



MEMORANDUM

Agenda Item No. 8(A)(1)(A)

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

DATE: October 4, 2011

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

SUBJECT: Resolution relating to Opa-locka Executive Airport; authorizing conveyance by easement to the Florida Department of Transportation of a parcel of property for the purpose of allowing FDOT to maintain a deceleration lane constructed on the parcel

The accompanying resolution was prepared by the Miami-Dade Aviation Department and placed on the agenda at the request of Prime Commissioner Bruno A. Barreiro.



R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum



Date: October 4, 2011

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

From: Carlos Gimenez
Mayor 

Subject: Resolution Authorizing the County's conveyance of $\pm .0474$ acres of property at Opa-locka Executive Airport to the Florida Department of Transportation (FDOT) through a permanent easement for FDOT's future maintenance of a deceleration lane along NW 57th Avenue (Red Road)

Recommendation

It is recommended that the Board approve the attached resolution authorizing the conveyance by permanent easement of $\pm .0474$ acres of property located at Opa-locka Executive Airport to the Florida Department of Transportation (FDOT) for FDOT's future maintenance of a deceleration lane along NW 57th Avenue (Red Road) north of the signalized intersection at NW 142nd Street to satisfy the County's obligation under a development lease agreement.

Scope

The property to be conveyed by easement is located on the west side of Opa-locka Executive Airport. The parcel of land is an irregular shaped parcel located within Opa-locka Executive Airport and is a portion of the Northwest one-quarter (NW $\frac{1}{4}$) of Section 29, Township 52 South, Range 41 East, lying South of the South right-of-way line of Northwest 36th Street (State Road 948) more fully described in Exhibit "A," attached hereto. The property to be conveyed is located primarily within Commission District 1- Commissioner Barbara J. Jordan. The impact of this item is countywide as Opa-locka Executive Airport is a regional asset and generates employment for residents throughout Miami-Dade County.

Fiscal Impact/Funding Source

There is no fiscal impact associated with this easement.

Track Record/Monitor

The Miami-Dade Aviation Department (MDAD) staff member responsible for overseeing this easement is José A. Ramos, Interim Director of Aviation Planning.

Background

On February 6, 2007, the Board approved via Resolution No. R-131-07, an amended and restated development lease agreement between the County and AVE, LLC (AVE) for development of ± 174 acres located at Opa-Locka Executive Airport. The lease required AVE, among other things, to begin construction within three years of the lease commencement date and to invest \$187 million over a period of 10 years.

AVE is proceeding with its development which includes the construction of certain retail parcels along NW 57th Avenue (Red Road), which is under the control of the Aviation Department. As a condition of this particular project, the Florida Department of Transportation (FDOT) requires the construction of a deceleration lane on Red Road just north of the signalized intersection at NW 142nd Street, as indicated in the attached sketch and legal description. FDOT has agreed to maintain the deceleration lane in the future following AVE's design and construction of the lane. The permanent easement will

allow FDOT to maintain the deceleration lane in the future. With the construction of the deceleration lane, all right turn movements turning into AVE's development area at NW 142nd Street intersection can be safely and efficiently made.

The County will retain title to the easement property as well as the property underlying the AVE leasehold area. Under the development lease agreement, AVE has the obligation to make the premises suitable for its use, which requires it to pay for the costs associated with the construction of the proposed deceleration lane. AVE as the tenant will be required to coordinate its design and construction activities for the proposed deceleration lane with both FDOT and MDAD. Following the completion of construction, FDOT will thereafter assume maintenance obligations in regard to the deceleration lane. The easement is revocable should MDAD deem the property is needed at some point in the future; therefore, the County can recover the property for such purposes.

This easement is a requirement for FDOT's participation in the project and subsequent maintenance of the improved roadway. The terms of the easement clarify the respective obligations of AVE and FDOT regarding the initial construction and subsequent maintenance of the deceleration lane.



Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: October 4, 2011

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

SUBJECT: Agenda Item No. 8(A)(1)(A)

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

Agenda Item No. 8(A)(1)(A)

Veto _____

10-4-11

Override _____

RESOLUTION NO. _____

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; AUTHORIZING CONVEYANCE BY EASEMENT TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) OF A ±.0474 ACRE PARCEL OF PROPERTY ABUTTING N.W. 57TH AVENUE AT N.W. 142ND STREET FOR THE PURPOSE OF ALLOWING FDOT TO MAINTAIN A DECELERATION LANE CONSTRUCTED ON THE PARCEL

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes and approves the conveyance by easement to the Florida Department of Transportation (FDOT) of a ±.0474 acre parcel of property abutting N.W. 57th Avenue at N.W. 142nd Street, as such parcel is further described in the accompanying memorandum and its exhibit, for the purpose of allowing FDOT to maintain a deceleration lane to be constructed on the parcel by AVE, LLC (“AVE”), a development company authorized by lease between Miami-Dade County and AVE to construct facilities at Opa-locka Executive Airport, so as to assure the safe and efficient movement of vehicles into the leasehold area; authorizing the Mayor or designee to execute such easement and take all steps that may be necessary to place such easement into effect.

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 | |

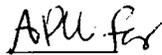
The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of October, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.



Thomas P. Abbott

This instrument prepared by,
Thomas P. Abbott, Esq.
Assistant County Attorney
Miami-Dade County
PO Box 025504
Miami, Florida 33102-5504
305 876-7040

PERPETUAL EASEMENT

THIS PERPETUAL EASEMENT is made this ____ day of _____, 2011, by **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, "Grantor", to the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, its successors and assigns, "Grantee,"

WITNESSETH: That the Grantor, on behalf of its Aviation Department, for and in consideration of the sum of One Dollar and other valuable considerations paid, the receipt and sufficiency of which are hereby acknowledged, hereby grants unto the Grantee, its successors and assigns, subject to Grantee's acceptance of and compliance with the Conditions set forth below, a perpetual non-exclusive easement over, across and through the real property located in Miami-Dade County, Florida, legally described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

This Easement is given for the purpose of permitting the Grantee access to the Property solely for the purpose of providing at Grantee's cost the maintenance of the Property following the design and construction by a third party of a deceleration lane upon such property.

The foregoing easement is subject to the Grantee's acceptance of and compliance with the following conditions:

1. Grantee shall maintain the Property in accordance with Grantee's standard practices for maintaining a deceleration lane used for right-turn vehicle movements;
2. Grantee acknowledges the Grantor's continued right of use of such property by Grantor and by any users of Opa-locka Executive Airport authorized by Miami-Dade Aviation Department to make use of such property and Grantor's right to provide directional and other appropriate signage so long as such signage does not conflict with Grantee's requirements;
3. Grantee, for itself and its successors and assigns, shall take no actions that adversely affect the rights and interests of the public in and to Opa-locka Executive Airport and shall prevent any use of the foregoing property that would materially interfere with airport operations or constitute an airport hazard;
4. Grantee, for itself and its successors and assigns, acknowledges the continued right of the Grantor and users of Opa-locka Executive Airport to the right of flight for the passage of aircraft in the airspace above the surface of the foregoing property and the right of existing and future aircraft to generate noise in such airspace, and the right of the Grantor for itself and for users of such Airport to use the airspace to land or take off from such Airport and to make commercial use of such Airport in the manner authorized by the Grantor;
5. Grantor, at its option and at its expense, may engage in maintenance activity on the Property in accordance with Grantee's standards, through Grantor's maintenance staff or

- contractors, either in the case of emergencies or in the case of Grantee's determination not to provide maintenance of the easement property;
6. Grantor shall retain the right to revoke the easement should it determine at a future date that the land is needed for airport purposes at which point the deceleration lane shall be decommissioned or removed by Grantor at Grantor's cost and expense; and
 7. To the extent provided by and allowed by Section 768.28, Florida statutes, Grantee agrees to indemnify and hold harmless the Grantor from and against all suits, claims, judgments, and all loss, damage, costs or charges including attorney's fees and court costs arising directly or indirectly from Grantee's maintenance activities thereon, and shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions in the name of the Grantor, where applicable, including appellate proceedings, arising out of such use of the easement property by Grantee and for any negligence of Grantee, its officers, agents, and instrumentalities, and shall pay all costs, judgments, and attorney's fees which may issue thereon. This indemnification shall survive any cancellation of this easement.

IN WITNESS WHEREOF, the said Grantor has caused these presents to be executed in its name by its Board of County Commissioners acting through its Chairperson or Vice-Chairperson of said Board, on the day and year aforesaid.

Grantor: **MIAMI-DADE COUNTY, FLORIDA,**

By: _____
Mayor

Attest:

Deputy Clerk of the Board of
Commissioners

[County Seal]

Approved as to form and
Legal sufficiency:

Assistant County Attorney

**SKETCH TO ACCOMPANY LEGAL DESCRIPTION
EXHIBIT "A"
DECELERATION LANE**

Revised Date: August 15, 2011
Date: March 23, 2011

Portions of MIAMI GARDENS, according to the plat thereof, as recorded in Plat Book 2 at Page 96, Lying in Section 19, Township 52 South, Range 41 East and portions of Lots 6, 7 & 8, BLAIN ACRES, according to the Plat thereof, as recorded in Plat Book 24, at Page 9, all of the Public Records of Miami Dade County, Florida, being more particularly described as follows:

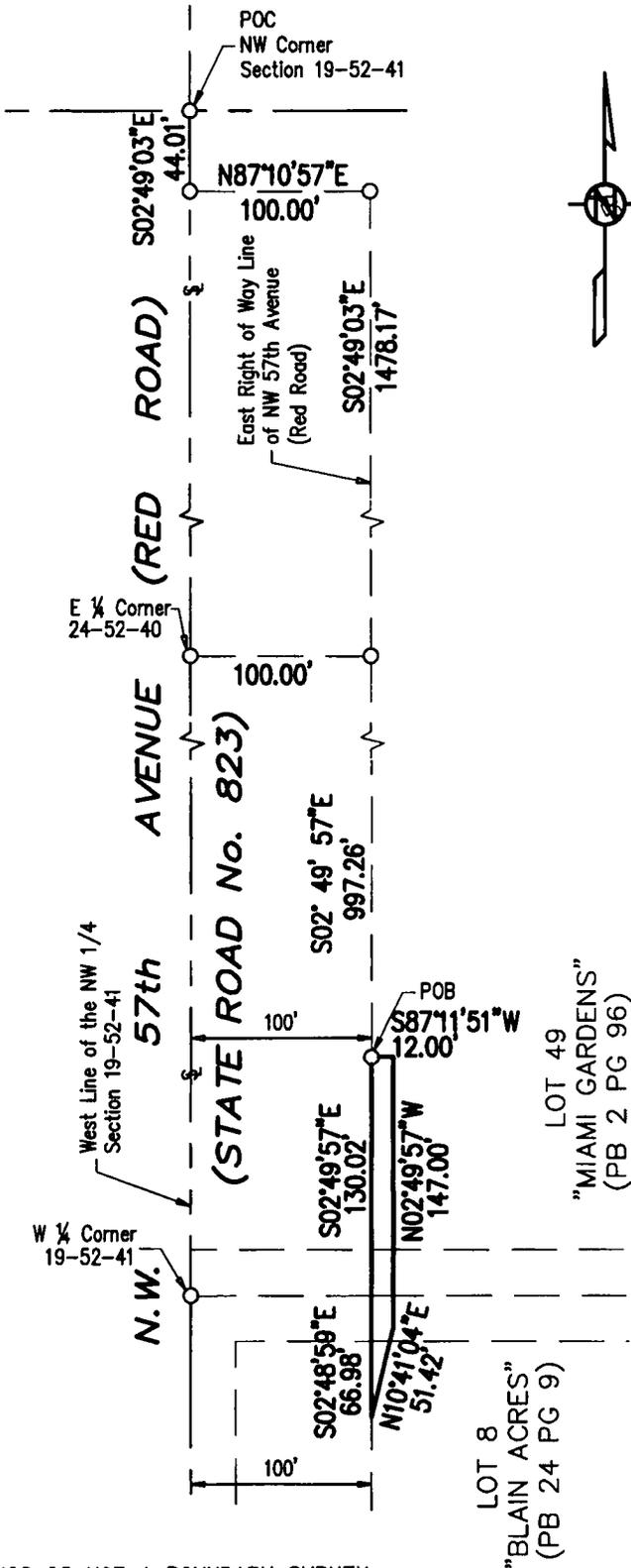
Commence at the Northwest corner of Section 19, Township 52 South, Range 41 East; thence run South 02°49'03" East along the West Line of the Northwest ¼ of said Section 19 for a distance of 44.01 feet; thence run North 87°10'57" East for a distance of 100.00 feet to a point on the East Right of Way Line of NW 57th Avenue (Red Road) as shown on the State of Florida State Road Department, now know as Florida Department of Transportation, Right of Way Map, Section 87630-2602, as recorded in Road Plat Book 112 at Page 7 of the Public Records of Miami Dade County, Florida, thence run South 02°49'03" East, along said East Right of Way Line of NW 57th Avenue, for a distance of 1478.17 feet to a point; thence run South 02°49'57" East, along said East Right of Way Line of NW 57th Avenue, for a distance of 997.26 feet to The Point of Beginning; thence continued South 02°49'57" East, along said East Right of Way Line of NW 57th Avenue, for a distance of 130.02 feet to a point; thence run South 02°48'59" East, along said Right of Way Line of NW 57th Avenue, for a distance of 66.98 feet to a point; thence run North 10°41'04" East for a distance of 51.42 feet to a point; thence run North 02°49'57" West for a distance of 147.00 feet to a point; thence run South 87°11'51" West for a distance of 12.00 feet to the Point of Beginning, said Parcel containing 2,064 square feet more or less.

E.R. BROWNELL & ASSOCIATES, INC

This Description and the accompanying Sketch are not valid without the signature and raised seal of a Florida Licensed Surveyor and Mapper. This Description and the accompanying Sketch are not valid one without the other.

9

SKETCH TO ACCOMPANY LEGAL DESCRIPTION EXHIBIT "A" DECELERATION LANE



NOTE:

Bearings and Coordinates shown are based on the State Plane Coordinates System, Florida East Zone NAD 83 (1993 Adjustment) were the West line of the NW 1/4 of Section 19-52-41 bears South 02°49'03" East, and based on reference Monuments provided by Miami Dade Water and Sewer Department shown as follows:

NAD 83 (1993 Adjustment)	NAD (1993 Adjustment)
Name: SPRING 1971	Name: WEIDENER
Mon Grid Coordinates (Feet)	Mon Grid Coordinates (Feet)
North: 580005.152	North: 569425.790
East: 872875.515	East: 904644.821

LEGEND:

- POC Point of Commencement
- POB Point of Beginning
- Mon Monument
- PB Plat Book
- PG Page
- § Section Line

THIS IS NOT A BOUNDARY SURVEY

PREPARED BY _____

DECELERATION LANE

E.R. BROWNELL & ASSOC., INC.
 CONSULTING ENGINEERS
 2434 SW 28th LANE
 PH: 305.860.3866

LAND SURVEYORS
 Miami, Florida, 33133
 FAX: 305.860.3870

Revised Date 05/11/11	Draw By: ALR	Date: 03/23/11
Sheet 2 of 2	Job #: 56817	Scale: 1"=100'

Certificate of Authorization No: LB 761 Sk No.: SM-2479