

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, ACCEPTING AN EASEMENT RELATED TO THE PROVISION OF WATER AND WASTEWATER SERVICES, OVER, ACROSS, UNDER, AND THROUGH REAL PROPERTY LOCATED IN THE CITY OF POMPANO BEACH, FLORIDA; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, John M. Malcolm, as Trustee under the John M. Malcolm Trust U/I/D December 13, 2000 ("Grantor"), is the owner of certain property located in the City of Pompano Beach, Florida ("Property"), which Property is more particularly described in the legal description and sketch made subject to the Easement agreement in Attachment 1;

WHEREAS, Broward County, Florida ("County"), requested from Grantor, a nonexclusive and perpetual easement, over, across, under, and through the Property for water mains, wastewater force mains, reclaimed water mains, and/or any other water and wastewater installations which may be required, for purposes of providing water supply service for domestic or other use and for the collection of domestic or other kinds of wastewater to and from the Property and other parcels of real property which may or may not abut and be contiguous to the Property ("Easement");

WHEREAS, Grantor is willing to grant such Easement to the County as provided in the Easement agreement in Attachment 1; and

1 WHEREAS, the Board of County Commissioners of Broward County, Florida
2 ("Board"), has determined that acceptance of the Easement agreement serves a public
3 purpose and is in the best interest of the County, NOW, THEREFORE,
4

5 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
6 BROWARD COUNTY, FLORIDA:
7

8 Section 1. The recitals set forth in the preamble to this Resolution are true,
9 accurate, and incorporated by reference herein as though set forth in full hereunder.
10

11 Section 2. The Board hereby accepts the Easement agreement attached to
12 this Resolution as Attachment 1.
13

14 Section 3. The Easement agreement in Attachment 1 shall be properly
15 recorded in the Public Records of Broward County, Florida.
16

17 Section 4. Severability.

18 If any portion of this Resolution is determined by any court to be invalid, the
19 invalid portion will be stricken, and such striking will not affect the validity of the
20 remainder of this Resolution. If any court determines that this Resolution, in whole or in
21 part, cannot be legally applied to any individual, group, entity, property, or circumstance,
22 such determination will not affect the applicability of this Resolution to any other
23 individual, group, entity, property, or circumstance.
24

Section 5. Effective Date.

This Resolution is effective upon adoption.

ADOPTED this day of , 2022.

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Christina A. Blythe 4/21/2022
Christina A. Blythe (Date)
Assistant County Attorney

By: /s/ Annika E. Ashton 4/21/2022
Annika E. Ashton (Date)
Deputy County Attorney

Attachment 1

Return to:
Shapiro Blasi Wasserman & Hermann, P.A.
7777 Glades Road, Suite 400
Boca Raton, Florida 33434

Prepared by:
Andrew B. Blasi, Esq.
Shapiro Blasi Wasserman & Hermann, P.A.
7777 Glades Road, Suite 400
Boca Raton, Florida 33434

Folio Number: 484222400010

EASEMENT

This Easement is given this 11th day of August, 2020 ("Effective Date"), by John M. Malcolm, as Trustee under the John M. Malcolm Trust U/I/D December 13, 2000 ("Grantor"), whose address is 92 Natoma Street, Suite 400, San Francisco, CA 94105, in favor of Broward County, a political subdivision of the State of Florida ("Grantee"), whose address is Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, Florida 33301. Grantor and Grantee are hereinafter referred to collectively as the "Parties," and individually referred to as a "Party."

(Wherever used herein the terms, "Grantor" and "Grantee" shall include heirs, legal representatives, successors, and assigns).

RECITALS

- A. Grantor is the fee simple owner of the following property located in Broward County, Florida (the "Property"):

See Exhibit A with accompanying sketch of description attached hereto and made a part hereof

- B. Grantee desires a nonexclusive and perpetual easement over, across, under, and through the Easement Area, as defined in Section 2, for water mains, wastewater force mains, reclaimed water mains, and/or for any other water and wastewater installations which may be required for the purpose of providing water supply service for domestic or other use and for the collection of domestic or other kinds of wastewater to and from properties, inclusive of the Property, which may or may not abut or be contiguous to the easement ("Easement").

- C. Grantor is willing to grant the Easement to Grantee under the terms herein.

NOW, THEREFORE, for and in consideration of the mutual terms and conditions contained herein, and the sum of one dollar (\$1.00), and other good and valuable consideration, the sufficiency of which are hereby acknowledged, Grantor hereby declares as follows:

1. The recitals set forth above are true and accurate, and fully incorporated by reference herein.
2. Grantor hereby grants unto Grantee, its licensees, agents, and independent contractors the Easement together with any incidental or necessary appurtenances thereto ("Easement Area"), which Easement Area is further described in **Exhibit A** attached hereto and made a part hereof.
3. Grantor agrees that no obstructions that would interfere with the maintenance or improvement of Grantee's facilities may be placed in the Easement Area without Grantee's prior consent.
4. Grantee shall, at its sole cost and expense, restore the surface of the Easement Area to the same condition which existed prior to the commencement of Grantee's access, maintenance, or repair to the Easement Area.
5. Grantor retains the right to engage in any activities on, over, under, across, or through the Easement Area and shall, for its own purpose, utilize the Property in any manner that does not unreasonably interfere with the Easement.
6. This Easement may be amended, altered, or modified only by written agreement between the Parties, or their heirs, assigns, or successors-in-interest, which shall be recorded in the Official Records of Broward County, Florida.
7. This Easement shall run with the land and shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. This Easement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The Parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Easement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Easement shall be exclusively in such state courts, forsaking any other jurisdiction which either Party may claim by virtue of residency or other jurisdictional device.
9. Grantee, at its own expense, shall record this fully executed Easement in its entirety in the Official Records of Broward County, Florida.

[Signature Pages on the Following Page]

IN WITNESS WHEREOF, the undersigned has signed and sealed this Instrument on the respective date under its signature and certifies that he/she has the authority to execute this Instrument.


GRANTOR:

**John M. Malcolm, as Trustee under
the John M. Malcolm Trust U/I/D
December 13, 2000**



Signature

Witness #1:




Signature

Robert J. Consolotti

Print Name of Witness

Witness #2



Signature

Patricia Arguero-Farfan

Print Name of Witness

Approved as to form by the Office
of the Broward County Attorney

By: Christina A. Blythe Digitally signed by Christina A. Blythe
Date: 2022.04.11 17:42:39 -04'00'
Christina A. Blythe
Assistant County Attorney

ACKNOWLEDGMENT:

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me, by John M. Malcolm, as Trustee under the John M. Malcolm Trust U/I/D December 13, 2000, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, ☐ who is personally known to me or ☐ who has produced _____ as identification.

Notary Public:

Notary Signature

Print Name: _____

State of Florida
My Commission Expires: _____
Commission Number: _____

(Notary Seal)

SEE ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Francisco)

On August 12, 2020 before me, Laurie Iseri, Notary Public,

Date

Here Insert Name and Title of the Officer

personally appeared John M. Malcolm

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Laurie Iseri
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

**12 FOOT WATER UTILITY EASEMENT AT
1730 NW 33RD STREET, POMPAÑO BEACH**

LEGAL DESCRIPTION

A TWELVE (12) FOOT BY FIFTEEN (15) FOOT STRIP OF LAND LYING WITHIN TRACT "A" THE CIGA FRESHNA PLAT TWO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 128, PAGE 41 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 15 FEET OF THE WEST 25 FEET OF THE NORTH 12 FEET OF SAID TRACT "A" OF "THE CIGA FRESHNA PLAT TWO".

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA.

NOTES:

1. THIS DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. THE LOCATION OF THE ABOVE EASEMENT IS BASED UPON FIELD MEASURED INSTALLATION OF THE ELECTRICAL CONDUITS ON 05-22-20.
3. THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN HEREON THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. SUCH INFORMATION SHOULD BE OBTAINED BY OTHERS THROUGH AN APPROPRIATE TITLE SEARCH.
4. THIS IS NOT A SURVEY. IT IS A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON.
5. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF TRACT "A", THE CIGA FRESHNA PLAT TWO, HAVING AN ASSUMED BEARING OF N89°27'12"E AS SHOWN ON THE CIGA FRESHNA PLAT.

ABBREVIATIONS:

A	= ARC LENGTH	P.O.T.	= POINT OF TERMINATION
D	= DELTA (CENTRAL ANGLE)	P.B.	= PLAT BOOK
D.E.	= DRAINAGE EASEMENT	PG.	= PAGE
O.R.B.	= OFFICIAL RECORDS BOOK	R	= RADIUS
P.O.B.	= POINT OF BEGINNING	R/W	= RIGHT-OF-WAY
P.O.C.	= POINT OF COMMENCEMENT	U.E.	= UTILITY EASEMENT

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE DESCRIPTION AND SKETCH SHOWN HEREON MEETS THE STANDARDS OF PRACTICE CONTAINED IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

DANIEL C. LAAR
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. LS5118



HSQ GROUP, INC.
Engineers • Planners • Surveyors
1001 Yamato Rd., Suite 105
Boca Raton, Florida 33431 • 561.392.0221
CA26258 • LB7924

PROJECT: **MALCOLM DRILLING**

PROJECT NO.: 180228

DATE: 08/3/20

SHEET 1 OF 2



EXHIBIT "A"

Exhibit 1
Page 10 of 17

WATER & WASTEWATER
ENGINEERING DIVISION

8E:8 NA 7/1/2014 0505

NW 33RD STREET

(60' PUBLIC RIGHT-OF-WAY)

N89°27'12"E 333.41'

S. RIGHT-OF-WAY LINE

N. LINE TRACT "A"

U.E. (P.B. 128, PG 41)

12' X 15' UTILITY EASEMENT

SILLS PROPERTIES PLAT NO. 3
(P.B. 141, PG. 7)

W. LINE TRACT "A"

S00°10'14"E 619.95'

U.E. (O.R.B. 26851, PG. 83)

U.E. (P.B. 128, PG 41)

TRACT "A"
THE CIGA FRESHNA PLAT TWO
(P.B. 128, PG. 41)

PROPERTY I.D. # 484222400010

LEGEND:

CL CENTERLINE

12' WATER DISTRIBUTION EASEMENT

08/03/20

DCL

TAE

N/A

REVISIONS

DATE

BY

CK'D

FIELD BK.

PROJECT: MALCOLM DRILLING

SCALE: 1" = 20'

PROJECT NO.: 180228

SHEET 2 OF 2

Andrew B. Blasi, Esq.
Email: ablasi@sbwh.law

August 11, 2020

Attorneys' Certification and Opinion of Title

To: Broward County Board of County Commissioners

Re: A TWELVE (12) FOOT BY FIFTEEN (15) FOOT STRIP OF LAND LYING WITHIN TRACT "A" THE CIGA FRESHNA PLAT TWO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 128, PAGE 41 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, situated in or about the premises located at 1730 NW 33rd St, Pompano Beach, FL 33064 (the "Property"), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 15 FEET OF THE WEST 25 FEET OF THE NORTH 12 FEET OF SAID TRACT "A" OF "THE CIGA FRESHNA PLAT TWO".

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA.

A true and correct sketch of the Property is attached hereto as Exhibit "A" and incorporated herein by this reference.

With the understanding that this Attorneys' Certification and Opinion of Title is being furnished to the Broward County Board of County Commissioners as an inducement for the acceptance of an easement covering the Property, the undersigned attorneys, being members of The Florida Bar, and based solely on and in reliance upon our review of (1) Old Republic National Title Insurance Company Policy No. OF6-8552793 dated April 24, 2018, at 2:35 P.M., and (2) Attorneys' Title Fund Services, LLC Title Search Report No. 547736-4, dated August 10, 2020, hereby certify that record title to the Property is in the name of:

John M. Malcolm, as Trustee under the John M. Malcolm Trust U/I/D December 13, 2000, by virtue of that certain deed of conveyance recorded on March, 26, 2020, as Instrument Number 116432831 in the Public Records of Broward County, Florida; and,

We further certify that (i) all taxes which are due and payable pursuant to F.S. §197.192 have been paid through December 31, 2019, and are current; (ii) the Property is not encumbered by any claims of lien or mortgage instruments but may be hereafter subject to a lien or claim of lien for services, labor or materials which may take priority over the estate or interest insured by reason of that certain Notice of Commencement recorded on October 16, 2019, by F.L. McMurtrey Construction, Inc. as Instrument Number 116115814 in the Public Records of Broward County, Florida; and, (iii) the

Property is subject to and affected by the following easements, restrictions, agreements and other instruments of record, and none other; to wit, (a) Dedication, restrictions, covenants, conditions, easements and other matters contained on the Plat of THE CIGA FRESHNA PLAT TWO, according to the Plat thereof, as recorded in Plat Book 128, Page 41, of the Public Records of Broward County, Florida, (b) Terms and provisions of City of Pompano Beach Ordinance No. 97-75, relating to the abandonment of certain roadway easements and utility easements located within Tract "A" of the Ciga Freshna Plat Two, recorded August 13, 1997, in Official Records Book 26851, Page 83, together with Broward County Resolution recorded December 26, 1997, in Official Records Book 27460, Page 251, of the Public Records of Broward County, Florida, (c) Common Wall Agreement with Coastal Waste & Recycling Of Broward County, LLC, dated February 1, 2019, and recorded on February 4, 2019, as Instrument Number 115593445 in the Public Records of Broward County, Florida, (d) Easement to Florida Power & Light Company recorded on June 11, 2020, as Instrument Number 116548276 in the Public Records of Broward County, Florida, and (e) Recorded Notice of Environmental Resource Permit by Broward County Environmental Engineering and Permitting Division (EEPD) recorded on November 26, 2019, as Instrument Number 116199372 in the Public Records of Broward County, Florida.

We render no opinion, and hereby expressly exempt and exclude from the coverage of this opinion, any impact, affect or imposition on the Property of any of the following; to wit, (i) General or special taxes and assessments required to be paid in the year 2020 and subsequent years, (ii) Rights or claims of parties in possession not shown by the public records, (iii) Easements or claims of easements not shown by the public records, (iv) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records, (v) Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Property, including submerged, filled and artificially exposed lands, and lands accreted to such lands, (vi) Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property, (vii) Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the Property and/or any lien for waste fees in favor of any county or municipality, and (viii) Bankruptcies or other matters filed in the Federal District Courts of Florida.

Respectfully Submitted,

Shapiro, Blasi, Wasserman & Hermann, P.A.

By: /s/ Andrew B. Blasi
Andrew B. Blasi, Esq.
Florida Bar No. 370983

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DANIEL C. LAAK
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. LS5118



HSQ GROUP, INC.
Engineers • Planners • Surveyors
1001 Yamato Rd., Suite 105
Boca Raton, Florida 33431 • 561.392.0221
CA26258 • LB7924

PROJECT: **MALCOLM DRILLING**

PROJECT NO.: 180228

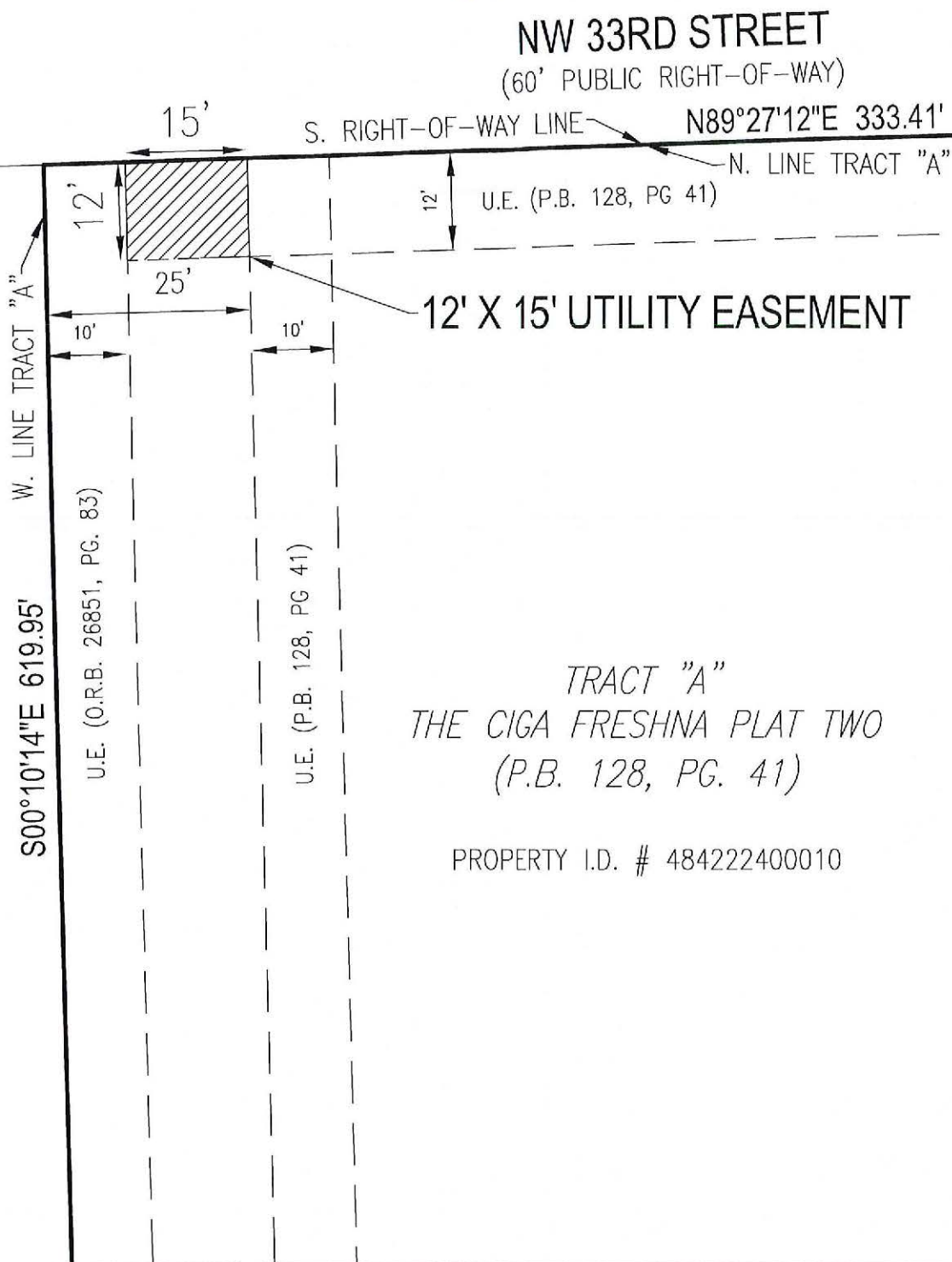
DATE: 08/3/20

SHEET 1 OF 2

EXHIBIT "A"



SILLS PROPERTIES PLAT NO. 3
(P.B. 141, PG. 7)



LEGEND:

CL CENTERLINE

12' WATER DISTRIBUTION EASEMENT

08/03/20

DCL

TAE

N/A

REVISIONS

DATE

BY

CK'D

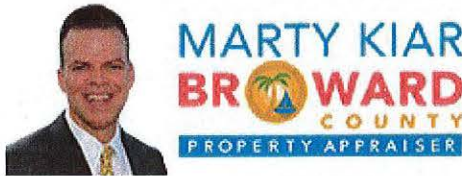
FIELD BK.

PROJECT: MALCOLM DRILLING

SCALE: 1" = 20'

PROJECT NO.: 180228

SHEET 2 OF 2



Site Address	1730 NW 33 STREET, POMPANO BEACH FL 33064	ID #	4842 22 40 0010
Property Owner	JOHN M MALCOLM TR MALCOLM, JOHN M TRS	Millage	1512
Mailing Address	92 NATOMA STREET #400 SAN FRANCISCO CA 94105	Use	40
Abbr Legal Description	THE CIGA FRESHNA PLAT TWO 128-41 B TRACT "A"		

The just values displayed below were set in compliance with **Sec. 193.011, Fla. Stat.**, and include a reduction for costs of sale and other adjustments required by **Sec. 193.011(8)**.

* 2020 values are considered "working values" and are subject to change.

Property Assessment Values					
Year	Land	Building / Improvement	Just / Market Value	Assessed / SOH Value	Tax
2020*	\$3,774,700		\$3,774,700	\$3,774,700	
2019	\$3,774,700	\$5,860	\$3,780,560	\$3,780,560	\$77,021.37
2018	\$2,482,000	\$5,860	\$2,487,860	\$2,487,860	\$49,940.30

2020* Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$3,774,700	\$3,774,700	\$3,774,700	\$3,774,700
Portability	0	0	0	0
Assessed/SOH	\$3,774,700	\$3,774,700	\$3,774,700	\$3,774,700
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type	0	0	0	0
Taxable	\$3,774,700	\$3,774,700	\$3,774,700	\$3,774,700

Sales History				Land Calculations		
Date	Type	Price	Book/Page or CIN	Price	Factor	Type
3/25/2020	QCD-T	\$100	116432831	\$18.25	206,833	SF
4/23/2018	SWD-Q	\$4,350,000	115032290			
10/30/2015	WD-T	\$100	113341754			
10/30/2015	DRR-T	\$100	113391185			
10/30/2015	WD-T	\$100	113341753			
				Adj. Bldg. S.F.		

Special Assessments								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
15								
L								
1								

[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /**Detail by Entity Name**

Foreign Profit Corporation
MALCOLM DRILLING COMPANY, INC.

Filing Information

Document Number F10000003256
FEI/EIN Number 94-1671918
Date Filed 07/15/2010
State CA
Status ACTIVE

Principal Address

92 NATOMA STREET
SUITE 400
SAN FRANCISCO, CA 94105

Mailing Address

92 NATOMA STREET
SUITE 400
SAN FRANCISCO, CA 94105

Registered Agent Name & Address

C T CORPORATION SYSTEM
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324

Officer/Director Detail**Name & Address**

Title D

MALCOLM, JOHN M
92 NATOMA STREET #400
SAN FRANCISCO, CA 94105

Title D

KANNON, W. BARRY
92 NATOMA STREET #400
SAN FRANCISCO, CA 94105

Title STD

YAMASHITA, DEREK

92 NATOMA STREET #400
SAN FRANCISCO, CA 94105

Annual Reports

Report Year	Filed Date
2017	01/17/2017
2018	01/26/2018
2019	02/06/2019

Document Images

02/06/2019 -- ANNUAL REPORT	View image in PDF format
01/26/2018 -- ANNUAL REPORT	View image in PDF format
01/17/2017 -- ANNUAL REPORT	View image in PDF format
01/29/2016 -- ANNUAL REPORT	View image in PDF format
01/26/2015 -- ANNUAL REPORT	View image in PDF format
01/14/2014 -- ANNUAL REPORT	View image in PDF format
02/05/2013 -- ANNUAL REPORT	View image in PDF format
01/03/2012 -- ANNUAL REPORT	View image in PDF format
01/26/2011 -- ANNUAL REPORT	View image in PDF format
07/15/2010 -- Foreign Profit	View image in PDF format