OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: March 3, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(M)(1)(A)

Resolution No. R-183-09

Subject: Matheson Hammock Park Sign Maintenance Agreement with the City of Coral Gables

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Recommendation
It is recommended that the Board approve the attached resolution authorizing the execution of a Maintenance Agreement with the City of Coral Gables for a sign at the entrance of Matheson Hammock Park.

Scope
Matheson Hammock Park is located at 9610 Old Cutler Road, Coral Gables, Florida, in Commission District 7.

Fiscal Impact/Funding Source
This agreement does not create any unique financial impact to Miami-Dade County (MDC). The Park and Recreation Department (MDPR) will fabricate, install and maintain the sign as it does for any MDC park sign.

Track Record/Monitor
The Planning and Development Division of MDPR will fabricate and install the sign and be responsible for any maintenance required.

Background
The agreement allows MDPR to install a double-sided, sandblasted, non-illuminated free standing sign in the right of way at the entrance of Matheson Hammock Park and commits MDPR to maintaining the sign. Since the sign is in the right of way of the City of Coral Gables, the City requires the owner to take responsibility.

The City approved the request to install the sign subject to a restrictive covenant in the form of a maintenance agreement required for any sign placed within the right of way within its jurisdiction (Attachment A). The sign has also been reviewed and approved by the City of Coral Gables Historical Resources Department (Attachment B).

Attachments

Alex Muñoz
Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: March 3, 2009

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

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

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Mayor's written recommendation**

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

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(1)(A)
3-3-09

RESOLUTION NO. **R-183-09**

RESOLUTION APPROVING A MAINTENANCE AGREEMENT WITH THE CITY OF CORAL GABLES FOR A SIGN AT THE ENTRANCE OF MATHESON HAMMOCK PARK AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF 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, the County, through its Park and Recreation Department, is installing a new sign at Matheson Hammock Park; and

WHEREAS, the City of Coral Gables, by Resolution No. 2007-266 (Attachment A), has approved the request to install this sign subject to a restrictive covenant in the form of a maintenance agreement required for any sign placed within the right of way within its jurisdiction; and

WHEREAS, the sign has also been reviewed and approved by the City of Coral Gables Historical Resources Department (Attachment B),

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves a Maintenance Agreement with the City of Coral Gables for a double-sided, non illuminated sign in the right of way at the entrance of Matheson Hammock Park in substantially the form attached hereto (Attachment C) and made a part hereof, and authorizes the County Mayor to take appropriate actions to accomplish same; and authorizes the County Mayor or County Mayor's designee to execute the Maintenance

Agreement, same for and on behalf of Miami-Dade County, upon approval by the County Attorney's Office.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman **aye**
Jose "Pepe" Diaz, Vice-Chairman **aye**

Bruno A. Barreiro	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Joe A. Martinez	**absent**
Dorrin D. Rolle	**aye**	Natacha Seijas	**absent**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of March, 2009. 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: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Martin W. Sybblis

MAINTENANCE AGREEMENT

THIS MAINTENANCE AGREEMENT, made and entered into this _____ day of _____, 2008, by and between the CITY OF CORAL GABLES, a municipal corporation of the State of Florida, (hereinafter called the "CITY"), and MIAMI DADE COUNTY, a political subdivision of the State of Florida (hereinafter called the "COUNTY").

1. STATEMENT OF BACKGROUND AND PURPOSE:

1. The CITY is the fee title owner of certain rights-of-way located in the City of Coral Gables, Miami-Dade County, Florida, which property is more particularly described as the entrance of Matheson Hammock Park, 9610 Old Cutler Road, Coral Gables, Florida; and
2. The COUNTY wishes to place a double-sided, sandblasted, non illuminated, free-standing sign as described in Exhibit "A"; and
3. The COUNTY is requesting that the CITY approve the installation of the sign at the entrance to Matheson Hammock Park, which the COUNTY recognizes may subject the CITY to certain liabilities. As consideration for the CITY taking such actions, the COUNTY is entering into this Maintenance Agreement. By entering into this Agreement, the COUNTY agrees that sufficient consideration exists to bind it to this Agreement and, should a dispute between the parties arise concerning this Agreement, the COUNTY agrees not to contest the adequacy or legality of the consideration. To the extent permitted by law, the COUNTY also waives any argument as to the enforceability of this agreement based on an argument that this Maintenance Agreement is illegal, void or contrary to public policy; and

4. The CITY will allow these improvements only if the COUNTY will agree:

i. to maintain the proposed encroachment, more fully described in Exhibit A (the "Proposed Encroachment"), in good repair at all times, and at the COUNTY's expense;

ii. that the design and construction of facilities improvement or alterations shall be owned by the COUNTY, but conform to the CITY's standards and regulations. The CITY shall have the right, but not the obligation to make engineering inspections of all the construction work performed by the COUNTY under the terms of this Agreement. Such inspections shall not be construed to constitute any guarantee on the part of the CITY as to the quality and condition of materials and workmanship. Any inspections by the CITY shall not relieve the COUNTY of any responsibility for proper construction of said sign in accordance with approved plans and specifications. Furthermore, any inspections by the CITY shall not relieve the COUNTY of any responsibility for the quality and condition of materials and workmanship;

iii. that the COUNTY shall be fully responsible for obtaining all required approvals from all appropriate governmental and regulatory agencies and all necessary permits for all facilities contemplated in this Agreement;

iv. that certain federal, state and county agencies may require that CITY be named as permittee for certain construction activities even though the COUNTY's contractor will actually perform the work. To insure that the CITY will incur no costs or liability as a result of being named permittee on such

permits, the COUNTY shall ensure that its contractor obtains insurance of a type and in an amount reasonably satisfactory to the City.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. The foregoing statement of background and purpose is incorporated herein in its entirety.

2. The COUNTY hereby agrees that it shall be responsible for the maintenance of the sign as approved by the City Commission of the City of Coral Gables pursuant to Resolution No. 2007-266, which provides in pertinent part:

   A. That the Proposed Encroachment be approved by the Public Works Department and permits thereafter be obtained from that Department;

   B. That the COUNTY maintain the Proposed Encroachment in good condition at all times, at its expense;

   C. That the COUNTY replace the Proposed Encroachment at its expense in the event the Public Works Department must issue a permit for utility cut in that area;

   D. That the Proposed Encroachment shall be constructed in accordance with the Florida Building Code, and all other pertinent codes;

   E. That the COUNTY reserve unto the CITY the right to remove, add, maintain or have the COUNTY remove any improvements to the Proposed Encroachment within the right-of-way, at the COUNTY's expense;

   F. To the extent permitted by applicable law, the COUNTY saves the CITY harmless against claims against the CITY resulting from the negligent acts or

omissions of the COUNTY;

G. That the Proposed Encroachment is approved pending Florida Department of State, Division of Historical Resources and Miami-Dade County Public Works Department approvals.

2. The COUNTY shall give the CITY thirty (30) days prior written notice of its intention to remove all or any part of said improvements and propose the replacement material therefore, and the CITY shall within ten (10) days from the receipt of said notice either approve the plan as submitted or designate both the items to remain and/or an alternate material acceptable to the CITY, the cost of which shall not exceed the cost of sod, and upon the completion of the removal and replacement so designated, the COUNTY shall be released from all duties and liabilities hereunder related to the items covered in the above notice. All work shall be preceded by the required permits being obtained from the CITY by the COUNTY, or its qualified agent.

3. **HOLD HARMLESS and INDEMNIFICATION**

A. The COUNTY shall indemnify and hold harmless and defend the City of Coral Gables, its employees, the administration and members of the City Commission against all suits, actions, claims, costs or demands (including, without limitation, suits, actions, claims, costs or demands resulting from death, personal injury and property damage) to which the City, its employees or Commission may be subject or part of by reason of damage or injury (including death) to the property or person of any one other than the employees, or City Commission of the City of Coral Gables, arising or resulting in whole or in part from the City's permission to allow a double-sided, sandblasted, non-illuminated, free-standing sign to encroach over public right of way adjacent to their property described herein. Provided,

however, this indemnification and hold harmless shall not apply to the extent such suits, actions, claims, costs or demands are attributable to the negligence or other wrongful misconduct of the City of Coral Gables or its employees. Provided, however, that regardless of whether any such obligations are based on tort, contract, statute, strict liability, negligence, product liability or otherwise, the obligations of the COUNTY under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to Section 768.28 Florida Statutes, as that section, or its replacement statute, existed at the time of the incident or occurrence that gave rise to such suits, actions, claims, costs or demands.

Subject to the provisions of Section 768.28, the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of $100,000, or any claim or judgment or portions thereof, which, when totaled with all other claims or judgment paid by the County arising out of the same incident or occurrence, exceed the sum of $200,000 from any and all person injury or property damage claims, liabilities, losses, or causes of action which may arise as a result of the negligence of the County.

Upon the COUNTY's discontinuing use of said right-of-way, the COUNTY must provide written notice sent by receipted delivery to the CITY that they will be discontinuing the use of the right of way. The right of way must be returned to the City in its original condition, at the sole expense of the COUNTY, and any cost incurred by the CITY to enforce this provision of the agreement shall be the sole responsibility of the COUNTY. This Maintenance Agreement shall terminate and become null and void upon written

confirmation from the CITY that notice has been received from the COUNTY and that the right of way has been returned to the CITY in its original condition. This written confirmation to the COUNTY shall not be unreasonably withheld.

4. **INSURANCE**

The COUNTY agrees to maintain through the term of this agreement, a liability insurance policy or a self-insurance program subject to the limitations and liabilities imposed by Sec. 768.28, Florida Statutes (2007) and evidence such coverage of same to the Risk Management Division and the Office of the City Attorney, prior to the commencement of operations.

5. **NOTICE**

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service or by registered mail addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

In the case of notice or communication to the CITY:

The City of Coral Gables
Office of the City Manager
405 Biltmore Way
Coral Gables, Florida 33134
(305) 460- 5218

In the case of notice or communication to the COUNTY:

Chief, Construction and Maintenance Division
Department of Park and Recreation
Miami-Dade County
11395 S.W. 79th Street
Miami, FL 33173
(305) 596-4460, ext. 222

6. FORCE MAJEURE

Should either party be prevented from performing any obligations herein, including but not limited to water service, due to or resulting from a force majeure or inevitable accident or occurrence, such party shall be excused from performance. As used herein, force majeure shall mean an act of God which includes but is not limited to: sudden, unexpected or extraordinary forces of nature such as floods, washouts, storms, hurricanes, fires, earthquakes, landslides, epidemics, explosions or other forces of nature. Inevitable accidents or occurrences shall mean those which are un-preventable by either party and shall include but not be limited to: strikes, lockouts, other industrial disturbances, wars, blockades, acts of public enemies, insurrections, riots, federal, state, county and local governmental restraints and restrictions, military action, civil disturbances, explosions, conditions in federal, state, county and local permits, bid protests, manufacturing and delivery delays, unknown or unanticipated soil, water or ground conditions and cave-ins, or otherwise, and other causes reasonable beyond the control of either party, whether or not specifically enumerated herein.

7. AMENDMENTS

The CITY and the COUNTY, by mutual agreement, shall have the right, but not the

obligation, to amend this Agreement. Any and all amendments shall be effective only if in writing and signed by the CITY and the COUNTY and shall be incorporated as part of this Agreement.

8. **CONSTRUCTION OF AGREEMENT**

This Agreement shall be construed and enforced according to the laws of the State of Florida.

9. **SEVERABILITY**

In the event any paragraph, clause or sentence of this Agreement or any future amendment is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the subject Agreement and the balance of the Agreement shall not be affected by the deletion thereof.

10. **COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS**

All parties hereby agree to comply with all applicable laws, ordinances and codes of Federal, State and Local Governments, including the Americans with Disabilities Act, as applied to this Agreement.

12. **WAIVER**

No waiver of any provision hereof shall be deemed to have been made unless such waiver is in writing and signed by the CITY and the COUNTY. The failure of any party to insist upon strict performance of any of the provisions or conditions of this Agreement shall not be construed as waiving or relinquishing any such covenants or conditions, but the same shall continue and remain in full force and effect.

13. **ASSIGNMENT OF AGREEMENT**

This Agreement shall not be transferred, assigned or otherwise conveyed to any other party without the express written consent of the CITY or its designee.

14. **ENTIRE AGREEMENT**

This Agreement represents the entire agreement between the parties.

15. **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

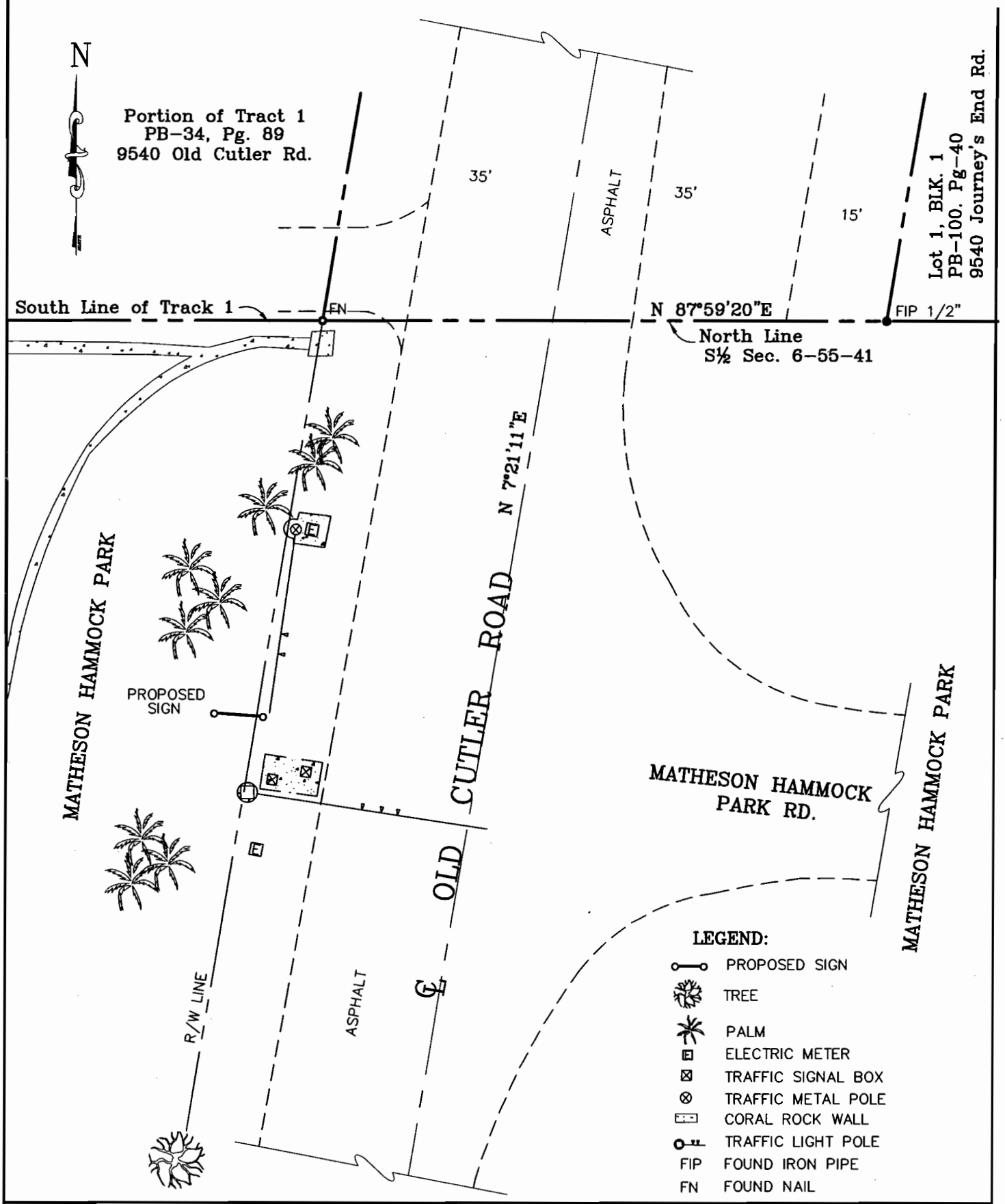
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written.

Exhibit "A"

LOCATION DESCRIPTION FOR MATHESON HAMMOCK PARK SIGN

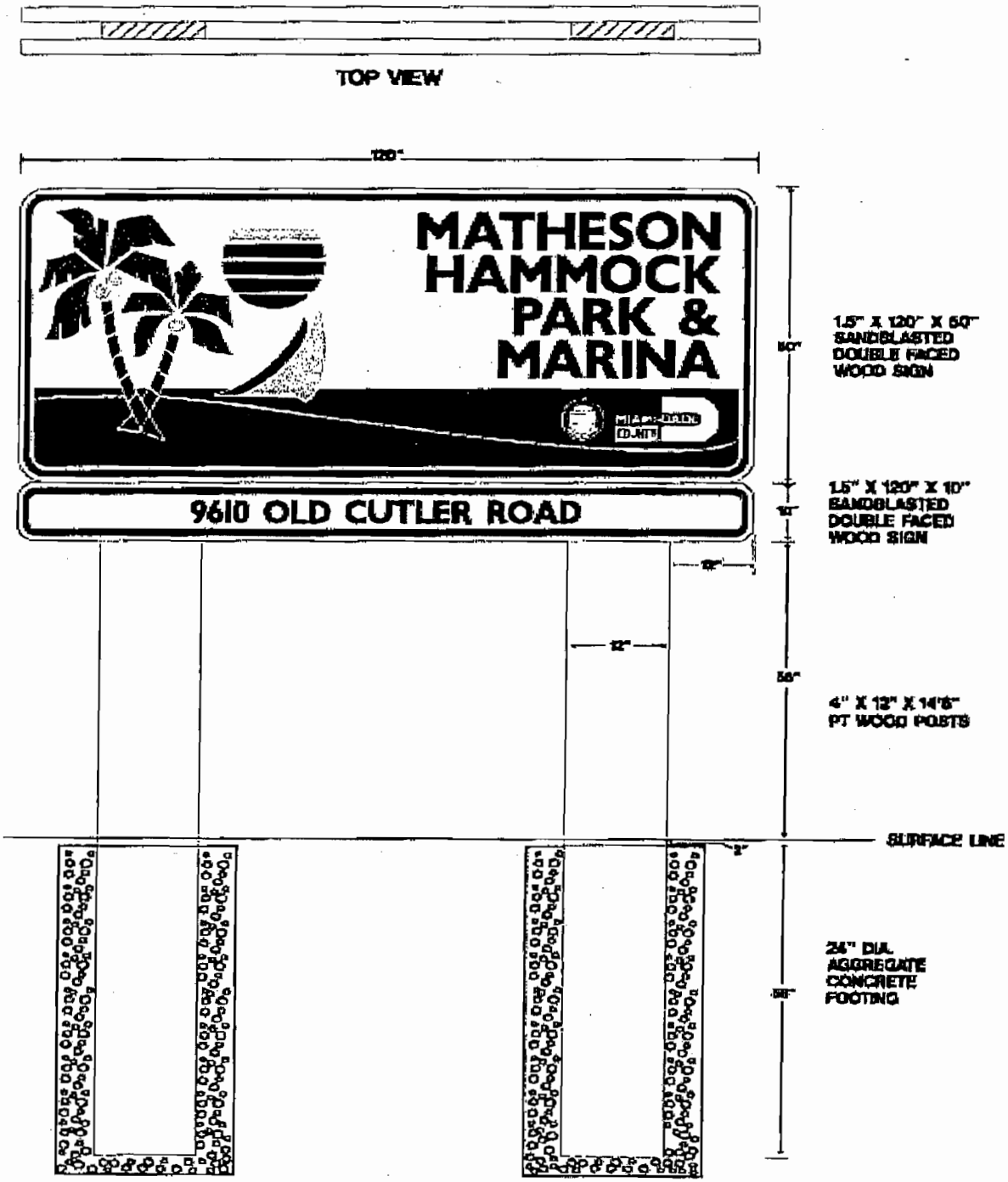
A 10 feet long, east-west aligned, sign over the westerly right-of-way of Old Cutler Road and in front of the entrance to Matheson Hammock Park and Marina. The center of said sign lies 60.0 feet South of the South line of Tract 1, of the Amended Plat of Journey's End, as recorded in Plat Book 34, at Page 89, of the Public Record of Miami-Dade County, Florida, this line also being the North line of the South Half (S ½) of Section 6-55-41; and lies 37.2 feet Westerly, at right angle, to the center line of said Old Cutler Road, as appear on Miami-Dade County Right-of-Way Map.

Exhibit A-1



SKETCH TO ACCOMPANY DESCRIPTION

SCALE: 1"=20'	ENGINEERING DIVISION DEPARTMENT OF PUBLIC WORKS	DATE: 3/12/2008
APP'D: J.M.		SHEET: 1 OF 1
DRAWN BY: MEM	CITY OF CORAL GABLES, FLORIDA 15	FILE: 2300-87M


TOP VIEW
120"
MATHESON
HAMMOCK
PARK &
MARINA
9610 OLD CUTLER ROAD
1.5" X 120" X 50"
SANDBLASTED
DOUBLE FACED
WOOD SIGN
1.5" X 120" X 10"
SANDBLASTED
DOUBLE FACED
WOOD SIGN
12"
4" X 12" X 14'6"
PT WOOD POSTS
SURFACE LINE
24" DIA.
AGGREGATE
CONCRETE
FOOTING

NOT TO SCALE

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2007-266

A RESOLUTION AUTHORIZING INSTALLATION OF A DOUBLE-SIDED, SANDBLASTED, NON-ILLUMINATED FREE-STANDING SIGN AT THE ENTRANCE OF MATHESON HAMMOCK PARK, 9610 OLD CUTLER ROAD, CORAL GABLES, FLORIDA; SUBJECT TO THE REQUIREMENTS OF THE PUBLIC WORKS DEPARTMENT.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. That the request to install a double-sided, sandblasted, non-illuminated, free-standing sign at the entrance of Matheson Hammock Park, 9610 Old Cutler Road, Coral Gables, Florida, shall be and it is hereby approved, subject to the following requirements of the Public Works Department:

a. That the City of Coral Gables reserves the right to remove, add, maintain, or have the Miami- Dade County remove any of the improvements within the right-of-way, and at Miami-Dade County's expense.

b. That the Miami-Dade County maintains the proposed encroachment in good condition at all times, and at Owner's expense.

c. That the Miami-Dade County meet with the City Attorney's office for the purpose of providing all the information necessary for that office to prepare a Restrictive Covenant to be executed by the Association, and which states, in addition to the above mentioned, that the Miami Dade County will provide Public Liability Insurance coverage for the encroachment in the minimum limits required by the City, and naming the City as an additional insured under the policy.

d. That copies of the Restrictive covenant, when fully executed and filed, together with certification of required insurance, shall be presented to the Public Works Department and permits thereafter be obtained from this Department.

e. That the proposed encroachment be approved pending Florida Department of State, Division of Historical Resources and Miami-Dade County Public Works Department approvals.

f. That the proposed encroachments be constructed in accordance with the Florida Building Code and all other pertinent Codes.

g. That in the event the Public Works Department must issue a permit for a utility cut in the future in the area in which the encroachments are approved, then Miami Dade County shall replace the proposed encroachments so cut by the utility at the Miami Dade County's expense.

SECTION 2. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS ELEVENTH DAY OF DECEMBER, A.D., 2007.
(Moved: Withers/ Seconded: Anderson)
(Yeas: Withes, Anderson, Kerdyk, Slesnick)
(Absent: Cabrera)
(Agenda Item: D-6)

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY

Attachment B

The City of Coral Gables

Historical Resources Department

July 21, 2008

Miami-Dade County Parks and Recreation
275 NW 2 Street
4th Floor
Miami, Florida 33128

Re: Certificate of Appropriateness
Freestanding Sign at Matheson Hammock

Dear Sirs:

This letter is to confirm the results of the review by the Historical Resources Department. On February 28, 2007 an application for a Standard Certificate of Appropriateness was approved by the Historical Resources Department for the installation of a freestanding sign on the property at 9610 Old Cutler Road (Matheson Hammock), a local historic landmark. Because the work does not significantly alter the character of the existing historic property, the matter was deemed appropriate for administrative review.

The proposed work does not destroy or detract from the integrity of the historic site, and is minimal in impact, which is entirely consistent with the Secretary of the Interior's Standards for Rehabilitation. Therefore, a Standard Certificate of Appropriateness is issued.

Should you have any questions regarding this matter please do not hesitate to contact this office.

Sincerely,

Kara Kautz

Kara N. Kautz
Historic Preservation Officer

Encl.

cc: File COA (ST) 2007-13
Chairman, Historic Preservation Board
Walter Foeman, City Clerk
Ed Weller, Interim Building and Zoning Director
Martha Salazar-Blanco, Zoning Administrator
Virginia Goizueta, Plans Coordinator

P.O. Box 141549 Coral Gables, Florida 33114-1549 Phone (305) 460-5093 Fax (305) 460-5097