

Return recorded copy to:
Broward County Facilities Management Division
Real Property Section
115 South Andrews Avenue, Room 501
Fort Lauderdale, FL 33301

This document prepared by
and approved as to form by:
Annika E. Ashton
Broward County Attorney's Office
115 South Andrews Avenue, Room 423
Fort Lauderdale, FL 33301

DRAINAGE MAINTENANCE AND ACCESS AGREEMENT

This DRAINAGE MAINTENANCE AND ACCESS AGREEMENT ("Agreement"), made and effective this ___ day of _____, 20__, is entered into by and between **Broward County**, a political subdivision of the State of Florida ("County"), the **City of Lauderhill**, a municipal corporation organized and existing under the laws of the State of Florida ("City"), and **WE Florida Financial**, a State Chartered Credit Union ("We Financial") (collectively referred to as the "Parties" or individually as a "Party").

RECITALS

A. The City owns the property described in Exhibit A, attached hereto and made a part hereof ("City Property").

B. The County owns the property described in Exhibit B, attached hereto and made a part hereof ("County Property").

C. We Financial owns the property described in Exhibit C, attached hereto and made a part hereof ("We Financial Property").

D. The County Property, City Property, and We Financial Property were all formerly owned by the City, and the City designed a master storm water drainage system ("SWM System") and obtained a Surface Water Management License SWM2003-077-2 and Environmental Resource Standard General Permit No. 06-03856-P, dated April 22, 2005, and as may be modified from time to time ("Permits"), for the property described in Exhibit D ("Water Management Parcel"), which includes the City Property, County Property, and the We Financial Property.

E. The City and County entered into an Agreement for Conveyance of Real Property for Public Library and Design and Construction of a Library Facility dated August 13, 2002 ("ILA"), for the programming, design, and construction of a 10,000 square foot library facility on the County Property and, pursuant to the ILA, the City is responsible for maintenance related to the County Property.

F. The City currently maintains the SWM System on the entire Water Management Parcel, including without limitation, paving for parking and access, drainage lines, exfiltration trenches, other drainage facilities, and retention areas, and obtains the required five-year renewals of the Permits.

G. The Permits require that the Parties have an agreement among themselves for the management of the SWM System on the Water Management Parcel, that the Parties grant each other reciprocal legal rights that pertain to the operation and maintenance requirements of the SWM System in the event one party fails to maintain the system, and that an acceptable operating entity be in place in perpetuity.

H. The Parties desire to enter into this Agreement to establish the required reciprocal rights and to have the City maintain the SWM System on the Water Management Parcel and continue being the licensee and operating entity under the Permits.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. The City shall continue to be the licensee and operating entity for the Permits and shall obtain all required renewals of the Permits. The City shall maintain the SWM System on the Water Management Parcel, including without limitation, paving, parking and access, drainage lines, exfiltration trenches, other drainage facilities, and retention areas.
3. The City's maintenance of the SWM System shall not unreasonably interfere with the County's or We Financial's business operations or use of their respective properties. Except in the case of an emergency, the City's maintenance of the SWM System shall not restrict designated vehicular or pedestrian access points to the County Property or We Financial Property or to any customer entrances to any structure located on the County Property or We Financial Property.
4. The County and We Financial acknowledge and grant to the City the right to enter the County Property and the We Financial Property, respectively, to maintain and operate the drainage facilities covered by the Permits.
5. The City shall restore any area disturbed by maintenance of the SWM System to its original improved condition consistent with the Permits.
6. a. If the City fails to adequately maintain the SWM System, the County or We Financial shall be entitled to provide the City with written notice of said deficiency in accordance with Section 10 herein. "Inadequate maintenance" shall include, but not be limited to, a failure to clean the catch

basins, pipes, and slough so that they become accreted with sediment; the sticking or breaking of baffles; or similar deficiencies that cause the SWM System to fail to drain in accordance with the requirements of the Permits. If (i) the City fails to correct the inadequate maintenance within fourteen (14) calendar days after the date the City receives written notice from the County or We Financial or (ii) the inadequate maintenance cannot be corrected within fourteen (14) calendar days and the City fails to begin to clean, cure, or repair such inadequate maintenance within fourteen (14) calendar days after the date the City receives written notice from the County or We Financial and thereafter the City fails to diligently pursue such cleaning, cure, or repair to completion, the County or We Financial shall have the right to enter the City Property and each other's properties to perform necessary maintenance or repairs to the SWM System.

b. In the event of an emergency, the County or We Financial may conduct necessary cleaning, curing, or repairs within the fourteen (14) calendar day period after which notice is provided to the City in order to address the emergency and any damage attributable to the deficiency. An "emergency" shall be deemed to exist when there exists an imminent danger of property damage or property damage has occurred that is attributable to inadequate maintenance.

c. In the event the County or We Financial is required to perform maintenance or repair due to the City's failure to do so as stated herein, the Party performing such maintenance or repair shall do so to the best of its ability without unreasonable interference with any other Party's business operations and shall restore the areas disturbed by any required maintenance activity to its original improved condition consistent with the Permits. Except in the case of an emergency, at no time shall any Party restrict designated vehicular or pedestrian access points to any other Party's property on the Water Management Parcel or to any other Party's customer entrances to any structure located on the Water Management Parcel.

d. Upon presentation of an invoice from the County or We Financial, the City shall reimburse the Party who performed any maintenance or repair under this section for all reasonable costs incurred by the Party in performing such maintenance or repair.

7. In the event there is a need to construct or install new components for the SWM System on any portion of the Water Management Parcel, the City shall be responsible for obtaining the necessary modifications of the Permits and for the construction of those components. The County and We Financial shall cooperate with the City in obtaining modifications to the Permits and, where required, authorize the City to act as their agent for the purposes of obtaining necessary modifications of the Permits. If the new

components are required because of a change in the use by the County, City, or We Financial of its respective property, the Party whose change in use required the changes shall pay the costs of any new components of the SWM System; otherwise, the costs of any new components shall be borne equally by each Party. The City shall be the operator of the modified Permit, and all the provisions of this Agreement shall apply to all new or modified SWM System components.

8. The rights and obligations of this Agreement shall run with the land and bind any successor of all or a portion of the Water Management Parcel to the provisions of this Agreement. In the event the City desires to transfer all of its interest in the Water Management Parcel, prior to such transfer, the Parties shall establish an acceptable property owners' association or alternative mechanism for managing the SWM System.
9. This Agreement shall be recorded in the Public Records of Broward County, Florida, at City's sole cost and expense.
10. In order for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

To County:

Broward County Director of Libraries
100 South Andrews Avenue
Fort Lauderdale, FL 33301
E-mail: kelvinwatson@broward.org

Broward County Director of Real Property
115 South Andrews Avenue, Room 501
Fort Lauderdale, FL 33301
E-mail: pbhogaita@broward.org

To City:

Charles Faranda, City Manager
5581 West Oakland Park Boulevard
Lauderhill, FL 33313
E-mail: cfaranda@lauderhill-fl.gov

To We Financial:

Nancy Bourdon
WE Florida Financial
1982 North State Road 7
Margate, FL 33063
E-mail: Nbourdon@wefloridafinancial.com

11. This Agreement shall be construed under the laws of the State of Florida and shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. **BY ENTERING INTO THIS AGREEMENT, THE COUNTY, THE CITY, AND WE FINANCIAL HEREBY EXPRESSLY WAIVE ANY RIGHTS EACH PARTY MAY HAVE TO A JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**
12. The attached Exhibits are incorporated into and made a part of this Agreement.
13. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the Parties hereto, with the same formality and of equal dignity herewith. All modifications, amendments, or alterations shall comply with the Permits.
14. If any part of this Agreement is found to be invalid by a court of competent jurisdiction, that part shall be severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.
15. The County, the City, and We Financial do not intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

16. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
17. This Agreement has been jointly prepared by the Parties hereto and shall not be construed more strictly against any Party.
18. Each individual executing this Agreement on behalf of a Party hereto represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.
19. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement.

[The Remainder of this Page is Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, the CITY OF LAUDERHILL, signing by and through its _____, duly authorized to execute same, and WE FLORIDA FINANCIAL, INC., signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor

____ day of _____, 2018

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By _____
Irma Qureshi (Date)
Assistant County Attorney

By _____
Annika E. Ashton (Date)
Senior Assistant County Attorney

AEA/mw
Lauderhill Town Center.doc
3/8/18
#268362v8

CITY

ATTEST:

CITY OF LAUDERHILL

CITY CLERK

By: _____
CITY MAYOR

Print Name

____ day of _____, 20__

Approved as to form and legal sufficiency:

City Attorney

WE FINANCIAL

WITNESSES:

WE Florida Financial

Signature

By: _____
Authorized Signor

Print Name of Witness above

Print Name and Title

Signature

_____ day of _____, 20__

Print Name of Witness above

ATTEST:

Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)

ACKNOWLEDGMENT

STATE OF)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20_____, by _____, as _____ of WE Florida Financial, a State of Florida Chartered Credit Union. He/she is personally known to me ___ or produced identification ____. Type of identification produced: _____.

NOTARY PUBLIC:

Print Name:

My commission expires:

Exhibit A

City Property

LEGAL DESCRIPTION FOR EXHIBIT A:

A portion of Parcel "B", BAYTREE OF INVERRARY, according to the plat recorded in Plat Book 146, Page 44, Public Records of Broward County, Florida, being more particularly described as follows:

Beginning at the Southwest corner of said Parcel "B", thence N 89°30'16" E along the South line of said Parcel "B" a distance of 415.83 feet; thence N 00°26'49" W, a distance of 180.67 feet; thence S 89°19'05" E, a distance of 290.05 feet; thence S 01°10'20" E, a distance of 7.87 feet; thence S 14°05'07" W, a distance of 46.17 feet; thence S 01°37'01" E, a distance of 122.17 feet to a point on the South Line of said Parcel "B"; thence N 89°30'16" E along the South line of said Parcel "B" a distance of 80.54 feet; thence N 00°29'44" W, a distance of 363.11 feet to a point on the North Line of said Parcel "B", thence N 86°29'09" W, a distance of 241.59 feet to a point of curvature of a tangent curve to the South; thence Westerly and Southwesterly along the said North line, along the arc of said curve to the left having a radius of 900.00 feet a central angle of 26°20'00" an arc distance of 413.64 feet to a point of tangency; thence S 67°10'51" W along said North line a distance of 45.12 feet to a point of curvature of a tangent curve to the North; thence Southwesterly along the said North line, along the arc of said curve to the right having a radius of 900.00 feet a central angle of 06°04'03" for an arc distance of 95.31 feet to the Northwest corner of said Parcel "B"; thence S 00°29'44" E along the West Line of Parcel "B", a distance of 265.93 feet to the point of beginning.

Said lands situate and lying in the City of Lauderhill, Broward County, Florida, and containing 224,596 square feet or 5.156 acres, more or less.



CITY OF LAUDERHILL OWNED PARCEL - EXHIBIT A



CITY OF LAUDERHILL
6279 W. OAKLAND PARK BLVD., LAUDERHILL, FLORIDA
BAYTREE OF INVERRARY 146-44 B PARCEL B LESS POR
DESCRIBED AS: BEG AT MOST SLY SE COR SAID PAR B,W
937.05,N 363.11,SE 103.48 TO P/C ELY & NELY 176.39,NE
67.17, SE 754.49,W 196.20,S 237.60 TO POB,LESS COMM SE
COR PAR B, W 1015.61 TO POB, CONT W 281, N 180.67,E
290.05,S 7.87, SW 46.17 S 122.17 TO POB
FOLIO #494123010060

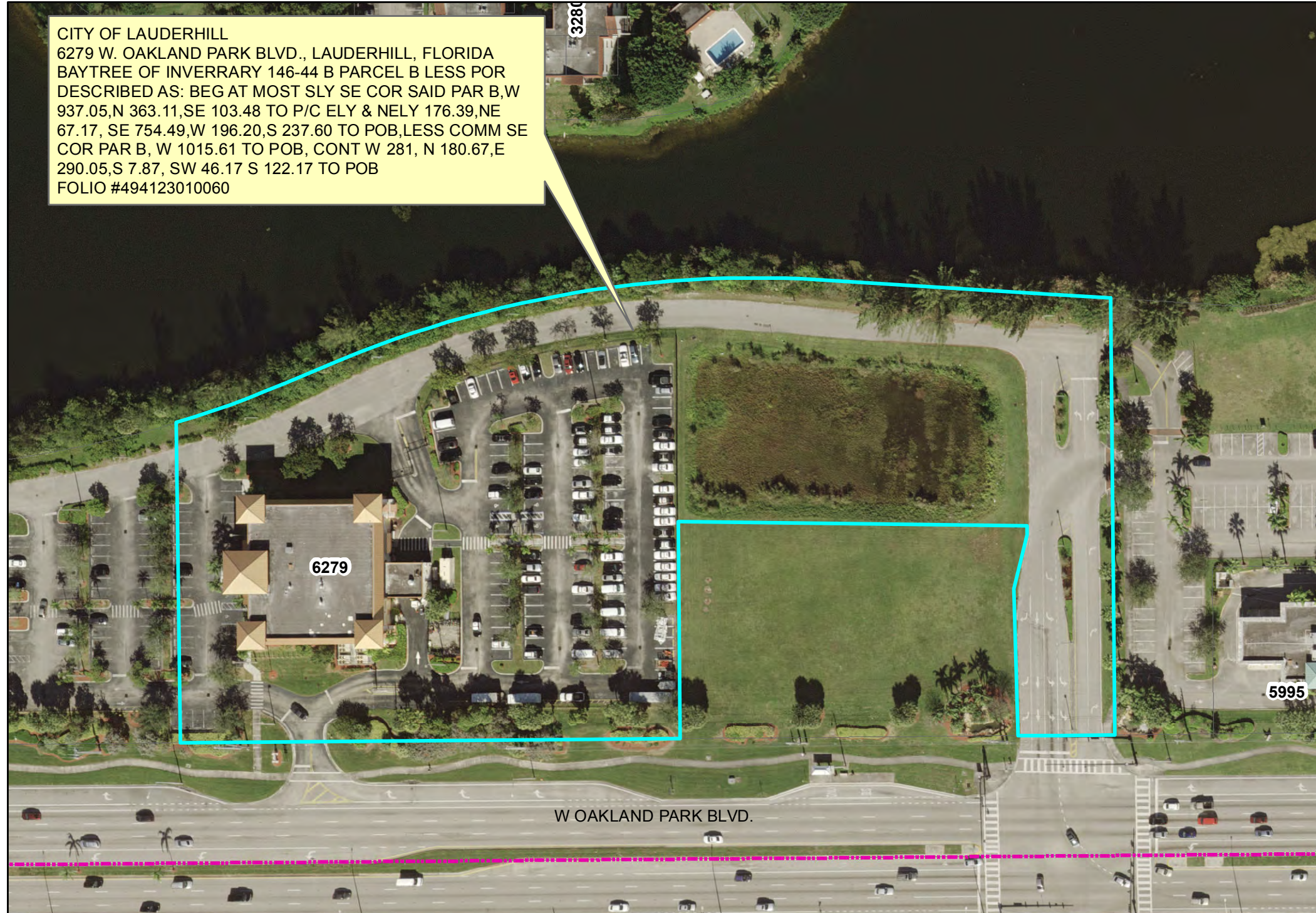


Exhibit B

County Property

LEGAL DESCRIPTION FOR EXHIBIT B:

Parcel A of BAYTREE OF INVERRARY PLAT, according to the Plat thereof as recorded in Plat Book 146, Page 44 of the Public records of Broward County, Florida.



BROWARD COUNTY OWNED PARCEL - EXHIBIT B



BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS
6399 W. OAKLAND PARK BLVD., LAUDERHILL, FLORIDA
BAYTREE OF INVERRARY PLAT 146, PG 44, PARCEL A
FOLIO #494123220010



Exhibit C

We Financial Property

LEGAL DESCRIPTION FOR EXHIBIT C:

A portion of Parcel "B", BAYTREE OF INVERRARY, according to the plat recorded in Plat Book 146, Page 44, Public Records of Broward County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Parcel "B"; thence N 89°30'16" E along the South line of said Parcel "B" a distance of 415.83 feet to the Point of Beginning; thence N 00°26'49" W, a distance of 180.67 feet; thence S 89°19'05" E, a distance of 290.05 feet; thence S 01°10'20" E, a distance of 7.87 feet; thence S 14°05'07" W, a distance of 46.17 feet; thence S 01°37'01" E, a distance of 122.17 feet to a point on the South Line of said Parcel "B"; thence S 89°30'16" W along the South line of said Parcel "B", a distance of 281.00 feet; to the Point of Beginning.

Said lands situate and lying in the City of Lauderhill, Broward County, Florida, and containing 50,021 square feet or 1.148 acres, more or less.



WE FLORIDA FINANCIAL OWNED PARCEL - EXHIBIT C



WE FLORIDA FINANCIAL
W. OAKLAND PARK BLVD., LAUDERHILL, FLORIDA
BAYTREE OF INVERRARY 146-44 B PORTION OF PARCEL B
DESC AS: COMM SE COR PAR B, W 1015.61 TO POB, CONT W
281, N 180.67, E 290.05, S 7.87, SW 46.17, S 122.17 TO POB
FOLIO #494123220024



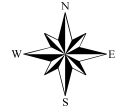
W. OAKLAND PARK BLVD.

Exhibit D

Water Management Parcel



WATER MANAGEMENT PARCEL EXHIBIT D



WATER MANAGEMENT PARCEL
SURFACE WATER MANAGEMENT LICENSE SWM2003-077-2
ENVIRONMENTAL RESOURCE STANDARD GENERAL PERMIT NO. 06-03856-P

