

RESOLUTION No. 2006-109-455

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN EASEMENT AGREEMENT FROM WALDEN POND, LTD C/O AUBURN MANAGEMENT, INC , FOR THE CONSTRUCTION AND MAINTENANCE OF A BUS PASSENGER SHELTER; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is operating under an Agreement with Cemusa, Inc for Cemusa to install bus shelters at various locations throughout the City, and

WHEREAS, in some instances, the bus shelters will encroach upon private property, and

WHEREAS, in those instances, the City is requesting that the property owner provide the City with an easement running in favor of the City for the erection of the bus shelter, and

WHEREAS, Walden Pond Ltd. c/o Auburn Management, Inc has agreed to give the City of Miami Gardens an encroachment easement for the erection of a bus shelter as described on the Easement Agreement attached hereto as Exhibit "A," and

WHEREAS, the City Council for the City of Miami Gardens would like to accept the Easement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows.

Section 1. ADOPTION OF REPRESENTATIONS. The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. AUTHORITY: The Mayor and City Clerk are hereby authorized to execute and attest that certain Easement Agreement from Walden Pond, Ltd. c/o Auburn Management, Inc. for the construction and maintenance of a bus passenger shelter, a copy of which is attached hereto as **Exhibit "A."**

Section 3. INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain three (3) fully executed copies of the subject Agreement, with one to be maintained by the City; with one to be delivered to Walden Pond Ltd. c/o Auburn Management, Inc., and with one to be directed to the Office of City Attorney.

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON SEPTEMBER 27, 2006.

ATTEST:

  
SHIRLEY GIBSON, MAYOR

  
RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY: Councilwoman Watson  
SECONDED BY: Councilman Bratton

**VOTE:** 7-0 vote

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>    </u> (No)
Vice Mayor Oscar Braynon, II	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Melvin L. Bratton	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Aaron Campbell	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Ulysses Harvard	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Barbara Watson	<u>  x  </u> (Yes)	<u>    </u> (No)

**Resolution No. 2006-109-455**

114812\_1 DOC



# City of Miami Gardens

1515 NW 167<sup>th</sup> Street, Bldg. 5,  
Suite 200  
Miami Gardens, Florida 33169

Mayor Shirley Gibson  
Vice Mayor Oscar Braynon II  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell  
Councilwoman Ulysses Harvard  
Councilwoman Sharon Pritchett  
Councilwoman Barbara Watson

## MEMORANDUM

**To: The Honorable Mayor &  
City Council Members**

**From: Dr. Danny O. Crew  
City Manager**

**Date: September 21, 2006**

**Re: Easement Agreement for the City's Non-Advertising Bus Shelter**

The City of Miami Gardens made an agreement last year with Cemusa Miami, LTD for the installation of all the bus shelters in the City of Miami Gardens. In the agreement, Cemusa Miami, LTD agreed to install a total of 9 non-advertising shelters. The following is the breakdown of the locations to date:

1. Two bus shelters on NW 7<sup>th</sup> Avenue north of NW 183<sup>rd</sup> Street in front of the Exxon gas station.
2. One bus shelter on NE 2<sup>nd</sup> Ave and NE 204 St (Ro-Mont Condo) – not installed yet.
3. One bus shelter on NW 37<sup>th</sup> Avenue north of the St. Thomas University.
4. One bus shelter on NW 183<sup>rd</sup> Street east of NW 2<sup>nd</sup> Avenue (441).
5. Two bus shelters at Florida Memorial University's entrance on NW 42<sup>nd</sup> Avenue and NW 44<sup>th</sup> Court.
6. One bus shelter at Walden Pond Condominium (20789 NW 9 CT)
7. One bus shelter – awaiting location to install.

**J-3) CONSENT AGENDA  
RESOLUTION  
WALDEN POND, LTD  
EASEMENT AGREEMENT**

Cemusa Miami, LTD has installed to date all the non-advertising bus shelters except for the one. As part of the process of installing the non-advertising bus shelters by the sidewalks, easements must be obtained from the property owner when there are none. This will allow for extra space next to the sidewalk and to also follow the Americans with Disabilities Act (ADA) guidelines. In the case with Walden Pond, an easement was required because there was not sufficient right-of-way for the installation.

**Recommendation:**

That the City Council approves the Easement Agreement with the Walden Pond Property at 20789 NW 9<sup>th</sup> Court.

This instrument prepared by.  
City of Miami Gardens  
1515 NW 167<sup>th</sup> Street  
Building 5, Suite 200  
Miami Gardens, FL 33169

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Parcel Identification No : Folio# 34-1135-030-0010

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Easement Agreement") is made this 26th day of April, 2006, by WALDEN POND LTD % AUBURN MANAGEMENT INC., 1301 SW 10 AVE BLDG J DELRAY BEACH FL 33444- -, ("Grantor"), having and address of 20789 NW 9 CT, Miami, FL 33169-6816, to the City of Miami Gardens ("Grantee"), having and address of 1515 NW 167<sup>th</sup> Street, Building 5, Suite 200, Miami Gardens, Florida 33169

### WITNESSETH:

WHEREAS, Grantor is the fee simple owner of that certain property described in Exhibit "A" annexed hereto (the "Easement Property"); and

WHEREAS, Grantee is the fee simple owner of that certain property described in Exhibit "B" hereto (the "Grantee's Property"); and

WHEREAS, Grantee has requested an encroachment easement for the construction and maintenance of a bus passenger shelter,

NOW, THEREFORE, for good and valuable consideration paid by Grantee to Grantor, receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Grant of Easement**. Grantor hereby grants and conveys to Grantee, its heirs, successors and assigns forever, an exclusive encroachment easement upon and

under the Easement Property for purposes of constructing a bus passenger shelter ("Improvements"), with the right to construct, improve, add to, enlarge, and change the Improvements. A sketch showing the easement is attached hereto as Exhibit "C."

2. **Hold Harmless.** Grantee shall hold the Grantor harmless against all liability for any such loss, damage, injury or death, caused by the negligence of the Grantee during the construction and maintenance of the foregoing described Improvements or by the maintenance and repair thereof, or by its presence or use on the property where the easement is located, subject to the protections of Section 768.28, Florida Statutes.

3. **Maintenance, Repair and Replacement.** It shall be the Grantee's sole obligation to install, construct, maintain, repair and replace all Improvements on the Easement Property at no expense whatsoever to the Grantor. In the event that Grantee installs, constructs, maintains, repairs or replaces any of the Improvements, Grantee shall be obligated to restore the surface condition of the Easement Property and Grantor's property and improvements thereon existing prior to such construction, installation, maintenance, repair and/or replacement. Grantor shall not place any improvements within two (2) feet of the easement. If the Grantor constructs any improvements in violation of this agreement, Grantee will not be obligated to repair same.

4. **Attorneys Fees.** In the event any action, suit or proceeding is commenced to enforce the terms of this easement, the prevailing party shall be entitled to recover all costs, expenses and fees, including reasonable attorneys fees expended or incurred in connection therewith, up through and including any appeals.

5. **Termination of Easement**. In the event that Grantee ceases to use the Improvements on the Easement Property for the purposes as set forth herein or in the event Grantee otherwise abandons the use of the Easement Property, this Easement Agreement herein shall terminate automatically and shall have no further force and effect. This Easement Agreement shall further terminate upon recordation in the public records of Miami-Dade County, Florida, of an agreement terminating the easement executed by Grantor and Grantee or their respective successors, assigns, or transferees.

6. **Binding Effect**. The obligations, responsibilities and duties as set forth in this Easement Agreement shall be binding on Grantee and its successors and assigns and subsequent owners of the Grantee's Property and shall also be binding on Grantor and its successors and assigns and subsequent owners of the Easement Property. This easement shall run with the Easement Property and shall be binding on the owner of the Easement Property and its successors and assigns. All references to Grantor herein shall be deemed to apply to Grantor and its successors and assigns. All references to Grantor herein shall be deemed to apply to Grantor and its successors and assigns and subsequent owners of the Easement Property. All references to Grantee herein shall be deemed to refer to Grantee and its successors and assigns and subsequent owners of the Grantee's Property.

[SIGNATURES CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, Grantor has caused this Easement Agreement to be duly signed in the manner set forth below.

GRANTOR:

Leissa Rodriguez  
Name: Leissa Rodriguez

WALDEN POND LTD  
% AUBURN MANAGEMENT INC

By Its President

Naomi Negron  
Name: NAOMI NEGRON

Brian J. Hinnes  
Brian J. Hinnes Print Name

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

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of May, 2006 by Brian J. Hinnes. He or she is personally known to me or has produced \_\_\_\_\_ as identification.

Diane M. Shakir  
Notary Public, State of Florida At Large

My Commission Expires:



GRANTEE:

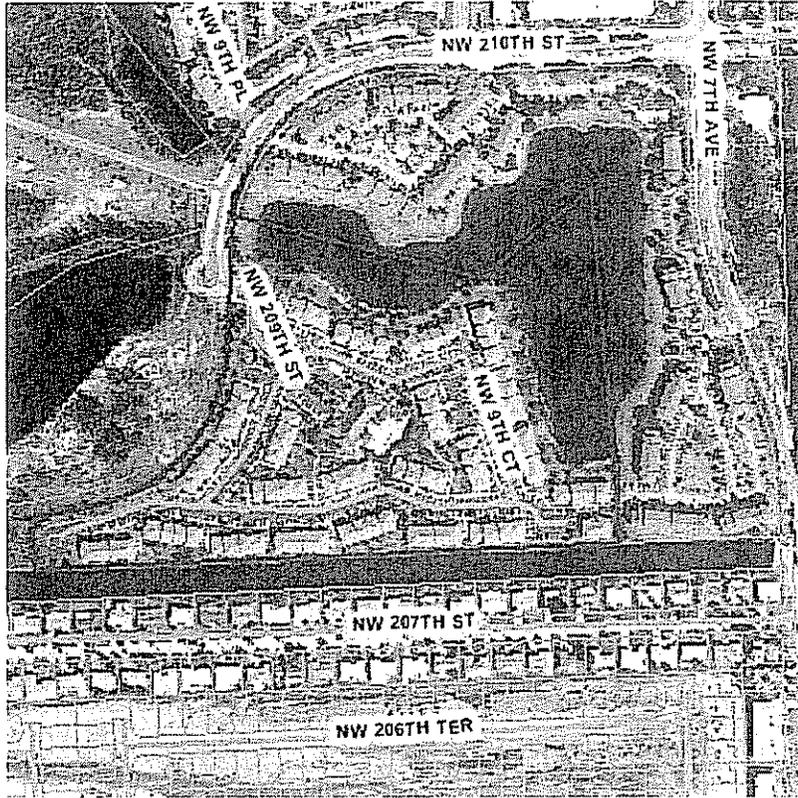
**CITY OF MIAMI GARDENS, FLORIDA**

Attest:

\_\_\_\_\_  
Ronetta Taylor, City Clerk

By \_\_\_\_\_  
Shirley Gibson, Mayor

EXHIBIT A

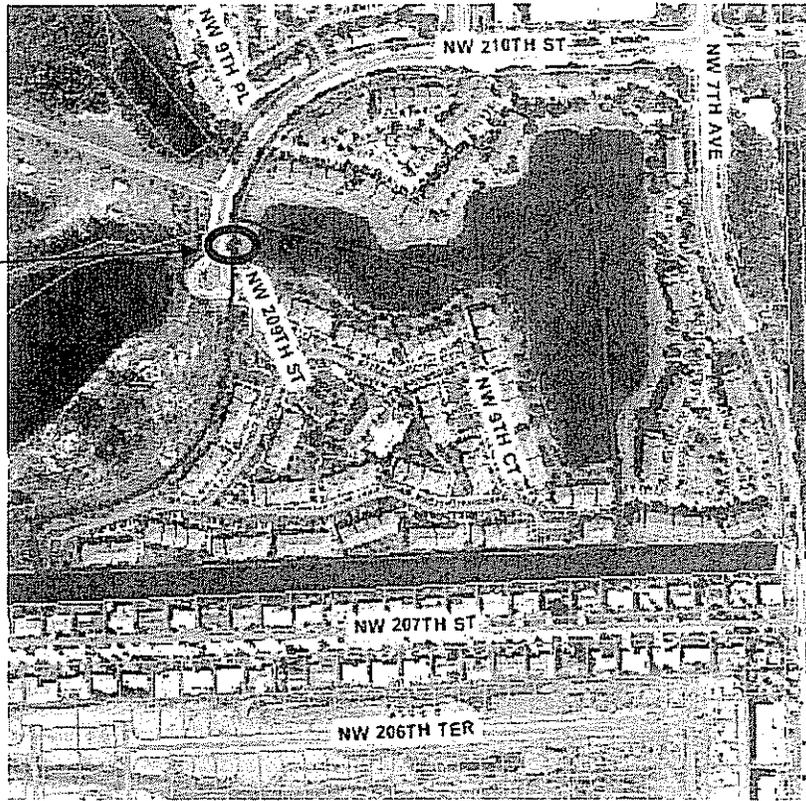


**Legal Description of Property:**

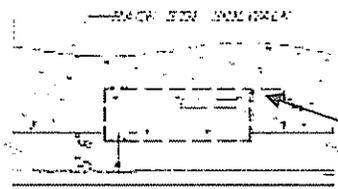
WALDEN POND PB 149-57 T-18844 TR A LOT SIZE 23.353 AC M/L F/A/U 30-1135-000-0015  
F/A/U 30-1135-030-0010

**EXHIBIT B**  
**Location of Grantee's Property for Bus Shelter**

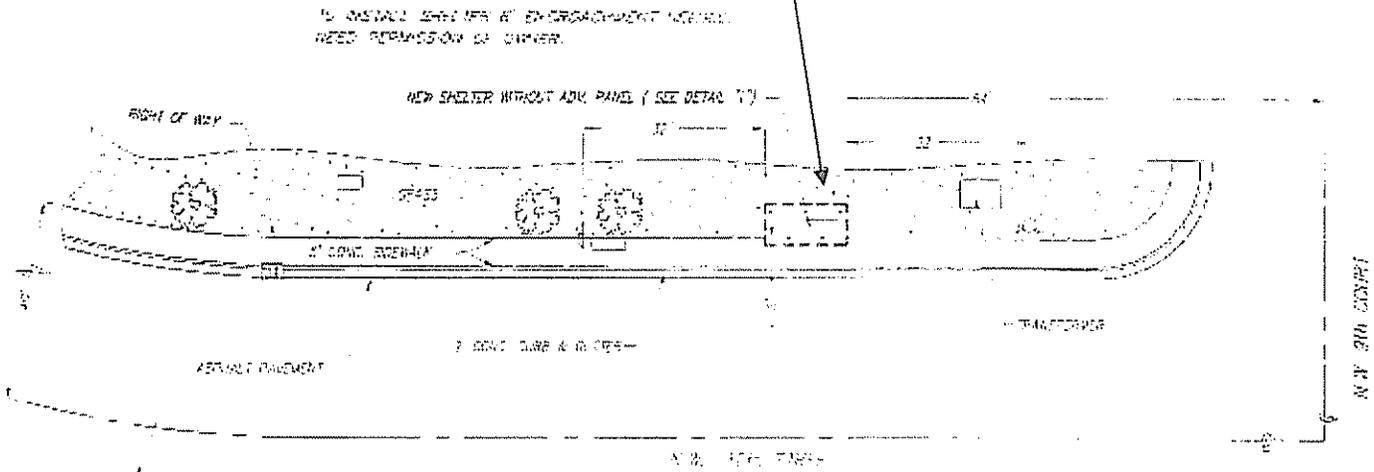
Approximate  
Location of Site



DETAIL "A"



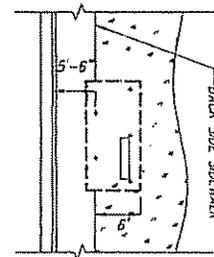
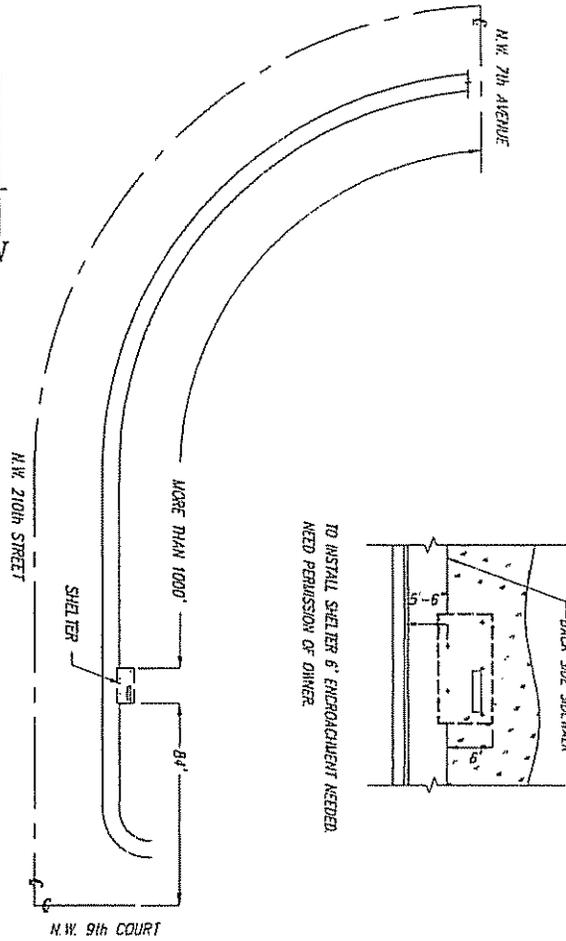
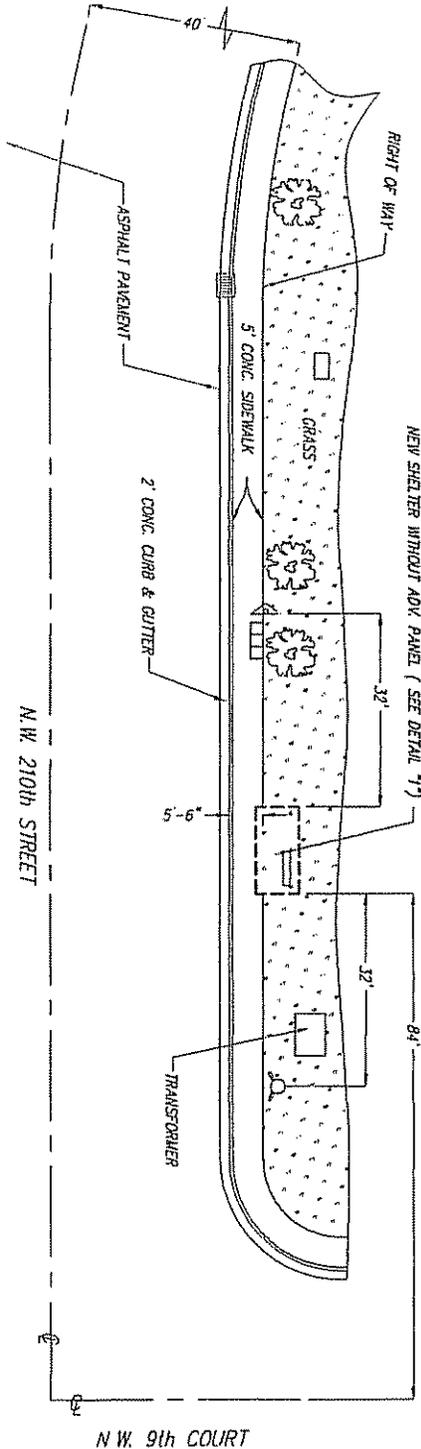
Grantee's Property Area





**PROPOSED LOCATION**

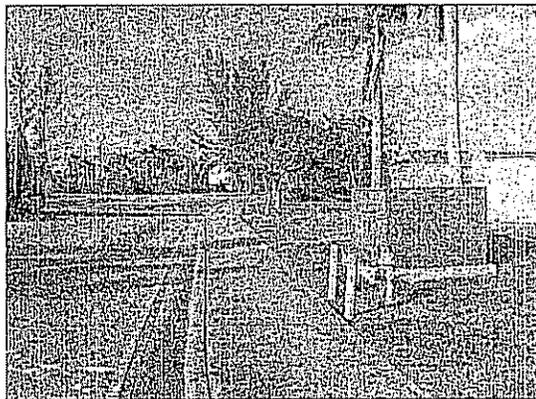
**SITE DISTANCES. DESIGN CONDITIONS**  
 (SCALE 1"=50')  
 4 LANES DIVIDED  
 SPEED LIMIT 30 M.P.H.



**LEGEND**

- CL = CENTER LINE
- ADV. = ADVERTISEMENT
- CONC. LIGHT POLE
- CONC. = CONCRETE
- WOOD POLE
- SIGN POLE
- METAL FENCE
- TREE
- METAL BOX
- CATCH BASIN
- FIRE HYDRANT
- LIMITED ACCESS LINE
- PALM TREE
- CONC. POLE
- WOOD FENCE
- CHAIN LINK FENCE
- MANHOLE
- TRAFFIC SIGNAL POLE
- ANCHOR
- BUS STOP
- B.S.S. = BUS STOP SIGN

**LOCATION DESCRIPTION**  
 A PORTION OF THE SECTION 35  
 TOWNSHIP 51 SOUTH, RANGE 41  
 EAST, MIAMI-DADE COUNTY, FLORIDA



**SITE SKETCH**

ADDRESS: N.W. 210th STREET & # 21891  
 MIAMI-DADE COUNTY, FLORIDA

DIRECTION: N  
 CORNER: F

APPROVED BY: R.R.    DRAWN BY: M.T.P.    DATE: 01-24-2006    SCALE: 1"=20'    JOB NUMBER: MGD-1110.0000

SHEET: 1 OF 2

ADOLFO J. GONZALEZ  
 PROFESSIONAL ENGINEER-TC #32170  
 8647 MILLER ROAD, #001  
 MIAMI, FLORIDA 33155  
 PHONE/FAX: (305) 253-0366

**CEMUSA MIAMI, LTD.**

2119 NW 84th AVENUE

MIAMI, FL 33126  
 TEL: (305) 500-9993  
 FAX: (305) 510-9899

LAW OFFICES  
**ARNSTEIN & LEHR LLP**

200 EAST LAS OLAS BOULEVARD SUITE 1700

FT LAUDERDALE, FLORIDA 33301-2240

(954) 713-7600

FAX (954) 713-7700

www.arnstein.com

FOUNDED 1893

Sonja K. Dickens  
(954) 713-7619  
skdickens@arnstein.com

CHICAGO, ILLINOIS  
BOCA RATON, FLORIDA  
MIAMI, FLORIDA  
TAMPA, FLORIDA  
WEST PALM BEACH, FLORIDA  
HOFFMAN ESTATES, ILLINOIS  
MILWAUKEE, WISCONSIN  
MEMBER OF INTERNATIONAL  
LAWYERS NETWORK

July 26, 2006

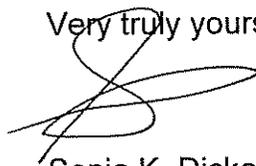
Ronetta Taylor, City Clerk  
City of Miami Gardens  
1515 Northwest 167<sup>th</sup> Street  
Building 5, Suite 200  
Miami Gardens, Florida 33169

Re: Easement Agreement between Walden Pond Ltd. c/o Auburn  
Management Inc. and City of Miami Gardens

Dear Ronetta:

Enclosed herein please find the original Easement Agreement regarding an encroachment easement for the construction and maintenance of a bus passenger shelter in the above-referenced matter. I have a copy. Please hold onto the original. This item will be presented at the September 13, 2006 meeting.

Very truly yours,



Sonja K. Dickens

SKD/bfc

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Pursuant to Internal Revenue Service guidance, be advised that any federal tax advice in this communication, including any attachments or enclosures, was not intended or written to be used, and it cannot be used, by any person or entity for the purpose of avoiding penalties imposed under the Internal Revenue Code.