MEMORANDUM

Agenda Item No. 14(A)(9)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	July 15, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution authorizing the release of a portion of a canal right-of-way and a portion of a canal maintenance easement in Section 31, Township 52 South and Range 40 East in Miami-Dade County

This resolution will become effective upon the filing of a consent to this resolution within 45 days by the Florida Department of Transportation unless vetoed by the Mayor within 10 days of adoption, and if vetoed, after override by the Board and the filing of such consent.

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

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: July 15, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Release of a Portion of Canal Right-of-Way and a Portion of Canal Maintenance Easement in Miami-Dade County (WC-892)

Recommendation

It is recommended that the Board of County Commissioners approve the attached resolution authorizing the execution of two Miami-Dade County disclaimers for the release of a portion of canal right-of-way and a portion of canal maintenance easement in Section 31, Township 52 South and Range 40 East, Miami-Dade County.

Scope

The site is in Commission District 12 (Commissioner Diaz) in the vicinity of NW 106 Street and the proposed NW 112 Avenue in unincorporated Miami-Dade County.

Fiscal Impact/Funding Source

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

Track Record / Monitor

The Water Control Section Manager, Maria Molina, P.E., within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will be responsible for tasks related to this transaction.

Background

In 1959, the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, granted a canal reservation to Miami-Dade County in northwestern Miami-Dade County to be used for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan over the south 130 feet of Section 31, Township 52 South and Range 40 East.

In January 1989, the County acquired at no cost a canal right-of-way by deed and an easement for canal maintenance from landowner Gran Central Corporation, to provide the necessary right-of-way for the Russian Colony Canal to the south and to comply with the requirements of the Water Control Master Plan for flood protection and water management.

Section 31 Holdings, LLC currently owns the land adjacent to the above-mentioned canal right-of-way and canal maintenance easement in Section 31, Township 52 South and Range 40 East and plans to construct an industrial warehouse subdivision on their land. Therefore, Section 31 Holdings, LLC has requested that the County release via disclaimers the County's interests in a 596 foot long portion of the existing 55 foot wide canal right-of-way and a 585.88 foot long portion of the existing 25 foot wide canal maintenance easement.

In consideration of this request, the County has determined that the requested portions of the existing canal, canal right-of-way and canal maintenance easement can be released. However, the Florida Department of Transportation currently has a drainage pipe that discharges to the canal that would need to be modified, but the developer's proposed plans to modify the outfall have not yet been approved by the Florida Department of Transportation. Therefore, in consultation with the Florida Department of Transportation, the attached resolution would authorize the release of portions of the canal right-of-way and the canal maintenance easement by County disclaimers, provided that the Florida Department of Transportation files a consent to these disclaimers with the Clerk of the Board within 45 days. This resolution would not become effective unless that consent is filed with the Clerk of the Board, and the attached disclaimers would be executed after the effective date of this resolution.

Following the release of the portions of the canal right-of-way and the canal maintenance easement by the County, Section 31 Holdings, LLC may need to pursue further releases from the South Florida Water Management District and/or other agencies or entities, as appropriate.

Jack Osterholt, Deputy Mayor

Attached instruments of conveyance:

Attachment A: Miami-Dade County, Florida, Disclaimer of canal right-of-way

Attachment B: Miami-Dade County, Florida, Disclaimer of canal maintenance easement

MEMORANDUM

(Revised)

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

DATE: July 15, 2014

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

SUBJECT: Agenda Item No. 14(A)(9)

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. 14(A)(9)
7-15-14

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE RELEASE OF A PORTION OF A CANAL RIGHT-OF-WAY AND A PORTION OF A CANAL MAINTENANCE EASEMENT IN SECTION 31, TOWNSHIP 52 SOUTH AND RANGE 40 EAST IN MIAMI-DADE COUNTY

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

WHEREAS, Section 31 Holdings, LLC is the owner of the property in Section 31, Township 52 South and Range 40 East which is adjacent to a canal right-of-way and canal maintenance easement used for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, Section 31 Holdings, LLC is the owner of the above referenced property which is located east of the Snapper Creek Extension Canal in the vicinity of NW 106 Street and the proposed NW 112 Avenue in Miami-Dade County; and

WHEREAS, Section 31 Holdings, LLC plans to develop the property and has requested that the County release via disclaimer a portion of the existing 55 foot wide canal right-of-way and a portion of the existing 25 foot wide canal maintenance easement, having a total of 1.07 acres, along the south line of Section 31, Township 52 South and Range 40 East; and

WHEREAS, in consideration of this and on behalf of Miami-Dade County, the Department of Regulatory and Economic Resources has determined that a portion of the existing canal right-of-way and a portion of the canal maintenance easement is no longer needed by the County and can be released, provided that the Florida Department of Transportation has resolved its concerns.

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

Section 1. This Board authorizes the Mayor or the Mayor's designee to execute the attached Miami-Dade County disclaimers, in substantially the form attached hereto, on or after the effective date of this Resolution. As stated in the Mayor's memorandum, said disclaimers are for the release of the County's interest in a portion of the existing 55 foot wide canal right-of-way, as indicated in Exhibit A to Attachment 1, and a portion of the existing 25 foot wide canal maintenance easement, as indicated in Exhibit A to Attachment 2.

Section 2. Pursuant to Resolution No. R-974-09, the Board directs the Mayor or the Mayor's designee to record the instruments of conveyance accepted herein in the Public Records of Miami-Dade County, Florida; and to provide recorded copies of the instruments to the Clerk of the Board within thirty (30) days of execution of said instruments; and directs the Clerk of the Board to attach and permanently store recorded copies together with this resolution.

Section 3. This Resolution shall not be effective unless, within 45 days of approval by the Board, the Florida Department of Transportation files a consent to this Resolution with the Clerk of the Board that is approved by the Office of the County Attorney as to legal sufficiency.

Section 4. If the Clerk of the Board has not received such consent from the Florida Department of Transportation within 45 days of the approval of this Resolution by the Board, then this Resolution shall sunset and shall be null and void.

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	

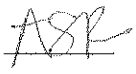
The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of July, 2014. This resolution shall become effective when the conditions set forth in Section 3 are met, unless vetoed by the Mayor within 10 days of the Board's approval of this Resolution, and if vetoed, shall become effective after override by the Board and the conditions in Section 3 are met.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell

ATTACHMENT 1

W.C. 892
1

MIAMI-DADE COUNTY, FLORIDA, DISCLAIMER

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

SEE EXHIBIT A

WHEREAS, the Gran Central Corporation, a Florida Corporation by Special Warranty Deed dated January 9, 1989 recorded in Official Records Book 14076 at Page 3920 of the Public Records of Miami-Dade County, Florida, conveyed, assigned, set over and granted to Miami-Dade County a canal right-of-way, upon the above described land; and

WHEREAS, the aforesaid portion canal right-of-way upon the said above described lands are not now needed by MIAMI-DADE COUNTY for canal purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned canal right-of-way by virtue of the said Special Warranty Deed dated January 9, 1989 recorded in Official Records Book 14076 at Page 3920 of the Public Records of Public Records of Miami-Dade County, Florida.

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

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

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

Print:_____

By: _____
Carlos A. Gimenez, Mayor

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

NOTARY PUBLIC:

Sign _____

Print _____
STATE OF FLORIDA at large
(Seal)

My commission expires:_____

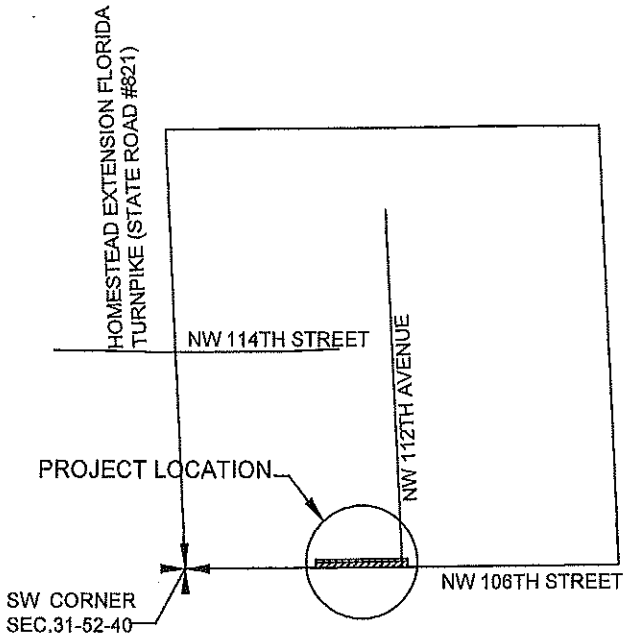
This instrument was prepared by:
Carlos A. Calvache of Miami-Dade County
Department of Regulatory and Economic Resources
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136

EXHIBIT A

A PORTION OF SECTION 31, TOWNSHIP 52 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE N89°32'18"E, AS BASIS OF BEARING ALONG THE SOUTH LINE OF SAID SECTION 31, FOR A DISTANCE OF 2100.00 FEET; TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE N00°27'42"W FOR A DISTANCE OF 55.00 FEET; THENCE N89°32'18"E ALONG A LINE 55.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 31 FOR A DISTANCE OF 586.82 FEET; THENCE S02°38'02"E FOR A DISTANCE OF 28.75 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, A RADIAL LINE TO SAID POINT BEARS S87°22'13"W; THENCE 27.81 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 53.33 FEET AND A CENTRAL ANGLE OF 29°52'15" TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID SECTION 31, ALSO BEING A POINT OF INTERSECTION WITH A NON-TANGENT LINE, A RADIAL LINE TO SAID POINT BEARS S57°29'57"W; THENCE S89°32'18"W ALONG SAID SOUTH SECTION LINE FOR A DISTANCE OF 596.00 FEET TO THE POINT OF BEGINNING

CONTAINING 32,393 SQUARE FEET OR 0.74 ACRES, MORE OR LESS

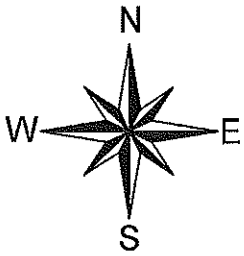


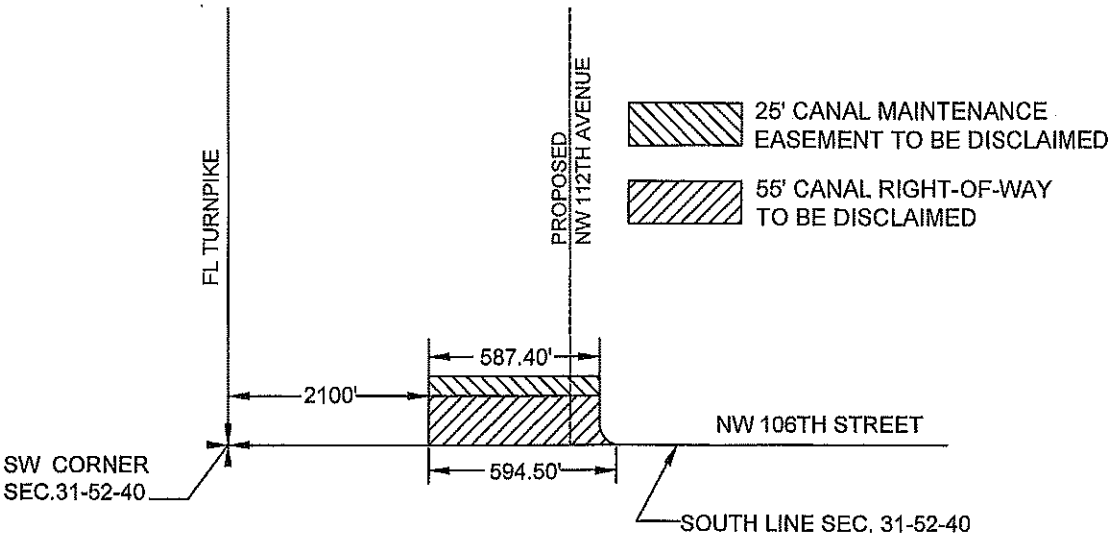
WC - 892

SEC.31

TWP.52

RGE.40





NOT TO SCALE

W.C. 892
1

MIAMI-DADE COUNTY, FLORIDA, DISCLAIMER

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

SEE EXHIBIT A

WHEREAS, the Gran Central Corporation, a Florida Corporation by Easement dated January 9, 1989 recorded in Official Records Book 14076 at Page 3923 of the Public Records of Miami-Dade County, Florida, conveyed, assigned, set over and granted to Miami-Dade County an easement for canal maintenance, upon the above described land; and

WHEREAS, the aforesaid portion canal maintenance easement upon the said above described lands are not now needed by MIAMI-DADE COUNTY for canal purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned canal maintenance easement by virtue of the said Easement dated January 9, 1989 recorded in Official Records Book 14076 at Page 3923 of the Public Records of Public Records of Miami-Dade County, Florida.

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

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

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

Print:_____

By: _____
Carlos A. Gimenez, Mayor

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

NOTARY PUBLIC:

Sign _____

Print _____
STATE OF FLORIDA at large
(Seal)

My commission expires:_____

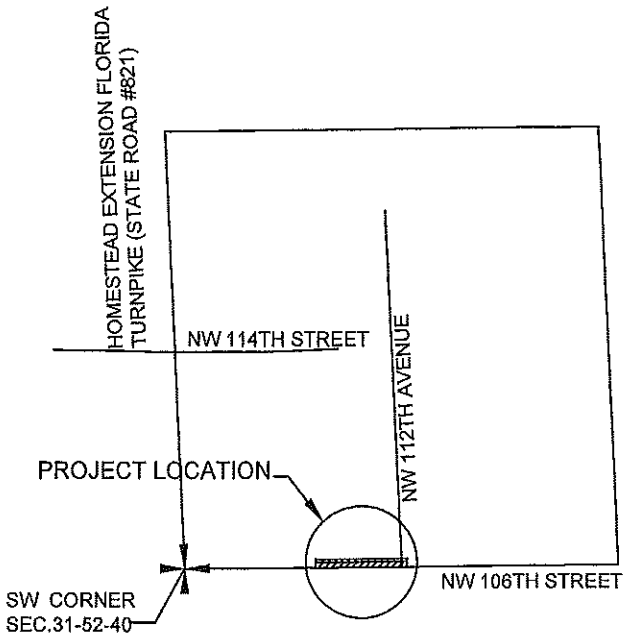
This instrument was prepared by:
Carlos A. Calvache of Miami-Dade County
Department of Regulatory and Economic Resources
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136

EXHIBIT A

A PORTION OF SECTION 31, TOWNSHIP 52 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE N89°32'18"E, AS BASIS OF BEARING ALONG THE SOUTH LINE OF SAID SECTION 31, FOR A DISTANCE OF 2100.00 FEET; THENCE N00°27'42"W FOR A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE N00°27'42"W FOR A DISTANCE OF 25.00 FEET; THENCE N89°32'18"E ALONG A LINE 80.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 31 FOR A DISTANCE OF 585.88 FEET; THENCE S02°38'02"E FOR A DISTANCE OF 25.02 FEET; THENCE S89°32'18"W ALONG A LINE 55.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 31 FOR A DISTANCE OF 586.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,657 SQUARE FEET OR 0.34 ACRES, MORE OR LESS

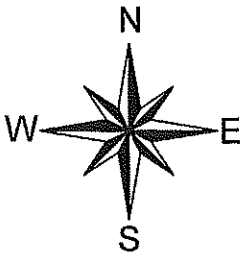


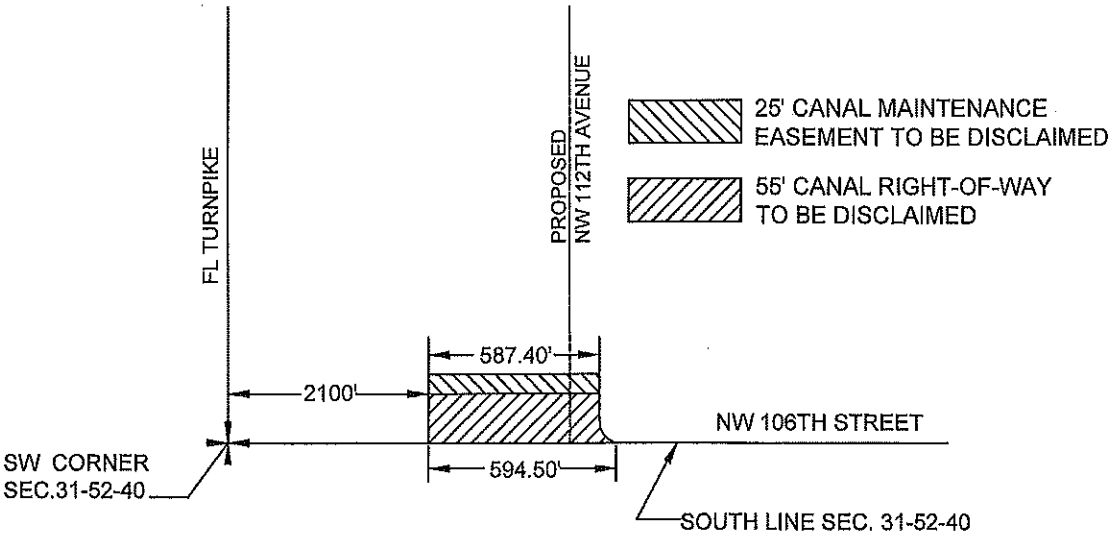
WC - 892

SEC.31

TWP.52

RGE.40





NOT TO SCALE