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

Memorandum

MIAMI-DADE COUNTY

Date: October 6, 2009

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

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

From: George M. Burgess
County Manager

Resolution No. R-1165-09

Subject: Resolution authorizing execution of an agreement with the City of Hialeah and AMB I-75 LLC providing for the temporary release of a portion of Miami-Dade Water and Sewer Department's water and sewer service areas to the City of Hialeah to provide water and sewer service for the proposed AMB I-75 LLC Project

---

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of an agreement with the City of Hialeah and AMB I-75 LLC (AMB). The agreement provides for the temporary release of a portion of Miami-Dade Water and Sewer Department's (WASD) water and sewer service areas to the City of Hialeah to provide water and sewer service for AMB's proposed project.

SCOPE OF AGENDA ITEM

The agenda item is for the temporary release of WASD's water and sewer service areas in Commission District 12.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County.

TRACK RECORD/MONITOR

WASD's Chief of Intergovernmental Affairs Section will monitor the agreement.

BACKGROUND

AMB owns several properties it is planning to develop north of the newly annexed area by the City of Hialeah west of I-75, east of NW 97 Avenue, and north of NW 170 Street, see Exhibit A. The properties are within WASD's water and sewer service area, however, there are no water and sewer facilities in the area at this time. This agreement will provide a temporary release of a portion of WASD's water and sewer service areas to the City of Hialeah until WASD installs water and sewer infrastructure to serve the area.

AMB will design and install the infrastructure for the area indicated in Exhibit A in accordance with WASD's General Standards subject to inspection by WASD and the City of Hialeah. A 16-inch water main will be constructed north of NW 170 Street along NW 97 Avenue ending at AMB's north property line and a 36-inch water main will be constructed along NW 170 Street to AMB's east property line, see Exhibit B-1. Both water facilities will be conveyed to WASD upon completion. On the sewer side, a 16-inch force main will be constructed along NW 170 Street to a connection point of AMB's private force main and pump station, please see Exhibit B-2. The sewer force main will be conveyed to WASD upon completion.

This temporary release agreement will terminate after WASD installs the water and sewer infrastructure to serve the AMB project.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: October 6, 2009

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

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

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 Manager'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**

2

Approved _____ Mayor

Veto _____

Override _____

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

10-6-09

RESOLUTION NO. **R-1165-09**

RESOLUTION APPROVING EXECUTION OF A CONTRACT WITH THE CITY OF HIALEAH AND AMB I-75 LLC FOR THE TEMPORARY RELEASE OF A PORTION OF MIAMI-DADE WATER AND SEWER DEPARTMENT'S WATER AND SEWER SERVICE AREAS

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the execution of the contract with the City of Hialeah for the temporary release of a portion of Miami-Dade Water and Sewer Department's water and sewer service areas in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor or Mayor's designee to execute same for and on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** 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	**aye**
Dorrin D. Rolle	**aye**	Natacha Seijas	**absent**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency:

Henry N. Gillman

CONTRACT
BETWEEN
MIAMI-DADE COUNTY
AND
THE CITY OF HIALEAH
AND
AMB I-75 LLC
FOR
THE TEMPORARY RELEASE OF A PORTION OF MIAMI-DADE WATER AND SEWER DEPARTMENT'S WATER AND SEWER SERVICE AREAS

THIS CONTRACT, made and entered into this ____ day of _____, 2009, between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY", and the City of Hialeah, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as the "CITY", and AMB I-75 LLC, a limited liability corporation organized under the laws of the State of Delaware, hereinafter referred to as "AMB".

W I T N E S S E T H:

WHEREAS, County Ordinance 89-15 established the Miami-Dade Water and Sewer Authority's water and sewer service areas; and

WHEREAS, the Miami-Dade Water and Sewer Department, hereinafter referred to as "Department", is the successor to the Miami-Dade Water and Sewer Authority; and

WHEREAS, the Department operates and maintains the COUNTY's water and sewer facilities in the Department's water and sewer service areas; and

WHEREAS, the Department currently owns the water and sewer service areas for the properties located west of the I-75 Extension, north of N.W. 170th Street, and southeast of the Florida Turnpike Extension, hereinafter referred to as the "Water and Sewer Service Areas"; and

WHEREAS, AMB owns certain properties within the area described in the paragraph immediately above, hereinafter referred to as the "AMB Property"; and

WHEREAS, AMB requires water and sewer service by December 2009 or as soon as practical thereafter in order to provide water and sewer service to the AMB Property; and

WHEREAS, the Department will not have water and sewer infrastructure in the Water and Sewer Service Areas by December 2009 or immediately thereafter; and

WHEREAS, the CITY owns and operates water and sewer infrastructure located at N.W. 154th Street and N.W. 97th Avenue that can be extended to provide water and sewer service to the AMB Property by December 2009 or as soon as practical thereafter; and

WHEREAS, AMB has requested and the CITY has agreed to allow AMB at AMB's sole cost and expense to install the water and sewer infrastructure from the existing CITY water and sewer mains to temporarily serve the AMB Property and other adjacent properties within CITY limits; and

WHEREAS, the Department agrees to temporarily release the AMB Property from the Water and Sewer Service Areas to the CITY until the Department has water and sewer

S

infrastructure installed and operational with enough capacity to serve the AMB Property at the above stated location; and

WHEREAS, the COUNTY, the CITY, and AMB agree to enter into this Contract for a temporary release of the AMB Property from the Department's Water and Sewer Service Areas so AMB can receive water and sewer service expeditiously, and to provide for the Department to regain the AMB Property into the Water and Sewer Service Areas from the CITY.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth, the COUNTY, CITY and AMB agree as follows:

1. The Department hereby temporarily releases the AMB Property from the Water and Sewer Service Areas to the CITY, as shown and legally described on Exhibit "A" and known as Release No. 09-290.

2. The Department shall allow the CITY to install a CITY water meter on the Department owned water facilities north of N.W. 170th Street until such time as the Department provides written notice to the CITY that the Department can serve the AMB Property from its water facilities. The CITY shall be responsible for reading the meter, billing and collecting applicable charges from AMB for retail water and sewer service for the duration of the temporary release of the AMB Property from the Water and Sewer Service Areas.

3. The CITY acknowledges and agrees that the AMB Property will be disconnected concurrently from the CITY water and sewer facilities at such time as the Department's water and sewer facilities are installed and operational within 30 days of receipt of written notification to the CITY by the COUNTY, although it is acknowledged by the parties that the water and sewer facilities directly connecting to the CITY facilities will be COUNTY water and sewer facilities abutting the geographic boundaries of the AMB Property at N.W. 97th Avenue and N.W. 170th Street.

4. AMB agrees to comply with the following conditions:

   A. The design and construction of all water and sewer facilities to be installed within the temporarily released Water and Sewer Service Areas must conform to the Department's General Standards and be approved by the Department. Furthermore, the water and sewer facilities shall be designed in such a manner that the facilities can be disconnected from the CITY's water and sewer facilities at N.W. 170th Street and N.W. 97th Avenue and be reconnected to the Department's water and sewer facilities when such facilities are installed and operational. The Department and the CITY shall inspect the construction of said water and sewer facilities and shall perform the final inspection and approval of water and sewer facilities installed within the temporarily released Water and Sewer Service Areas.

   B. It shall be the responsibility of AMB to obtain all required approvals from government entities including, but not limited to, the Miami-Dade County Fire Department (Water Supply and Fire Engineering Bureau) and Department of Environmental Resources Management, the City of Hialeah Department of Water and Sewers, and Building and Fire Departments.

   C. Water Facilities: AMB shall extend the existing CITY-owned 16-inch water main north along N.W. 97th Avenue from N.W. 154th Street to the north side of N.W. 170th Street, as depicted in the plans attached hereto as Exhibit "B-1." This area between N.W. 154th Street and N.W. 170th Street is within the jurisdiction of the CITY, and that

portion of the 16-inch water main shall be conveyed to the CITY upon final inspection and approval of the water facilities. AMB shall then extend said 16-inch water line from N.W. 170th Street to AMB's north property line as delineated in the plans attached as Exhibit "B-1." The area between N.W. 170th Street and AMB's north property line is within the Water and Sewer Service Areas, and that portion of the 16-inch water main shall be conveyed to the Department upon final inspection and approval of the water facilities.

AMB shall also extend two (2) water mains east along N.W. 170th Street to AMB's east property line. One water main shall be a 16-inch water main to be constructed south of the centerline of N.W. 170th Street, as depicted in the plans attached hereto as Exhibit "B-1" or as permitted. This 16-inch water main shall be conveyed to the CITY upon final inspection and approval. AMB shall also construct a 36-inch water main north of the centerline of N.W. 170th Street, as depicted in the plans attached hereto as Exhibit "B-1." The 36-inch water main shall be conveyed to the Department upon final inspection and approval.

Additionally, any water facilities installed within AMB Property to be operated and maintained by the Department shall be conveyed to the Department upon final inspection and approval of the water facilities.

D. Sewer Facilities: AMB shall extend the existing CITY-owned 24-inch sewer force main north along N.W. 97th Avenue from N.W. 154th Street to the north side of N.W 170th Street, as depicted in the plans attached hereto as Exhibit "B-2." This area between N.W. 154th Street and N.W. 170th Street is within the jurisdiction of the CITY, and that portion of the 24-inch force main shall be conveyed to the CITY upon final inspection and approval of the sewer facilities. AMB shall extend from said 24-inch sewer force main a 16-inch sewer force main north from N.W. 170th Street to AMB's site access point along N.W. 97th Avenue, as depicted in the plans attached hereto as Exhibit "B-2." This area between N.W. 170th Street and AMB's site access point is within the Water and Sewer Service Areas, and said 16-inch force main shall be conveyed to the Department upon final inspection and approval of the sewer facilities.

AMB shall install a private collection system and private pump station which will connect to the 16-inch force main north of N.W. 170th Street. AMB shall be responsible for the maintenance of this private pump station.

E. AMB shall pay any water and sewer connection charges that are due to the Department or CITY or both as provided in their respective ordinances.

F. AMB shall also obtain a developer agreement from the Department and the CITY separately which will detail the requirements to install water and sewer facilities which will be conveyed to the Department and the CITY respectively, where applicable, upon completion.

5. This contract shall be governed by and construed according to the laws of the State of Florida. Any and all suits brought by either party shall be instituted and maintained in any court of competent jurisdiction in Miami-Dade County, Florida. In all such suits, the prevailing party shall be entitled to receive costs and reasonable attorney's fees. The amount of such taxable court costs and fees shall be determined by the court in which such actions are brought.

6. No rights pursuant to this contract shall be assignable by the CITY or AMB unless the COUNTY agrees in writing.

7. This Contract shall be and remain in full force and effect until the Department installs water and sanitary sewer infrastructure with sufficient capacity to fully supply water and sanitary sewer service to the AMB Property and water and sewer service to AMB Property is provided by the Department. At that time, this Contract shall terminate and be of no force or effect and the temporary release of the AMB Property from the Water and Sewer Service Areas terminates. Prior to such termination, however, the COUNTY shall give the CITY written notice of the approximate date of which it proposes to terminate this Contract one year prior to such date, though subsequent postponements or extensions of this date shall require only thirty days written notice to the CITY.

8. Prior to the time of termination of this Contract, the Department and the CITY will separate the COUNTY's water and sewer facilities from the CITY's water and sewer facilities at the demarcation sites as shown on Exhibits "B-1 and B-2", respectively, at AMB's expense. At that time, AMB will receive water and sewer service from the Department's water and sewer facilities. In the event the COUNTY and the CITY choose to install a bi-directional water meter at the demarcation site as shown on Exhibit "B-1", AMB shall not be responsible for the cost of the installation, meter or any of the appurtenances thereto.

9. The Parties understand and agree that no Party is an agent, employee, contractor, vendor, representative or partner of any other Party, that (except as expressly set forth in writing) no Party shall owe a fiduciary duty to any other Party, that no Party shall hold itself out as such to third parties and that no Party is capable of binding any other Party to any obligation or liability without the prior written consent of the other Party. Neither the execution and delivery of this Contract, nor consummation of the transactions contemplated hereby, shall create or constitute a partnership, joint venture or any other form of business organization or arrangement among the Parties.

10. All notices required pursuant to this Contract shall be properly given if mailed by United States registered or certified-mail addressed to the party to which notice is to be given at the following respective addresses:

    Miami-Dade County
    c/o John W. Renfrow, P.E., Director
    Miami-Dade Water and Sewer Department
    3071 S.W. 38th Avenue
    Miami, Florida 33146

    City of HIALEAH
    c/o Armando Vidal, P.E., Director
    Department of Water and Sewers
    3700 West 4th Avenue
    Hialeah, Florida 33012

    AMB I-75 LLC
    c/o John R. Morgan, V.P. Development
    3424 Peachtree Road NE
    Suite 125
    Atlanta, Ga. 30326

11. This Contract contains the entire contract of the parties with respect to the subject matter and replaces and supersedes all prior contracts or understandings, oral or written, with respect to such subject matter, and such contracts or understandings are now void and no longer in effect.

12. If any Section of this Contract is found to be null and void, the other Sections shall remain in full force and effect.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in their names and their corporate seals affixed and to all duplicates by their respective officers all as of the day and year above.

ATTEST:

By:_____
Clerk (Seal)

MIAMI-DADE COUNTY

By: _____
County Mayor

ATTEST:

By:_____
Rafael E. Granado (SEAL)
City Clerk

THE CITY OF HIALEAH

By:_____
Julio Robaina
Mayor

ATTEST:

By:_____
AMB I-75 LLC Secretary

AMB I-75 LLC

By:_____
AMB I-75 LLC

Approved as to form and legal sufficiency:

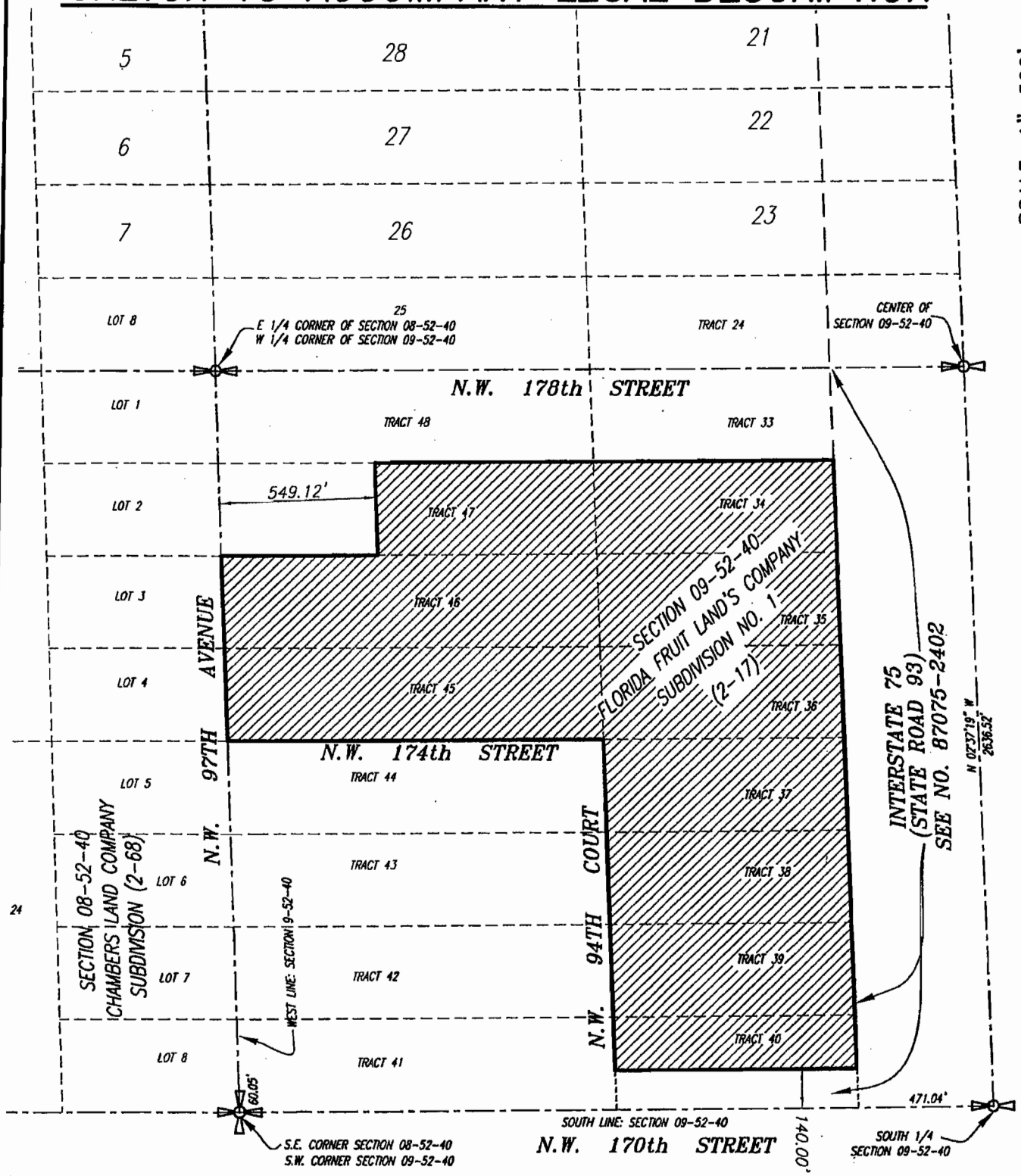
_____
Henry N. Gillman
Assistant County Attorney

Approved as to form and legal sufficiency:

William Grodnick

William M. Grodnick
City Attorney

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



SHEET 2 OF 2

REVISIONS

SCHWEBKE-SHISKIN & ASSOCIATES, INC. LB # 87

LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025

PHONE No.(954)435-7010 FAX No. (954)438-3288

ORDER NO. 196478

DATE: 06-05-09

PREPARED UNDER MY SUPERVISION:

ALFONSO C. TELLO, PRESIDENT

THIS IS NOT A " BOUNDARY SURVEY"

FLA. PROF. LAND SURVEYOR N° 2978

LEGAL DESCRIPTION::

TRACTS 34 THROUGH 40, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, IN SECTION 9, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA;

LESS THE SOUTH 140.00 FEET OF TRACT 40 AND LESS THE EASTERLY PORTION OF TRACTS 34 THROUGH 40 FOR ROAD RIGHT-OF-WAY PURPOSES PURSUANT TO THE ORDER OF TAKING BY THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AS SHOWN ON THAT CERTAIN RIGHT OF WAY MAP FOR INTERSTATE I-75 SECTION NO. 87075-2402.

TOGETHER WITH:

TRACTS 45, 46 AND 47, LESS THE WEST 549.12 FEET OF TRACT 47, OF FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, IN SECTION 9, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Exhibit A
Page 2 of 2

SHEET 1 OF 2

REVISIONS

SCHWEBKE-SHISKIN & ASSOCIATES, INC. LB # 87
LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
PHONE No.(954)435-7010 FAX No. (954)438-3288

ORDER NO. 196478
DATE: 06-05-09
THIS IS NOT A " BOUNDARY SURVEY"

PREPARED UNDER MY SUPERVISION:
ALFONSO C. TELLO, PRESIDENT
FLA. PROF. LAND SURVEYOR N° 2978

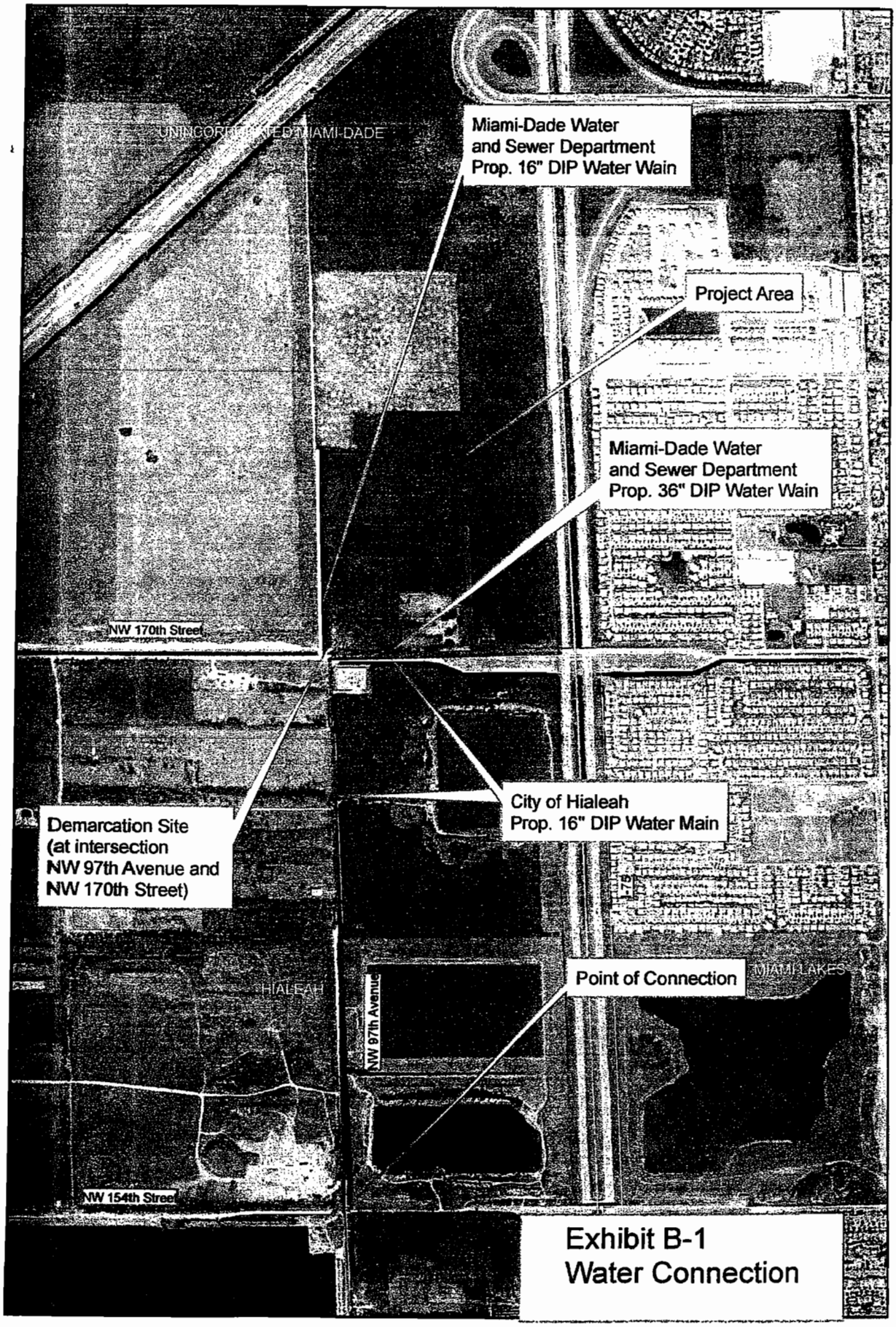


Exhibit B-1
Water Connection

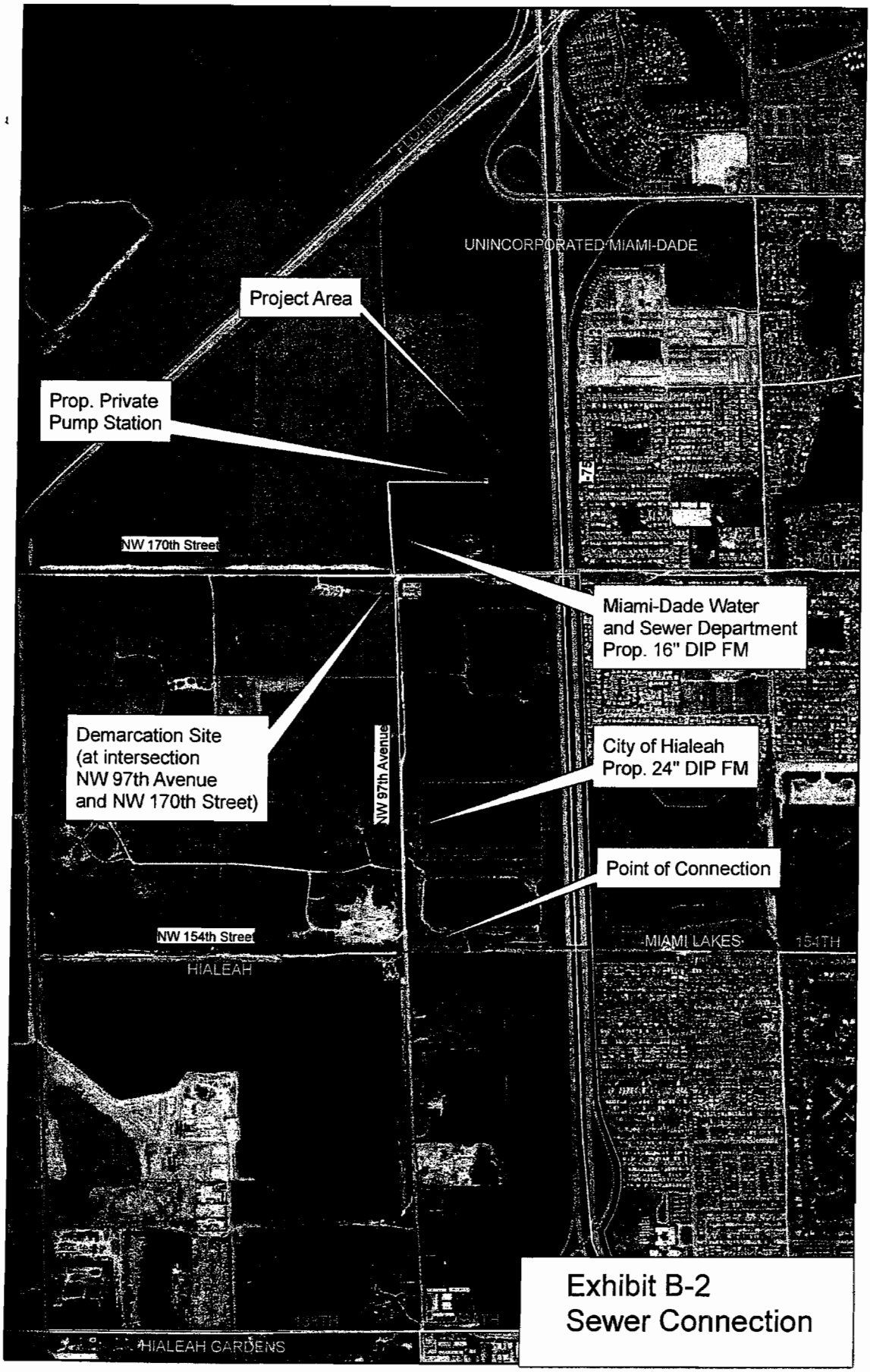


Exhibit B-2
Sewer Connection