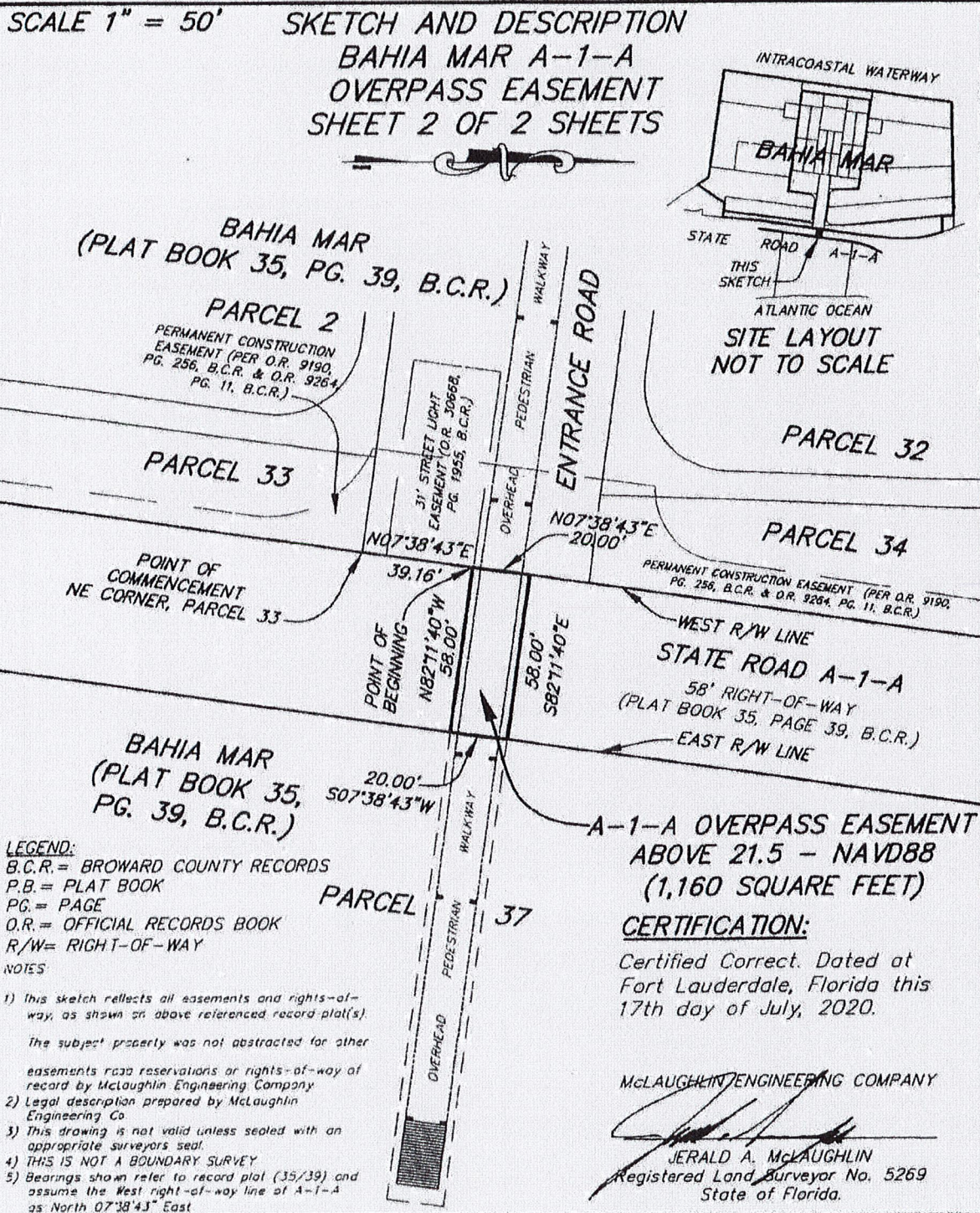
C: \JMMjr\2020\V5358 (BRIDGE)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE (954) 763-7611 * FAX (954) 763-7615

*Refer to land
Copy for official sign-off*



FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-5358

CHECKED BY: _____

REF. DWG.: A-20(14)

C: \JMMjr\2020\V5358 (BRIDGE)



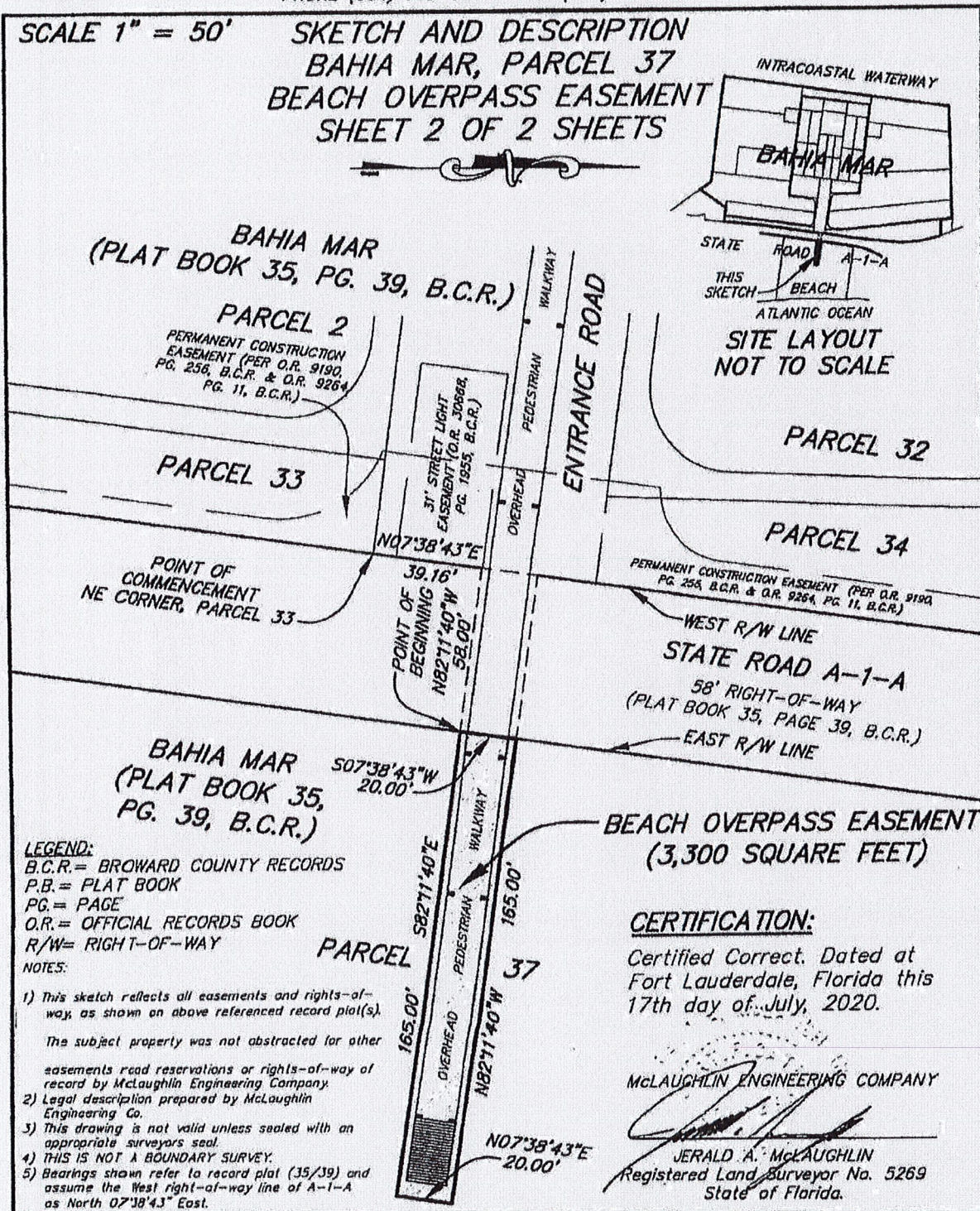
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1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
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*Refer to hand copy
for official sep. off*

SCALE 1" = 50'

SKETCH AND DESCRIPTION
BAHIA MAR, PARCEL 37
BEACH OVERPASS EASEMENT
SHEET 2 OF 2 SHEETS



FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-5358

CHECKED BY: _____

REF. DWG.: A-20(14)

C: JMMjr/2020/V5358 (BRIDGE)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE (954) 763-7611 * FAX (954) 763-7615

*Refer to hand copy
for efficient summary*

SKETCH AND DESCRIPTION
BAHIA MAR, PARCEL 37
BEACH OVERPASS EASEMENT
SHEET 1 OF 2 SHEETS

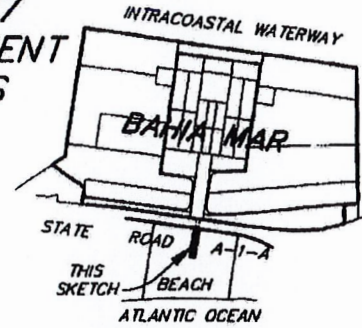


LEGAL DESCRIPTION:

A portion of Parcel 37, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, more fully described as follows:

Commencing at the Northeast corner of Parcel 33 of said BAHIA MAR thence; North 07°38'43" East, on the West right-of-way line of said State Road A-1-A, a distance of 39.16; thence South 82°11'40" East, a distance of 58.00 feet to a point on the West line of said Tract 37, being a point on the East right-of-way line of State Road A-1-A and to the Point of Beginning; thence continuing South 82°11'40" East, a distance of 165.00 feet; thence North 07°38'43" East, a distance of 20.00 feet; thence North 82°11'40" West, a distance of 165.00 feet; thence South 07°38'43" West, on the said West line of Tract 37, being the East right-of-way line of State Road A-1-A, a distance of 20.00 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 3,300 square feet or 0.0758 acres more or less.



SITE LAYOUT
NOT TO SCALE

NOTES

- 1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s).
The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company
- 2) Legal description prepared by McLaughlin Engineering Co.
- 3) This drawing is not valid unless sealed with an appropriate surveyors seal
- 4) THIS IS NOT A BOUNDARY SURVEY
- 5) Bearings shown refer to record plat (35/39) and assume the West right-of-way line of A-1-A as North 07°38'43" East

CERTIFICATION:

Certified Correct. Dated at Fort Lauderdale, Florida this 17th day of July, 2020.

McLAUGHLIN ENGINEERING COMPANY

JERALD A. McLAUGHLIN
Registered Land Surveyor No. 5269
State of Florida.

FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-5358

CHECKED BY: _____

REF. DWG.: A-20(14)

C: JMMjr/2020/V5358 (BRIDGE)