



MEMORANDUM

Agenda Item No. 8(F)(1)(B)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 1, 2011

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

SUBJECT: Resolution authorizing the conveyance of an easement to Pivotal Utility Holdings, Inc., a New Jersey Corporation d/b/a/ Florida City Gas, for \$10.00, through County-owned land known as the 58 Street landfill located at 8795 N.W. 58 Street, Miami, Florida; and authorizing the County Mayor to execute a non-exclusive Utility Easement

Resolution No. R-658-11

The accompanying resolution was prepared by the General Services Administration Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.

A handwritten signature in black ink, appearing to read "RAC J", written over a horizontal line.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: September 1, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Resolution authorizing the conveyance of an easement to Pivotal Utility Holdings, Inc., a New Jersey Corporation d/b/a Florida City Gas, for the installation, maintenance and repair of a natural gas pipeline through County-owned land known as the 58 Street Landfill located at 8795 N.W. 58 Street, Miami, Florida

RECOMMENDATION

It is recommended that the Board approve the attached resolution authorizing the conveyance of an easement to Pivotal Utility Holdings, Inc., a New Jersey corporation d/b/a Florida City Gas, for the installation, maintenance and repair of a natural gas pipeline through County-owned land at the closed 58 Street Landfill. The landfill is located between N.W. 87 and 97 Avenues, and between N.W. 58 and 74 Streets. The item was prepared by the General Services Administration at the request of the Department of Solid Waste Management (DSWM).

OWNER: Department of Solid Waste Management

TAX FOLIO NUMBER: 30-3016-000-0010

SIZE: 78,155 square feet

LOCATION: 8795 N.W. 58 Street, Miami

COMMISSION DISTRICT: 12

COMMISSION DISTRICT IMPACTED: Countywide

ZONING: GU – Interim District. Uses depend on character of neighborhood; otherwise EU-2 - single-family five acre estate district, standards apply. According to the Department of Planning and Zoning, the existing use is a permitted use under the current zoning.

BACKGROUND: On January 3, 2000, by Resolution No. R-22-00, the Board authorized the granting of a six-foot wide, one-mile long gas line easement to City Gas Company of Florida (City Gas), for a total fee of \$2,197. The gas line was intended to run through 31,680 square feet (0.73 acres) of County-owned land located at the 58 Street Landfill (Landfill). The easement was needed in order to permit the construction and future maintenance of a planned 2.5 mile underground gas line to service the County-owned Resources Recovery Facility (RRF) located at 6990 N.W. 97 Avenue. The easement would have run through six feet of an existing

230-foot wide FPL easement, and would therefore have been subject to the rights conveyed to FPL under that easement. This existing easement will be released prior to recording the proposed new easement.

The original pipeline was never constructed. Florida City Gas was previously owned by NUI Utilities, Inc. (NUI), and when the original easement was granted through the Landfill, NUI was positioning itself for sale. NUI was concerned with potential environmental liabilities and costs associated with the project and elected not to proceed with the project at that time.

Pivotal Utility Holdings, Inc., a New Jersey corporation d/b/a Florida City Gas, has requested the issuance of a new fifteen-foot wide, one-mile long gas line easement through 78,155 square feet (1.794 acres) of County-owned land located at the Landfill. The proposed easement is needed in order to permit the construction and future maintenance of a planned one-mile underground gas line, to be built from N.W. 87 Avenue to the County-owned Resources Recovery Facility located at 6990 N.W. 97 Avenue. The County will share construction costs of the planned one-mile underground gas line with Florida City Gas.

JUSTIFICATION:

The Resources Recovery Facility (RRF) occupies 40 acres of County-owned property located immediately to the west of the 58 Street Landfill. The RRF's primary function is to process solid waste via incineration to reduce its volume. It is operated under a contract with COVANTA Southeast Florida. As a by-product of processing solid waste, electricity is produced by the RRF which is sold to Progress Energy. The County participates in this revenue stream. The RRF currently uses propane gas for start-up, combustion support and air pollution control (carbon monoxide control). The propane is trucked to the facility where it is stored in a 30,000 gallon above ground tank. The proposed natural gas pipeline will eliminate the storage and use of propane gas. Pipeline delivery of gas is considered to be safer and more reliable than trucking and storing gas since it will both reduce the potential for interruption of the plant in the event of a natural disaster and eliminate the storage tank, a potential safety risk. Increased reliability is also very important since the RRF has to continuously meet stringent air pollution control standards which are met, in part, through the use of gas

has to continuously meet stringent air pollution control standards which are met, in part, through the use of gas for combustion control. The estimated cost savings to the County is approximately \$431,600 annually as a result of constructing the pipeline and using natural gas in lieu of propane. Florida City Gas will be responsible for obtaining all construction and environmental permits needed to construct the gas line.

FISCAL IMPACT/
FUNDING SOURCES:

The grant of easement has no fiscal impact to the County. Florida City Gas will be responsible for managing the construction, maintenance and operation of the utility easement.

The cost of propane is shared between the County and Covanta. The County will save an estimated \$431,600 annually by using piped natural gas in lieu of propane at the facility. The projected savings are based on the RRF's historical consumption of propane in FY 08/09, propane at a price of \$1.40 per gallon and natural gas estimated at a price of \$0.7883 per therm.

MONITOR:

Shannon Clark, Real Estate Officer

COMMENTS:

The County will pay \$328,415 toward the cost of the pipeline project. This amount is funded with DSWM Operating Funds. Index Code SWED0RROPER0.

Florida City Gas will be responsible for managing the construction and will pay for the maintenance and operation of the pipeline.

DELEGATED
AUTHORITY:

Authorizes the County Mayor to execute this easement in substantially the form attached hereto.



Wendi J. Norris, Director
General Services Administration



MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 1, 2011

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

SUBJECT: Agenda Item No. 8(F)(1)(B)

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)(B)
9-1-11

RESOLUTION NO. R-658-11

RESOLUTION AUTHORIZING THE CONVEYANCE OF AN EASEMENT TO PIVOTAL UTILITY HOLDINGS, INC., A NEW JERSEY CORPORATION D/B/A/ FLORIDA CITY GAS, FOR \$10.00, AND EXECUTION BY THE COUNTY MAYOR OF SUCH NON-EXCLUSIVE UTILITY EASEMENT

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, authorizes the conveyance of a Non Exclusive Utility Easement to Pivotal Utility Holdings, Inc., a New Jersey corporation d/b/a Florida City Gas, for \$10.00, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor to execute said Easement on behalf of Miami-Dade County.

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

	Joe A. Martinez, Chairman	aye
	Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	absent	Lynda Bell aye
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz aye
Sally A. Heyman	aye	Barbara J. Jordan aye
Jean Monestime	aye	Dennis C. Moss aye
Rebeca Sosa	aye	Sen. Javier D. Souto absent
Xavier L. Suarez	absent	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of September, 2011. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

GBK

Geri Bonzon-Keenan

THIS INSTRUMENT PREPARED BY:

GSA Real Estate Management

And reviewed by _____, Assistant County Attorney

111 NW 1 Street, Suite 2460

Miami, FL 33128

Folio: a portion of 30-3016- 000-0010

User Dept.: Solid Waste Management

NON EXCLUSIVE UTILITY EASEMENT

This NON EXCLUSIVE UTILITY EASEMENT, is made this ____ day of _____, 2011 by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, as "Grantor", having a mailing address at 111 NW 1st St., Miami, Florida 33128, and Pivotal Utility Holdings, Inc., a New Jersey corporation d/b/a Florida City Gas, its licensees, agents, successors and assigns ("Grantee"), having an address at c/o AGL Resources Inc., Ten Peachtree Place NE, Atlanta, GA 30309, Attn: Right-of-Way/Engineering.

That the Grantor does hereby grant and give unto grantee, in consideration of the payment of \$10.00 and the promise of the continuous maintenance and indemnification obligations in favor of Grantor, set forth below, the receipt and adequacy of which are hereby acknowledged, a non exclusive utility easement forever, unless use thereof is abandoned for one year or more by the Grantee of this easement, for the construction, operation and maintenance of an underground gas pipeline, including related facilities expressly limited hereby to exhaust valves, pipeline indicators and standard safety signage not to exceed 4 feet in height (collectively, the Facilities"), to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the size, and repair, replace and inspect, as well as remove such Facilities, within an easement area (the "Easement Area") described as follows:

LEGAL DESCRIPTION

See attached Exhibit "A"

Together with the right of ingress and egress to said Easement Area, and such larger areas as are necessary for construction and maintenance, at all times subject to prior notice and approval of Grantor, and the right to clear the land and keep it cleared of all vegetative matter of all types and other obstructions within the Easement Area; and to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees, roots or limbs outside of the Easement Area which might interfere with the Facilities.

This easement does not waive the requirement that appropriate building permits be obtained for all construction under this easement. The installation and construction activities permitted under this easement are further subject to the Grantee obtaining any applicable permits and/or approvals for all excavation in the Easement Area, from, if applicable, the Florida Department of Environmental Protection and if applicable, the United States Environmental Protection Agency. Grantee, by exercising any rights under this easement, acknowledges that it is aware that the land was used as a landfill, and the land was once considered a Superfund site by the United States Environmental Protection Agency.

Grantor hereby covenants and agrees that it shall not construct, or permit any person or entity to construct, any buildings, towers or other structures on the Easement Area, nor shall it cause or permit any person or entity other than Grantee to cause the grade of the Easement Area to be changed in any manner, nor shall it otherwise use the Easement Area or the means of ingress thereto and egress therefrom in a manner that would unreasonably interfere with Grantees Easement or rights under this easement.

Grantee hereby agrees to maintain all of its Facilities installed in the Easement Area in accordance with all applicable federal, state and local laws, rules and regulations.

Grantee hereby agrees to indemnify, defend and hold harmless Grantor and its commissioners, officers, employees, contractors, agents, successors and assigns, from and against all claims, causes of actions, liabilities, obligations, judgments, damages, penalties, fines, losses, costs and expenses (including, without limitations, reasonable attorneys' fees and disbursements), whether foreseen or unforeseen, arising from the use of the Easement Area under this agreement including, but not limited to, control of vegetative matter and solid waste removal, in accordance with Miami-Dade County Regulations, Resolutions and Ordinances, as well as related to the presence of release of or exposure to any hazardous Substance (as defined below) on under or from the property or brought onto the property or the Easement Area by Grantee or any non-compliance with any Environmental law (as defined below) with respect to any such hazardous Substance brought onto the property or Easement Area by Grantee.

As used herein, the term "Environmental Law" means any present or future federal, state or local law (including common law), rule, regulation or order pertaining to environmental regulation, health, safety, contamination or clean-up and the term "Hazardous Substance" means any hazardous, toxic or harmful substance, waste, pollutant or contaminant (including, without limitation, asbestos, solid waste, arsenic, chromium, zinc, benzene, chlorobenzene, tetrachloroethane, trichloroethane, vinyl chloride, other metals and polychlorinated biphenyls, petroleum products, flammable explosives, radioactive materials, infectious substances and raw materials which include hazardous constituents) and any other substance or material which is regulated by any Environmental Law.

In the event that the application of any provision of this Agreement to any person or circumstance shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part, or in any respect or to any extent, then, and in any event, such invalidity, illegality or unenforceability shall not be deemed to affect the application of such provision to the extent that such application is legal, valid and enforceable nor the application of such provision to any person or entity or circumstance against whom or which such application is legal, valid and enforceable.

This Easement may be executed in one or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this easement to produce or account for more than one such counterpart, executed by all of the parties hereto.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name by its Mayor and Grantee has caused these presents to be executed in its name by its duly authorized officer, on the respective dates set forth below.

OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

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

By: _____
Deputy Clerk

By: _____
Carlos A. Gimenez, Mayor

GRANTEE;

PIVOTAL UTILITY HOLDINGS, INC.
A NEW JERSEY CORPORATION D/B/A
FLORIDA CITY GAS

X _____
Witness to sign above
Print name: _____

Print name: _____
Title: _____

X _____
Witness to sign above
Print Name: _____

Approved as to legal sufficiency _____

STATE OF FLORIDA)
)SS

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____,

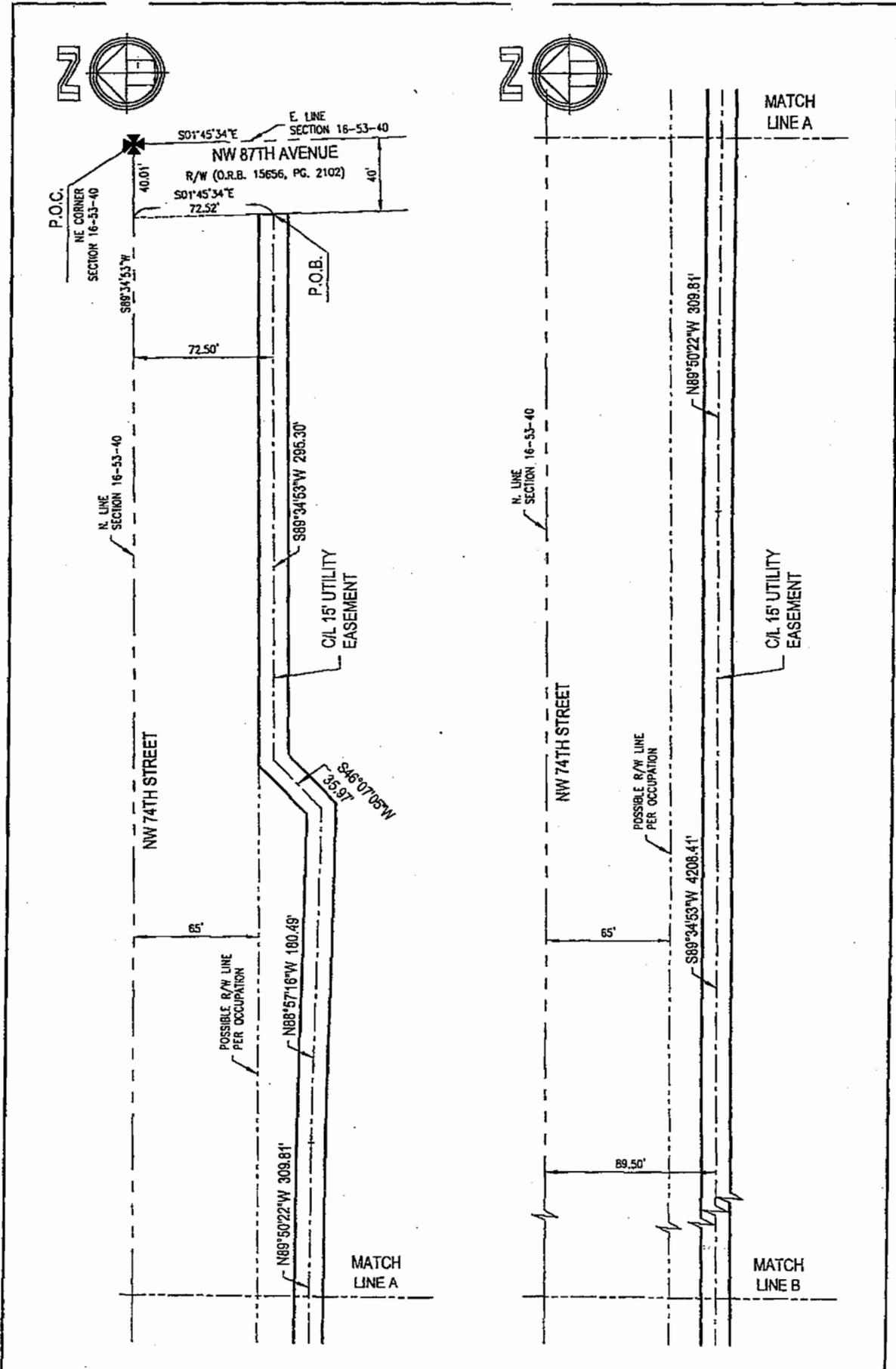
2011, by the _____, the _____ of Pivotal utility holdings, inc., a New Jersey corporation d/b/a Florida City Gas, on behalf of said corporation, the Grantee under the foregoing instrument. He/She is personally known to me or has produced _____ as identification.

NOTARY PUBLIC:

Sign: _____
Print: _____

(Notary Stamp or Seal)

The foregoing was authorized and approved by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida, on the ____ day of _____, 2011.



REVISIONS	DATE	BY	CK'D
JOB NO. 101109	DWG. BY: DCW	SCALE: 1" = 60'	UTILITY EASEMENT
FLA. CITY GAS NW 74 ST.	CH'D BY: SMP	DATE: 4-12-11	SHEET 2 OF 3 SHEETS

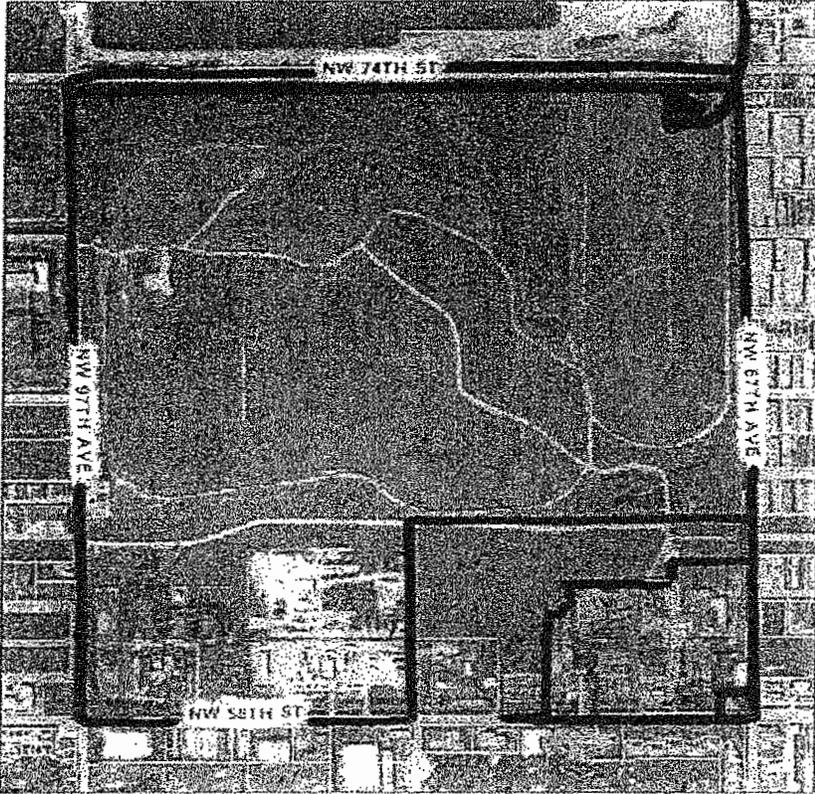
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My Home
Miami-Dade County, Florida

miamidade.gov

15' Easement MIAMI-DADE

Property Information Map



Summary Details:

Folio No.:	30-3016-000-0010
Property:	8795 NW 58 ST
Mailing Address:	MIAMI-DADE COUNTY SOLID WASTE MANAGEMENT 2525 NW 62 ST MIAMI FL 33147-7704

Property Information:

Primary Zone:	8900 UNZONED
CLDC:	0047 DADE COUNTY
Beds/Baths:	0/0
Floors:	2
Living Units:	0
Adj Sq Footage:	146,586
Lot Size:	581.96 ACRES
Year Built:	1967
Legal Description:	16 53 40 581.96 AC M/L ALL OF SEC LESS BEG SE COR OF SE 1/4 TH N243.70FT W243.70FT S243.70FT E243.70FT TO POB & LESS SW 1/4 OF SW 1/4 OF SE 1/4 & LESS BEG NW COR OF SW 1/4 OF SW 1/4 OF

Assessment Information:

Year:	2010	2009
Land Value	\$13,787,854	\$13,787,854
Building Value	\$8,641,141	\$8,902,874
Market Value	\$22,428,995	\$22,690,728
Assessed Value	\$22,428,995	\$22,690,728

Taxable Value Information:

Year:	2010	2009
Taxing Authority:	Applied Exemption/ Taxable Value:	Applied Exemption/ Taxable Value:
Regional	\$22,428,995 \$0	\$22,690,728 \$0
County	\$22,428,995 \$0	\$22,690,728 \$0
School Board	\$22,428,995 \$0	\$22,690,728 \$0

Aerial Photography - 2009

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This map was created on 11/17/2011 2:34:19 PM for reference purposes only

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