MEMORANDUM Agenda Item No. 5(B)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: August 2, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution granting petition to close SW 122 Avenue (SW Fernwood Road), from SW 136 Street North to the South Line of the Florida Power & Light Co. Right of Way Line (Road Closing Petition No. P-870)

The accompanying resolution was prepared by the Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: August 2, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Road Closing Petition P-870
Section: 13-55-39
SW 122 Avenue (Fernwood Road), from SW 136 Street North to the South Line of the Florida Power & Light Co. Right-of-Way
Commission District: 9

Recommendation

It is recommended that the Board of County Commissioners (BCC) grant the attached Road Closing Petition following a public hearing. The Miami-Dade County Departments of Planning and Zoning, Public Works, Water and Sewer, and Fire Rescue have no objection to this right-of-way being closed.

Scope

This road closing is located within the boundaries of Commission District 9.

Fiscal Impact/Funding Source

All the properties abutting the right-of-way to be abandoned, which are managed by the Environmental Endangered Lands (EEL) Program, are tax exempt. Therefore, granting of this petition will not result in an increase in revenue from property taxes. The inclusion of this additional area will not create a fiscal impact to the Department of Environmental Resources Management who administers the EEL Program.

Track Record/Monitor

Not Applicable.

Background

The petitioner, Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, wishes to close the right-of-way for SW 122 Avenue (SW Fernwood Road) from SW 136 Street north to the south line of the Florida Power & Light Co. right of way in order to incorporate the land into its property. The right-of-way being closed has never been improved nor maintained by Miami-Dade County. Therefore, this action will not adversely impact traffic flow or continuity of traffic in the area.

This right-of-way was dedicated in 1990, by instrument recorded in Official Records Book 14825, Pages 2566 to 2574, of the Public Records of Miami-Dade County, Florida. The subject right-of-way is zoned IU-C (Controlled Industrial District).

Assistant County Manager

Note: The Clerk is directed to publish notice of a public hearing on a Road Closing Petition in a newspaper of general circulation in Miami-Dade County, one (1) time, at least two (2) weeks prior to the date of said public hearing in conformity with the statutory requirements.

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: August 2, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 5(B)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(B)
8-2-11

RESOLUTION NO. _____

RESOLUTION GRANTING PETITION TO CLOSE SW 122 AVENUE (SW FERNWOOD ROAD), FROM SW 136 STREET NORTH TO THE SOUTH LINE OF THE FLORIDA POWER & LIGHT CO. RIGHT OF WAY LINE (ROAD CLOSING PETITION NO. P-870)

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, (1) that the alleyway, street, road, highway or other place used for travel as described in the attached petition is hereby vacated, abandoned and closed, all rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed; (2) it is found that the action will serve a public purpose and benefit the public without violating private property rights; (3) that the procedure utilized in the adoption of this resolution is expressly ratified and approved; and (4) the Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of August, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Alex S. Bokor

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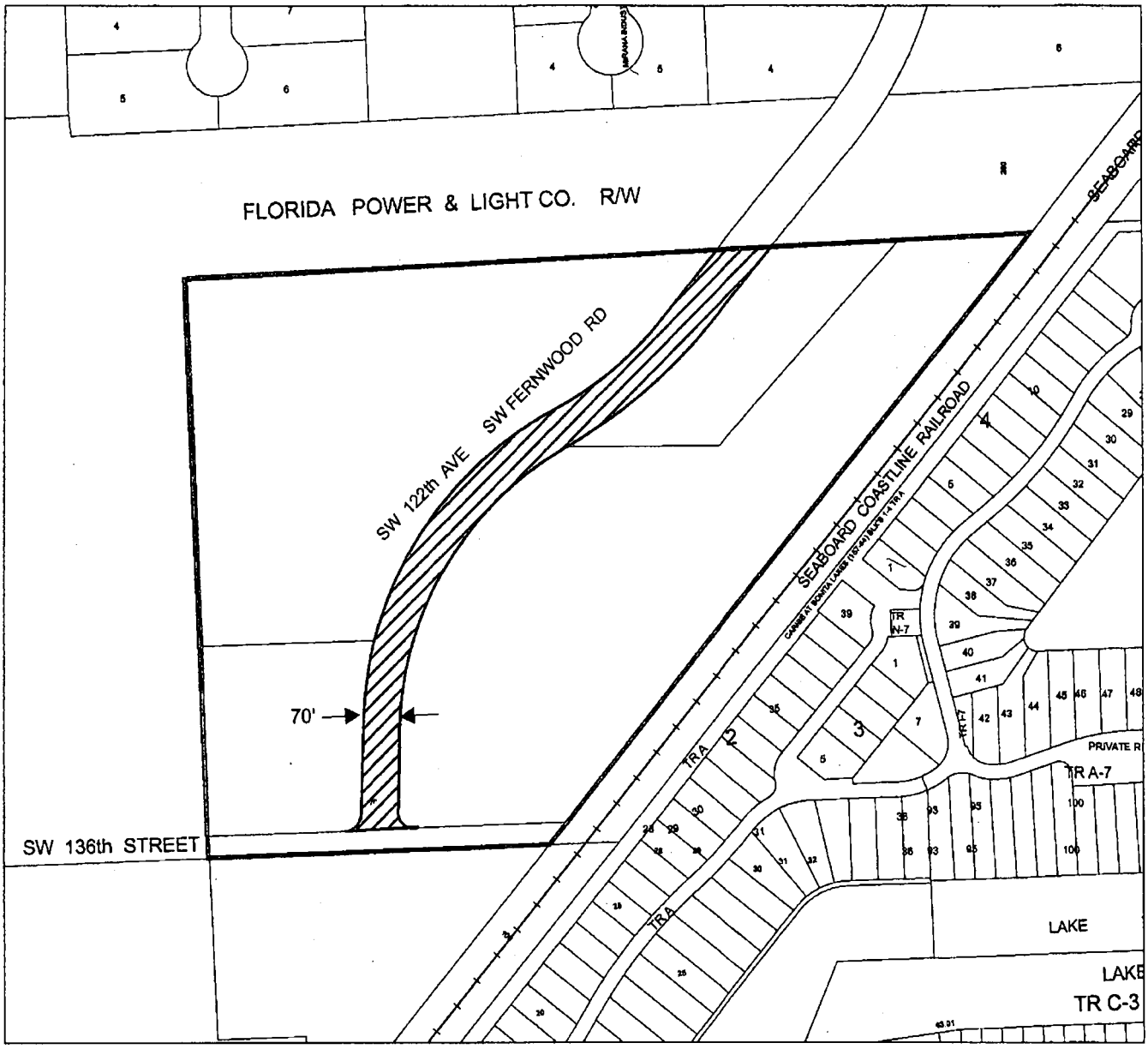
Location Map

SECTION 13 TOWNSHIP 55 S RANGE 39 E



Commission District: Dennis C. Moss, 9

Legend

P-870-Road CLosing

MDC.PROP

P-870

NORTH

Date, September 15, 2008
Prepared By: Yazmin Moreno

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PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 – 336.12 Florida Statutes, hereby petitions the Board of County Commissioners to vacate, abandon, discontinue and close an existing public or private street, alleyway, road, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

1. LEGAL DESCRIPTION: The complete and accurate legal description of the road right-of-way or land sought to be closed is as follows:

A portion of the Southwest 1/4 of Section 13, Township 55 South, Range 39 East, Miami-Dade County, Florida and being more particularly described as follows:

Commence at the Northeast corner of the Southwest 1/4 of said Section 13; thence S02°38'35"E along the East line of the Southwest 1/4 of said Section 13 for 1373.57 feet; thence S 87°03'33" W along the Northerly line of a Florida Power & Light Company Easement for 103.82 feet to a point on a circular curve to which a radial line bears S60°06'59"E from the center point of said curve; thence Southwesterly along a circular curve to the right having a radius of 885.00 feet and a central angle of 08°54'16" for an arc distance of 137.54 feet to a Point of Tangency; thence S 38°47'17" W for 228.68 feet to the Point of Beginning of the following described parcel of land; thence S87°03'33"W along the Southerly line of said Florida Power & Light Company Easement for 93.80 feet; thence S 38°47'17" W for 168.43 feet to a Point of Curvature; thence Southwesterly along a circular curve to the right having a radius of 615.00 feet and a central angle of 24°58'53" for an arc distance of 268.15 feet to a Point of Reverse Curvature; thence Southwesterly and Southerly along a circular curve to the left having a radius of 685.00 feet and a central angle of 65°58'57" for an arc distance of 788.85 feet to a Point of Tangency; thence S 02°12'47" E for 134.58 feet to a Point of Curvature; thence Southwesterly and Westerly along a circular curve to the right having a radius of 25.00 feet and a central angle of 90°00'00" for an arc distance of 39.27 feet to a Point of Tangency; thence N 87°47'13" E along a line parallel with and 40.00 feet North of as measured at right angles to the South line of said Section 13 for 120.00 feet to a point of cusp with a curve tangent thereto; thence, reversing direction, run Northwesterly and Northerly along a circular curve to the right having a radius of 25.00 feet and a central angle of 90°00'00" for an arc distance of 39.27 feet to a Point of Tangency; thence N

02°12'47" W for 134.58 feet to a Point of Curvature; thence Northerly and Northeasterly along a circular curve to the right having a radius of 615.00 feet and a central angle of 65°58'57" for an arc distance of 708.24 feet to a Point of Reverse Curvature; thence Northeasterly along a circular curve to the left having a radius of 685.00 feet and a central angle of 24°58'53" for an arc distance of 298.67 feet to a Point of Tangency; thence N 38°47'17" E for 230.86 feet to the Point of Beginning.

2. PUBLIC INTEREST IN ROAD: The title or interest of the county and the public in and to the above described road, right-of-way was acquired and is evidenced in the following manner (state whether public interest was acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

Public interest was acquired by deed and is recorded in the public record.

O.R.B. 14825, Pgs. 2566 - 2574

3. ATTACH SURVEY SKETCH: Attached hereto is a survey accurately showing and describing the above described right-of-way and its location and relation to surrounding property, and showing all encroachments and utility easements.

See attached.

4. ABUTTING PROPERTY OWNERS: the following constitutes a complete and accurate schedule of all owners of property abutting upon or adjacent to the above described right-of-way. These firms or individuals have been advised in writing of the proposed closure.

PRINT NAME	FOLIO NO.	ADDRESS

The petitioner is the only abutting property owner. Ownership of the affected parcels is as follows:

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida	3059130000040	3900 Commonwealth Blvd MS#115 Tallahassee, FL 32399
Same as above	3059130000041	same as above
Same as above	3059130000044	same as above

5. GROUNDS FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST: The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):

This request is in response to a proposal by Miami-Dade Expressway Authority to construct a highway feature through the Tamiami Complex Addition Pineland Preserve. This nature preserve was jointly acquired by the Miami-Dade County DERM Environmentally Endangered Lands (EEL) Program and the State of Florida Conservation and Recreation Land (CARL) Program. The acquisition was made with state and county public funds for the purpose of ecological preservation. The site is managed by the EEL staff and to date at least one federally endangered plant species as well as 29 state endangered or threatened plant species, two state threatened animal species, and two state animal species of special concern have been documented at this site.

The primary habitat within the preserve is comprised of pine rocklands. Pine rocklands are a globally-imperiled habitat that occurs only in southern Miami-Dade County, the Florida Keys and a few Bahamian Islands. More than 20% of the plant species in pine rocklands are found nowhere else in the world and close to 98% of this habitat within Miami-Dade County has already been lost to development and roadway projects. The EEL Program, often in partnership with the CARL Program and its successor the Florida Forever program, has been actively pursuing and ensuring the preservation of the pine rocklands remnants within the urban and agricultural areas of the county. Approximately 1,427 acres of pine rocklands, representing less than 1% of the historic extent of this habitat type, have been protected by the EEL Program. Construction of this highway feature would not only destroy a significant portion of this preserve, but would also make future land management activities required for this habitat type less feasible or even impossible to implement.

The proposed destruction of pine rocklands and other environmentally sensitive habitat on such EEL land is unprecedented in the history of Miami-Dade County's land acquisition program. The Miami-Dade Expressway Authority is urged to develop a ramp connector alternative that avoids all impacts to the Tamiami Complex Addition Pineland Preserve.

6. Signature of only abutting property owner: Respectfully submitted,

BOARD OF TRUSTEES OF THE INTERNAL TRUST FUND OF THE STATE OF FLORIDA

3800 Commonwealth Boulevard, MS 130
Tallahassee, Florida 32399-3000

By: Gloria C. Barber (SEAL)
GLORIA C. BARBER, OPERATIONS AND MANAGEMENT CONSULTANT MANAGER, BUREAU OF PUBLIC LAND ADMINISTRATION, DIVISION OF STATE LANDS, STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA

LEON COUNTY

BEFORE ME, the undersigned authority, personally appeared Gloria C. Barber, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, who first by me duly sworn, deposes and says that, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida that she is duly authorized to make this verification for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida; that she has read the foregoing petition and that the statements therein contained are true.

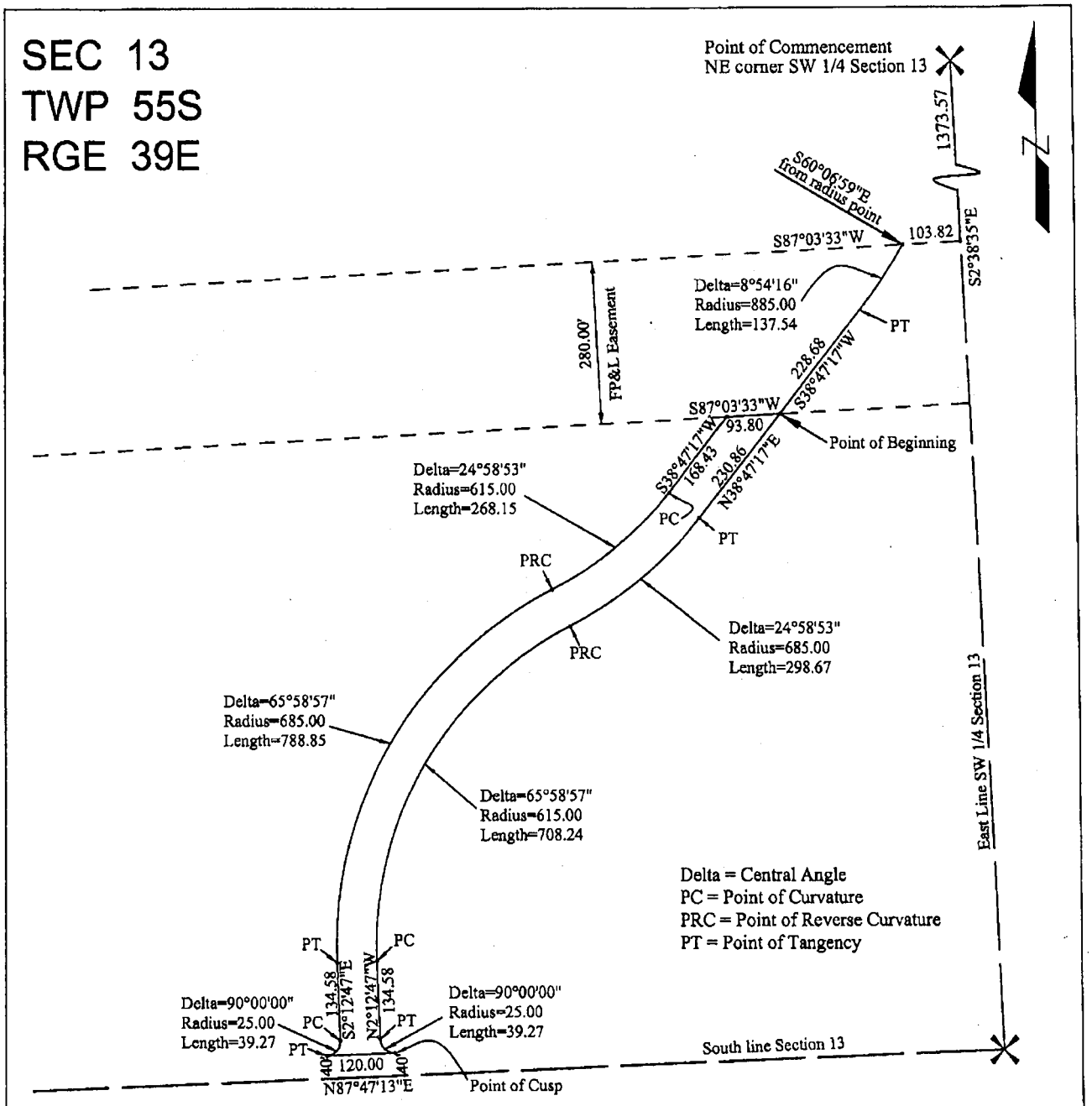
Sworn and subscribed to before me this

29th day of July, 2008

David L. Fewell
Notary Public State of Florida at Large

DAVID L. FEWELL
MY COMMISSION EXPIRES
February 28, 2012
#DD 763203
Bonded thru Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

My Commission Expires: Feb. 28, 2012



NOT A SURVEY

This SKETCH TO ACCOMPANY A LEGAL DESCRIPTION was prepared under my direction and is to the best of by knowledge and belief a true and correct graphic depiction of the legal description to which it is attached. This sketch is for illustrative purposes only and is in all cases subordinate to the language expressed in the legal description. THIS IS NOT A SURVEY

A portion of the Southwest 1/4 of Section 13, Township 55 South, Range 39 East, Miami-Dade County, Florida...

NOT TO SCALE

EEL PROGRAM

WAYNE T. SUTTON, P.S.M.
Florida Certificate Number 4681
5/20/2008

Drawn by: W.T.S.

MIAMI-DADE COUNTY PUBLIC WORKS DEPT.
Right of Way and Survey Division
Stephen P. Clark Center
111 NW First Street Suite 1610
Miami, Florida 33128-1970