

MEMORANDUM

Agenda Item No. 8(M)(1)

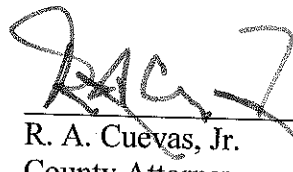
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 17, 2012

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

SUBJECT: Resolution authorizing the acceptance of a canal right-of-way and a canal maintenance easement in exchange for the release of unneeded excess canal reservation in Section 19, Township 53 South, Range 40 East in Miami-Dade County

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date: July 17, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Acceptance of a Canal Right-of-Way Deed and a Canal Maintenance Easement in Exchange for the Release of Unneeded Excess Reservation in Section 19, Township 53 South, Range 40 East in Miami-Dade County (WC-882)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the acceptance of a canal right-of-way deed and a canal maintenance easement from the landowner in exchange for the release of excess canal reservation which is no longer needed by Miami-Dade County (the County).

Scope

The subject parcel is located in Commissioner Diaz's District 12.

Fiscal Impact/Funding Source

This item has no fiscal impact to the County and does not require expenditure of any County funds.

Track Record/Monitor

The Water Control Section Manager within the Department of Regulatory and Economic Resources will be responsible for tasks related to this transaction.

Background

In 1961, the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, gave a canal reservation to the County on a 130 foot wide strip of land in northwestern Miami-Dade County. By virtue of Florida Flood Control District Deed No. 64, the rights in reservation were to be used for canal and levee purposes in connection with the Miami-Dade County Water Control Master Plan. The land is located just east of the Florida Turnpike and the Snapper Creek Canal, lying north of NW 41 Street, south of NW 43 Terrace, east of the NW 117 Avenue and west of NW 114 Avenue. A site diagram is included in Attachment C.

The land encumbered by the above-stated canal reservation is owned by CC Doral Pebblewalk, LLC. CC Doral Pebblewalk, LLC is planning to develop the property into a residential subdivision and has requested the release of the eastern, approximately 95 foot wide portion of the 130 foot wide canal reservation from the County in exchange for deeding to the County the westernmost, approximately 35 foot wide canal right-of-way. In consideration of this offer, Miami-Dade County has determined that the canal reservation, with total area of 0.72 acres, is no longer needed for the Miami-Dade Water Control Master Plan, that a similar 95 foot wide canal reservation was previously released by the County to the north of this area, and that the County does not currently have a canal maintenance easement for the approximately 35 foot wide canal right-of-way.

It is therefore recommended that the Board authorize the acceptance of a canal right-of-way deed (Attachment A) and an easement for canal maintenance (Attachment B) in exchange for the release of unneeded excess canal reservation by County disclaimer (Attachment C). Following the County's release of the canal reservation, the landowner would need to pursue further release of the canal reservation from the South Florida Water Management District and/or other agencies as appropriate.



Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: July 17, 2012

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

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

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. 8(M)(1)
7-17-12

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ACCEPTANCE OF
A CANAL RIGHT-OF-WAY AND A CANAL
MAINTENANCE EASEMENT IN EXCHANGE FOR THE
RELEASE OF UNNEEDED EXCESS CANAL
RESERVATION IN SECTION 19, TOWNSHIP 53
SOUTH, RANGE 40 EAST IN MIAMI-DADE COUNTY

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

WHEREAS, CC Doral Pebblewalk, LLC is the owner of the tract in Section 19, Township 53 South, Range 40 East which is encumbered by a canal reservation given to Miami-Dade County in 1961 by the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, to be used for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, CC Doral Pebblewalk, LLC is planning to build on their land and has requested from Miami-Dade County the release of approximately 95 feet of the 130 foot wide canal reservation in exchange for a canal maintenance easement and a deed to Miami-Dade County for the approximately 35 foot wide canal right-of-way; and

WHEREAS, CC Doral Pebblewalk, LLC has submitted a valid and signed canal right-of-way deed in favor of Miami-Dade County for the transfer of title to real property and an easement for canal maintenance; and

WHEREAS, in consideration of this offer, Miami-Dade County has determined that the requested canal reservation is no longer needed by Miami-Dade County for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, Miami-Dade County does not currently have a canal maintenance easement for the approximately 35 foot wide canal right-of-way and would therefore benefit from the transfer of title for such right-of-way in order to have unrestricted access for canal maintenance or other canal purposes,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the Mayor or the Mayor's designee to accept a canal right-of-way deed and easement for canal maintenance from the landowner conveying canal right-of-way to Miami-Dade County and providing a canal maintenance easement to Miami-Dade County in exchange for the release of unneeded excess canal reservation from Miami-Dade County in Sections 19, Township 53 South, Range 40 East as indicated in the Mayor's memorandum, a copy of which is attached hereto and incorporated herein by reference; authorizes the Mayor to execute the canal right-of-way deed, to execute the easement for canal maintenance and to execute the disclaimer for release of the rights of reservation from Miami-Dade County to the landowner, with the instruments of conveyance in substantially the form attached hereto and made a part hereof. Pursuant to Resolution No. R-974-09, the Board directs the Mayor or the Mayor's designee to record the instruments of conveyance accepted herein in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of the instruments to the Clerk of the Board within thirty (30) days of execution of said instruments; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

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 17th day of July, 2012. 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.



Abbie Schwaderer-Raurell

ATTACHMENT A

W.C. 882

1

RIGHT-OF-WAY DEED TO MIAMI-DADE COUNTY

CONVEYS THE TITLE FOR CANAL PURPOSES

BY LIMITED LIABILITY CORPORATION

STATE OF FLORIDA,)
COUNTY OF MIAMI-DADE)

THIS INDENTURE, made this _____ day of _____, 20____, by and between CC Doral Pebblewalk, LLC., a limited liability company under the laws of the State of Delaware, and having its office and principal place of business in the City of Coral Gables, in the State of Florida, party of the first part, and the County of Miami-Dade, a body Corporate, and a Political Subdivision of the State of Florida, and its successors in interest, party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, and for other and further good and valuable considerations, does hereby grant, bargain and sell to the party of the second part, and its successors in interest, for the purpose of a public canal and all public uses and purposes incidental thereto, including but not limited to the right of the party of the second part to ownership and disposal of all spoil material from said canal, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 53 SOUTH, RANGE 40 EAST IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHWEST ¼ OF SAID SECTION 19; THENCE N01°44'54"W, AS BASIS OF BEARING ALONG THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19, FOR A DISTANCE OF 329.92 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND THENCE CONTINUE N01°44'54"W ALONG SAID WEST LINE FOR A DISTANCE OF 329.93 FEET; THENCE N89°34'34"E FOR A DISTANCE OF 35.01 FEET; THENCE S01°44'54"E ALONG A LINE 35.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 259.16 FEET; THENCE S06°16'14"E FOR A DISTANCE OF 57.37 FEET; THENCE S02°08'21"E FOR A DISTANCE OF 13.68 FEET; THENCE S89°34'36"W FOR A DISTANCE OF 39.63 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.27 ACRES, MORE OR LESS.

This instrument was prepared by:
Carlos A. Calvache
Department of Regulatory and Economic Resources
701 N.W. 1st Court, 6th Floor
Miami, Florida. 33136

If is the intention of the party of the first part by this instrument to convey to the said County, and its successors in interest, the land above described for use as a public canal and for other public uses and purposes.

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under him.

IN WITNESS WHEREOF, the said party of the first part, has executed by James Carr, who has been granted the authority to execute this deed on behalf of CC Doral Pebblewalk, LLC, and has caused the same to be attested by Andrew Frey, on this, the day and year first above written.

Signed, Sealed, Attested and delivered in our presence:

Witnesses:

Sign [Signature]
Print Andrew Frey
Sign [Signature]
Print MELVIN CASSETT

CC Doral Pebblewalk, LLC
Name of Corporation
By [Signature]
Print James Carr
Title Vice-President
Address 135 San Lorenzo Ave, Suite T30
Coral Gables, FL 33146

STATE OF Florida)
COUNTY OF Miami-Dade)

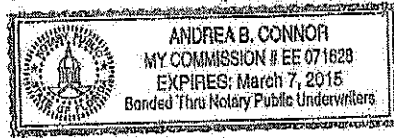
The foregoing instrument was acknowledged before me this 20 day of June, 2012, by James Carr, who is personally known to me or who has produced _____ as identification and did take an oath.

NOTARY PUBLIC:

Sign Andrea B. Connor

Print _____

State of Florida at Large Seal
My Commission Expires:



RIGHT-OF-WAY DEED
TO
MIAMI-DADE COUNTY
CONVEYS THE TITLE FOR
CANAL PURPOSES

FROM

CC Doral Pebblewalk, LLC

TO

MIAMI-DADE COUNTY, FLORIDA

The foregoing dedication was accepted and approved on the _____ day of _____,
20____, by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County,
Florida.

Sign: _____

Print: Carlos A. Gimenez

Title: Mayor

111 N.W. 1st Street
Stephen P. Clark Center
Miami, Florida 33128

ATTEST: HARVEY RUVIN
Clerk of said Board

By: _____
Deputy Clerk

ATTACHMENT B

W.C. 882

1

EASEMENT FOR CANAL MAINTENANCE
(CORPORATION)

STATE OF FLORIDA,)
COUNTY OF MIAMI-DADE)

THIS INDENTURE, made this _____ day of _____, 20____, by and between CC Doral Pebblewalk, LLC., a limited liability company under the laws of the State of Delaware, and having in its office and principal place of business in the City of Coral Gables, in said State, party of the first part and the County of Miami-Dade, a Political Subdivision of the State of Florida, and its successors in interest, party of the second part.

KNOW ALL MEN BY THESE PRESENTS that whereas the said party of the first part is the owner of the hereinafter described real property in Miami-Dade County, Florida and

WHEREAS, the parties hereto desire that the drainage canal which lies adjacent to said real property be maintained and kept free and clear of all obstruction, debris, silt, hyacinths, and other vegetable matter, and the party of the first part, to accomplish said purpose, is willing to convey to the party of the second part an easement hereinafter described to be used by the party of the second part for the construction, cleaning and maintenance of said canal.

NOW, THEREFORE, in consideration of the premises, and of the sum of Ten Dollars (\$1.00) in hand paid by the party of the second part, the receipt of which is hereby acknowledged, the party of the first part has granted, bargained and sold, and by these presents does hereby grant, bargain, sell and convey to the party of the second part and its successors in interest an easement over, along and across the following described real property lying and being in Miami-Dade County, Florida:

A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 53 SOUTH, RANGE 40 EAST IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHWEST ¼ OF SAID SECTION 19; THENCE N01°44'54"W, AS BASIS OF BEARING ALONG THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19, FOR A DISTANCE OF 329.92 FEET; THENCE N89°34'36"E FOR A DISTANCE OF 39.63 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE N02°08'21"W FOR A DISTANCE OF 13.68 FEET; THENCE N06°16'14"W FOR A DISTANCE OF 57.37 FEET; THENCE N01°44'54"W ALONG A LINE 35.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 259.16 FEET; THENCE N89°34'34"E FOR A DISTANCE OF 7.00 FEET; THENCE S01°44'54"E ALONG A LINE 42.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 207.99 FEET; THENCE S06°16'14"E FOR A DISTANCE OF 91.65 FEET; THENCE S83° 43'46"W FOR A DISTANCE OF 5.30 FEET; THENCE S06°58'42"E FOR A DISTANCE OF 30.39 FEET; THENCE S89°34'36"W FOR A DISTANCE OF 7.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.06 ACRES, MORE OR LESS.

This instrument was prepared by:
Carlos A. Calvache
Permitting, Environment and Regulatory Affairs
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136

together with the right to remove all trees, growth and shrubbery therefrom and to temporarily deposit such spoil, silt, hyacinths, and other vegetable matter which the party of the second part shall remove from the canal from time to time in the construction, cleaning and maintenance of said canal, and together also with the right to the party of the second part to use said strip of land in such manner as may be necessary in the operation of the equipment used by the party of the second part in the construction and cleaning of said canal.

All of the provisions hereof shall inure to the benefit of the heirs, executors administrators, grantees, assigns and the successors in interest of the respective parties.

IN WITNESS WHEREOF, the said party of the first part, has executed this instrument, and has caused the same to be executed by its President or Vice-President, and has caused the same to be attested by its Secretary or Assistant-Secretary, and its Corporate Seal hereon to be impressed, on this, the day and year first above written.

Signed, Sealed, and delivered
in our presence:

CC Coral Pebblewalk, LLC
Name of Corporation

Witnesses:

Sign [Signature]

By [Signature]

Print Andrew Frey

Print James Carr

Sign [Signature]

Title Vice President

Print Michelle Garbett

Address 35 San Lorenzo Ave, Suite 730
Coral Gables, FL 33146

Attest: [Signature]

K. LAWRENCE GRASS
Print Name

[Signature]
Secretary

STATE OF Florida,)

COUNTY OF Miami-Dade

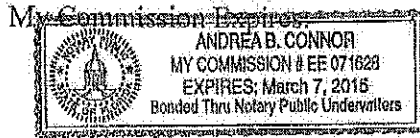
The foregoing instrument was acknowledged before me this 20 day of June, 2012, by James Carr, who is personally known to me or who has produced as identification and did take an oath.

NOTARY PUBLIC:

Sign Andrea B. Connor

Print

State of Florida at Large Seal



ATTACHMENT C

W.C. 882

1

MIAMI-DADE COUNTY, FLORIDA, DISCLAIMER.

KNOW ALL MEN BY THESE PRESENTS that MIAMI-DADE COUNTY, a political subdivision of the State of Florida, does hereby give notice that it disclaims certain rights, title and interests which said MIAMI-DADE COUNTY has in the following described lands lying and being in Miami-Dade County, Florida, to wit:

A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 53 SOUTH, RANGE 40 EAST IN MIAMI-DADE COUNTY, ALSO BEING A PORTION OF TRACT 42 OF FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 19; THENCE N89° 34'42"E, AS BASIS OF BEARING ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 130.03 FEET; THENCE N01°44'54"W ALONG A LINE 130.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 329.89 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE S89°34'36"W FOR A DISTANCE OF 90.41 FEET; THENCE N02°08'21"W FOR A DISTANCE OF 13.68 FEET; THENCE N06°16'14"W FOR A DISTANCE OF 57.37 FEET; THENCE N01°44'54"W ALONG A LINE 35.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 259.16 FEET; THENCE N89°34'34"E FOR DISTANCE OF 95.03 FEET; THENCE S01°44'54"E ALONG A LINE 130.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 19 FOR A DISTANCE OF 329.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 31,343 SQUARE FEET, 0.72 ACRES, MORE OR LESS.

WHEREAS, the Central and Southern Florida Flood Control Districts by Rights in Reservations Deed No. 64 dated September 8, 1961, recorded in Official Records Book 2868 at Page 441 of the Public Records of MIAMI-DADE COUNTY, FLORIDA, conveyed, assigned, set over and granted to Miami-Dade County for canal and levee purposes only, the above described lands; and

WHEREAS, the aforesaid rights in reservations upon the said above described lands are not now needed by MIAMI-DADE COUNTY for canal purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned lands by virtue of the said Rights in Reservations Deed No. 64 dated September 8, 1961, recorded in Official Records Book 2868 at Page 441 of the Public Records of Miami-Dade County, Florida.

BY THE ISSUANCE of this instrument MIAMI-DADE COUNTY does not purport to lessen or diminish any existing canal right of way or canal maintenance easement, nor the rights of any other agency or governmental body in and to the aforementioned lands.

IN WITNESS WHEREOF MIAMI-DADE COUNTY FLORIDA, has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor and the Clerk or Deputy Clerk of said Board on this the _____ day of _____ 20_____.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

By: _____
Carlos A. Gimenez, Mayor

Print: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath:

NOTARY PUBLIC:

Sign _____

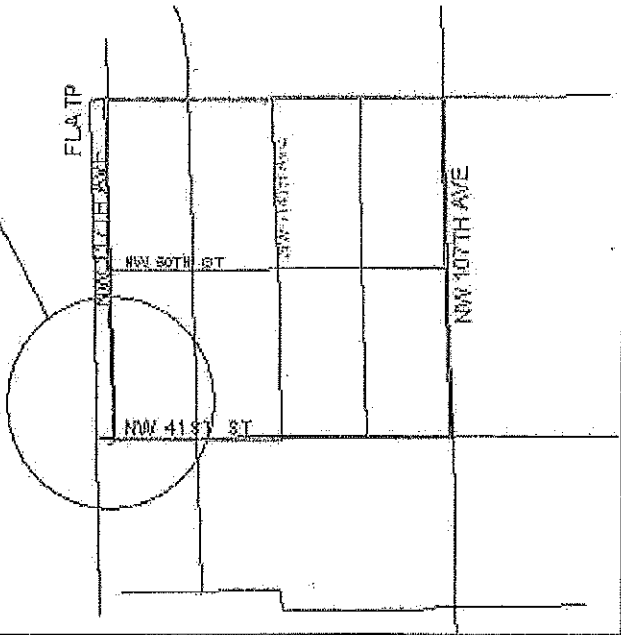
Print _____

STATE OF FLORIDA at large
(Seal)

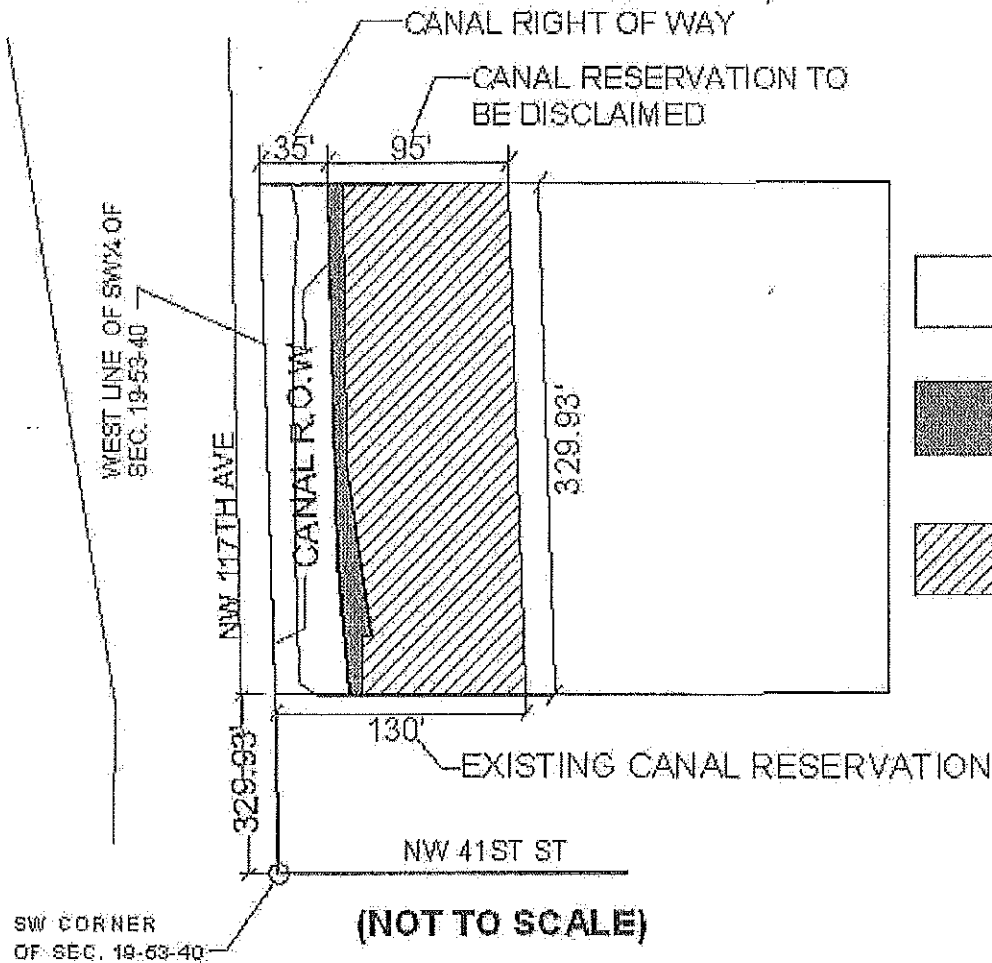
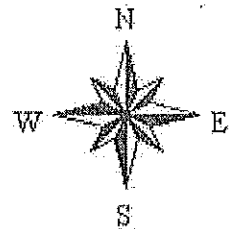
My commission expires: _____



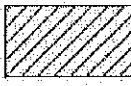
This instrument was prepared by:
Carlos A. Calvache of Miami-Dade County
Permitting, Environment and Regulatory Affairs
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136

PROJECT LOCATION



WC. 882
 Sec. 19
 Twp. 53
 Rge. 40



-  CANAL RIGHT OF WAY
-  CANAL MAINTENANCE EASEMENT
-  EXCESS CANAL RESERVATION TO BE DISCLAIMED

(NOT TO SCALE)