Memorandum

MIAMI-DADE COUNTY

Date: March 5, 2013

Agenda Item No. 5(D)

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

From: Carlos A. Gimenez
Mayor

Subject: Designation of Land Located at 7090 Coral Way as a Brownfield Area

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Recommendation

It is recommended that the Board of County Commissioners ("Board") designate the land located at 7090 Coral Way ("Subject Property") as a brownfield area.

According to application submitted by the property owner, Pan American Coral Terrace, Ltd. ("Pan American") plans to construct approximately 200,000 square feet of retail and/or industrial space for a national big box chain retail store and five other tenants. The developer is projecting a total investment of $30 million and at least 120 new permanent jobs. However, these outcomes are not a condition of the brownfield designation nor are they guaranteed.

Scope

The Subject Property is located in Commission District 6. The proposed area is identified by folio numbers 30-4014-011-0010 and 30-4014-022-0010.

Fiscal Impact

Approval of this location as a brownfield site would not create a negative fiscal impact to the County.

Track Record/Monitor

Not applicable.

Background

A brownfield site, as defined in Section 376.79(3) of the Florida Statutes, is real property, where the expansion, redevelopment or reuse of the property may be complicated by actual or perceived environmental contamination. A brownfield area is defined as a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government resolution. Brownfields may include all or portions of community development areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects. The goal of the brownfield program is to significantly improve the utilization, general condition, and appearance of these sites. Once a property has been designated as a brownfield by a local government, the property may be eligible for certain state-funded incentives.

The Regulatory and Economic Resource Department ("RER"), Business Affairs Division, is recommending that the Board designate the Subject Property as a brownfield area because this site has been underutilized for the past thirty years. Pan American has plans to redevelop this site into approximately 200,000 square feet of retail and/or industrial space and make a capital investment of $30 million. As a result, the developer is projecting that the completed project will create at least 120 new full-time jobs which will be created by five different tenants (not a condition of the designation).

According to the Florida Statutes, a local government must consider the following when determining whether to designate this area as a brownfield:

(1) "Whether the brownfield area warrants economic development and has a reasonable potential for such activities."

The Subject Property is a former wood-treating plant which began in 1968 and continued at the property until approximately 1981. The property has a history of contamination, litigation related to contamination, and a limited remediation effort. The history of the property is provided in Attachment A. The Subject Property warrants economic development by virtue of it being vacant, underutilized, and unsecured for the past thirty years. Additionally, RER, Planning Division, is recommending adoption of the proposed standard amendment application, with the applicable covenants, to the Comprehensive Development Master Plan (CDMP) filed in the April 2012 CDMP amendment cycle to redesignate ±20 gross acre application site in the Adopted 2015-2025 Land Use Plan map from "Business and Office" and "Industrial and Office" to "Business and Office." See Attachment B.

(2) "Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage."

The proposed area to be designated is approximately 18 acres and it represents less than 1% of Miami Dade County's land area of approximately 1900 square miles.

3) "Whether the area has potential to interest the private sector in participating in rehabilitation."

The property owner has entered into agreements with the State of Florida Department of Environmental Protection (See Attachment C) and Miami-Dade County (See Attachment D) to ensure that the property is developed in a manner that will be protective of human health and the environment. These agreements require some rehabilitation work, such as the implementation of appropriate engineering controls during the development of the site.

(4) "Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes."

According to County staff's review of the CDMP application, there are no archaeological or historical resources on the Subject Property. Given that this is a thirty-year-old industrial site, it appears not to be suitable for limited recreational open space, cultural or historical preservation purposes.

The Subject Property is not located in a community redevelopment area, Empowerment zone, closed military base, or designated brownfield pilot project area.

For the reasons above, RER is recommending that the Board designate this land as a brownfield area. Additionally, this property has the potential to be rehabilitated and reused to create jobs and contribute to the County's general fund tax base.

Jack Osterholt
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: March 5, 2013

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

SUBJECT: Agenda Item No. 5(D)

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. 5(D)
3-5-13

RESOLUTION NO. _____

RESOLUTION DESIGNATING REAL PROPERTY LOCATED AT 7090 CORAL WAY, MIAMI-DADE COUNTY, FLORIDA 33155, FOLIO NUMBERS 30-4014-011-0010 AND 30-4014-022-0010, AS A BROWNFIELD AREA PURSUANT TO SECTION 376.80 (2) (a) OF FLORIDA STATUTES AND PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, brownfield sites are defined as sites that are generally underutilized, idled, and abandoned industrial or commercial property where use, expansion, or redevelopment may be curtailed by perceived or actual conditions, including but not limited to environmental contamination; and

WHEREAS, Sections 376.77-376.84, Florida Statutes (2010), hereinafter referred to as the "Brownfield Redevelopment Act," provide for the designation by resolution of certain commercial and industrial areas or sites as brownfield areas or sites for the purpose of encouraging rehabilitation and economic development or environmental remediation; and

WHEREAS, the Board of County Commissioners has considered the following factors set forth in Section 376.80 (2) (a), F.S.; with respect to the real property located at 7090 Coral Way in Miami-Dade County, and also identified by Folio Numbers 30-4014-011-0010 and 30-4014-022-0010 and shown in Exhibit "1":

1. Whether the proposed brownfield area warrants economic development and has reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographical area;
3. Whether the area has potential to interest the private sector in participating and rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural or historical preservation purposes

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,

Section 1. That the recitals and findings set forth above are true and are hereby incorporated by reference.

Section 2. That the area shown in Exhibit "1" attached hereto and incorporated herein by reference, is hereby designated as a Brownfield Area for rehabilitation, economic development, and environmental remediation in accordance with the intent of the Brownfield Redevelopment Act. However, such designation shall not render Miami-Dade County liable for the costs of site rehabilitation or source removal, as those terms are defined in Section 376.79, (17) and (18), Florida Statutes, or for any other costs above and beyond those costs attributable to Miami-Dade County's role in designating the property depicted in Exhibit "1" as a Brownfield Area.

Section 3. That the area shown in Exhibit "1" shall be formally referred to as the "Coral Terrace Brownfield Redevelopment Area."

Section 4. If any section, clause, phrase, word or provision is declared invalid by a court of competent jurisdiction, such portions shall be deemed a separate and distinct provision, and such a declaration shall not affect the validity of the remaining portions of the 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 5th day of March, 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

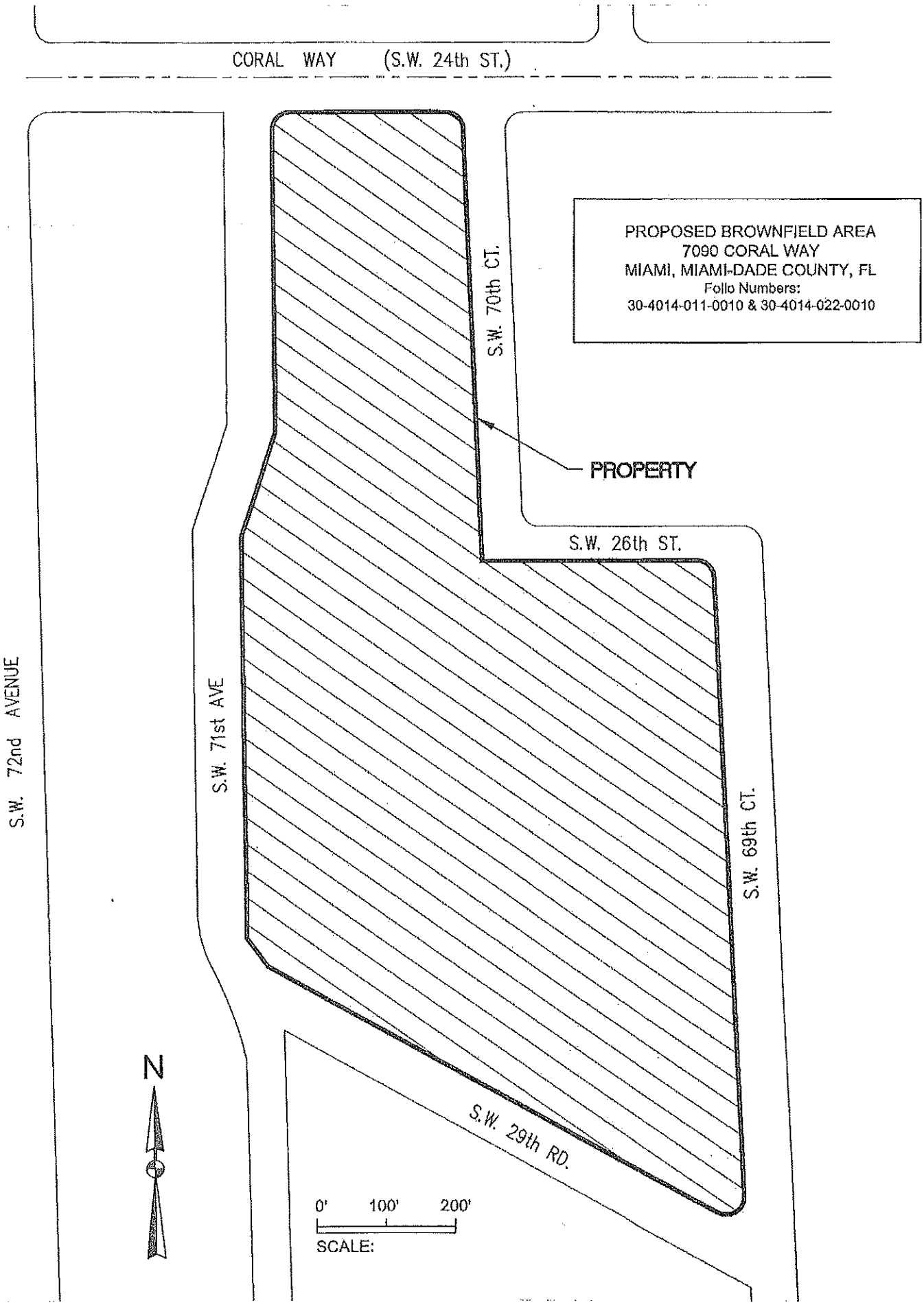
HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

EXHIBIT 1


CORAL WAY (S.W. 24th ST.)
PROPOSED BROWNFIELD AREA
7090 CORAL WAY
MIAMI, MIAMI-DADE COUNTY, FL
Folio Numbers:
30-4014-011-0010 & 30-4014-022-0010
PROPERTY
S.W. 70th CT.
S.W. 26th ST.
S.W. 72nd AVENUE
S.W. 71st AVE
S.W. 69th CT.
S.W. 29th RD.
N
0' 100' 200'
SCALE:

ATTTACHMENT A

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.

Transactions, Due Diligence, Development, Brownfields, Cleanups & Compliance

One Southeast Third Avenue, Suite 2120
Miami, Florida 33131
Telephone: (305) 777-1680
Facsimile: (305) 777-1681
www.goldsteinenvlaw.com

Michael R. Goldstein, Esq.

Direct Dial: (305) 777-1682
Email: mgoldstein@goldsteinenvlaw.com

October 29, 2012

Via Email & U.S. Mail

Mr. Jack Osterholt, Deputy Mayor
Office of the Mayor
Miami-Dade County
111 N.W. 1 Street
Miami, Florida 33128

Re: **Request for Brownfields Area Designation Pursuant to § 376.80(2)(a), Florida Statutes, of Former Miami Wood Treating Site, 7090 Coral Way, Miami-Dade County, Florida, Folio Numbers 30-4014-011-0010 and 30-4014-022-0010**

Dear Mr. Osterholt:

On behalf of Pan American Coral Terrace, Ltd. ("Pan American"), the developer of property located at 7090 Coral Way, Miami-Dade County, Florida (the "Subject Property"), we are pleased to submit this request to have the Subject Property designated by the Miami-Dade County Commission a brownfield area pursuant to Florida Statutes § 376.80(2)(a). As you may recall from prior discussions and correspondence, the Subject Property is burdened with a history of contamination, litigation related to contamination, and a limited remediation effort that ran out of money approximately 11 years ago and failed to finish the job of fully protecting human health and the environment through the elimination of a direct contact risk and the recordation of a deed restriction. A history of these matters is enclosed as Attachment A.

Notwithstanding the many environmental and human health challenges, the extraordinary costs associated with developing the Subject Property, and the time and expense that will be incurred to demonstrate to potential end-users and job creators that the investment of their capital will not result in unmanageable liability, Pan American is moving forward to pursue this critically important infill project, which exemplifies the highest principles of land recycling and sustainability. Accordingly, with this request, we ask the County's cooperation in helping Pan American eliminate any future threat to human health and the environment at the Subject Property and turn a three decades-long abandoned site, marginalized and sitting on the economic sidelines since 1981, into a powerhouse for new jobs and increased tax revenues. Current development plans call for up to 200,000 square feet of commercial, retail and/or industrial space, the creation of up to 120 full time equivalent positions by the anchor tenant and perhaps another 25 to 75 additional full time equivalent

positions by up to four more tenants, the supporting of approximately 250 jobs related to construction, and a capital investment of approximately $30,000,000.00 for building construction, water and sewer infrastructure, landscaping, fixtures, equipment, furniture, signage, and permitting and impact fees. With the County's assistance, the project can serve as a national model for collaborative reuse of even the most environmentally compromised and economically stigmatized of sites.

In order for Miami-Dade County to effectuate a brownfield area designation pursuant to Florida Statutes § 376.80(2)(a) it must consider the following four criteria:

1. whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

3. whether the area has potential to interest the private sector in participating in rehabilitation; and

4. whether the area contains sites or parts of sites suitable for limited recreational open space, cultural or historical preservation purposes.

Note that Florida Statutes only requires a local government to "consider" these four factors when self-designating a Brownfield Area; that is, no specific finding or determination one way or the other is required. Based on our experience with the Florida Brownfields Program, others areas – both large and small - that have been previously designated in and by Miami-Dade County, and the way that Florida Statutes § 376.80(2)(a) has been interpreted and applied generally across the State of Florida since its enactment in 1997, we believe that the Subject Property is an excellent candidate for designation. We reach this conclusion for the following reasons:

- By virtue of being vacant, abandoned, unsecured and without a private of public funding mechanism to finance an engineering control or deed restriction to eliminate a risk of direct exposure to, and contract with, contamination in the subsurface for over 30 years, the Subject Property warrants economic development. In fact, the brownfields area designation increases the potential that such economic development will occur due to the limited but appropriate state incentives that the designation will make available for the developer, the end-users, and the job creators.

- At approximately 18 acres, the proposed area to be designated represents a reasonably focused approach and is definitely not overly large in geographic coverage.

- Designation of the area will allow the redevelopment project to continue to move forward swiftly and result in tremendous economic investment and productivity, including job creation, and enable Pan American and its end-users and tenants to participate in rehabilitation through the construction of an engineering control and the recordation of a deed restriction.

- Finally, the Subject Property is not suitable for limited recreational open space, cultural or historical preservation purposes in light of the legitimate and important economic redevelopment,

environmental protection, and community revitalization purposes associated with contemplated development and reuse activities.

The bottom line from our perspective is that designation of the Subject Property as a brownfield area will provide Pan American and its end-users and tenants with the modest and proportionate incentives necessary to overcome the added time, cost, and risk associated with very real contamination issues that complicate reuse and redevelopment activities and potentially imperil the economic viability and job creation potential of the project.

Based on all the foregoing, we respectfully ask that the Office of the Mayor and/or the Regulatory and Economic Resources Department favorably consider this request to effectuate designation of the Subject Property a brownfield area and recommend that the County Commission adopt a resolution to formally do so in accordance with Florida Statutes § 376.80(2)(a). As you evaluate our request and the supporting materials, please feel free to contact us should you require additional information.

Thank you in advance for your time and your consideration.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.

Michael R. Goldstein
/mrg

encl

cc: Mr. Mario Goderich, Assistant Director, Regulatory and Economic Resources Department
Mr. Wilbur Mayorga, P.E., Chief, Environmental Monitoring and Restoration Section, Regulatory and Economic Resources Department
Ms. Sandra Rezola, Miami-Dade County Brownfields Coordinator, Regulatory and Economic Resources Department
Mr. Carlos C. Lopez-Cantera, Pan American Coral Terrace, Ltd.

Attachment A to Brownfields Area Designation Request for Former Miami Wood Treating Site
Statement of Environmental History and Status

I. Former Site Operations Contaminate Soil and Groundwater

By all accounts, the contamination in soil and groundwater documented at the former Miami Wood Treating Site over the past 40 years originated in 1968 with the commencement of lumber treatment operations that would continue at the property until approximately 1981. This process, designed to repel termites and to preserve durability, involved inserting wood into long cylindrical pressure-treating tanks where it would be immersed in a chemical solution of chromated copper arsenate ("CCA") and creosote.[1] The treated wood, still wet and saturated with CCA, would then be moved to open drying areas near the plant and stacked on large timbers elevated from the ground[2] where excess solution would drip onto the bare earth and leach into the groundwater. This process led to massive releases of chemicals within the CCA and creosote solutions and widespread contamination throughout the property.[3]

During this period of operation, both the wood-treating plant and the property on which it was located changed hands numerous times. While Seaboard System Railroad, Inc. ("Seaboard") was the property owner for almost forty years, from 1941 through 1980, it never actually conducted any wood treatment operations. Instead, it leased the property to two different companies that were in the wood treatment business, Miami Wood Treating Facility from 1941 to 1968 and Lindsley Lumber, a subsidiary of Lone Star Building Centers, Inc. ("Lonestar"), from 1968 to 1972. In 1972, Lone Star acquired the plant and continued treating wood until 1979 when it sold the business to Davidson Lumber. Shortly hereafter, in 1980, Stanley Davidson, the principal of Davidson Lumber, purchased the land beneath the plant. The fate of the property took a markedly different direction in 1982, when Futura's Coral Way Properties I, Ltd. ("Futura"), purchased the property from Stanley Davidson with an eye towards redevelopment. However, discovery of the underlying contamination problem put a halt to these plans, and years of regulatory enforcement and litigation related to regulatory enforcement ensued.

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[1] CCA contains a number of heavy metals and other chemicals strictly regulated under Chapter 62-777 of the Florida Administrative Code and Chapter 24 of the Code of Metropolitan Dade County, including copper, chromium, an arsenic. Creosote also contains a class of chemicals, polynuclear aromatic hydrocarbons, strictly regulated under Chapter 62-777 of the Florida Administrative Code and Chapter 24 of the Code of Metropolitan Dade County.

[2] A rendering of historical site operations can be found at Exhibit A.

[3] According to a litigation related documented filed by in 1983 by one of the previous property owners, "three important periods in the life of the wood treating plant emerge. During the first period (1941-1968) . . . the plant used creosote (predominantly) or Wolman salts (containing arsenic) in the pressure-treating process to preserve lumber. In the second period (1968 to 1981) . . . , the plant eliminated the use of creosote and used a solution of chromated copper arsenate instead. In both of those periods, the plant moved treated lumber while sometimes still wet and ripping out of the pits meant to the catch the drippings and over the ground to pen drying or storage areas. According to the testimony of . . . the former manager of the plant . . . , rains periodically flooded the storage areas where such dripping occurred . . . . Finally, during the third period of the plant's existence (from December 1981 to July 1982) the plant did not operate all. [The then owner/operator] shut down the plant in December, dismantled and sold what he could salvage from it in July 1982, and left behind the plant sheds and, amid much rubble, the sludges that had accumulated beneath the holding tanks drying directly on the ground."

II. DERM Acts to Abate Environmental & Human Health Risk and Compel Remediation

On September 13, 1982, the Miami-Dade County Department of Environmental Resources Management ("DERM") issued a Notice of Violation and Orders for Corrective Action to Futura. On February 2, 1983, DERM (predecessor to today's Regulatory and Economic Resources Department or "RER") issued a Corrected Notice of Violation and Orders for Corrective Action to prior owner and operator Stanley Davidson. The notices cited Futura and Davidson with pollution and nuisance violations pursuant to Chapter 24 of the Dade County Code and required the submission of a plan for the elimination and disposal of the hazardous substances. Futura refused to comply with the notice requirements. Davidson, however, entered into a consent agreement with the county, admitting partial responsibility for the code violations and agreeing to retain environmental consultant, Enviropact, to conduct testing on the site to determine the extent of the contamination. In 1983, DERM and the Florida Department of Environmental Regulation ("FDER") filed a lawsuit against all of the non-settling owners and operators seeking cleanup of contaminated soil and groundwater as well as related response costs. The litigation lasted for six years and ended in 1989 when a Stipulation and Settlement Agreement among the parties was executed.

The ensuing cleanup was implemented in two phases, one for removal of impacted soil, sludge, and wastewater in the central-western portion of the Subject Property and the second covering impacted groundwater at the Subject Property and further soil remediation in the adjoining SW 71st Avenue right-of-way. More than 20,000 tons of impacted soil were excavated and removed from the property over an eight year period between 1992 and 2000. And over a four year period between 1997 and 2000, over 45 million gallons of impacted groundwater were treated. In April 2001, DERM issued correspondence stating the requirements of the 1989 settlement had been satisfied. Although approximately $2 million in cleanup had occurred as a result of the settlement, residual contamination in soil and groundwater was left in place.[4]

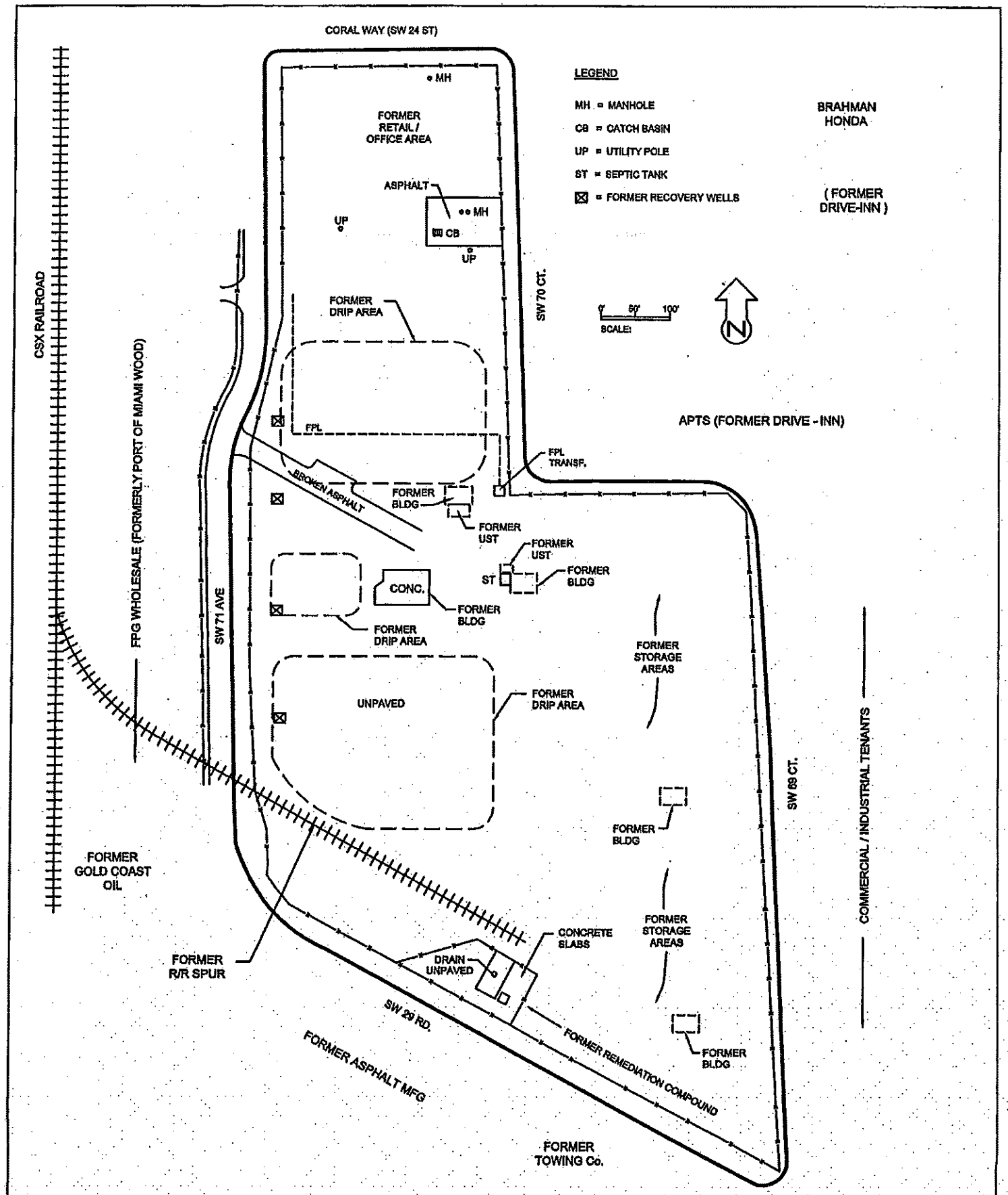
III. Pan American Commits to Environmental Stewardship and Elimination of Direct Exposure

In anticipation of acquiring and developing the Subject Property, Pan American entered into extensive negotiations with RER[5] and FDER's successor agency, the Florida Department of Environmental Protetion ("FDEP"), to understand and establish its post-closing environmental stewardship obligations generally as well as the specific actions that would be required to eliminate the risk of exposure to, and contact with, soil and groundwater contamination during construction, following completion of construction, and into perpetuity forever. RER and FDEP advised that Pan American would be fully responsible to prepare and implement a soil management plan, a health and safety plan, and a plan to prevent exacerbation and destabilization of groundwater contamination. RER and FDEP further advised that Pan American would be prohibited from permitting, building, and operating, certain uses at the Subject Property, from using groundwater on-site for consumption or irrigation, and from beneficially reusing contaminated soil off-site. Finally, Pan American was advised that it would be required to record an environmental deed restriction against the Subject Property to memorialize all the foregoing conditions

[4] Exhibit B contains site maps showing the current estimated extent of various forms of contamination in soil and groundwater at the property.

[5] An extensive investigation of soil and groundwater contamination was prepared by Pan American and submitted to RER on April 2, 2012.

and limitations and to construct an engineering control above all contaminated areas at the Subject Property to eliminate the direct contact/direct exposure risk. To demonstrate its commitment to these sound environmental stewardship principles and ensure the highest level of human health and protection in the development and reuse of the property, Pan American executed enforceable documents with both RER (Consent Decree, dated June 10, 2012, enclosed as Exhibit C) and FDEP (Consent Agreement Document, dated June 14, 2012, enclosed as Exhibit D). This course of action, voluntarily undertaken, imposes an extraordinary level of liability, risk and cost on Pan American and Pan American's lenders, investors, and potential end-users and tenants, severely complicating factors that would not exist in connection with a greenfield site on the urban developable fringe. All of this foregoing liability, risk and cost acutely underscore the critical need for the limited, measured but powerful incentives available through the Florida Brownfields Program.



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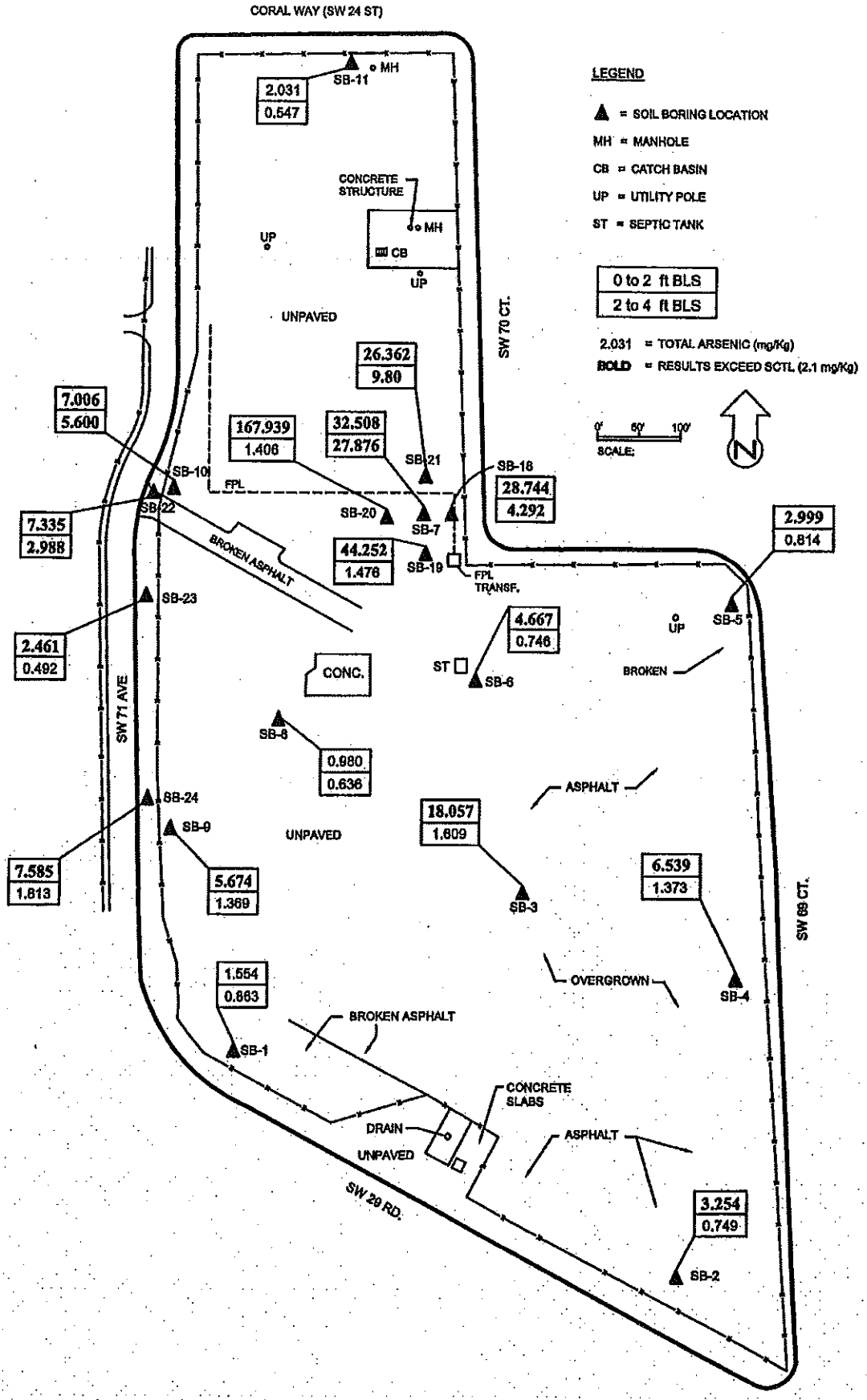
FORMER MIAMI WOOD TREATMENT SITE
7090 CORAL WAY
MIAMI, FL

HISTORICAL LAYOUT MAP

Date: 03/28/12
Project # 2012-3135
Drawn by: IA
Cad File: FIG3
Scale: As Noted

FIGURE 3

Exhibit B



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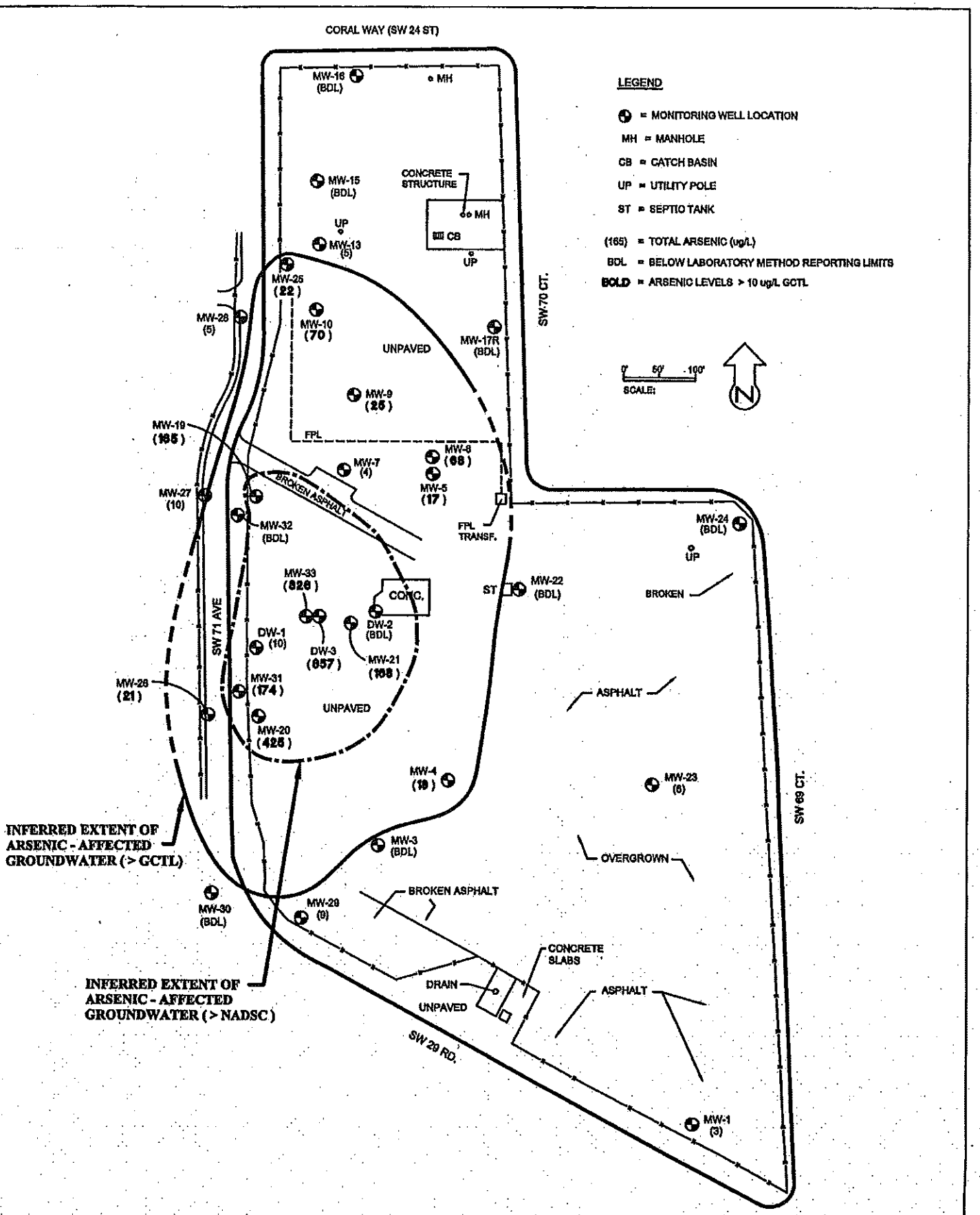
FORMER MIAMI WOOD TREATMENT SITE
7090 CORAL WAY
MIAMI, FL

SOIL RESULTS
TOTAL ARSENIC
(MARCH 2012)

Date: 03/28/12
Project # 2012-3135
Drawn by: IA
Cad File: FIG9
Scale: As Noted

FIGURE
9



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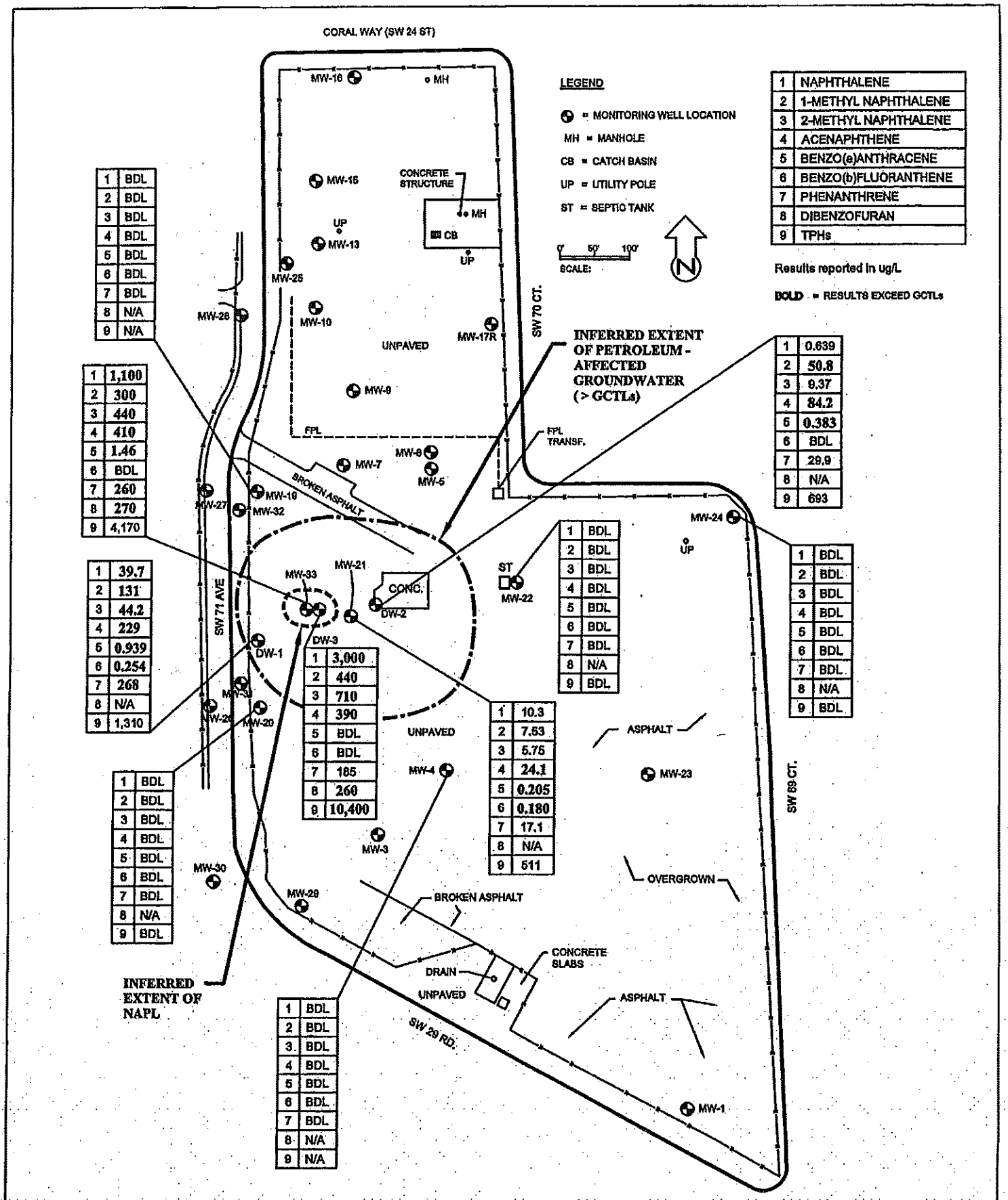
FORMER MIAMI WOOD TREATMENT SITE
7090 CORAL WAY
MIAMI, FL

GROUNDWATER RESULTS
TOTAL ARSENIC
(MARCH 2012)

Date:	03/28/12
Project #	2012-3135
Drawn by:	IA
Cad File:	FIG11
Scale:	As Noted

FIGURE 11



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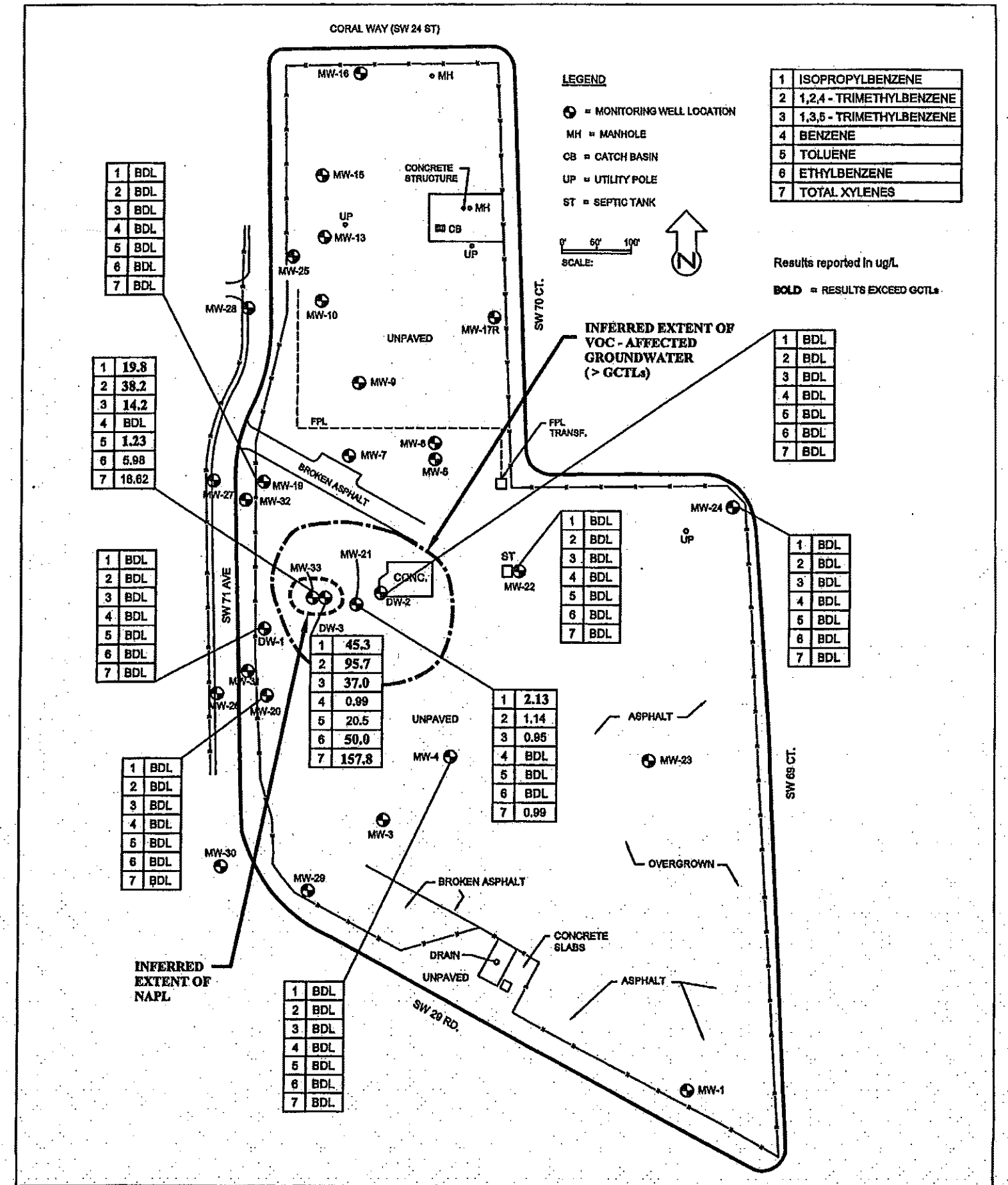
FORMER MIAMI WOOD TREATMENT SITE
7090 CORAL WAY
MIAMI, FL

GROUNDWATER RESULTS
PAHs / TPH
(MARCH 2012)

Date: 03/28/12
Project # 2012-3135
Drawn by: IA
Cad File: FIG12
Scale: As Noted

FIGURE 12



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FORMER MIAMI WOOD TREATMENT SITE
7090 CORAL WAY
MIAMI, FL

GROUNDWATER RESULTS
VOCs
(MARCH 2012)

Date: 03/20/12
Project # 2012-3135
Drawn by: IA
Cad File: FIG13
Scale: As Noted

FIGURE 13

Application No. 2
Commission District 6 Community Council 10

APPLICATION SUMMARY

Applicant/Representative:	Pan American Coral Terrace, LTD./Juan J. Mayol, Jr., Esq.
Location:	South side of SW 24 Street, and between SW 69 Court and SW 71 Avenue.
Total Acreage:	±20 Gross Acres; ±18.13 Net Acres
Current Land Use Plan Map Designation:	Business and Office (±2.4 gross acres) and Industrial and Office (±17.6 gross acres)
Requested Land Use Plan Map Designation:	Business and Office
Amendment Type:	Standard
Existing Zoning/Site Condition:	BU-2 (Special Business District) and IU-3 (Unlimited Industrial Manufacturing District); Vacant and unmaintained.

RECOMMENDATIONS

Staff:	**TRANSMIT WITH ACCEPTANCE OF THE PROFFERED DECLARATION OF RESTRICTIONS AND ADOPT** (August 25, 2012)
Westchester Community Council (10):	**TO BE DETERMINED** (September 26, 2012)
Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA):	**TO BE DETERMINED** (October 9, 2012)
Board of County Commissioners:	**TO BE DETERMINED** (November 7, 2012)
Final Action of PAB acting as the Local Planning Agency:	**TO BE DETERMINED** (February 2013)
Final Action of Board of County Commissioners:	**TO BE DETERMINED** (March 2013)

Staff recommends **TRANSMIT WITH ACCEPTANCE OF THE PROFFERED DECLARATION OF RESTRICTIONS AND ADOPT** the proposed standard amendment to the Comprehensive Development Master Plan (CDMP) to redesignate the ±20-gross acre application site on the Adopted 2015-2025 Land Use Plan (LUP) map from "Business and Office" and "Industrial and Office" to "Business and Office", based on staff analysis summarized in the "Principal Reasons for Recommendation" below.

Principal Reasons for Recommendation:

1. The ±20-acre application site is located in the County's Urban Infill Area (UIA), has been vacant for over 13 years and presents an opportunity for infill development. The requested land use designation of "Business and Office" would be generally consistent with the surrounding area which are designated "Business and Office" to north, and "Industrial and Office" to the east, south and west; and is generally consistent with CDMP Land Use Element Policies LU-1C and LU-10A and Objective LU-12. These policies and objective require the County to facilitate and give priority to infill development on vacant sites in currently urbanized areas and promote infill development in the Urban Infill Area. Moreover, the application site is served with public facilities and services with enough capacity to serve the development that could occur on the application site.

   The Applicant has proffered a Declaration of Restrictions (covenant) that, if accepted with approval of the application, would reduce the intensity of development on the site. The proffered covenant prohibits residential development on the application site and limits the site to a maximum 200,000 square feet of development, where a maximum of 315,897 square feet would be allowed without the covenant.

2. CDMP Land Use Element Policy LU-8E requires LUP map amendment applications to be evaluated according to factors such as (i) the proposed development's ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County, (ii) impacts to County services, (iii) compatibility with abutting and nearby land uses, (iv) impacts to environmental and historical resources, and (v) the extent to which the proposed CDMP land use would promote transit ridership and pedestrianism pursuant to Objective LU-7 and associated policies.

   i *Need:* Approval of the application would allow commercial development on the property, which could facilitate economic growth and generate employment in the area. The subject property is located in Minor Statistical Area (MSA) 5.3 which contains 17.7 acres of vacant industrially designated or zoned land. The average annual absorption rate of industrial land, based on the County's land supply and demand analysis, indicates no demand for industrial land in MSA 5.3 through to year 2030. Furthermore, the countywide supply of industrial land is projected to be depleted beyond the year 2030. Therefore, approval of this application would not significantly impact the supply of industrial land in the MSA and countywide. On the other hand, MSA 5.3 contains 27.3 acres of vacant commercially designated or zoned land, has an average annual absorption rate of 1.29 acres per year, and is projected to be depleted beyond year 2030. While there is not a deficiency in the LUP map for commercial land, approval of the application would facilitate development of the ±20-acre property suitably sized for a community serving shopping center.

ii *Public Facilities and Services:* With the exception of impacts to roadways, the impacts that would be generated by the application if approved, would not cause public facilities and services to operate in violation of their adopted level of service (LOS) standards.

The short term roadway analysis indicates that the adjacent roadways would operate, with the application impacts, within the adopted level of service standards. However, Miami Dade County Public Works and Waste Management Department has concerns with the long term analysis regarding project trip generation, trip distribution and the trip growth methodology for background traffic. Staff will continue to work with the Applicant to appropriately address these concerns.

iii *Compatibility:* The requested re-designation of the application site to "Business and Office" would be compatible with the "Business and Office" land use designation on the lands north of the application site and along SW 24 Street and with the "Industrial and Office" land use designation on the lands to the east, south and west of the application site. Additionally, the allowable uses under the "Business and Office" designation would be generally compatible with the existing uses on the properties adjacent to the site. Existing uses along SW 24 Street, north of the site, comprise primarily commercial and retail development; and existing uses abutting the east, south and west of the site include a multifamily residential development, light industrial (including warehousing and auto repairs) and some commercial uses.

iv *Environmental and Historical Resources:* There are no archaeological or historical resources on the application site, but, the site has records of soil contamination. The subject property had records of soil contamination in 2009, as a result of wood treating operations that previously occurred on the site, and has remained a contaminated site up to date. The site is, however, required to undergo contamination remediation under the jurisdiction of both the Environmental Resources Management Division of the County's Department of Regulatory and Economic Resources and the Florida Department of Environmental Protection. Given its location within the Urban Infill Area and the priority given to infill development, approval of the application could facilitate contamination remediation on the site through the range of commercial development that would be allowable on the property. Additionally, the application site may contain specimen-sized trees (trunk diameter of 18 inches or greater) that are to be preserved pursuant to Section 24.9.2(II) of the Code of Miami-Dade County.

v *Transit Ridership and Pedestrianism:* The application site is served by Metrobus Route 24 along SW 24 Street with morning and evening peak period headways of 20 minutes, and off-peak headways of 30 minutes on weekdays and on weekends. This level of transit service is adequate to absorb the additional transit ridership that would be generated by the potential development of the site.

STAFF ANALYSIS

Background

A ±17.6 gross-acre portion of the application site (the southern parcel) was the subject of Application No. 3 of the October 1999 Cycle of amendments to the Comprehensive Development Master Plan (CDMP) that sought to be redesignate the ±17.6 acres from "Industrial and Office" to "Business and Office". At that time, an environmental review conducted for the ±17.6 acres identified soil contamination resulting from wood treating operations that previously occurred on the site and the site remains contaminated as discussed in the Environmental Conditions section of this report, on page 2-6. Staff recommended adoption, but the application was withdrawn by the applicant prior to the first public hearing of the Board of County Commissioners October 1999 Cycle CDMP amendment applications.

Application Site

The application site is a ±20 gross-acre property located on the south side of SW 24 Street (Coral Way) between SW 69 Court and SW 71 Avenue. The site is comprised of two parcels, a ±2.4-acre parcel fronting on SW 24 Street and the ±17.6-acre parcel (discussed above) abutting the southern boundary of the ±2.4-acre parcel. The subject property is located within the County's Urban Infill Area (UIA), an area generally east and south of SR 826/Palmetto Expressway where infill development is encouraged and given priority pursuant to CDMP Land Use Element Policies LU-1C and LU-10A and Objective LU-12. These policies and objective require the County to facilitate and give priority to infill development on vacant sites in currently urbanized areas and promote infill development in the Urban Infill Area.

Existing Land Use
The entire application site is vacant and has remained vacant for over 13 years. (See Appendix A: Map Series and Appendix G: Photos of Application Site and Surroundings).

Existing Zoning
The ±2.4-acre parcel abutting SW 24 Street is zoned BU-2 (Special Business District) while the ±17.6-acre parcel zoned IU-3 (Unlimited Industrial Manufacturing District). (See "Zoning Map" in Appendix A: Map Series).

Land Use Plan Map Designation
The CDMP Adopted 2015 and 2025 Land Use Plan (LUP) map designates a strip of land between SR 826 (Palmetto Expressway) and SW 67 Avenue at a depth of approximately 240 feet on the south side of SW 24 Street as "Business and Office", including the northern approximate two-thirds of the ±2.4-acre parcel within the application site. The remaining third of the ±2.4-acre parcel and the ±17.6-acre parcel are designated "Industrial and Office" (See "CDMP Land Use" map in Appendix A: Map Series).

Proffered Declaration of Restrictions
The applicant proffered a Declaration of Restrictions (covenant) on July 24, 2012 in support the application. The covenant prohibits residential development on the property and limits non-residential development allowable under the requested "Business and Office" designation to a maximum of 200,000 square feet. Without the proffered covenant, the property could be developed with a maximum of 315,897 square feet of retail or 260 single-family attached units (townhouses) under the requested "Business and Office" designation.

Zoning History
The County's earliest zoning map records indicate that the northern 200 feet of the application site fronting SW 24 Street was zoned BU-2A (Special Business-masonry) and the remainder of the site was zoned IU-3 (Unlimited Industrial Manufacturing District). In the 1950's, the Miami-Dade County Zoning Code was amended changing the BU-2A zoning district to BU-2; this changed the zoning on the northern 200-foot portion of the site to BU-2.

In July 1983, the Board adopted Resolution No. Z-141-83 rezoning the entire ±2.4-acre parcel of the application site from BU-2 and IU-3 to BU-2 in order to permit an amusement park. In July 2001, the Miami-Dade County Community Zoning Appeals Board 10 adopted Resolution No. CZAB10-70-01 approving special exceptions to permit a new car and truck sales and auto repairs on the property, but the facility was not built on the site.

Adjacent Land Use and Zoning

Existing Land Uses
North of the application site across SW 24 Street is a five-storey Merchantville Commercial bank, a vacant lot, a grocery store and a multi-family residential apartments. West of the application between SW 71 and SW 72 Avenues is a lumber and building materials supply company (FPG Company). The CSX railway is within the SW 72 Avenue right-of-way and further west is a County-owned neighborhood baseball park, Miami-Dade Transit facility, City of Coral Gables' vehicle maintenance facility, and the County's solid waste disposal facility (West Transfer station). South of the application site across SW 29 Road is a vacant property and light industrial uses including an old GEE Paint facility. East of the site across SW 69 Court is primarily of light industrial uses including auto paint shops, shipping and auto body repair shops, towing company and photography company, and adjacent to the northeastern portion of the application site across SW 70 Court are the Futura Gables Apartments (a 5-story multi-family development) and the Braman Honda auto dealership. Further east is the Florida East Coast (F.E.C.) right-of-way.

Land Use Plan Map Designations
The CDMP LUP map designates properties north of the Application site beyond SW 24 Street are designated Business and Office". As mentioned above, the LUP map designates a 240-foot strip along the south side of SW 24 Street as "Business and Office", and thereby, properties adjacent to the west, south and east of the application site are designated "Industrial and Office" except those properties (or portions thereof) within the ±240-foot strip that are designated "Business and Office". The properties along SW 24 Street (within the ±240-foot strip) such as the Braman Honda auto dealership east of the site and the FPG Lumber Company west of the site have dual LUP map designations. The SW 72 Avenue right-of-way (including the CSX railway) west of the application site and the FEC right-of-way to the east are designated "Transportation". (See the CDMP Land Use map in Appendix A: Map Series).

Zoning
The properties north of the application site beyond SW 24 Street are zoned BU-1A (Limited Business District), BU-2 and RU-4 (Apartments 50 units per net acre). The properties west of the site are generally zoned IU-3, and for those properties fronting on SW 24 Street, the northern ±100 feet are zone BU-2. The properties to the south and east of the site are zoned IU-3, except the Futura Gables Apartment which is zoned RU-4M (Modified Apartment House District) and the Braman Honda auto dealership zoned BU-1A (Limited Business District). (See "Zoning Map" in Appendix A: Map Series).

Economic Analysis

The Miami Economic Associates, Inc. (MEAI) submitted a letter dated August 20, 2012 providing a socio-economic analysis in support of the application that the MEAI believes provides justification for approval of the application (see Appendix E: Applicant's Economic Analysis). The MEAI analysis concludes that the absence of industrial demand for the subject property, that most of the available vacant commercial land is comprised of small dispersed parcels, and the proposed development would generate significant fiscal and economic benefits for Miami-Dade County and its residents justifies approval of the application.

Staff reviewed the MEAI analysis and generally agrees with the conclusions made, but identifies the following points that need to be clarified:

- The study area is Minor Statistical Area (MSA) 5.3, not MSA's 5.3 and 5.4.
- The absorption rates reported are not only the result of historical trends. Historical trends are one of the conditions considered.
- Staff concurs that the proposed development would increase jobs and generate beneficial fiscal impacts, but there might be a difference in the magnitude of those impacts.

Supply and Demand Analysis

Supply and Demand for Commercial Land

The subject property is located in Minor Statistical Area (MSA) 5.3 which contains 582.20 acres of in-use commercial land in 2012 and an additional 27.3 acres of vacant land zoned or designated for business uses. The annual average absorption rate for the 2012-2030 period is 1.29 acres per year. At the projected rate of absorption, reflecting the past absorption rates of commercial uses, the study area will deplete its supply of commercially zoned land beyond the year 2030 (see table below).

Projected Absorption of Land for Commercial Uses
Indicated Year of Depletion and Related Data

Analysis Area	Vacant Commercial Land 2012 (Acres)	Commercial Acres in Use 2012	Annual Absorption Rate 2012-2030 (Acres)	Projected Year of Depletion	Total Commercial Acres per Thousand Persons	
					2020	2030
MSA 5.3	27.3	582.20	1.29	2030+	4.6	4.4

Source: Miami-Dade County, Regulatory and Economic Resources Department, Planning Division, Research Section, July 2012.

Supply and Demand for Industrial Land

MSA 5.3 contains 62.5 acres of in-use industrial land in 2012 and an additional 17.7 acres of vacant industrially designated or zoned land. Current development trends and growth projections indicate no demand for industrial land in MSA 5.3 through to year 2030. Additionally, the countywide supply of industrial land is projected to be depleted beyond the year 2030.

Environmental Conditions

Flood Protection	
County Flood Criteria National Geodetic Vertical Datum (NGVD)	+7.0 Feet
Drainage Basin	C-3
Federal Flood Zone	X-99
Biological Conditions	
Wetlands Permits Required	NO
Native Wetland Communities	NO
Specimen Trees	May Contain
Natural Forest Communities	NO
Endangered Species Habitat	NO
Other Considerations	
Within Wellfield Protection Area	NO
Hazardous Waste	NO
Contaminated Site	YES
Archaeological/Historical Resources	NO

Drainage, Flood Protection and Stormwater Management

This proposed amendment has been reviewed to ensure that resulting development can comply with the County's Stormwater Management (Drainage) Level of Service Standards (LOS). Stormwater management standards include a flood protection component and a water quality component. The County's water quality standard helps protect water quality by minimizing the pollutants carried offsite in rainwater. This standard requires all stormwater to be retained on-site utilizing a properly designed seepage or infiltration drainage system for a 5-year storm/1-day storm event; these systems are designed to filter the most harmful pollutants from rainwater draining from the site (CDMP Policy CON-5A).

The proposed use will require a Surface Water Management General Permit (SWMGP) from the Water Control Section of Environmental Resources Management (ERM) for the construction and operation of the required surface water management system. A Class VI Permit may be required for any proposed drainage in the portion of the site within the landfill and in a contaminated area prior to any construction. These permits must be obtained prior to development of the site, final plat, and/or prior to obtaining a building permit approval. The flood protection standard helps to ensure that proposed development does not cause flooding on adjacent properties and roads. This standard requires that site grading and development accommodates full on-site retention of rainwater from the 25-year/3-day storm event.

The existing roads do not have the adequate crown of road elevation for the flooding level of services, thus the new development should incorporate the required road improvements. If this application is approved, the proposed project could change the total impervious area of the 20.0 gross acres site from 0.00% to 75.5%. The subject application site is currently vacant. With the development of the site the runoff volume and peak flow will increase. The additional runoff should remain within the proposed development by providing an adequate drainage system in parking lots and spaces with similar use.

The site shall be filled to the County's minimum elevation of 7.0 feet NGVD. For construction of habitable structures, the lowest floor elevation requirement shall be the 7.00 feet plus 8 inches for residential or plus 4 inches for commercial.

Tree Preservation
Section 24-49 of the Miami-Dade County Code provides for the preservation and protection of tree resources. The applicant is required to obtain a Miami-Dade County Tree Removal Permit prior to the removal or relocation of any identified specimen-sized trees. On June 21, 2007, an after-the-fact Tree Removal Permit (2007-TREE-PER-00234) was issued for this property; the permit expired on June 21, 2008. A final inspection should be requested to avoid violation of permit conditions.

On-site Contamination
The application site has records of environmental contamination resulting from wood treating operations that previously occurred on the site and the site remains contaminated, to date. The site is required to undergo contamination remediation prior to the development and said remediation is under the jurisdiction of the Miami-Dade County Department of Regulatory and Economic Resources (administered by the Environmental Resources Management Division) and the Florida Department of Environmental Protection. The Applicant has entered into a Consent Agreement with the County Department and has executed a Cleanup Agreement Document with the Florida Department of Environmental Protection that establish environmental requirements and/or contamination remediation procedures for the development of the site.

Water and Sewer

Water Supply
The Biscayne Aquifer is the primary water supply source for the millions of people living in South Florida. However, overuse of this aquifer has resulted in lowered water levels in the Everglades, which is inconsistent with the goals of the Comprehensive Everglades Restoration Project (CERP), designed to restore and preserve water resources in the South Florida ecosystem, including the Everglades. In 2005, the South Florida Water Management District (SFWMD) promulgated new rules that prohibited withdrawals from the Biscayne Aquifer to accommodate future development. The SFWMD requires that all future developments be linked to new water supply sources, either through alternative water supply or reuse projects.

Effective January 11, 2011, WASD implemented a Water Supply Certification Program to assure water supply is available to all users as required by CDMP Policies CIE-5D and WS-2C, and in accordance with the permitted withdrawal capacity in the WASD 20-year Water Use Permit (WUP). All new construction, addition, renovation or changes in use resulting in an increase in water consumption will require a Water Certification Letter. This certification letter is issued at the time an Agreement, Verification Form or Ordinance Letter is offered; or during the Plat process prior to the final development order. At that time, the project will be evaluated for water supply availability and a water supply reservation will be made.

Water Treatment Plant Capacity
The County's adopted level of service (LOS) standard for water treatment is based on the regional treatment system. The LOS requires that the regional treatment system operate with a rated maximum daily capacity of no less than two (2) percent above the maximum daily flow for the preceding year, and an average daily capacity of two (2) percent above the average daily system demand for the preceding 5 years (CDMP Policy WS-2A(1)). Based on the 12-month average (period ending November 30, 2011), the regional treatment system has a rated treatment capacity of 439.74 million gallons per day (mgd) and a maximum plant production of 345.84 mgd. As a result, the regional system has approximately 116.13 mgd or 26.40% of treatment plant capacity remaining.

The application site would be served by the Alexander Orr Water Treatment Plant which provides water that meets federal, state, and county drinking water standards and has capacity to provide current water demand. As noted above, a Water Supply Certification will be required for this project at the time of development to determine water supply availability.

Estimated Future Water/Sewer Flow for Proposed Development

Requested Land Use Designation	Use Type	Quantity Units or Sq. Ft. (Maximum Allowed)	Water Demand Multiplier (Sec. 24-43.1 Miami-Dade Code)	Projected Water/Wastewater Demand (gpd)
Business & Office	Retail	315,897 sq. ft.	10 gpd/100 sq. ft.	31,589
		OR		
Business & Office	Residential	260 Single Family Attached	180 gpd	46,800
Business & Office	Retail	200,000 sq. ft.	10 gpd/100 sq. ft.	20,000

Source: Miami-Dade County Water and Sewer Department, July 2012.
** Note: This information is used to assess the highest potential water demands that may result from approval of this CDMP amendment.

The requested amendment would allow retail or attached residential uses. As noted in the "Estimated Future Water/Sewer Flow for Proposed Development" table above, if the application site were developed with maximum potential retail uses under the requested CDMP land use designation, the estimated water and sewer demand would total 31,589 gpd. If the application site were developed with residential use (260 single-family attached units), the estimated water and sewer demand would total 46,800 gpd. However, the applicant submitted a declaration of restrictions limiting the development of the property to 200,000 sq. ft. of business (retail/commercial) use and no residential development. Under this development scenario the estimated water and sewer demand would be 20,000 gpd.

Water System Connectivity

A previous hydraulic analysis, and adopted Water and Sewer Department rules and regulations require water and sewer connections on at least two sides of developed properties. Any development on the application site should connect to an existing 12-inch water main abutting the property along SW 70 Court from where the applicant may connect and extend a new 12-inch water main to the property. The developer should be aware that a 12-inch water main extension along SW 71 Street may be required. Any public water main extension within the property shall be 12-inch minimum diameter. If two or more fire hydrants are to be connected to a public water main extension within the property, then the water system shall be looped with two points of connection. A Water Supply Certification Letter would be required prior to connection for this project. Connectivity would be based upon water supply availability, and a pressure analysis at the time of development will determine the final water main size required for the project.

Water Conservation

All future development are required to comply with water use efficiency techniques for indoor water use in accordance with Sections 8-31, 32-84 and 8A-381 of Miami-Dade County Code. In addition, the future development will be required to comply with the landscape standards in Sections 18-A and 18-B of Miami-Dade County Code.

Sewer Treatment Plant Capacity

The County's adopted level of service standard for wastewater treatment and disposal requires that the regional wastewater treatment and disposal system operate at a capacity that is two percent above the average daily per capita flow for the preceding five years and a physical capacity of no less than the annual average daily sewer flow. The wastewater effluent must also meet all applicable federal, state, and County standards and all treatment plants must maintain the capacity to treat peak flows without overflow (CDMP Policy WS-2(2)). The regional wastewater treatment system has a design capacity of 368 million gallons per day (MGD) and a 12-month average (period ending October 31, 2011) of 277.26 mgd. This represents approximately 75.34% of the regional system design capacity. Therefore, the regional wastewater treatment system has 20.11% or 74.0 mgd of capacity remaining. Although the Central District Wastewater Treatment Plant has sufficient capacity to treat current wastewater generation, at the time of development, a capacity modeling evaluation may be required to connect to the regional sewer system through this plant.

Sewer System Connectivity

The property is located within the WASAD franchised sanitary sewer service area; the closest sanitary sewer is an abutting 8-inch gravity sewer pipeline located at SW 71 Avenue and 360 feet south of SW 24th Street. The applicant would be required to connect to the existing 8-inch gravity main, which directs the wastewater flow to pump stations 30-0548 and 30-0001 then to the Central District Wastewater Treatment Plant. Any proposed sewer extensions must be a minimum of 8–inches. At the time of development, a capacity modeling evaluation will be required. MDWASD's Central District Wastewater Treatment Plant is currently working within the mandated criteria set forth in the First and Second Partial Consent Decree[1]. A previous hydraulic analysis and adopted Water and Sewer Department rules and regulations require water and sewer connections on at least two sides of developed properties.

Solid Waste

The Miami-Dade County Public Works and Waste Management Department (PWWM) Solid Waste Division oversees the proper collection and disposal of solid waste generated in the County through direct operations, contractual arrangements, and regulations. In addition, the Department directs the countywide effort to comply with State regulations concerning recycling, household chemical waste management and the closure and maintenance of solid waste sites no longer in use.

The application site is located inside the PWWM Waste Collection Service Area, which consists of all residents of the Unincorporated Municipal Service Area and nine municipalities.

Level of Service Standard

CDMP Policy SW-2A establishes the adopted Level of Service (LOS) standard for the County's Solid Waste Management System. This CDMP policy requires the County to maintain sufficient solid waste disposal capacity to accommodate waste flows committed to the System through long-term interlocal contracts or agreements with municipalities and private waste haulers, and

[1] The Miami-Dade Water and Sewer Department (MDWASD) regional wastewater treatment and disposal facilities have limited available capacity. Consequently, approval of development orders which will generate additional wastewater flows are evaluated by the County's Environmental Resources Management (ERM) Division on a case-by-case basis. Approvals are only granted if the application for any proposed development order is certified by ERM so as to be in compliance with the provisions and requirements of the settlement agreement between Miami-Dade County and the State of Florida Department of Environmental Protection (FDEP) and also with the provisions of the United States Environmental Protection Agency consent decree.

anticipated uncommitted waste flows for a period of five years. The PWWMD assesses the solid waste capacity on system-wide basis since it is not practical or necessary to make determination concerning the adequacy of solid waste disposal capacity relative to individual applications. As of FY 2011/2012, the PWWM is in compliance with the adopted LOS standard.

Application Impacts
Application No. 2 is requesting the re-designation of approximately 20.0 gross acres (18.13 Net Acres) from "Business and Office" and "Industrial and Office" to "Business and Office" on the Adopted 2015 and 2025 LUP map. The designation to Business and Office will likely be considered a commercial development. The PWWM does not actively compete for commercial waste collection at this time, waste collection services for multifamily and commercial developments may be provided by a private waste hauler. The PWWM determined that the requested amendment will have no impact or any associated costs to the County; therefore, the PWWM has no objections to the proposed amendment.

Parks

The Miami-Dade County Parks, Recreation and Open Space Department has three Park Benefit Districts (PBDs). The subject application site is located inside Park Benefit District 2 (PBD-2), which encompasses the area of the County south of SW 8 Street and AIA/MacArthur Causeway and north of SW 184 Street.

Level of Service Standard
CDMP Policy ROS-2A establishes the adopted minimum Level of Service (LOS) standard for the provision of recreation open space in the Miami-Dade County. This CDMP policy requires the County to provide a minimum of 2.75 acres of local recreation open space per 1,000 permanent residents in the unincorporated areas of the County and a County-provided, or an annexed or incorporated, local recreation open space of five acres or larger within a three-mile distance from residential development. The acreage/population measure of the LOS standard is calculated for each Park Benefit District. A Park Benefit District is considered below LOS standard if the projected deficiency of local recreation open space is greater than five acres. Currently, PBD-2 has a surplus capacity of 494.95 acres of parkland, when measured by the County's concurrency LOS standard of 2.75 acres of local recreation open space per 1,000 permanent residents.

The "County Local Parks" table below lists all the parks within a 3-mile radius of the application site; six parks (A.D. Barnes, Tropical, Coral Estates, Brothers to the Rescue Memorial, Rockway and Blue Lakes), are larger than the required five acres (or larger) park. The nearest local park to the application site is Brothers to the Rescue Memorial Park, which is located approximately 0.34 miles from the application site.

Application Impacts
The potential development of the site under the existing CDMP land use designation has a potential population of 74, resulting in an impact of 0.20 acres based on the adopted minimum LOS standard for local recreational open space. The proposed land use change, without the proffered covenant, restriction of no residential units, would result in a potential population of 663, or an increase of 589 persons, resulting in an impact of an additional 1.62 acres of local parkland. The potential impact would be mitigated against the 494.95 acres of surplus parkland capacity in PBD-2.

County Local Parks
Within a 3-Mile Radius of Application Site

Park Name	Acreage	Classification
A.D. Barnes Park	60.93	Community Park
Francisco Human Rights park	2.88	Mini-Park
Tropical Park	283.2	District Park
Coral Estates Park	5.26	Community Park
Sunset Heights Park	0.37	Mini-Park
Schenley Park	1.68	Neighborhood Park
Humble Mini Park	0.48	Mini-Park
Brothers to the Rescue Memorial Park	6.75	Single Purpose Park
Banyan Park	3.09	Neighborhood Park
Rockway Park	5.01	Community Park
Miller Drive Park	3.93	Community Park
Blue Lakes Park	6.4	Neighborhood Park
Sudlow Park	0.94	Mini-Park
Sunkist Park	0.57	Neighborhood Park
San Jacinto Park	0.9	Mini-Park
Coral Villas Park	0.36	Mini-Park

Source: Miami Dade Parks, Recreation and Open Space Department, July 2012.

Fire and Rescue Service

The application site is currently served by Miami-Dade County Fire Rescue Station No. 3 (Tropical Park), located at 3911 SW 82 Avenue. This station is equipped with an Engine and a Rescue unit, and is staffed with seven (7) firefighter/paramedics 24 hours a day, seven days a week.

The Miami-Dade County Fire Rescue Department (MDFR) has indicated that the average travel time to incidents in the vicinity of the application site is approximately 6 minutes and 22 seconds. Performance objectives of national industry standards require the assembly of 15-17 firefighters on-scene within 8-minutes at 90% of all incidents. Travel time to incidents in the vicinity of the application site complies with the performance objective of national industry standards.

Level of Service Standard for Minimum Fire Flow and Application Impacts

CDMP Policy WS-2A establishes the County's minimum Level of Service standard for potable water. This CDMP policy requires the County to deliver water at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi, unless otherwise approved by the Miami-Dade Fire Rescue Department. A minimum fire flow of 3,000 gallons per minute (gpm) is required for business and industrial uses.

The current CDMP land use designation of "Business and Office" and "Industrial and Office" will allow a potential development on the application site that is anticipated to generate approximately 25 annual alarms. The proposed CDMP land use designation of "Business and Office" will allow a potential development that is anticipated to generate 93 annual alarms which will result in a moderate impact to existing fire rescue services. Presently, fire and rescue service in the vicinity of the application site is adequate. The MDFR has no plans for new fire rescue stations in the vicinity of the application site.

The required fire flow for the proposed CDMP land use designation of "Business and Office" shall be 3,000 gallons per minute (GPM). Fire hydrants shall be spaced a minimum of 300 feet from each other and shall deliver not less than 1,000 GPM. Presently, there are no fire flow deficiencies in the vicinity of the application site.

Aviation

Miami-Dade County Aviation Department (MDAD) reviewed the proposed CDMP amendment and determined that the proposal is compatible with airport operations provided that the development complies with MDAD's Airport zoning, Chapter 33 of the Code of Miami-Dade County.

Public Schools

The applicant has proffered a covenant that would prohibit residential development on the application site should the application be approved with acceptance of the covenant. Therefore, Miami-Dade County Public Schools would not be impacted by the application as proposed.

Roadways

Application No. 2 is a ±20-gross acre (±18.13-net acre) site located on the south side of SW 24 Street between SW 69/70 Court and SW 71 Avenue in unincorporated Miami-Dade County. The subject site is located inside the Urban Infill Area (UIA)[2], the County's designated Transportation Concurrency Exception Area (TCEA). The Concurrency Management Program in the Capital Improvement Element (CIE) states that "...development located within the UIA will not be denied a concurrency approval for transportation facilities provided that the development is otherwise consistent with the adopted Comprehensive Development Master Plan and meets some criteria pursuant Sec. 163.3180, Florida Statutes" (CIE p. IX-17).

Access to the application site will be mainly by SW 24 Street/Coral Way, a four-lane divided major roadway (three or more lanes); and by SW 69/70 Court and SW 71 Avenue, both two-lane undivided roadways. Major east-west arterials and expressways within the vicinity of the application site include: SR 836/Dolphin Expressway, SR 968/Flagler Street, SR 90/SW 8 Street/Tamiami Trail, SW 24 Street/Coral Way, SR 976/SW 40 Street/Bird Road. Major north-south arterials and expressways include: SR 973/SW 87 Avenue/Galloway Road, SR 826/Palmetto Expressway, SW 72 Avenue, SW 67 Avenue, and SR 959/SW 57 Avenue/Red Road.

The Miami-Dade County Department of Regulatory and Economic Resources in cooperation with the Department of Public Works and Waste Management (PWWM) and the Metropolitan Planning Organization (MPO) performed a short-term (concurrency) and a long-term (Year 2035) traffic impact analyses to assess the impact that the application would have on the adjacent roadways and the surrounding roadway network.

A study area (area of influence) was selected to determine the application's traffic impact on the roadway network, which is bound by SR 836/Dolphin Expressway on the north, SR 953/SW 42

[2] UIA is defined as that part of Miami-Dade County located east of, and including, SR 826 (Palmetto Expressway) and NW/SW 77 Avenue, excluding the area north of SR 826 and west of I-95, and the City of Islandia (Comprehensive Development Master Plan, page II-8).

Avenue/LeJeune Road on the east, SR 986/SW 72 Avenue/Sunset Drive on the south, and SW 102 Avenue on the west.

Traffic conditions are evaluated by the level of service (LOS), which is represented by one of the letters "A" through "F", with A generally representing the most favorable driving conditions and F representing the least favorable.

Existing Conditions

Existing traffic conditions on major roadways adjacent to the application site and within the study area which are currently monitored by the County and the State, are acceptable. The "Existing Traffic Conditions Roadway Lanes and Peak Period Level of Service (LOS)" table below shows the current operating conditions of the roadways currently monitored within the study area. One roadway segment, SW 40 Street/Bird Road between SW 87 Avenue and SR 826, is operating at LOS F, in excess of its adopted LOS E standard. Some segments along SR 836/Dolphin Expressway, SW 56 Street/Miller Drive, SW 72 Avenue/Sunset Drive, SW 97 Avenue, SW 87 Avenue/Galloway Road, SR 826/Palmetto Expressway, SW 57 Avenue/Red Road and SR 874/Don Shula are operating at their existing LOS standard. The rest of the roadways analyzed are operating at acceptable levels of service. See Existing Traffic Conditions table below.

Existing Traffic Conditions
Roadway Lanes and Peak Period Level of Service (LOS)

Roadway	Location/Link	Lanes	LOS Std.	LOS
SR 836/Dolphin Expy.	NW 107 Avenue to NW 87 Avenue	6 LA	D	C (2011)
	NW 87 Avenue to SR 826	6 LA	D	C (2011)
	SR 826 to NW 72 Avenue	8 LA	D	D (2011)
	NW 72 Avenue to NW 57 Avenue	8 LA	D	C (2011)
	NW 57 Avenue to NW 42 Avenue	8 LA	D	C (2011)
NW 7 Street	NW 67 Avenue to NW 57 Avenue	4 DV	E+50%	C (2011)
SR 968/Flagler Street	NW 107 Avenue to NW/SW 97 Avenue	6 DV	E+20%	D (2011)
	NW/SW 97 Avenue to NW/SW 87 Avenue	6 DV	E+20%	D (2011)
	NW/SW 87 Ave. to SR 826	6 DV	E+20%	D (2011)
	Palmetto Expy. to NW/SW 72 Avenue	6 DV	E+50%	D (2011)
	NW/SW 72 Avenue to NW 57 Avenue	4 DV	E+50%	D (2011)
	SW 57 Avenue to SW 42 Avenue	4 DV	E+50%	C (2011)
SR 90/SW 8 St./Tamiami Trail	SW 107 Avenue to SW 87 Avenue	8 DV	E+20%	B (2011)
	SW 87 Avenue to SR 826	6 DV	E+20%	B (2011)
	SR 826 to SW 72 Avenue	4 DV	E+50%	C (2011)
	SW 72 Avenue to SW 57 Avenue	4 DV	E+50%	D (2011)
	SW 57 Avenue to SW 42 Avenue	4 DV	E+50%	C (2011)
SW 24 Street/Coral Way	SW 107 Avenue to SW 97 Avenue	4 DV	E+20%	B (2011)
	SW 97 Avenue to SW 87 Avenue	4 DV	E+20%	D (2011)
	SW 87 Avenue to SR 826	6 DV	E+20%	E+5% (2011)
	SR 826 to SW 57 Avenue	4 DV	E+50%	C (2012)
SR 976/SW 40 St./Bird Rd.	SW 107 Avenue to SW 97 Avenue	6 DV	E	C (2011)
	SW 97 Avenue to SW 87 Avenue	6 DV	E	D (2011)
	SW 87 Ave. to SR 826	6 DV	E	F (2011)
	SR 826 to SW 67 Avenue	6 DV	E+20%	D (2011)
	SW 67 Avenue to SW 57 Avenue	6 DV	E+20%	B (2011)
	SW 57 Avenue to Ponce de Leon Blvd.	4 DV	E+20%	D (2011)

Existing Traffic Conditions
Roadway Lanes and Peak Period Level of Service (LOS)

Roadway	Location/Link	Lanes	LOS Std.	LOS
SW 56 Street/Miller Drive	SW 107 Avenue to SW 97 Avenue	4 DV	D	C (2011)
	SW 97 Avenue to SW 87 Avenue	4 DV	D	C (2011)
	SW 87 Avenue to SR 826	4 DV	D	D (2011)
	SR 826 to SW 67 Avenue	4 DV	E	D (2011)
	SW 67 Avenue to SW 57 Avenue	2 UD	E	B (2011)
SR 986/SW 72 Street.	SW 107 Avenue to SW 87 Avenue	4 DV	E+20%	D (2011)
	SW 97 Avenue to SW 87 Avenue	4 DV	E+20%	D (2011)
	SW 87 Avenue to SR 826	4 DV	D	B (2011)
	SR 826 to SW 67 Avenue	4 DV	E	E (2011)
	SW 67 Avenue to US 1	4 DV	E	D (2011)
SW 97 Avenue	SW 8 Street to SW 24 Street	2 DV	D	D (2011)
	SW 24 Street to SW 40 Street	2 DV	D	D (2011)
	SW 40 Street to SW 56 Street	2 DV	D	C (2011)
	SW 56 Street to SW 72 Street	2 DV	D	C (2011)
SR 973/SW 87 Avenue	SR 836 to Flagler Street	6 DV	E	E (2011)
	Flagler Street to SW 8 Street	4 DV	E	C (2011)
	SW 8 Street to SW 24 Street	4 DV	E	D (2011)
	SW 24 Street to SW 40 Street	4 DV	E	C (2011)
	SW 40 Street to SW 56 Street	4 DV	E	B (2011)
	SW 56 Street to SW 72 Street	4 DV	E	C (2011)
SR 826/Palmetto Expressway	SR 836 to Flagler Street	8 LA	D	D (2011)
	Flagler Street to SW 8 Street	8 LA	D	D (2011)
	SW 8 Street to SW 24 Street	8 LA	D	D (2011)
	SW 24 Street to SW 40 Street	8 LA	D	D (2011)
	SR 874 to SW 56 Street	4 LA	E+20%	E (2011)
	SW 56 Street to SW 72 Street	4 LA	E+20%	D (2011)
SW 72 Avenue	SW 40 Street to SW 56 Street	4 DV	E+50%	D (2011)
	SW 56 Street to SW 72 Street	2 UD	E+50%	C (2011)
SW 67 Avenue	Flagler Street to SW 8 Street	4 DV	E	D (2011)
	SW 24 Street to SW 40 Street	4 DV	E	D (2012)
	SW 40 Street to SW 56 Street	2 UD	E	C (2011)
	SW 56 Street to US-1	2 UD	E	D (2011)
SW 57 Avenue/Red Road	Flagler Street to SW 8 Street	4 DV	E	C (2011)
	SW 8 Street to SW 24 Street	2 DV	E	C (2011)
	SW 24 Street to SW 42 Street	2 UD	E	D (2011)
	SW 42 Street to US 1	2 UD	E	E (2011)
	US 1 to SW 72 Street	4 DV	E+50%	E (2011)
SW 42 Avenue/LeJeune Road	Airport Entrance to Flagler Street	6 DV	E+20%	B (2011)
	SW 8 Street to SW 22 Street	4 DV	E+20%	D (2011)
	SW 22 Street to SW 40 Street	4 DV	E+20%	D (2011)
	SW 40 Street to US 1	4 DV	E+20%	D (2011)
SR 874/Don Shula Expressway	SR 826 to SR 878	4 LA	D	D (2011)
US 1/Dixie Highway	SW 42 Avenue to SW 67 Avenue	6 DV	E+50%	E (2011)

Source: Miami-Dade County Department of Regulatory and Economic Resources, Miami-Dade County Public Works and Waste Management Department, and Florida Department of Transportation, July 2012.

Notes: ( ) identifies the year traffic count was taken or the LOS traffic analysis revised.
DV= Divided Roadway; UD= Undivided Roadway; LA= Limited Access;
LOS Std. = the adopted minimum acceptable peak period Level of Service standard for all State and County roadways, E+20% means 120% of roadway capacity (LOS E), E+50% means 150% of roadway capacity.

Trip Generation

Three development scenarios were analyzed for traffic impacts under the requested CDMP land use designation of "Business and Office." Scenario 1 assumes the application site developed with 315,897 square feet of retail space—the maximum potential commercial development under the requested CDMP land use designation. Scenario 2 assumes the application site developed with 260 single-family attached dwelling units—the maximum potential residential development under the requested land use designation. Scenario 3 assumes the application site developed with 200,000 square feet of commercial (retail) space with no residential development as limited by the Declaration of Restrictions proffered by the applicant. Scenario 1 is estimated to generate 714 more PM peak hour trips than the potential development that could occur under the current CDMP land use designations; Scenario 2 is estimated to generate approximately 23 less PM peak trips than any industrial and residential development that can occur under the current CDMP land use designations; and Scenario 3 is estimated to generate approximately 413 more PM peak trips than the potential industrial/retail development that can occur under the current CDMP land use designations. See "Estimated Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations" table below.

Estimated Peak Hour Trip Generation
By Current and Requested CDMP Land Use Designations

Application Number	Current CDMP Designation and Assumed Use/ Estimated No. Of Trips	Requested CDMP Designation and Assumed Use/ Estimated No. Of Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use Designation
1 Scenario 1	"Industrial and Office" and "Business and Office" 352,618 sq ft industrial and 33,802 sq ft retail[1] /	"Business and Office" 315,897 sq ft retail[3] /	
	276	990	+ 714
Scenario 2	"Industrial and Office" and "Business and Office" 352,618 sq ft industrial and 29 dwelling units (townhouses)[2] /	"Business and Office" 260 dwelling units (single-family attached)[4] /	
	155	132	- 23
Scenario 3	"Industrial and Office" and "Business and Office" 352,618 sq ft industrial and 33,802 sq. ft. of retail[1] /	"Business and Office" 200,000 sq ft commercial (retail)[6] /	
	276	689	+ 413

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003; Miami-Dade County Department of Regulatory and Economic Resources and Public Works and Waste Management Department, July 2012.

Notes
[1] Application site assumed to be developed with 352,618 square feet of industrial use (warehouses) and 33,802 square feet of retail space under the existing CDMP land use designation.
[2] Application site assumed to be developed with 352,618 square feet of industrial use (warehouses) and 29 single-family attached dwelling units (townhouses) under the existing CDMP land use designation.
[3] Scenario 1 assumes the application site developed with 315,897 square feet of retail space under the requested CDMP land use designation.
[4] Scenario 2 assumes the application site developed with 260 single-family attached dwelling units under the requested CDMP land use designation.
[6] Scenario 3 assumes the application site developed with 200,000 square feet of commercial (retail) space with no residential development under the requested CDMP land use designation as limited by the proposed Declaration of Restrictions proffered by the applicant.

Traffic Impact Analysis on Roadways Serving the Amendment Site
Roadway Lanes, Existing and Concurrency Peak Period Operating Level of Service (LOS)

Sta. Num.	Roadway	Location/Link	Num. Lanes	Adopted LOS Std.*	Peak Hour Cap.	Peak Hour Vol.	Existing LOS	Approved D.O's Trips	Conc. LOS w/o Amend.	Amendment Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
Scenario 1 "Business and Office" (315,897 sq. ft. retail)												
F-567	SR 826	SW 8 Street to SW 24 Street	8 LA	D	13,480	11,952	D	0	D	169	12,121	D
9236	SW 67 Avenue	Flagler Street to SW 8 Street	4 DV	E	3260	960	D	62	D	132	1154	D
F-527	SW 8 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2984	D	10	D	20	3014	D
9120	SW 24 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2397	C	15	C	147	2559	D
9240	SW 67 Avenue	SW 24 Street to SW 40 Street	4 DV	E	2370	1552	D	17	E	128	1697	D
F-566	SR 826	SW 24 Street to SW 40 Street	8 LA	D	13,480	11,803	D	14	D	166	11,983	D
9122	SW 24 Street	SW 87 Avenue to SR 826	6 DV	E+20%	8484	7415	E+5%	12	E+5%	228	7655	E+8%
Scenario 2: "Business and Office" (260 dwelling units (single-family attached)												
F-567	SR 826	SW 8 Street to SW 24 Street	8 LA	D	13,480	11,952	D	0	D	23	11,975	D
9236	SW 67 Avenue	Flagler Street to SW 8 Street	4 DV	E	3260	960	D	62	D	15	1037	D
F-527	SW 8 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2984	D	10	D	5	2999	D
9120	SW 24 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2397	C	15	C	20	2432	D
9240	SW 67 Avenue	SW 24 Street to SW 40 Street	4 DV	E	2370	1552	D	17	D	17	1586	D
F-566	SR 826	SW 24 Street to SW 40 Street	8 LA	D	13,480	11,803	D	14	D	22	11,839	D
9122	SW 24 Street	SW 87 Avenue to SR 826	6 DV	E+20%	8484	7415	E+5%	12	E+5%	30	7457	E+6%
Scenario 3: "Business and Office" (200,000 sq ft retail)												
F-567	SR 826	SW 8 Street to SW 24 Street	8 LA	D	13,480	11,952	D	0	D	118	12,070	D
9236	SW 67 Avenue	Flagler Street to SW 8 Street	4 DV	E	3260	960	D	62	D	95	1117	D
F-527	SW 8 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2984	D	10	D	10	3004	D
9120	SW 24 Street	SR 826 to SW 57 Avenue	4 DV	E+50%	5100	2397	C	15	C	102	2514	D
9240	SW 67 Avenue	SW 24 Street to SW 40 Street	4 DV	E	2370	1552	D	17	D	89	1658	D
F-566	SR 826	SW 24 Street to SW 40 Street	8 LA	D	13,480	11,803	D	14	D	116	11,933	D
9122	SW 24 Street	SW 87 Avenue to SR 826	6 DV	E+20%	8484	7415	E+5%	12	E+5%	159	7586	E+7%

Source: Compiled by the Miami-Dade County Department of Regulatory and Economic Resources, Miami-Dade County Public Works and Waste Management Department and Florida Department of Transportation, July 2012.

Notes: DV= Divided Roadway;

* County adopted roadway level of service standard applicable to the roadway segment: D (90% capacity); E (100% capacity); E+20% (120% capacity) for roadways serviced with mass transit having 20 minutes or less headways between the Urban Development Boundary (UDB) and the Urban Infill Area (UIA); E+50% (150% capacity) for roadways serviced with extraordinary mass transit inside the UIA.

Scenario 1 assumes the application site developed with 315,897 square feet of retail space under the requested CDMP land use designation.

Scenario 2 assumes the application site developed with 260 single-family attached and multifamily dwelling units under the requested CDMP land use designation.

Scenario 3 assumes the application site developed with 200,000 square feet of commercial (retail) space with no residential development under the requested CDMP land use designation and proposed Declaration of Restrictions proffered by the applicant.

Short Term (Concurrency) Traffic Evaluation

An evaluation of peak-period traffic short term (concurrency) conditions as of July 2012 (utilizing 2011 and 2012 traffic counts), which considers reserved trips from approved development not yet constructed, programmed roadway capacity improvements listed in the first three years of the County's adopted *2013 Transportation Improvement Program* (TIP), and the application's traffic impacts generated by the three development scenarios analyzed, does not project any of the roadways analyzed to violate their adopted LOS standards. See the "Traffic Impact Analysis on Roadways Serving the Amendment Site" table above.

Future Conditions

The MPO's adopted *2013 Transportation Improvement Program* lists the following roadways, located within the study area, for capacity improvements in fiscal years 2013-2017 within the study area (see table below).

Programmed Road Capacity Improvements
Fiscal Years 2012/2013 – 2016/2017

Roadway	From	To	Type of Improvement	Fiscal Year
SR 826/SR 836	NW 82 Avenue	SR 826/SR 836 Interchange	Interchange Improvement	2012/2013 2013/2014 2015/2016 2016/2017
SR 826/SR 836	SW 8 Street NW 87 Avenue	NW 25 Street NW 57 Avenue	Interchange improvement and add lanes	2012/2013

Source: 2013 *Transportation Improvement Program*, Miami-Dade County Metropolitan Planning Organization, May 17, 2012.

Planned Roadway Capacity Improvements
Fiscal Years 2012/2013 through 2034/2035

Roadway	From	To	Type of Improvement	Priority
SR 826/Palmetto Expressway	SW 72 Street/Sunset Drive	SW 32 Street	Interchange modification	I
SR 836/Dolphin Expressway	NW 137 Avenue	I-95	Toll system conversion to open road tolling	I
SR 874/SR 826 Interchange	North of SR 874/SR 826 Interchange	S/O SR 874/SR 826 Interchange	Interchange improvements	I
SR 874/Don Shula Expressway	SW 88 Street/Kendall Drive	SR 826	Modification of SR 874 mainline roadway	I
SR 826/SR 836 Interchange	NW 87 Avenue	NW 57 Avenue	Interchange modification	I
SR 836/Dolphin Expressway		NW 87 Avenue	Interchange improvement	IV

Source: *Miami-Dade County 2035 Long Range Transportation Plan*, Metropolitan Planning Organization for the Miami Urbanized Area, October 2009.

Notes: Priority I – Project improvements to be funded by 2014; Priority II – Project improvements planned to be funded between 2015 and 2020; Priority III – Project improvements planned to be funded between 2021 and 2025; and Priority IV – Projects improvements planned to be funded between 2026 and 2035.

The MPO's adopted *2035 Miami-Dade Long Range Transportation Plan* (LRTP), Cost Feasible Plan, lists a number of additional roadway capacity projects planned for construction within the study area. The "Planned Roadway Capacity Improvements" table above lists these planned Priority I and Priority IV improvement projects; construction of these projects are planned to be funded between 2012 and 2035.

A future (2035) traffic analysis was performed to evaluate the conditions of the major roadways adjacent to the application site and within the study area (impact area) to determine the adequacy of the roadway network to handle the application's traffic demand and to meet the adopted LOS standards applicable to the roadways through the year 2035.

The volume to capacity (v/c) ratio is a representation of the roadway volumes proportionate to the roadway capacity and is an expression of the roadway level of service. The correlation between roadway LOS and the v/c ratio is as follows:

- v/c ratio less than or equal to 0.70 is equivalent to LOS B or better;
- v/c ratio between 0.71 and 0.80 is equivalent to LOS C;
- v/c ratio between 0.81 and 0.90 is equivalent to LOS D;
- v/c ratio between 0.91 and 1.00 is equivalent to LOS E;
- v/c ratio of more than 1.00 is equivalent to LOS F.

Two of the three development scenarios analyzed in the traffic concurrency analysis were also analyzed for future (2035) traffic conditions: Scenario 1, which assumes the application site developed with 315,897 square feet of retail space—the maximum potential commercial development—under the requested CDMP land use designation; and Scenario 2, which assumes the application site developed with 260 single-family attached and multifamily dwelling —the maximum potential residential development—under the requested CDMP land use designation. Scenario 3, which is based on the proffered declaration of restrictions, was not considered because the covenant was not submitted on time for this evaluation.

The future traffic conditions (year 2035) analysis indicates that some roadway segments adjacent to the application site and within the study area (impact area) are projected to operate at levels of service in excess of their adopted LOS standards, without the application's traffic impacts. The same roadway segments will be further impacted by either development scenario (Scenario 1 or Scenario 2), or both development scenarios. However, it should be pointed out that the potential impacts of the two development scenarios on the failing roadway segments are not significant because the trips impacting these roadways represent five (5) percent or less of the roadways' adopted maximum service volumes. See the "2035 Volume to Capacity (V/C) Ratios" table below.

2035 Volume to Capacity (V/C) Ratios

Roadway Segments	Adopted LOS Std[1]	No. of Lanes	Base Scenario Without Application		Scenario 1 Retail (315,897 sq. ft.)		Scenario 2 Residential (260 dwelling units)	
			V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS
SR 836/Dolphin Expy.								
NW 107 Ave. to NW 87 Ave.	D	6	0.76	C	0.76	C	0.76	C
NW 87 Ave. to SR 826	D	6	0.88	D	0.87	D	0.88	D
SR 826 to NW 72 Ave.	D	8	0.92	E	0.90	D	0.91	E
NW 72 Ave. to NW 57 Ave.	D	6	1.12	F	1.12	F	1.12	F
NW 57 Ave. to NW 42 Ave.	D	6	1.06	F	1.10	F	1.07	F
NW 7 Street								
NW 67 Ave. to NW 57 Ave.	E+50%	4	1.00-1.44	E/E+44%	1.0-1.44	E/E+44%	1.02-1.45	E+2%/E+45%
Flagler Street								
W 107 Ave. to W 97 Ave.	E+20%	6	0.54-0.92	B/E	0.55-0.92	B/E	0.85-0.93	D/E
W 97 Ave. to W 87 Ave.	E+20%	6	0.89-1.10	D/E+10%	0.89-1.10	D/E+10%	0.89-1.10	D/E+10%
W 87 Ave. to SR 826.	E+20%	6	0.77-1.43	C/E+43%	0.77-1.41	C/E+41%	0.78-1.44	C/E+44%
SR 826 to W 72 Ave.	E+50%	6	0.90-1.34	D/E+34%	0.91-1.34	E/E+34%	0.92-1.34	E/E+34%
W 72 Ave. to W 57 Ave.	E+50%	4	0.90-1.34	D/E+34%	0.91-1.34	E/E+34%	0.92-1.34	E/E+34%
SW 57 Ave. to SW 42 Ave.	E+50%	4	1.09-1.28	E+9%/E+28%	1.09-1.22	E+9%/E+22%	1.09-1.27	E+9%/E+27%
SW 8 Street/Tamiami Trail								
SW 107 Ave. to SW 87 Ave.	E+20%	8	0.65-0.85	B/D	0.65-0.86	B/D	0.82-0.86	D/D
SW 87 Ave. to SR 826	E+20%	6	0.75-1.07	C/E+7%	0.75-1.06	C/E+6%	0.75-1.07	C/E+7%
SR 826 to SW 74 Ave.	E+50%	4	1.12	E+12%	1.10	E+10%	1.11	E+11%
SR 826 to SW 57 Ave.	E+50%	4	0.99-1.12	E/E+12%	0.98-1.10	E/E+10%	0.99-1.12	E/E+12%
SW 57 Ave. to SW 42 Ave.	E+50%	4	0.98-1.15	E/E+15%	0.99-1.16	E/E+16%	0.99-1.17	E/E+17%
SW 24 Street/Coral Way								
SW 107 Ave. to SW 97 Ave.	E+20%	4	0.71-0.79	C	0.71-0.78	C	0.71-0.78	C
SW 97 Ave. to SW 87 Ave.	E+20%	4	0.89-0.97	D/E	0.88-0.96	D/E	0.89-0.97	D/E
SW 87 Ave. to SR 826	E+20%	6	0.87-1.08	D/E+8%	0.85-1.07	D/E+7%	0.87-1.07	D/E+7%
SR 826 to SW 57 Ave.	E+50%	4	1.03-1.54	E+3%/E+54%	1.04-1.58	E+4%/E+58%	1.05-1.52	E+5%/E+52%
SW 40 Street/Bird Road								
SW 107 Ave. to SW 97 Ave.	E	6	0.79-0.83	C/D	0.81-0.84	D/D	0.79-0.83	C/D
SW 97 Ave. to SW 87 Ave.	E	6	0.84-0.89	D	0.84-0.88	D	0.84-0.89	D
SW 87 Ave. to SR 826	E	6	0.94	E	0.94	E	0.95	E
SR 826 to SW 67 Ave.	E+20%	6	1.02-1.61	E+2%/E+61%	1.03-1.63	E+3%/E+63%	1.01-1.61	E+1%/E+61%
SW 67 Ave. to SW 57 Ave.	E+20%	6	0.96-1.03	E/E+3%	0.95-1.02	E/E+2%	0.96-1.02	E/E+2%
SW 57 Ave. to Ponce de Leon Blvd.	E+20%	4	0.91-1.40	E/E+40%	0.92-1.40	E/E+40%	0.91-1.40	E/E+40%
SW 56 Street/Miller Drive								
SW 107 Ave. to SW 97 Ave.	D	4	0.83-0.96	D/E	0.82-0.94	D/E	0.82-0.84	D
SW 97 Ave. to SW 87 Ave.	D	4	0.83-0.93	D/E	0.82-0.92	D/E	0.83-0.93	D/E
SR 826 to SW 69 Ave.	E	4	0.89-1.20	D/F	0.89-1.19	D/F	0.89-1.19	D/F
SW 67 Ave. to SW 57 Ave.	E	2	1.09-1.16	F	1.07-1.13	F	1.09-1.14	F

2035 Volume to Capacity (V/C) Ratios

Roadway Segments	Adopted LOS Std[1]	No. of Lanes	Base Scenario Without Application		Scenario 1 Retail (315,897 sq. ft.)		Scenario 2 Residential (260 dwelling units)	
			V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS
SW 72 Street/Sunset Drive								
SW 107 Ave. to SW 87 Ave.	E+20%	4	0.79-1.08	C/E+8%	0.77-1.08	C/E+8%	0.81-1.06	D/E+6%
SW 97 Ave. to SW 87 Ave.	E+20%	4	0.79-1.03	C/F	0.77-1.03	C/F	0.81-1.06	D/F
SW 87 Ave. to SR 826	E	4	0.82-0.87	D	0.82-0.87	D	0.84-0.89	D
SR 826 to SW 67 Ave.	E	4	0.99-1.03	E/F	1.00-1.04	E/F	1.02-1.05	F
SW 67 Ave. to US-1	E	4	0.91-1.01	E/F	0.91-1.03	E/F	0.92-1.05	E/F
SW 57 Ave. to Cartagena Circle	E	2	0.84-1.01	D/F	0.84-1.02	D/F	0.83-1.00	D/E
SW 97 Avenue								
SW 8 St. to SW 24 St.	D	2	0.98-1.05	E/F	0.99-1.08	E/F	0.99-1.06	E/F
SW 24 St. to SW 40 St.	D	2	0.91-0.94	E	0.92-1.02	E/F	0.92-1.02	E/F
SW 40 St. to SW 56 St.	D	2	0.60-0.77	B/C	0.59-0.85	B/D	0.60-0.85	B/D
SW 56 St. to SW 72 St.	D	2	0.68-0.81	B/D	0.67-0.80	B/C	0.67-0.81	B/D
SW 87 Avenue/Galloway Road								
SR 836 to Flagler Street	E	6	0.63-1.20	B/F	0.63-1.19	B/F	0.63-1.19	B/F
Flagler St. to SW 8 Street	E	4	1.14-1.28	F	1.15-1.30	F	1.15-1.30	F/F
SW 8 St. to SW 24 Street	E	4	0.93-1.02	E/F	0.92-1.01	E/F	0.93-1.01	E/F
SW 24 St. to SW 40 Street	E	4	0.91-1.09	E/F	0.91-1.08	E/F	0.91-1.08	E/F
SW 40 Street to SW 56 Street	E	4	0.65-0.87	B/D	0.63-0.85	B/D	0.64-0.86	B/D
SW 56 St. to SW 72 Street	E	4	0.71-0.84	C/D	0.69-0.82	B/D	0.71-0.84	C/D
SW 82 Avenue								
SW 8 St. to SW 24 Street	D	2	0.68-0.97	B/E	0.67-0.97	B/E	0.68-0.99	B/E
SR 826/Palmetto Expy.								
SR 836 to Flagler Street	D	8	0.74	C	0.74	C	0.74	C
Flagler St. to SW 8 Street	D	8	0.87	D	0.87	D	0.86	D
SW 8 St. to SW 24 Street	D	8	0.97	E	0.95	E	0.96	E
SW 24 St. to SW 40 Street	D	8	0.84	D	0.85	D	0.84	D
SR 874 to SW 56 Street	E+20%	4	0.70	B	0.70	B	0.70	B
SW 56 St. to SW 72 Street	E+20%	4	0.63	B	0.64	B	0.63	B
SW 72 Avenue								
SW 40 St. to SW 56 Street	E+50%	4	0.81-1.34	D/E+34%	0.80-1.32	C/E+32%	0.79-1.31	C/E+31%
SW 56 St. to SW 72 Street	E+50%	2	0.99-1.02	E/E+2%	0.98-1.05	E/E+5%	1.0-1.03	E/E+3%
SW 67 Avenue								
Flagler St. to SW 8 Street	E	4	0.96	E	0.94	E	0.94	E
SW 24 St. to SW 40 Street	E	4	0.86-0.89	D	0.87-0.91	D/E	0.86-0.89	D
SW 40 St. to SW 56 Street	E	2	0.94-1.21	E/F	0.94-1.23	E/F	0.96-1.21	E/F
SW 56 St. to US-1	E	2	0.76-0.90	C/D	0.73-0.87	C/D	0.75-0.85	C/D

2035 Volume to Capacity (V/C) Ratios

Roadway Segments	Adopted LOS Std[1]	No. of Lanes	Base Scenario Without Application		Scenario 1 Retail (315,897 sq. ft.)		Scenario 2 Residential (260 dwelling units)	
			V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS	V/C Ratios[2]	Projected LOS
SW 57 Avenue/Red Road								
Flagler St. to SW 8 Street	E	4	0.91-0.95	E	0.91-0.94	E	0.92-0.96	E
SW 8 St. to SW 24 Street	E	2	0.98-1.33	E/F	0.99-1.33	E/F	0.97-1.31	E/F
SW 24 St. to SW 42 Street	E	2	1.06-1.16	F	1.07-1.15	F	1.07-1.15	F
SW 42 St. to Brescia Ave.	E	2	0.88-1.01	D/F	0.89-1.01	D/F	0.91-1.01	E/F
US 1 to SW 72 Street	E+50%	4	0.97	E	0.98	E	0.97	E
SW 42 Avenue/LeJeune Rd								
Airport Entrance to Flagler Street	E+20%	6	1.18-1.51	E+18%/E+51%	1.17-1.50	E+17%/E+50%	1.17-1.51	E+17%/E+51%
SW 8 St. to SW 22 Street	E+20%	4	1.07-1.10	E+7%/E+10%	1.07-1.10	E+7%/E+10%	1.06-1.10	E+6%/E+10%
SW 22 St. to SW 40 Street	E+20%	4	0.81-1.09	D/E+9%	0.81-1.08	D/E+8%	0.81-1.09	D/E+9%
SW 40 St. to US 1	E+20%	4	0.81-0.99	D/E	0.81-0.98	D/E	0.81-0.98	D/E
SR 874/Don Shula Expy.								
SR 826 to SR 878	D	4	0.69	B	0.69	B	0.68	B
US 1/South Dixie Highway								
SW 42 Ave. to SW 67 Avenue	E+50%	6	1.22-1.33	E+22%/E+33%	1.21-1.36	E+21%/E+36%	1.22-1.31	E+22%/E+31%

Source: Compiled by the Miami-Dade County Department of Regulatory and Economic Resources and the Metropolitan Planning Organization, July 2012.

Notes: [1] Minimum Peak-period operating Level of Service (LOS) standard for State and County roadways.

[2] Volume-to-Capacity (v/c) ratio, which is the ratio of the number of vehicles using the road to the road capacity. The V/C model output is expressed using daily volumes.

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Application Impacts

The "Estimated Peak Hour Trip Generation" table identifies the estimated number of PM peak hour vehicle trips to be generated by the three development scenarios analyzed, including the 315,987 square feet of retail use, the 260 residential dwelling units, and the 200,000 square feet of commercial (retail) space with no residential development as proposed in the Declaration of Restrictions proffered by the applicant. Development Scenario 1 is estimated to generate 714 more PM peak hour trips than the potential development that can occur under the current CDMP land use designations. Development Scenario 2 is estimated to generate approximately 23 less PM peak trips than the potential development that can occur under the current CDMP land use designations. And Development Scenario 3 is estimated to generate approximately 413 more PM peak trips than the potential development that can occur under the current CDMP land use designation.

The Traffic Concurrency Evaluation indicates that the roadways analyzed are not projected to violate their adopted LOS standards with the traffic impacts of the potential development scenarios under the requested land use designation. See the "Traffic Impact Analysis on Roadways Serving the Amendment Site" table.

The future traffic conditions (year 2035) analysis indicates that SW 24 Street between SR 826 and SW 57 Avenue, SW 40 Street between SR 826 and SW 67 Avenue and SW 67 Avenue between SW 40 Street and SW 56 Street in the vicinity of the application site, are projected to operate at levels of service in excess of their adopted LOS standards, without the application's impacts. The operating conditions of these roadways are projected to further deteriorate with the application's impacts. However, the application's impact is not significant because trips impacting these roadways represent less than 5 percent of the roadways' maximum service volumes. See the "2035 Volume to Capacity (V/C) Ratios" table above.

Applicant's Transportation Analysis

The applicant submitted the *Pan American Coral Terrace, LTD Transportation Analysis* report, dated July 2012, in support of the application. The report, prepared by Cathy Sweetapple & Associates Transportation and Mobility Planning, evaluated the impacts resulting from the requested CDMP Land Use Plan map changes based on the applicant's proffered Declaration of Restrictions limiting development to 200,000 square feet of commercial (retail) space on the application site under the requested "Business and Office" land use designation.

The transportation analysis report evaluated the transportation impacts for two planning horizons, a short-term (Year 2017) and a long-term (Year 2025) planning horizons. The report's study area (area of influence) is on the north by NW 25 Street, on the east by SW 42 Avenue, on the south by SW 72 Street, and on the west by SW 107 Avenue. The resulting trip generation calculation revealed that 200,000 square feet of commercial (retail) space would generate approximately 759 net external PM peak hour vehicle trips. The report evaluated the traffic impacts to the adjacent roadways and intersections. The report's concurrency analysis, which accounts for existing traffic, previously approved committed development traffic, plus traffic from the application site, indicates that the roadways adjacent to the application site have available capacity to handle the additional traffic demand that would be generated by the application, and determined that the subject roadways will continue to operate at acceptable levels of service.

The long-term traffic analysis determined the adequacy of the roadway network to meet the adopted LOS standards through the year 2025. The report's Year 2025 transportation analysis considered the programmed transportation infrastructure funded in the *2013 TIP* and the planned transportation projects funded and listed in the Priorities II and IV of the *2035 LRTP*. In addition, the 2025 analysis included the future background conditions reflecting growth, traffic

from approved development not yet built and the application's traffic impact. The transportation consultant performed a significance determination analysis to ensure that those roadways projected to operate in violation of their adopted LOS standards are not significantly impacted by the application traffic. The significant impact analysis found that amendment trips found to exceed 5% of the adopted maximum service volume for the roadway segments of SW 24 Street between SR 826 and SW 74 Avenue and between SW 74 Avenue and SW 67 Avenue. The report concludes that the Year 2025 roadway network has adequate capacity to meet the projected traffic demand, including the application's impact, and that such roadways would operate at or below their adopted level of service standard pursuant to the CDMP Policy TC-1B. An Executive Summary of the transportation report is provided in Appendix D of this report.

Miami-Dade County Department of Regulatory and Economic Resources and the Miami-Dade County Public Works and Waste Management Department staff reviewed the July 2012 transportation report and have concerns with the long-term analysis, specifically with the trip generation, trip distribution and the trip growth methodology for background traffic. Notwithstanding any concerns that County staff may have regarding the transportation report, the transportation consultant should address the County staff concerns prior to final approval of the subject application. County staff will continue to work with the Applicant and with the transportation consultant to appropriately address the outstanding issues.

Transit

Existing Service

The application site and surrounding areas are currently served by Metrobus Route 24. The service frequencies of this route are shown in the "Metrobus Route Service Summary" Table below.

Metrobus Route Service Summary

Route(s)	Service Headways (in minutes)						Proximity to Bus Route (miles)	Type of Service
	Peak (AM/PM)	Off-Peak (Midday)	Evenings (After 8pm)	Overnight	Saturday	Sunday		
24	20	20	30	n/a	30	30	0.00	L

Source: 2012 Transit Development Plan, Miami-Dade Transit (July 2012 Line Up).
Notes: 'L' means Metrobus local route service.

Future Conditions

Transit improvements to the existing Metrobus service, such as the replacement of an existing route with a new enhanced route and route alignment extensions/expansions are being planned for the next ten years as noted in the 2022 Recommended Service Plan within the draft 2012 Transit Development Plan.

Major Transit Projects.

MDT is developing premium transit services in the corridors approved by the People's Transportation Plan and other major corridors. These services - enhanced bus corridors and express bus services - will incrementally build local ridership first to justify major improvements later. Enhanced bus services include modern-looking, high-tech buses running in straighter, more direct routes, and running more frequently with fewer stops. The enhanced bus services will be provided on various corridors including SW 24th Street (Coral Way).

MDT plans to provide incremental improvements along SW 24th Street (Coral Way). The Coral Way Limited would provide premium limited-stop transit service along Coral Way between Downtown Miami and SW 147th Avenue. Service headways will be 30 minutes during the AM/PM peak-hour, 30 minutes during the mid-day and 40 minutes on weekends. This route would be the main trunk line on Coral Way as part of a restructuring of service by MDT due to the introduction of the new City of Miami Trolley route. The City's new route is planned to operate on Coral Way between the Brickell Avenue and Ponce de Leon Boulevard. MDT would restructure its Coral Way service taking into consideration the new City Trolley resulting in a more efficient and faster service while minimizing service duplication. Revenue service is anticipated to begin in 2013 using six new standard 40-foot buses.

Application Impacts

A preliminary analysis was performed in Traffic Analysis Zones (TAZ) 1017 where the application site is located. If the proposed amendment is approved, the expected transit impact produced by the proposed development can be absorbed by the scheduled improvements to transit in the area.

Consistency Review with CDMP Goals, Objectives, Policies, Concepts, and Guidelines

The following CDMP goals, objectives, policies, concepts, and guidelines would be furthered if the proposed CDMP land use amendment is approved.

LU-1C. Miami-Dade County shall give priority to infill development on vacant sites in currently urbanized areas, and redevelopment of substandard or underdeveloped environmentally suitable urban areas contiguous to existing urban development where all necessary urban services and facilities are projected to have capacity to accommodate additional demand.

LU-1G. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.

LU-2A. All development orders authorizing new, or significant expansion of existing, urban land uses shall be contingent upon the provision of services at or above the Level of Service (LOS) standards specified in the Capital Improvements Element (CIE).

LU-3A. Development orders in Miami-Dade County shall be consistent with the goals, objectives and policies contained in the Conservation, Aquifer Recharge and Drainage and Coastal Management Elements of this Plan, and with all applicable environmental regulations, as well as all other elements of the CDMP.

LU-4A. When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.

LU-4B. Uses designated on the LUP map and interpretive text, which generate or cause to generate significant noise, dust, odor, vibration, or truck or rail traffic shall be protected from damaging encroachment by future approval of new incompatible uses such as residential uses.

LU-8B. Distribution of neighborhood or community-serving retail sales uses and personal and professional offices throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic and physical considerations.

LU-8E. Applications requesting amendments to the CDMP Land Use Plan map shall be evaluated to consider consistency with the Goals, Objectives and Policies of all Elements, other timely issues, and in particular the extent to which the proposal, if approved, would:

ii) Enhance or impede provision of services at or above adopted LOS Standards;

iv) Enhance or degrade environmental or historical resources, features or systems of County significance.

LU-10A. Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or underdeveloped urban areas, high intensity activity centers, mass transit supportive development, and mixed-use projects to promote energy conservation.

LU-12. Miami-Dade County shall take specific measures to promote infill development that are located in the Urban Infill Area as defined in Policy TC-1B.

TC-1D. Issuance of all development orders for new development or significant expansions of existing development shall be contingent upon compliance with the Level of Service standards contained in Policy TC-1B, except as otherwise provided in the "Concurrency Management Program" section of the Capital Improvements Element.

CIE-3. CDMP land use decisions will be made in the context of available fiscal resources such that scheduling and providing capital facilities for new development will not degrade adopted service levels

The following CDMP goals, objectives, policies, concepts, and guidelines could be impeded if the proposed CDMP land use amendment is approved.

LU-1G. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.

LU-5C. All planning activities pertaining to development and redevelopment and the provision of public services and facilities in Miami-Dade County shall be consistent with the "Population Estimates and Projections" contained in this Element, and with the

locations and extent of future land uses as identified by the LUP map and its interpretive text. Plans for providing public facilities and services in Miami-Dade County shall be updated by the responsible service providers as soon as possible after the filing of applications to amend the CDMP population projections, and the corresponding elements of the CDMP shall be updated in association with the updating of the facility/service plans.

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MIAMI-DADE COUNTY DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES Complainant V. Pan American Coral Terrace, LTD. Respondent	CONSENT AGREEMENT

This Consent Agreement (the "Agreement"), entered into by and between, Miami-Dade County REGULATORY AND ECONOMIC RESOURCES (hereinafter referred to as "RER"), formerly known as DEPARTMENT OF PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS ("PERA") AND DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT ("DERM"), and PAN AMERICAN CORAL TERRACE, LTD. ("PACT"), pursuant to Section 24-7(15)(c), Code of Miami-Dade County, shall serve to address and otherwise provide for and stipulate to the environmental requirements for and associated with future development activities at subject property located at, near, or in the vicinity of 7000 SW 24th Street, Miami-Dade County, Florida, folio nos. 30-4014-022-0010 and 30-4014-011-0010 and more particularly described on Exhibit A, a copy of which is attached hereto and made part hereof by reference (the "Property").

This agreement does not constitute the environmental requirements for the site to meet the requirements of No Further Action or No Further Action with Conditions pursuant to Section 24-44, Code of Miami-Dade County or No Further Action or No Further Action with Controls pursuant to Rules 62-780.680 and 62-785.680, Florida Administrative Code. This Agreement does not address any off-site contamination or any work beyond the boundaries of the Property.

RER finds the following:

FINDINGS OF FACT

1. RER is an agency of Miami-Dade County, a political subdivision of the State of Florida, which is empowered to control and prohibit pollution and protect the environment within

Miami-Dade County pursuant to Article VIII, Section 6 of the Florida Constitution, the Miami-Dade County Home Rule Charter and Section 403.182 of the Florida Statutes.

2. PACT (hereinafter referred to as "Respondent") is a Florida limited partnership created for the purpose of acquiring a note and mortgage secured by the Property with the goal of eventually acquiring the Property itself and redeveloping it and shall be construed for purposes of this Agreement to include any and all of Respondent's successors and assigns.

3. Notwithstanding Respondent's current intentions to acquire title to the Property after acquiring the note and mortgage securing the Property, the Parties acknowledge the possibility that Respondent may not, in fact, acquire the Property. In light of this possibility, if Respondent is unable or elects not to acquire title to the Property, upon notice of same from Respondent to RER, this Agreement shall become null and void in its entirety, and neither party shall have any further obligation hereunder and, furthermore, Respondent shall have no liability to RER under Chapter 24, Miami-Dade County Code.

4. The Property was the subject of environmental litigation by the State of Florida and Miami-Dade County in Miami-Dade County Circuit Court, styled State of Florida Department of Environmental Regulation v. Davidson Lumber Company et al, Case number 83-21626 CA 09 and Anthony J. Clemente, et al. v. Lone Star Building Centers (Eastern) Inc., et al, Case number 83-17887 CA 09 (hereinafter collectively referred to as the "Subject Environmental Litigation"). Soil and groundwater at the subject property remains contaminated at the Property to the present day.

5. Both RER and the Florida Department of Environmental Protection ("FDEP") settled the former litigation involving the Property through a Stipulation and Settlement Agreement dated April 28th, 1989, a copy of which is attached hereto as Exhibit B and the Stipulation and Order Regarding Claims of FDEP and Miami-Dade County approved by the bankruptcy court in the Southern District of New York, a copy is attached hereto as Exhibit C (hereinafter collectively referred to as the "Subject Environmental Litigation Documents").

6. RER's enforcement policy pertaining to the subject property is as follows:

The Sections of Chapter 24 of the Code of Miami-Dade County which establishes liability for violations of said Code includes the following:

-Section 24-31 (6): provides that any person who has legal, beneficial or equitable interest in the real property upon which a violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for said violation regardless of fault and regardless of knowledge of the violation;. And

-Section 24-31 (1): which states, in pertinent part, that whoever commits a violation of this Chapter or any lawful rule or regulation promulgated under this Chapter is liable to Miami-Dade County for any damage caused to air, water or property, ...".

7. As the Subject Environmental Litigation Documents do not contemplate or require future purchasers of the Property implementing or participating in any way in the compliance activities required in said stipulations, RER's position has been and continues to be not to seek, compel, or otherwise require in any fashion any contribution to the clean-up activities from any future owner, developer, or tenant of the Property or any of their respective principals, lenders, or investors. Notwithstanding the foregoing (i) any future development activities at and in connection with the Property shall comply with the environmental conditions set forth in paragraph 8 herein and (ii) to the extent any future party seeks or desires any form of No Further Action by RER as may be authorized by Chapter 24, Code of Miami-Dade County, the applicable requirements shall be complied with.

SUBMITTAL AND REPORTING AND REQUIREMENTS FOR THE SITE

8. Site development at and in connection with the Property is permitted as it relates to the environmental conditions of the property subject to the following:

   - Areas of proposed ex-filtration drainage will require groundwater sampling unless existing data (i.e., data that has been generated no more than 9 months prior to the date of submittal of a request for approval of a site drainage plan) demonstrates that groundwater impacts are not located in the area of drainage. Areas of ex-filtration drainage may be relocated to any uncontaminated area of the Property via re-routing utilizing solid piping.

   - For dewatering activities, if applicable, it shall be demonstrated that the dewatering will not extract contaminated groundwater otherwise treatment or proper disposal of extracted groundwater will be required. Furthermore, any proposed on-site disposal of extracted water will not be discharged into an area where groundwater impacts exist.

   - Construction (buildings, parking lots, etc.) is permitted in areas of soil and groundwater contamination.

   - Contaminated soil that is removed shall require proper disposal or may be relocated upon the property above the water table provided that appropriate engineering controls are in place prior to issuance of any Certificate of Use for the Property. Remaining areas of contaminated soil will require an engineering control such as 2-feet of clean fill, asphalt, or concrete. The engineering control shall be inspected and maintained to ensure its functional integrity, and any modification to said engineering control shall be approved by RER. This requirement shall be transferrable to all current and future Property owners, and notification and consent shall be made between the buyer and seller during each Property sale transaction.

All work at the property shall be conducted in accordance with the requirements of the Occupational Safety and Health Administration.

- A Soil Management Plan will be required if construction occurs within areas of soil contamination. The plan at a minimum shall include the requirement to document any contaminated material that is removed and relocated to other areas of the Property as well as to document any soil that is removed from the Property and disposed of.

- Any removal of contaminated soil from the Property site shall be disposed of either at a lined landfill or other properly licensed disposal or treatment facility. In all instances proper disposal receipts must be maintained for the applicable period of time required by law and provided to RER.

- Any construction and/ or modification at the Property shall be approved by RER in accordance with this Agreement and the Miami-Dade County Code.

- Any utilities installed at or for the benefit of the Property in areas of contamination shall be subject to the provisions of this Agreement and the Miami-Dade County Code.

- The conditions contained in this paragraph 8 are transferrable and assignable with respect to this Property and any portion thereof.

- All plans including, but not limited to, dewatering, drainage, soil management, engineering control, and/or development shall require prior RER review and approval.

GENERAL PROVISIONS AND RESPONDENT'S COMPLIANCE OBLIGATIONS

9. This Agreement constitutes a "lawful order" pursuant to Section 24-7(15) (c) of the Code of Miami-Dade County and is enforceable in a civil court of competent jurisdiction. Violation of any requirement of this Agreement may result in enforcement action by RER. Each violation of any of the terms and conditions of this Agreement by the Respondent shall constitute a separate offense.

10. Entry of this Agreement does not relieve the Respondent of the responsibility to comply with applicable federal, state or local laws, regulations and ordinances. Notwithstanding the foregoing sentence, Respondent's obligations to comply with Chapter 24, Code of Miami-Dade County are expressly defined and limited as set forth in this Agreement where they relate or pertain to or arise out of any form or manner of contamination that, prior to the effective date of this Agreement, both (i) first became present at, on, under, above, or adjacent to the Property and (ii) was previously documented by, or reported to, Miami-Dade

County or the Florida Department of Environmental Protection (hereinafter referred to as the "Documented Pre-Existing Contamination.")

11. With respect to any matter, fact, circumstance, or condition concerning, related to, or arising out of the Property, this Agreement shall neither be evidence of a prior violation of Chapter 24, Code of Miami-Dade County, nor shall it be deemed to impose any limitation upon any investigation or action by RER in the enforcement of Chapter 24, Code of Miami-Dade County, against any party other than Respondent. With respect to Respondent, RER's rights to seek or compel administrative or judicial enforcement of Chapter 24, Code of Miami-Dade County, are modified as follows: Provided that Respondent is in compliance with this Agreement, RER will not initiate or seek administrative or judicial enforcement of, or make any claim or seek any relief under, Chapter 24, Code of Miami-Dade County, or any similar state or federal law, statute, regulation, or code against Respondent and/or any of Respondent's principals, lenders, investors, tenants, and their respective successors and assigns, for any matter, fact, circumstance, or condition concerning, related to, or arising out of Documented Pre-Existing Contamination.

12. In the event that RER alleges that Respondent is in violation of this Agreement, RER shall provide notice of such violation to Respondent the 'Notice of Violation of Consent Agreement" (NOVCA).Upon receipt of RER's NOVCA other than with respect to an Imminent Threat (as defined herein), Respondent shall have thirty (30) days to respond in writing to RER and in such response either provide (i) evidence that no violation has occurred or (ii) assurances as to how such violations shall be corrected(the "Corrective Action Plan").RER shall allow Respondent up to sixty (60) days to implement any Corrective Action Plan and may not seek to void or terminate this Consent Agreement based on the allegations in the NOVCA unless Respondent fails to implement the Corrective Action Plan as approved by RER. Respondent shall not be entitled to the above referenced period for implementation of the Corrective Action Plan where a condition is discovered at the Property that the RER Director or Director's designee, determines constitutes an Imminent threat to human health or the environment ("Imminent Threat"). RER acknowledges that the Documented Pre-Existing Contamination does not constitute an Imminent Threat, provided that the subject Property is in compliance with this Agreement, including but not limited to the required engineering controls. Nothing in this paragraph shall void or limit any administrative or judicial rights of appeal of any agency action that Respondent may have under the Miami-Dade County Code, Florida Statutes, the Florida

Administrative Code, or otherwise. In addition, the time period set forth above may be extended at the discretion of the RER Director or Director's designee.

13. RER acknowledges that Respondent may in the future sell all or part of the Property and agrees that under either scenario it will allow this Agreement to be amended to include any and all of Respondent's successors and assigns as follows: (i) in the case of a sale of part of the Property to one or more third parties, RER shall allow such additional party or parties to execute an addendum to this Agreement and by so doing make such additional party or parties subject to its terms and conditions and (ii) in the case of a sale of all of the Property to one or more third parties, RER shall consent to the assignment by Respondent of the new owner or owners.

This Agreement shall become effective upon the date of execution by the RER Director or by a lawful designee;

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PAN AMERICAN CORAL TERRACE, LTD.
By: Pan American Ventures 3, LLC, General Partner
By: Carlos C. Lopez-Cantera, Managing Member

6/11/12
Date

Respondent

Before me, the undersigned authority, personally appeared Carlos C. Lopez-Cantera who after being duly sworn, deposes and says that they have read and agreed to the foregoing.

Subscribe and sworn to before me this 14th day of June, 2012 by Carlos C. Lopez-Cantera (name of affiant).

Personally known ✓ or Produced Identification _____.
(Check one)

Type of Identification Produced: _____.

Notary Public

ALEMIS MACHADO
MY COMMISSION # EE873696
EXPIRES: March 14, 2015
1-800-3-NOTARY
Ft. Notary Discount Assoc. Co.

DO NOT WRITE BELOW THIS LINE -- GOVERNMENT USE ONLY

6/14/2012
Date

Lee N. Hefty, Assistant Director
Miami-Dade County Department of
Regulatory and Economic Resources

Witness

Witness

Florida Department of Environmental Protection
Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401-2913
561-681-6600

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

JUN 14 2012

mgoldstein@goldsteinenvlaw.com

Mr. Michael R. Goldstein, Esquire
The Goldstein Environmental Law Firm, P.A.
One Southeast Third Avenue, Suite 2120
Miami, Florida 33131

Waste Cleanup
Miami-Dade County
Pan American Coral Terrace, LTD
Site No.: COM_311758

Re: Executed Cleanup Agreement
Pan American Coral Terrace, LTD
7090 Coral Way, Miami-Dade County, Florida
OGC Case No. 83-0039, Site No.: COM_311758

Dear Mr. Goldstein:

Enclosed for your client's implementation is the fully executed and filed Cleanup Agreement Document (CAD) in the above styled case. Please familiarize yourself with the terms of the Agreement so the complete and timely performance of those obligations is accomplished.

If you have any questions concerning this matter, please contact Mr. Tim Gray at (561) 681-6708 or by e-mail at tim.gray@dep.state.fl.us

Thank you for your cooperation in this matter.

Sincerely,

06-14-12

Jill S. Creech, P.E. Date
Southeast District Director

Attachment: Cleanup Agreement Document

JSC/JWL/PAW/tag

cc: Carlos C. Lopez-Cantera, Pan American Coral Terrace, LTD, clc@panamgroup.com
Wilbur Mayorga, P.E. Regulatory and Economic Resources, mayorw@miamidade.gov
Jorge R. Caspary, P.G., DEP/Tallahassee, jorge.caspary@dep.state.fl.us
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BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,	IN THE OFFICE OF THE SOUTHEAST DISTRICT
	OGC FILE NO. 83-0039
IN THE MATTER OF: PAN AMERICAN CORAL TERRACE, LTD	

CLEANUP AGREEMENT DOCUMENT

This Cleanup Agreement Document ("Agreement") is entered into between the State of Florida Department of Environmental Protection ("Department"), and Pan American Coral Terrace, LTD ("PACT"), an active Florida limited partnership, (hereinafter referred to collectively as the "Parties"), to reach agreement on a scope of work and schedule to conduct limited site rehabilitation.

The Department finds and PACT admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapters 403 and 376, Florida Statutes ("F.S."), and Rule 62-780, F.A.C. The Department has jurisdiction over the matters addressed in this Agreement.

2. This Agreement is a "Cleanup Agreement Document" (CAD) as that term is more fully defined in Rule 62-780.200(8), F.A.C.

3. The Department of Regulatory and Economic Resources ("RER") is an agency of Miami-Dade County, a political subdivision of the State of Florida, which is empowered to control and prohibit pollution and protect the environment within Miami-

Dade County pursuant to Article VIII, Section 6 of the Florida Constitution, the Miami-Dade County Home Rule Charter and Section 403.182 of the Florida Statutes.

4. PACT is a person within the meaning of Section 403.031(5), F.S., and shall be construed for purposes of this Agreement to include any and all of PACT's successors and assigns.

5. PACT was created for the purpose of acquiring a note and mortgage secured by approximately seventeen (17) acres of real property located at 7090 Coral Way, Miami-Dade County, State of Florida, as further identified by Miami-Dade County Property Appraisers Parcel Identification Numbers 30-4014-022-0010 and 30-4014-011-0010 (referred to collectively herein as the "Property") with the goal of eventually acquiring the Property itself and redeveloping it.

6. Notwithstanding PACT's current intentions to acquire title to the Property after acquiring the note and mortgage securing the Property, the Parties acknowledge the possibility that PACT may not, in fact, acquire the Property. In light of this possibility, if PACT is unable or elects not to acquire title to the Property, upon notice of same from PACT to FDEP, this Agreement shall become null and void in its entirety, and neither party shall have any further obligation hereunder. Should PACT not acquire title to the Property, this document will not create any liability under chapters 376 or 403, Florida Statutes or any rule promulgated thereunder that does not otherwise exist.

7. In order to allow the Property, which is currently vacant and undeveloped, to be beneficially reused while protecting human health and the environment at and in connection with the Property, the Department has agreed to allow PACT to implement

the tasks set forth in paragraphs 9 and 10 herein to address Pre-Existing Contamination and, so long as PACT remains in compliance with the requirements of this Agreement, shall not impose or seek to enforce any additional site rehabilitation obligations on or against PACT with respect to the Pre-Existing Contamination, including but not limited to any obligations to conduct any further site rehabilitation pursuant to chapters 62-780 and 62-777, F.A.C., unless either (i) PACT elects to pursue a Site Rehabilitation Completion Order under any applicable cleanup rule promulgated in Chapter 62 of the Florida Administrative Code or (ii) a newly occurred (that is, first occurring after the effective date of this Agreement) non-transient exposure pathway for contaminated groundwater in the shallow aquifer (defined as from the top of the ground water table to no deeper than 50 feet below land surface) that creates an imminent threat to human health, safety, or the environment is discovered by RER, the Department, or PACT and PACT fails to take appropriate action within a reasonable timeframe (reasonable timeframes shall be those timeframes set forth in paragraph 12 below) (the foregoing subsection (ii) of this sentence hereinafter referred to as the "Groundwater Reopener"). Under either of these circumstances, the Department may re-evaluate the measures required by this Agreement to determine if they continue to be sufficiently protective of human health, safety, and the environment and may require PACT or any other responsible party to take action to abate the imminent threat to human health, safety, or the environment. For purposes of this document, "Pre-Existing Contamination" shall be defined as the contamination as it exists or ever existed in soil, groundwater, or any other environmental media at, on, beneath, in, above, or migrating away or towards the

Property as of the date of execution of this Agreement, including but not limited to the contamination as represented in the March 30, 2012, report entitled "Supplemental Site Assessment Report/Conceptual No Further Action with Conditions Plan," provided by EE&G Environmental Services, LLC, and prepared for PACT, and all other environmental assessment plans and reports and related data on file with the Department or RER.

8. Now, therefore, the Department and PACT concur and it is mutually **AGREED:**

9. Unless PACT elects to pursue a Site Rehabilitation Completion Order under any applicable cleanup rule promulgated in Chapter 62 of the Florida Administrative Code or the Department has documented a Groundwater Reopener has occurred, PACT shall only be required to implement the following tasks in connection with the Pre-Existing Contamination:

(a) PACT shall implement engineering controls at the Property to address potential contaminant exposure risks, said engineering controls shall include, but are not limited to: all areas where Soil Cleanup Target Levels (SCTLs) of chapter 62-777, F.A.C. are exceeded for leachability shall be permanently covered and maintained with an impermeable material that prevents human exposure and prevents water infiltration; and all areas where SCTLs of chapter 62-777, F.A.C. are exceeded for direct exposure for Commercial/Industrial use shall be permanently covered with an impermeable material or with a minimum of two (2) feet of clean and uncontaminated soil that

prevents human exposure. The engineering controls shall be implemented in connection with site development and construction activities and shall be certified by a professional engineer, licensed in Florida that to the best of his or her knowledge the controls are consistent with commonly accepted engineering practices, are appropriately designed and constructed for its intended purpose, and have been implemented.

(b) PACT shall record an environmental deed restriction in favor of RER utilizing a form that is consistent with the Department's Institutional Controls Guidance document located on the Department's web site, and that is approved by RER. The restrictions shall include, but are not limited to: a prohibition on the use of the groundwater under the property; a prohibition on access to groundwater for consumptive, industrial supply, or irrigation purposes; a prohibition on drilling for water and on well construction on the property, other than monitoring wells pre-approved in writing by RER; a prohibition on stormwater swales, stormwater detention or retention facilities, or ditches on the property, except as approved by RER; for any dewatering activities, a plan approved by RER must be in place to address and ensure the appropriate handling treatment, and disposal of any extracted groundwater that may be contaminated; prohibition on agricultural use of the Property including forestry, fishing and mining; recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; residential uses (excluding hotels, motels, or any other form of commercial lodging, all of which are expressly permitted), and educational uses

such as elementary or secondary schools, or day care services; an inspection and maintenance plan for the engineering controls implemented at the property, and limitations on exposure to soil contaminated above a Commercial/Industrial Cleanup Target Level except to execute routine repairs on the engineering controls.

(c) PACT shall use its best commercial efforts to coordinate with RER and adjacent owner(s) of property where contamination has spread or is located to encourage such adjacent owner(s) of property to establish voluntary deed restriction(s) prohibiting groundwater use for consumptive, industrial supply, or irrigation purposes and otherwise limit access to contaminated groundwater.

10. Site development activities at and in connection with the Property are permitted as they relate to the environmental conditions of the Property and do not require review or approval by the Department provided that they are reviewed and approved by RER, and, they comply with the following:

(a) Areas of proposed ex-filtration drainage during development of the Property by PACT require groundwater sampling unless existing data (i.e., data that has been generated no more than 9 months prior to the date of submittal of a request for approval of a site drainage plan) demonstrates to the satisfaction of RER that contaminated groundwater is not located in the area of drainage. If it is demonstrated that ex-filtration drainage is not located in areas where contaminated groundwater exists, then areas of ex-filtration drainage may be

relocated to any uncontaminated area of the Property via rerouting utilizing solid piping.

(b) For any necessary dewatering activities conducted by PACT during development of the Property, the dewatering shall not extract contaminated groundwater or, if not technically possible, any contaminated groundwater that is extracted shall be properly treated or disposed of at a licensed facility. Furthermore, any proposed on-site disposal of extracted water will not be discharged into an area where groundwater contamination exists or where SCTLs are exceeded for leachability and shall not be discharged on-site when the extracted water is contaminated. Dewatering activities must be pre-approved by RER.

(c) Construction (buildings, parking lots, etc.) is permitted in areas of soil and groundwater contamination upon compliance with the conditions in this agreement including: contaminated soil that is excavated shall be removed and properly disposed of at a licensed facility which accepts such materials pursuant to Chapter 62-780, F.A.C. and any other applicable local, state, and federal requirements, or may be relocated to another area upon the Property above the water table where contaminated soils already exist provided engineering controls in accordance with the requirements of this paragraph and paragraph 9(a) are also put in place. Upon completion, remaining areas of contaminated soil will require an engineering control consisting of either an impermeable surface or 2-feet of uncontaminated/clean fill. In all instances where contaminated soil is removed

from the Property, proper disposal receipts must be maintained for the applicable period of time required by law.

(d) PACT shall provide an inspection and maintenance plan for the engineering controls required by this agreement to be approved by RER to ensure the functional integrity of the engineering controls, and any modification to said engineering controls shall be approved by RER. The inspection and maintenance plan shall be included in the deed restriction required in paragraph 9(b) above, and therefore shall be transferred to all future property owners, and notification shall be made between the buyer and seller during each property sale transaction.

(e) Site preparation activities that lead to contact with soil such as foundation excavation, grading, etc., shall be conducted with reasonable precautions so as to minimize worker exposure to soil.

(f) A Soil Management Plan, approved by RER, will be required if construction or activities occur within areas of soil contamination. The plan shall include the requirement to specifically document any contaminated material that is relocated within the Property (including how much and where the soil was relocated) as well as to document any soil that is removed from the Property and disposed of off-site in accordance with paragraph 10(c).

(g) PACT shall close the 4000 gallon underground storage tank ("UST") existing on the Property by (i) removing any free product contained with UST; (ii) removing any free product in soil adjacent to the UST; and (iii) either

excavating the UST and properly disposing of it in accordance with applicable law or filing the UST with inert material and abandoning it in place.

(h) Any construction or modification at the Property shall meet the requirements of this Agreement and be preapproved by RER as provided for in the Florida Building Code.

11. In consideration of, and expressly subject to, the conditions in this agreement and performance by PACT of the obligations set forth in paragraphs 9 and 10 of this Agreement, the Department shall not initiate or seek administrative or judicial enforcement of, or make any claim or seek any relief under, chapters 376 and 403, Florida Statutes, chapters 62-770 and 62-780, Florida Administrative Code, or any similar federal or local law, statute, regulation, or code, all as may be amended from time to time, against PACT, for the Pre-Existing Contamination unless a Groundwater Reopener has occurred.

12. In the event that the Department alleges that PACT is in violation of this Agreement, the Department shall provide notice of such violation to PACT (the "Agreement Breach Notice"). Upon receipt of the Department's Agreement Breach Notice, PACT shall have thirty (30) days to respond in writing to the Department and in such response either provide (i) evidence that no violation has occurred or (ii) assurances as to how such violations shall be cured (the "Cure Plan"). The Department shall allow PACT no less than sixty (60) days to implement any Cure Plan (the "Cure Period") and may not seek to void or terminate this Agreement based on the allegations in the Agreement Beach Notice unless PACT fails to implement the Cure Plan as approved by

the Department. Nothing in this paragraph shall void or limit any administrative or judicial rights of appeal of any final agency action that PACT may have under the Florida Statutes, the Florida Administrative Code, or otherwise.

13. The Department acknowledges that PACT may in the future sell all or part of the Property and agrees that under either scenario it will allow this Agreement to be amended as follows: (i) in the case of a sale of part of the Property to one or more third parties, the Department shall allow such additional party or parties to execute an addendum to this Agreement and by so doing make such additional party or parties subject to its terms and conditions and (ii) in the case of a sale of all of the Property to one or more third parties, FDEP shall consent to the replacement of PACT with the new owner or owners such that once the new owner or owners have executed a binding agreement with the Department, PACT shall no longer have any continuing liability or responsibility to the Department pursuant to this Agreement.

14. One paper copy and one electronic copy in PDF format of all submittals, notices, reports, plans, and data required by this Agreement and/or by chapter 62-780, F.A.C., to be submitted to the Department shall be sent to the Waste Program Administrator, Florida Department of Environmental Protection, Southeast District Office, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401-2913.

15. All notices required by this Agreement to be provided to PACT, unless otherwise specified, may be made by electronic or U.S. mail, and shall be sent to:

Mr. Carlos C. Lopez-Cantera
Pan American Coral Terrace, LTD
150 Alhambra Circle, Suite 925
Coral Gables, Florida 33134

Telephone: (305) 461-0563
Facsimile: (305) 461-0963

16. Other than with respect to Pre-Existing Contamination as addressed in this Agreement, nothing herein shall be construed to limit the authority of the Department to undertake any action against PACT in response to or to recover the costs of responding to conditions at or from the Property that require Department action to enforce any Department statutes or rules. This paragraph does not limit the authority of the Department to undertake any action against PACT if a Groundwater Reopener has occurred.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes or the rules promulgated there-under that are not specifically addressed by the terms of this Agreement.

18. Entry of this Agreement does not relieve PACT of the need to comply with applicable federal or local laws, regulations or ordinances or, other than as specifically provided herein with respect to Pre-Existing Contamination, applicable state laws, regulations or ordinances.

19. PACT shall allow all authorized representatives of the Department access to the Property at reasonable times for the purpose of determining compliance with the terms of this Agreement and the rules and statutes of the Department.

20. In the event of a sale or conveyance of the Property, if all of the requirements of this Agreement have not been fully satisfied, PACT shall, no later than

least thirty (30) days prior to the sale or conveyance: (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser to the Department, and (3) provide a copy of this Agreement with all attachments to the prospective new owner.

21. It is expressly understood by PACT that compliance with the terms of this Agreement shall not result in the issuance of an unconditional or conditional Site Rehabilitation Completion Order pursuant the applicable chapters and corresponding provisions of the Florida Administrative Code. However, nothing shall prevent the Parties from negotiating and executing a subsequent agreement under chapters 62-770, 62-780, or 62-785, Florida Administrative Code, to further rehabilitate the Property and allow for issuance of an unconditional or conditional Site Rehabilitation Completion Order. Should PACT decide to voluntarily undertake site rehabilitation of Pre-Existing Contamination pursuant to chapters 62-770, 62-780, or 62-785, Florida Administrative Code, the parties may revisit the conditions of this Agreement.

22. The release or discharge of contamination at the Property after the effective date of this Agreement shall be addressed in accordance with the laws and rules in place at the time of the discharge.

23. This Agreement may only be voided, canceled, or terminated upon the written request of PACT or, subject to the cure provisions set forth at paragraph 12 herein, upon its material breach by PACT. Should this agreement be voided, canceled, or terminated with respect to PACT or any other subsequent party to this Agreement, the Department will not be prohibited from pursuing PACT or the subsequent party for any

liability it may have in relation to the Pre-Existing Contamination, notwithstanding any provisions of this agreement. Notwithstanding anything to the contrary in the prior sentence, other than with respect to any breach of this Agreement caused by PACT that has not been cured pursuant to paragraph 12, where PACT is no longer a party to this Agreement and the Agreement is voided, canceled, or terminated as a result of any action taken by a subsequent party, the Department shall not pursue PACT for any liability of the subsequent party that may then arise out of this Agreement.

24. If RER does not, in fact, provide the review and oversight contemplated by this Agreement, then the Department may, at its discretion, assume the review and oversight of the conditions required by this Agreement. PACT agrees to provide the Department with a copy of any written agreements between PACT and RER within 10 days after execution of said agreement.

25. Notwithstanding PACT's current intentions to acquire title to the Property after acquiring the note and mortgage securing the Property, PACT may not, in fact, acquire the Property. Accordingly, the Department agrees that PACT's affirmative obligations under this Agreement will not become effective until such time as PACT takes title to the Property.

26. If PACT is unable or elects not to acquire title to the Property, upon notice of same from PACT to the Department, this Agreement shall become null and void in its entirety and neither party shall have any further obligation hereunder.

27. PACT acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this

Agreement. PACT acknowledges its right to appeal the terms of this Agreement pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Agreement.

28. Persons who are not parties to this Agreement but whose substantial interests are affected by this Agreement have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within twenty-one (21) days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the twenty-one (21) days constitutes a waiver of any right such person has to an administrative hearing pursuant to Section 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The Department's OGC number and the county in which the subject matter or activity is located;

(b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;

(c) An explanation of how the petitioner's substantial interests will be affected by this Agreement;

(d) A statement of when and how the petitioner received notice of this Agreement;

(e) A statement of all material facts disputed by petitioner, if any;

(f) A statement of the specific facts the petitioner contends warrant modification of this Agreement;

(g) A statement of which rules or statutes the petitioner contends require modification of this Agreement; and

(h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to this Agreement.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Agreement. Persons whose substantial interests will be affected by any decision of the Department with regard to this Agreement have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within twenty-one (21) days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.

A person whose substantial interests are affected by this Agreement may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section

120.573. Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the PACT, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by this Agreement. The mediation agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within ten (10) days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;

(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;

(c) The agreed allocation of the costs and fees associated with the mediation;

(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;

(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;

(f) The name of each party's representative who shall have authority to settle or recommend settlement; and

(g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this Agreement or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty (60) days of the execution of the mediation agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties to the mediation agreement. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within twenty-one (21) days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

29. This Agreement is a final agency action of the Department pursuant to Section 120.52(7), Florida Statutes, and is final and effective on the date filed with the Clerk of the Department unless a petition for administrative hearing is filed in accordance with Chapter 120, Florida Statutes. Upon timely filing of a petition, this Agreement will not be effective until further order of the Department.

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PAN AMERICAN CORAL TERRACE, LTD.
By: Pan American Ventures 3, LLC, General Partner
By: Carlos C. Lopez-Cantera, Managing Member

DONE AND ORDERED this 14th day of June, 2012, in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

JILL S. CREECH, P.E.
Director of District Management
400 North Congress Ave., Suite 200
West Palm Beach, FL 33401-2913
Telephone: 561/681-6600

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk _____ Date 6-14-2012

cc: Wilbur Mayorga, P.E., Miami-Dade RER, mayorw@miamidade.gov
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