MEMORANDUM

Agenda Item No. 8(L)(2)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	April 2, 2013
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution authorizing a public purpose conveyance of a portion of the Rickenbacker Causeway, to the City of Miami in accordance with Florida Statute 125.38 for no monetary consideration, for the construction, operation and maintenance of a public municipal parking garage on Virginia Key

The accompanying resolution was prepared by the Public Works & Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

Memorandum

MIAMI-DADE COUNTY

Date: April 2, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing a Public Purpose Conveyance of a Portion of the Rickenbacker Causeway to the City of Miami

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Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing a public purpose conveyance of a portion of the Rickenbacker Causeway (Causeway) by County Deed in substantially the form attached hereto, to the City of Miami (City) for no monetary consideration, for the purpose of construction, operation and maintenance of a public municipal parking garage on Virginia Key. The portion recommended for conveyance is described in Exhibit "A" and illustrated in Exhibit "B" attached hereto and made a part hereof. Furthermore, it is recommended that the BCC waive Administrative Order 8-4 as is relates to review by the Planning Advisory Board.

Scope

The portion of the Rickenbacker Causeway to be conveyed is located in Miami-Dade County Commission District 7. The parcel straddles a municipal boundary with slightly less than half of the land to be conveyed, located within the City and the balance in unincorporated Miami-Dade County. This item is of County-wide interest since the Rickenbacker Causeway is a unique public open space that is both a transportation facility of regional significance as well as a recreational destination.

Fiscal Impact/Funding Source

No County funds will be used for this project. The City of Miami proposes to construct a public municipal parking garage at its own expense, at an estimated cost of $8 million. Since this item is a public purpose conveyance for a transportation related municipal use, the value of the property has not been determined.

Track Record/Monitor

The Public Works and Waste Management Department (PWWM) is the entity overseeing this item and the person responsible is Mr. Wayne Sutton, PSM, Section Head, Right-of-Way Engineering Section.

Background

The portion of the Causeway to be conveyed is currently being used for drainage and beautification purposes, and not for lanes of traffic. It is located on the Northeastern side of the Causeway adjacent to the entrance to the Rusty Pelican Restaurant, the Rickenbacker Marina, and the Marine Stadium Marina. The subject land was originally submerged sovereignty land conveyed by the Trustees of the Internal Improvement Fund of the State of Florida to the City of Miami in 1929 "for municipal purposes only." (Deed Book 1324, Page 248). The City of Miami subsequently deeded the subject land to Miami Dade in 1941 for "construction and proper maintenance of a proposed causeway" and "for purposes beneficial to the residents of the City of Miami and adjoining communities" (Deed Book

2190, Page 359). The property has been landscaped to beautify the Causeway and to provide a visual buffer from the industrial and marine uses on the City's leased lands.

The City has proposed to fund and construct a four-story public municipal parking garage on Virginia Key, to provide 400 public parking spaces. City staff reports that current demand for parking exceeds supply, and the City expects a further increase in demand as its use of the Marine Stadium property expands. Public parking is a transportation use that is consistent with the purpose of the Causeway and for purposes beneficial to the residents of Miami-Dade County.

A review by the Shoreline Development Review Committee is required in order for the City to construct this project. Additionally, the City will be required to obtain all necessary zoning and building permits and approvals, notwithstanding this transfer by the County. Conveyance of the requested land will enable the City to make an independent application for a rezoning without the County as a co-applicant.

At this time the City does not expect additional traffic signalization to be required on the Causeway. However, the City must conduct a traffic study to determine any negative impacts on traffic flow or pedestrian and vehicular traffic safety, and shall correct any such impacts, including adding traffic signalization, if needed. Additionally, the City shall be required to mitigate any impacts on drainage or landscaping arising from the construction of the project. Should the proposed parking facility not be constructed within five (5) years, or in the event that the land is not used for a public municipal parking garage or is used for another purpose, the land will revert to Miami-Dade County.

Alina T. Hudak,
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 2, 2013

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

SUBJECT: Agenda Item No. 8(L)(2)

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 Mayor'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(L)(2)
4-2-13

RESOLUTION NO. _____

RESOLUTION AUTHORIZING A PUBLIC PURPOSE CONVEYANCE OF A PORTION OF THE RICKENBACKER CAUSEWAY, TO THE CITY OF MIAMI IN ACCORDANCE WITH FLORIDA STATUTE 125.38 FOR NO MONETARY CONSIDERATION, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC MUNICIPAL PARKING GARAGE ON VIRGINIA KEY, WAIVING ADMINISTRATIVE ORDER 8-4 AS IT RELATES TO REVIEW BY THE PLANNING ADVISORY BOARD; DIRECTING THE MAYOR OR MAYOR'S DESIGNEE TO TAKE ALL NECESSARY ACTIONS TO ACCOMPLISH THE CONVEYANCE AND AUTHORIZING THE EXECUTION OF A COUNTY DEED AND DECLARATION OF RESTRICTIONS FOR SUCH PURPOSE

WHEREAS, this Board is authorized by Florida Statute 125.38 to convey County-owned land to any municipality of this state for purposes of public or community interest and welfare; and

WHEREAS, the City of Miami (City) plans to build a four-story public municipal parking garage upon a portion of the Rickenbacker Causeway on Virginia Key, currently used for drainage and landscaping; and

WHEREAS, the City has requested that Miami-Dade County (County) convey unto the City, at no cost, the portion of the Rickenbacker Causeway described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof (Property) for the public purpose of constructing, operating and maintaining a public municipal public parking garage; and

WHEREAS, this Board finds the proposed construction, operation and maintenance by the City of a public municipal parking garage to be in the public and community interest and welfare and consistent with the public transportation purpose of a causeway; and

WHEREAS, the City has agreed to mitigate any and all impacts to drainage or landscaping caused by the construction of the project; and

WHEREAS, this Board is satisfied that the Property is required for the construction of said proposed public municipal parking garage; and that the portion of the Rickenbacker Causeway to be conveyed is not needed for County purposes; and

WHEREAS, the Deed and Declaration, attached hereto, require the completion and construction of the public municipal parking garage within five (5) years, and restrict the use and re-conveyance of the Property, to ensure compliance with the intent of this Board; and

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, that:

Section 1. This Board ratifies and adopts the matters set forth in the foregoing recitals.

Section 2. This Board authorizes the waiver of Administrative Order 8-4 as it relates to review by the Planning Advisory Board, and approves and hereby authorizes the Chair of the Board to execute the County Deed and Declaration of Restrictions in substantially the form attached hereto, conveying the Property to the City for the purpose of constructing, operating and maintaining a public municipal parking garage.

Section 3. This Board authorizes the County Mayor or Mayor's designee to take all actions necessary to effectuate the conveyance and to exercise any and all rights set forth in the Deed and Declaration.

Section 4. Pursuant to Resolution No. R-974-09, this Board directs the County Mayor or Mayor's designee, upon execution by the Chair of the Board, to record the herein authorized County Deed and Declaration of Restrictions in the public records of Miami-Dade County, Florida; and to provide a recorded copy of said documents to the Clerk of the Board within thirty (30) days of its execution; and directs the Clerk of the Board to attach and to permanently store a recorded copy of said documents 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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro	Esteban L. Bovo, Jr.
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of April, 2013. 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.

Debra Herman

Instrument prepared by and returned to:
Debra Herman, Esquire
Miami-Dade County, County Attorney's Office
111 N.W. 1 Street, Suite 2810
Miami, Florida 33128-1907

Rickenbacker Causeway / Virginia Key

----------{{SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA} ----------

COUNTY DEED

THIS COUNTY DEED, made this day of , 2013, by Miami-Dade County, Florida, a political subdivision of the State of Florida, hereinafter "COUNTY", whose address is: Stephen P. Clark Center, 111 N.W. 1st Street, Miami, Florida 33128, and the City of Miami, a municipal corporation of the State of Florida, hereinafter "CITY", whose address is: City Hall, 3500 Pan American Drive, Miami, Florida 33133.

WITNESSETH:

That the County, for and in consideration of benefits to the general public and for other good and valuable consideration, does hereby grant, bargain and sell, the following described lands lying and being in Miami-Dade County, Florida ("Property") for the sole purpose of construction, operation and maintenance by the City of a public municipal parking garage and for no other purpose:

LEGAL DESCRIPTION – See EXHIBIT A attached hereto

The County retains a reversionary interest in the Property, which right may be exercised by the County in accordance with this Deed and/or the Declaration of Restrictions recorded on this date.

This conveyance is made for the public purpose of construction, operation and maintenance by the City of a public municipal parking garage, and for no other purpose. If in the sole discretion of the County, the Property ceases to be used for this purpose by the City, or if the City violates any of the covenants or terms contained in the Declaration of Restrictions ("Declaration") recorded together with this Deed, title to the Property shall immediately revert to

the County upon written notice provided by certified mail by the County to the City. The reverter shall immediately become effective upon the date that written notice is received by the City (the "effective reverter date"). The County shall have the right to immediate possession of the Property, on the effective reverter date, provided however, that the City shall still be obligated to comply with the terms of the Declaration regarding restoration. In the event that the County exercises the reverter, upon written request, the City shall immediately provide the County with a deed of conveyance of the Property back to the County.

This grant conveys only the interest of the County and its Board of County Commissioners in the Property herein described and shall not be deemed to warrant the title or to represent any statement of facts concerning the same.

IN WITNESS WHEREOF Miami-Dade County has caused these representations to be executed in its name by its Board of County Commissioners acting by the Chair of the Board of County Commissioners, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:
FLORIDA

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

MIAMI-DADE COUNTY,

BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
CHAIRPERSON

Approved for legal sufficiency: _____

The foregoing was authorized by Resolution No.: _____approved by the Board of County Commissioners of Miami-Dade County, Florida, on the _____day of _____, 2013.

This instrument was prepared by:
Debra Herman, Esquire
County Attorney's Office
Miami-Dade County
111 N.W. 1st Street, 28th Floor
Miami, Florida 33129

Rickenbacker Causeway / Virginia Key

----------(SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA)----------

DECLARATION OF RESTRICTIONS

WHEREAS, Miami-Dade County (the "County"), a political subdivision of the State of Florida, has conveyed to the City of Miami, (the "City") a municipal corporation of the State of Florida, real property, located in Miami-Dade County (the "Property"). The legal description of the Property is:

SEE EXHIBIT A

WHEREAS, the City hereby acknowledges and agrees that this Declaration of Restrictions (hereinafter "Declaration") was an inducement and part of the consideration for the County to convey the Property to the City.

NOW THEREFORE, in order to assure the County that the representations made by the City will always be abided by, the City, for sufficient consideration, makes the following Declaration covering and running with the Property.

The City hereby agrees and stipulates as follows:

Permitted Use of the Property. The Property shall solely be used for the construction, operation and ongoing maintenance of a public municipal parking garage, (the "Garage"), and for no other purpose, as evidenced by a final certificate of occupancy or its equivalent within five (5) years of the date of the conveyance of the Property.

County Inspection. It is hereby agreed that the County, or its duly authorized agents, shall have the right at any time during normal working hours of entering and inspecting the Property, to determine whether the requirements herein are being fully complied with.

Covenant Running with the Land. This Declaration shall constitute a covenant running with the land on the Property, and shall be recorded in the public records of Miami-Dade County, Florida, and shall remain in full force and effect. The City agrees that acceptance of this Declaration is legally binding upon them, and does not in any way obligate or provide a limitation on the County.

Assignment, Lease or Subsequent Conveyance. The City shall not assign, lease or convey the Property to any person or entity. Notwithstanding, the City shall have the right to assign the

operational duties of the Garage to the Department of Off-Street Parking d/b/a Miami Parking Authority, which will manage parking operations.

Modification, Amendment, Release. This Declaration may not be amended or released without the written consent of Miami-Dade County, in its sole and absolute discretion.

Authorization for Miami-Dade County to Reacquire the Property. In the event any of the terms or covenants of this Declaration are not being complied with, the Property shall immediately revert to the County, upon written notice provided by certified mail by the County to the City. The reverter shall immediately become effective upon the date that written notice is received by the City (the "effective reverter date"). The County shall have the right to immediate possession of the Property, with any and all improvements thereon, at no cost to the County, on the effective reverter date. Notwithstanding, in the event of such a reverter, the City shall have the obligation, at the County's election, to either 1) restore the Property, at the City's sole cost and expense, including any cost of demolition and removal of improvements constructed thereon by the City, or 2) to pay the County for the cost of such restoration. The determination of whether the Property has been adequately restored shall be determined in the County's sole discretion. In the event that the County exercises the reverter, upon written request, the City shall immediately provide the County with a deed of conveyance of the Property back to the County. These rights shall be in addition to any other remedy that the County may have herein and/or at law or in equity.

Restrictions, Reservations and Conditions. This conveyance is being made subject to the following conditions, reservations, and restrictions, which, in addition to the other provisions herein, shall be a basis for exercise of the County's right of reverter, as follows:

1. Physical construction of the parking garage shall commence no later than four (4) years from the date of conveyance of the Property, as evidenced by physical vertical construction.

2. Construction of the parking garage shall be completed, as evidenced by a certificate of occupancy or equivalent document no later than five (5) years from the date of conveyance of the Property.

3. No improvements shall be constructed on the Property that will result in a net loss of drainage capacity for the Rickenbacker Causeway, as determined in the County's sole discretion.

4. Prior to commencing construction, the City shall be required to submit to the County a landscaping mitigation and replacement plan acceptable to the County in its sole discretion, as evidenced by written approval from the County. The City shall implement the landscaping mitigation and replacement plan no later than the issuance of the certificate of occupancy.

5. Prior to commencement of construction, the City shall provide the County with a traffic study which identifies any negative impact on traffic flow and/or upon pedestrian and vehicular traffic safety. The City shall be required, at the County's election to either pay for any necessary mitigation or improvements with regard to traffic, as determined in the County's sole discretion, or to construct such improvements prior to completion of construction.

6. Prior to the commencement of construction, any binding determination by a governmental or zoning authority that a public municipal parking garage cannot be constructed on the Property, the County may exercise its reverter.

7. Any other restriction set forth as a basis for the reverter in the County Deed.

8. Any use of the Property for any purpose other than the construction, operation, and maintenance of a public municipal parking garage, as determined in the County's sole discretion.

Election of Remedies. All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising, at will, such other additional rights, remedies, or privileges.

Severability. Invalidation of any one of these covenants, by judgment of a court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, Miami-Dade County shall be entitled to reacquire the Property predicated upon the invalidated portion of this Declaration as a result of its reversionary interest in the Property. The County Deed and this Declaration of Restriction are intended to be read together, and construed broadly, for the benefit of the County. No protection or provision in one that serves to benefit the County, shall be construed as limiting any other protection or provision that benefits the County.

Recording. This Declaration shall be filed in the public records of Miami-Dade County, Florida by the County immediately following the conveyance of the Property to the City. This Declaration shall become effective immediately upon recordation. This Declaration shall be filed on the date the Property is conveyed to the City.

Acceptance of Declaration. The City acknowledges that acceptance of this Declaration does not obligate Miami-Dade County in any manner, and does not entitle the City to favorable approval of any application, zoning or otherwise, and that the County retains its full power and authority to accept or reject any application, in whole or in part.

Incorporation of Recitals. The City hereby agrees that all recitals in this Declaration are hereby true and correct, and are incorporated into this Declaration.

(The remainder of this page is intentionally blank.)

IN WITNESS WHEREOF, the City has caused this Declaration to be executed by its respective and duly authorized representative on this 1st day of February, 2013, and it intends to be legally bound hereby to all of the terms and conditions of this Declaration.

ATTEST:

2/1/13

Todd B. Hannon
City Clerk

CITY OF MIAMI, FLORIDA,
a municipal corporation of the State of Florida
by its City Manager

By: _____
Johnny Martinez, P.E.
City Manager

Witnessed:

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY, that on this 1st day of February, A.D. 2013, before me, an officer duly authorized to administer oaths and take acknowledgments personally appeared JOHNNY MARTINEZ and TODD B. HANNON, personally known to me, or proven, by producing the following identification: _____ to be the City Manager and City Clerk of the City of Miami, a municipal corporation under the laws of the State of Florida, and in whose name the foregoing instrument is executed and that said officers severally acknowledged before me that they executed said instrument acting under the authority duly vested by the City of Miami and its Corporate Seal is affixed thereto.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

OFELIA E. PEREZ
MY COMMISSION # EE 109268
EXPIRES: August 2, 2015
Bonded Thru Notary Public Underwriters

Notary Signature

APPROVED FOR FORM AND LEGAL SUFFICIENCY

By: _____
Name: _____
Title: Assistant County Attorney

LEGAL DESCRIPTION
(FEE SIMPLE)

A portion of Rickenbacker Causeway located in Section 17, Township 54 South, Range 42 East, on the Island of Virginia Key, of unincorporated Miami-Dade County, Florida, more particularly described as follows:

Commence at the one inch diameter iron pipe set in concrete marking the point of intersection of the centerline of Rickenbacker Causeway with the South line of said Section 17, said point of intersection lying N 89°56'45" W, at a record distance of 2649.97 from the Southeast corner of said Section 17; thence, run N 45°22'07" W along the centerline of Rickenbacker Causeway for 3692.72 feet to a point of intersection with the West line of said Section 17 and the municipal limits of the City of Miami; thence N00°00'23"W along said West line of Section 17 and municipal limits for 189.72 feet to the **POINT OF BEGINNING** hereinafter referred to as "Point A" which is on a line 135.00 feet Northeasterly of the centerline of Rickenbacker Causeway as measured perpendicular thereto; thence continue N 00°00'23" W along said West line of Section 17 and municipal limits for 91.35 feet to a corner of the municipal limits of the City of Miami on the Northeasterly right-of-way line of Rickenbacker Causeway; thence S45°22'07"E, along said municipal limits and Northeasterly right-of-way line which is parallel to and 200.00 feet Northeasterly of the centerline of Rickenbacker Causeway as measured perpendicular thereto, for 264.73 feet; thence S 44°37'53" W, perpendicular to said centerline, for 65.00 feet; thence N 45°22'07" W, along a line that is parallel to and 135.00 feet Northeasterly of said centerline as measured perpendicular thereto, for 200.55 feet to the **POINT OF BEGINNING**; containing 15,121 square feet, more or less.

-AND-

A portion of Rickenbacker Causeway located in Section 18, Township 54 South, Range 42 East, on the Island of Virginia Key, within the corporate limits of the City of Miami in Miami-Dade County, Florida, more particularly described as follows:

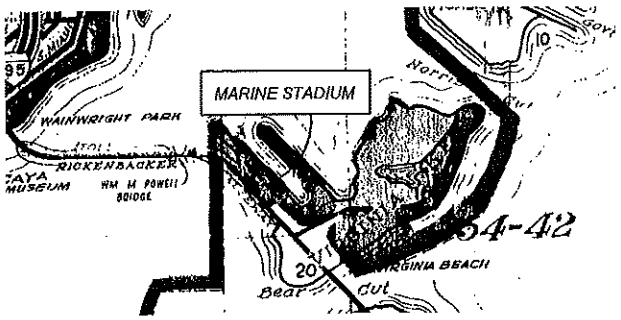
BEGIN at the previously described "Point A"; thence run N 00°00'23" W along the East line of Section 18 and the municipal limits of the City of Miami for 91.35 feet to a corner of the municipal limits of the City of Miami on the Northeasterly right-of-way line of Rickenbacker Causeway; thence N 45°22'07" W along said Northeasterly right-of-way line which lies 200.00 feet Northeasterly of and parallel to the centerline of Rickenbacker Causeway for 162.13 feet; thence S 44°37'53" W, perpendicular to said centerline, for 65.00 feet; thence S 45°22'07" E, along a line that is parallel to and 135.00 feet Northeasterly of said centerline, for 226.31 feet to the **POINT OF BEGINNING**; containing 12,624 square feet, more or less.

EXHIBIT "A"

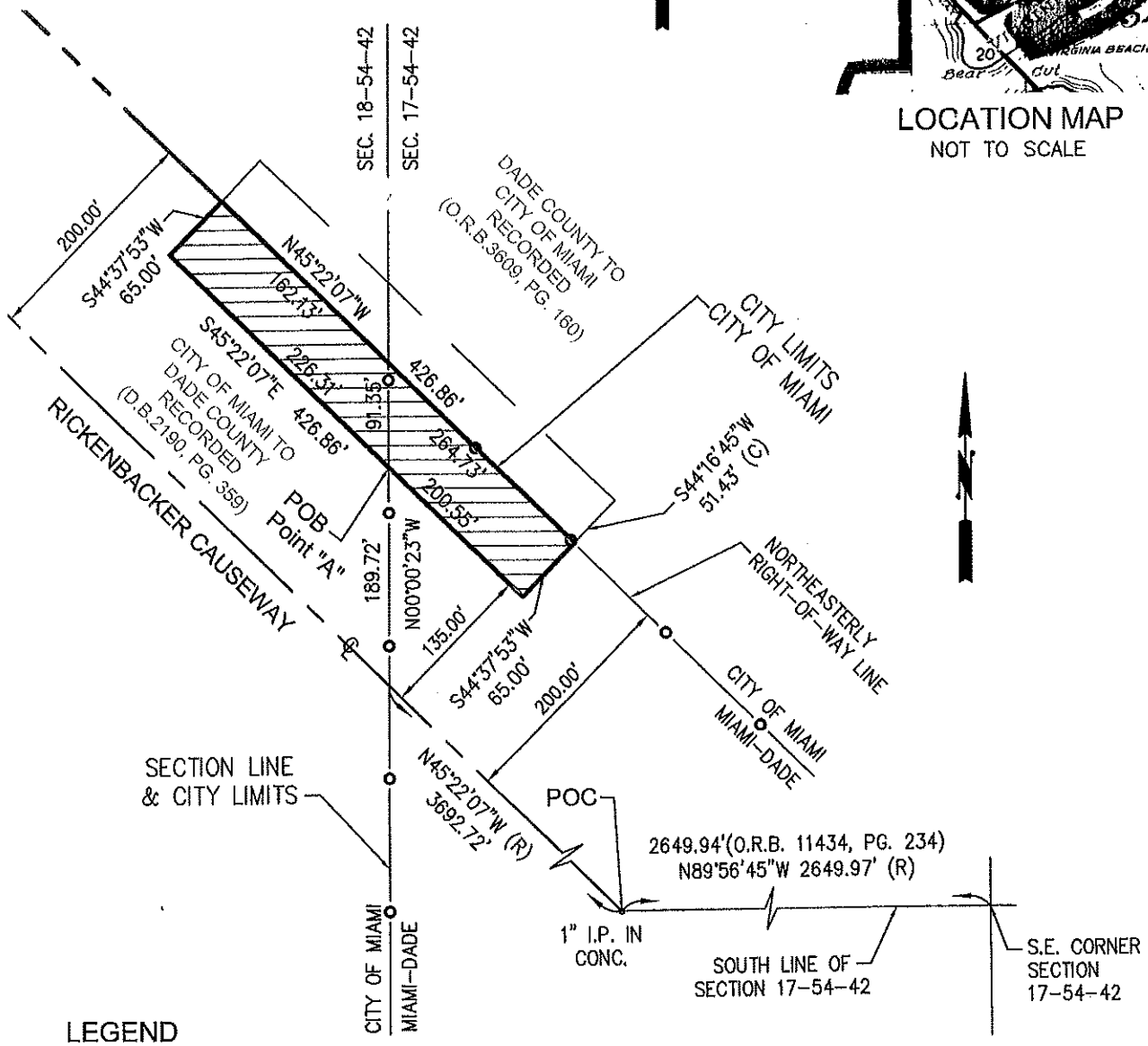
SEC 17 & 18

TWP 54 S

RGE 42 E



LOCATION MAP
NOT TO SCALE



LEGEND

	RIGHT OF WAY LINE
	CITY LIMITS LINE
	CENTER LINE
	BOUNDARY LINE
	SECTION LINE
(POB)	POINT OF BEGINING
(POC)	POINT OF COMMENCEMENT
℄	CENTER LINE

REFERENCES: F.B. 7201, PG. 10
F.B. 224, PG. 6
D.B. 2220, PG. 545

MIAMI-DADE COUNTY PUBLIC WORKS AND WASTE MANAGEMENT DPT.
LAND DEVELOPMENT/RIGHT OF WAY DIVISION
ENGINEERING SECTION

THIS IS NOT A SURVEY

0 75 150 300

SCALE: 1" = 150'

A PORTION OF RICKENBAKER CAUSEWAY ON VIRGINIA KEY

TO BE CONVEYED

EXHIBIT "B"

MIAMI-DADE

SCALE 1" = 100'
PREPARED BY: L.E.
DATED: 01-02-12