MEMORANDUM

Agenda Item No. 8(M)(8)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	October 7, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution accepting a financial contribution of $35,000.00 from Section 31 Holdings LLC to the Miami-Dade County Environmentally Endangered Lands Program; and authorizing the Mayor to accept this contribution into the Environmentally Endangered Lands Acquisition Trust Fund

The accompanying resolution was prepared by the Regulatory and Economic Recourses Department and placed on the agenda at the request of Prime Sponsor Land Use and Development Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

Memorandum

MIAMI-DADE COUNTY

Date: October 7, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Accepting a Financial Contribution of $35,000 from Section 31 Holdings LLC to the Miami-Dade County Environmentally Endangered Lands Program

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution accepting a financial contribution of $35,000 to the Miami-Dade County Environmentally Endangered Lands (EEL) Program.

Scope

The EEL Program is countywide in nature.

Fiscal Impact/Funding Source

The acceptance of this donation will have no fiscal impact. As of May 31, 2014, the balance of the EEL Trust Fund GF080 is $45,000,543.20, of which $22,202,533.51 is reserved for acquisition and $22,798,009.69 is reserved for management.

Track Record / Monitor

Cynthia Guerra, the EEL Program Coordinator within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will accept the donation.

Background

Section 31 Holdings LLC is conducting development activities in the vicinity of NW 106 Street and the Florida Turnpike. The Florida Fish and Wildlife Conservation Commission (FWC) has determined that construction will occur within 100 feet of a documented bald eagle nest. This work creates a disturbance or harassment of bald eagles and requires Section 31 Holdings LLC to obtain an FWC permit and implement conservation measures as required by the FWC permit. Another condition of the FWC permit states that Section 31 Holdings LLC must make a financial contribution of $35,000 to the Miami-Dade County EEL Program to be used for the purchase of pine rockland habitat. This contribution will assist the EEL Program in a future acquisition of pine rockland to protect potential bald eagle habitat from disturbance.

The historic loss, fragmentation and degradation of native wetland and forest communities in Miami-Dade County are well recognized. In May of 1990, with the knowledge that remaining wetland and forest communities were endangered, the electorate of Miami-Dade County authorized the County to levy an ad valorem tax for two years to create the EEL Program and Trust Fund. The purpose of the EEL program is to acquire, preserve, enhance, restore, conserve and maintain environmentally-endangered lands for the benefit of present and future generations. The County, in partnership with the South Florida Water Management District, the State of Florida, and other funding partners, has acquired approximately 21,544 acres of land throughout Miami-Dade County since inception of the EEL Program.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: October 7, 2014

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

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

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

_____ **No committee review**

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

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(8)
10-7-14

RESOLUTION NO. _____

RESOLUTION ACCEPTING A FINANCIAL CONTRIBUTION OF $35,000 FROM SECTION 31 HOLDINGS LLC TO THE MIAMI-DADE COUNTY ENVIRONMENTALLY ENDANGERED LANDS PROGRAM; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO ACCEPT THIS CONTRIBUTION INTO THE ENVIRONMENTALLY ENDANGERED LANDS ACQUISITION TRUST FUND

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

WHEREAS, this Board desires to accomplish the purposes of Section 24-50 of the Code of Miami-Dade County,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby accepts a financial contribution of $35,000 from Section 31 Holdings LLC to the Miami-Dade County Environmentally Endangered Lands Program; and authorizes the Mayor or Mayor's designee to accept this contribution into the Environmentally Endangered Lands Acquisition Trust Fund, subject to the conditions set forth in the memorandum from the Mayor of Miami-Dade County, a copy of which is attached hereto and made a part hereof.

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 7th day of October, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Thomas R. Robertson

Eagle Disturbance Permit

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
Division of Habitat and Species Conservation, Species Conservation Planning Section
620 South Meridian Street, Mail Station 2A, Tallahassee, Florida 32399-1600
(850) 921-5990, WildlifePermits@myFWC.com

Permittee Name: Kolleen Cobb
Permittee Address: Section 31 Holdings, LLC
2855 Le Jeune Road, 4th Floor
Coral Gables, FL 33134
Kolleen.Cobb@feci.com

Permit No: LSED-14-00008
Effective Date: June 13, 2014
Expiration Date: December 31, 2016

Consultant Name: Stephen Lau
Consultant Address: Bio-Tech Consulting, Inc.
4445 North A1A, Suite 221
Vero Beach, FL 32963
steve.lau@bio-techconsulting.com

IS AUTHORIZED TO: Disturb bald eagles (*Haliaeetus leucocephalus*) incidental to development activities in Florida pursuant to Rules 68-1, 68A-4.001, 68A-9.002, and 68A-16.002, F.A.C., and the Florida Fish and Wildlife Conservation Commission's Bald Eagle Management Plan (April 2008).

AUTHORIZED LOCATION(S): 97.66-acre Flagler Station III Project Site located at the northeast corner of 106th Street and Florida Turnpike, T52,R30,S31 with Parcel i.d. 30-2031-001-0050, in Hialeah Gardens, Miami-Dade County, Florida.

Permittee Signature _____ Date _____

Not valid unless signed. By signature, I hereby swear or affirm that I as the Permittee (hereafter known as Permittee) am the owner of the Project and real property described herein and the responsible party for the Project. By signing this Permit, the Permittee confirms that it is familiar with the information contained in the application for this Permit, and represents that such information is true, complete and accurate. The Permittee understands that knowingly making any false statement or representation in this application is a violation of applicable law, including FWC rules, and could result in criminal penalties, revocation of this Permit, and other authorized sanctions. This Permit does not eliminate the necessity or relieve the Permittee of the obligation to obtain any required federal, state, local and special district authorizations prior to the start of any activities authorized by this Permit. The Permittee understands and agrees to comply with all laws, rules and ordinances applicable to the Project. The Permittee consents, upon reasonable prior notification, to any site visit on the Project by agents or personnel from the Florida Fish and Wildlife Conservation Commission (FWC) for the review, inspection and monitoring of the Project.

Authorized by: Bradley J. Gruver, Ph.D.

As authorized by the authority delegated by Nick Wiley, Executive Director

Authorizing Signature Bradley J. Gruver
Species Conservation Planning Section Leader

Date 06/13/14

PERMIT CONDITIONS AND PROVISIONS:

1. This Permit authorizes the activities specified in the application which may or will disturb bald eagles (*Haliaeetus leucocephalus*) and which are incidental to the development activities authorized by local government permits and other required governmental authorizations. This permit considers that "a disturbance" may occur as harassment or molestation of bald eagles in association with construction activities on the Project site. The application for this Permit, originally dated May 12, 2014, submitted by the applicant contained in the FWC application file (Application), is hereby incorporated by reference in this Permit. The Permittee shall immediately notify the Florida Fish and Wildlife Conservation Commission (FWC) in writing of any previously submitted information that is later discovered to be inaccurate. The activities authorized by this Permit are all activities on the Project or Project site which will or may cause a disturbance of the bald eagle. The bald eagle habitat impacted is within 100-660 feet from FWC Eagle Nest DA003, with the nearest construction occurring approximately 100 feet from the nest tree, as described and delineated in the Application and attached Project Site Plan.

2. The Permittee shall minimize impacts and implement measures to assure conservation of the bald eagle as follows, which are specific conditions of this Permit:

   a. Minimization. The following measures from the Permittee's Eagle Disturbance Application, will be put into effect by the Permittee to ensure that the disturbance of bald eagles is minimized:
      i. Implement the Bald Eagle Monitoring Guidelines (USFWS 2007d) for all work or exterior construction activities. Avoid exterior construction activities within 330 feet of the nest during the nesting season.
      ii. Avoid construction activity (except those related to emergencies) within 100 feet of an eagle nest during any time of the year except for nests built on artificial structures, or when similar scope may allow construction activities to occur closer than 100 feet.
      iii. Avoid the use or placement of heavy equipment within 50 feet of the nest tree at any time to avoid potential impacts to the tree roots. This minimization does not apply to existing roads, trails, or other linear facilities near an eagle nest or to nests built on artificial structures.
      iv. Shield new exterior lighting so that lights do not shine directly onto the nest.
      v. Create, enhance, or expand the visual vegetative buffer between construction activities and the nest by planting appropriate native pines or hardwoods.
      vi. Site storm water ponds no closer than 100 feet from the eagle nest, and construct them outside the nesting season. Consider planting native pines or hardwoods around the pond to create, enhance, or expand the visual buffer.
      vii. Incorporate industry-approved avian-safe features for all new utility construction.

   b. Conservation Measures. The Permittee has offered and FWC has accepted conservation measures for species impacts as described below. Each conservation measure described herein is a specific condition of this Permit:
      i. The Permittee will make a $39,605 payment to the FWC Bald Eagle Management Fund (Fund) as a conservation measure to mitigate for the potential disturbance of bald eagles from Project activities.
      ii. The Permittee will make a financial contribution of $35,000 to the Miami-Dade County Environmentally Endangered Lands (EEL) program for the purchase of Pine Rocklands within the county.

PERMIT CONDITIONS AND PROVISIONS:

3. The Permittee must submit the enclosed Wildlife Foundation of Florida Bald Eagle Management Fund Donation/Contribution Form, along with the payment as stipulated in item 2(b)(i) to the Wildlife Foundation of Florida (WFF).

4. The Permittee must submit proof of payment to the Miami-Dade County Environmentally Endangered Lands (EEL) Program as stipulated in item 2(b)(ii) to the Protected Species Permit Coordinator. Proof of payment may be submitted by email to WildlifePermits@MyFWC.com or by mail at the above address.

5. The Permittee may execute this permit upon receiving written confirmation that the Wildlife Foundation of Florida has received the funds and the Protected Species Permit office has received proof of payment for the County contribution.

6. The Permittee must ensure that the USFWS nest monitoring reports for projects within 660 feet of a nest during the nesting season, or any other relevant monitoring report for items 2(a)(i) and 2(a)(ii) are emailed to Ms. Michelle Van Deventer, SCPS, FWC Bald Eagle Plan Coordinator at Eagle_Plan@MyFWC.com.

7. Failure of the Permittee to comply with this Permit and conditions, and applicable laws, rules, and ordinances may result in suspension or revocation of this permit, enforcement action in an appropriate court, in addition to any and all other enforcement actions available to the FWC or other governmental entities in regard to this Permit.

8. This Permit does not convey to the Permittee or create in the Permittee any property right, or any interest in real or personal property; nor does it authorize access or activities on any public property (including but not limited to sovereignty submerged lands) or private property. Any required permission accordingly must be secured by the Permittee from the appropriate landholders prior to any such access or activities.

9. This Permit does not relieve the Permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property not specifically permitted herein. It does not allow the Permittee to cause pollution in contravention of Florida Statutes or applicable laws, rules or ordinances.

10. This Permit only constitutes state authorization. For guidance on compliance with federal law, please visit the USFWS' new interactive web site http://www.fws.gov/southeast/es/baldeagle/index.html for additional information.

11. This Permit shall be prominently posted on the Project site and must be readily available for inspection by all authorized officials (FWC, USFWS, local government, law enforcement) at all times the permitted activities are ongoing.

12. The activities authorized under this Permit may be carried out by authorized personnel or contractors of the Permittee or Authorized Agent, provided all such activities are under the supervision and responsibility of the Permittee or Authorized Agent. The Permittee and Authorized Agent shall be as fully responsible for any such activities to the same extent as if they had themselves carried out those activities under this Permit.

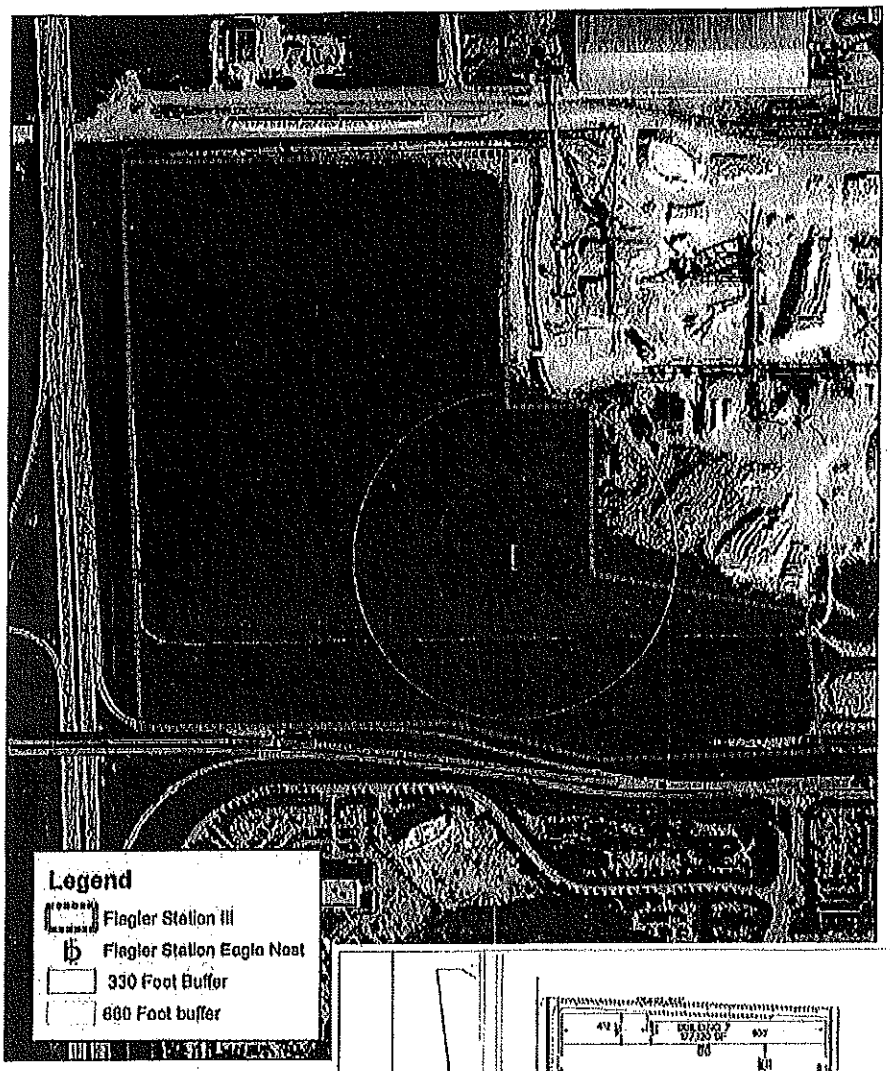
13. This permit can be suspended, revoked or not renewed for just cause, pursuant to 68-1.010, Florida Administrative Code and Chapter 120, Florida Statutes.

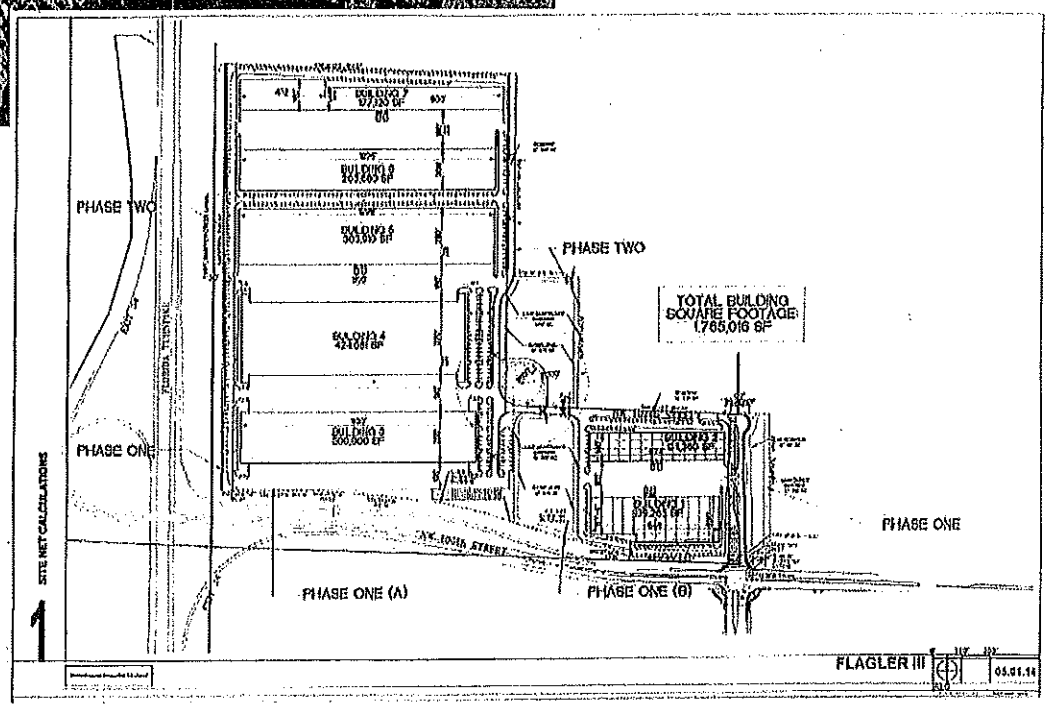
A person whose substantial interests are affected by FWC's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. A person seeking a hearing on FWC's action shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision. The petition must contain the information and otherwise comply with section 120.569, Florida Statutes, and the uniform rules of the Florida Division of Administration, chapter 28-106, Florida Administrative Code. If FWC receives a petition, FWC will notify the Permittee. Upon such notification, the Permittee shall cease all work authorized by this permit until the petition is resolved. The enclosed Explanation of Rights statement provides additional information as to the rights of parties whose substantial interests are or may be affected by this action.

LIC 6-20
LSED-14-00008 Flagler Station III
Election of Rights Form

Cc: Ms. Carmen Simonton USFWS (Carmen_Simonton@fws.gov)
FWC Bald Eagle Coordinator (Michelle.Vandeventer@myfwc.com)

Attachment A





WILDLIFE FOUNDATION OF FLORIDA

ESTABLISHED | 1994

BALD EAGLE MANAGEMENT FUND
DONATION/CONTRIBUTION FORM

This source document must accompany all donations and contributions to the Bald Eagle Management Fund. **Mail completed form along with the donation/contribution to:**

Wildlife Foundation of Florida
Attn: Bald Eagle Management Fund
P.O. Box 11010
Tallahassee, FL 32302

Date: _____

Name: _____

Address: _____

_____

Phone Number: (___) _____-_____ E-mail: _____

County: _____

Total Donation/Contribution: $ _____ *(Payable to **Wildlife Foundation of Florida**)*

Check/Warrant No.: _____

Complete this section only if deposit is being made pursuant to a permit.

FWC Permit Number: _____

********** **DO NOT WRITE BELOW THIS LINE** **********

Receipt Date:_____

Copy: Permit Coordinator, Species Conservation Planning Section, Division of Habitat and Species Conservation, Mail Station 2A, 620 S. Meridian Street, Tallahassee, FL 32399-1600, (850) 921-5990

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Rev: 2/2006