



MEMORANDUM

Agenda Item No. 8(I)(1)

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

DATE: March 6, 2012

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

SUBJECT: Resolution authorizing the acceptance
of a canal right-of-way deed in
exchange for the release of unneeded
excess canal reservation in Section
31, Township 52 South, Range 40
East, Miami-Dade County

Resolution No. R-209-12

The accompanying resolution was prepared by the Permitting, Environment & Regulatory Affairs Department and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.

A handwritten signature in black ink, appearing to read 'R. A. Cuevas, Jr.', is written over a horizontal line.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Date: March 6, 2012

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

From: Carlos A. Gimenez
Mayor



Subject: Resolution Authorizing the Acceptance of a Canal Right-of-Way Deed in Exchange for the Release of Unneeded Excess Canal Reservation in Section 31, Township 52 South, Range 40 East in Miami-Dade County (WC-880)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the acceptance of a canal right-of-way deed from the landowner in exchange for the release of excess canal reservation which is no longer needed by Miami-Dade County (the County).

Scope

This item is located in Commissioner Diaz's District 12.

Fiscal Impact/Funding Source

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

Track Record/Monitor

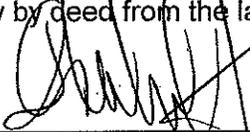
The Water Control Section Manager within the Department of Permitting, Environment and Regulatory Affairs (PERA) will be responsible for tasks related to this transaction.

Background

In 1959, the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, gave a canal reservation to the County on a 130 foot wide, 1,815 foot long strip of land in northwestern Miami-Dade, located along the eastern side of the Snapper Creek Canal just east of the Florida Turnpike and south of NW 122 Street. The canal reservation was to be used for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan. A location sketch is included in Attachment B.

Tarmac America LLC owns the parcels of land which are encumbered by the above-mentioned canal reservation. Tarmac America LLC is planning to construct an industrial warehouse subdivision on their land and has requested from the County the release of the eastern 80 feet of the 130 foot wide canal reservation in exchange for a fully executed deed to the County for the canalfront 50 foot wide right-of-way (Attachment A). In consideration of this offer, the County has determined that the eastern 80 foot wide canal reservation is no longer needed, that a similar 80 foot wide canal reservation was previously released by the County to the south of this area, and that the County does not currently have a canal maintenance easement for the canalfront 50 foot wide right-of-way. Following release of the eastern 80 foot wide canal reservation by the County, Tarmac America LLC would need to pursue further release of the canal reservation from the South Florida Water Management District and/or other agencies as appropriate.

Therefore, the attached resolution authorizes the release of the eastern 80 foot wide canal reservation by County disclaimer (Attachment B) to the landowner and accepts the canalfront 50 foot wide right-of-way by deed from the landowner. The resolution is recommended for approval.



Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: March 6, 2012

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

SUBJECT: Agenda Item No. 8(I)(1)

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(I)(1)
3-6-12

RESOLUTION NO. R-209-12

RESOLUTION AUTHORIZING THE ACCEPTANCE OF
A CANAL RIGHT-OF-WAY DEED IN EXCHANGE FOR
THE RELEASE OF UNNEEDED EXCESS CANAL
RESERVATION IN SECTION 31, TOWNSHIP 52 SOUTH,
RANGE 40 EAST, 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, Tarmac America LLC owns parcels of land in Section 31, Township 52 South, Range 40 East which are encumbered by a canal reservation given to Miami-Dade County in 1959 by the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, to be used for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, Tarmac America LLC is planning to build on their land and has requested from Miami-Dade County the release of the eastern 80 feet of the 130 foot wide canal reservation in exchange for a deed to Miami-Dade County for the canalfront 50 foot wide right-of-way; and

WHEREAS, Tarmac America LLC has submitted a valid, fully executed canal right-of-way deed in favor of Miami-Dade County for the transfer of title to real property; and

WHEREAS, in consideration of this offer, Miami-Dade County has determined that the requested 80 foot wide canal reservation is no longer needed by the County for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, Miami-Dade County does not currently have a canal maintenance easement for the canalfront 50 foot wide right-of-way and would therefore benefit from the transfer of title for such right-of-way in order to have unrestricted access for canal maintenance or other public purposes,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the Mayor or the Mayor's designee to accept a canal right-of-way deed from the landowner conveying canal right-of-way to Miami-Dade County in exchange for the release of unneeded excess canal reservation from Miami-Dade County to the landowner in Section 31, Township 52 South, Range 40 East in Miami-Dade County, Florida, as indicated in the Mayor's memorandum, a copy of which is attached hereto and incorporated herein by reference; authorizes the Mayor to execute the acceptance of said canal right-of-way deed and to execute the disclaimer for release of the rights of reservation from Miami-Dade County to the landowner, with both instruments of conveyance in substantially the form attached hereto and made a part hereof. 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 a recorded copy 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 a recorded copy together with this resolution.

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The foregoing resolution was offered by Commissioner **Rebeca Sosa**

who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz**

and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of March, 2012. 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.

Abbie Schwaderer-Raurell

ATTACHMENT A

W.C. 880

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RIGHT-OF-WAY DEED TO MIAMI-DADE COUNTY

CONVEYS THE TITLE FOR CANAL PURPOSES

BY CORPORATION

STATE OF FLORIDA,)
COUNTY OF MIAMI-DADE.)

THIS INDENTURE, made this _____ day of _____, 20____, by and between TARMAC AMERICA LLC., a corporation under the laws of the State of Delaware, and having its office and principal place of business in the City of Norfolk, in the State of Virginia, party of the first part, and the County of Miami-Dade, a body Corporate, and a Political Subdivision of the State of Florida, and its successors in interest, party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, and for other and further good and valuable considerations, does hereby grant, bargain and sell to the party of the second part, and its successors in interest, for the purpose of a public canal and purposes incidental thereto, including the right of the party of the second part to ownership and disposal of all spoil material from said canal, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

THE WEST 50 FEET OF THE WEST 130 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND, BEING A PORTION OF THE NW ¼ OF SECTION 31, TOWNSHIP 52 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, STATE OF FLORIDA:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 31; THENCE N89°27'50"E, AS BASIS OF BEARING ALONG THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 31 FOR A DISTANCE OF 2639.63 FEET TO THE NORTH ¼ CORNER OF SAID SECTION 31; THENCE N89°27'59"E ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 31 FOR A DISTANCE OF 1287.23 FEET; THENCE S02°38'18"E FOR A DISTANCE OF 1115.01 FEET; THENCE S89°28'31"W FOR A DISTANCE OF 1287.32 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST ¼ OF SAID SECTION 31; THENCE CONTINUE S89°28'31"W FOR A DISTANCE OF 1050.85 FEET; THENCE S02°37'45"E FOR A DISTANCE OF 701.11 FEET; THENCE S89°29'20"W FOR A DISTANCE OF 1589.05 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 31; THENCE N02°37'28"W ALONG SAID WEST LINE FOR A DISTANCE OF 1815.01 FEET TO THE POINT BEGINNING.

CONTAINING 90,756 SQUARE FEET, 2.08 ACRES, MORE OR LESS.

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

If is the intention of the party of the first part by this instrument to convey to the said County, and its successors in interest, the land above described for use as a public canal and for all purposes incidental thereto.

It is expressly provided that if and when said canal shall be lawfully and permanently discontinued, the title to the above described land shall immediately revert to the party of the first part, its successors and assigns, and he shall have the right to immediately re-possess the same.

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under him.

IN WITNESS WHEREOF, the said party of the first part, has executed by its President or Vice-President, and has caused the same to be attested by its Secretary or Assistant-Secretary, and its Corporate Seal hereon to be impressed, on this, the day and year first above written.

Signed, Sealed, Attested and delivered in our presence:

Witnesses:

Sign [Signature]
Print ERICA Chin-Cannon
Sign [Signature]
Print KATHY CZERWIEC

THRMAC AMGACA LLC
Name of Corporation
By [Signature]
Print J PATRICK BOREGAS
Title President
Address 455 Fairway Drive
Deerfield Beach, FL 33441

STATE OF Florida,
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 27th day of October,
2011, by J. Patrick Borders who is personally known to me or who has produced
_____ as identification and did take an oath.

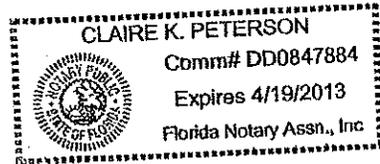
NOTARY PUBLIC:

Sign Claire K Peterson

Print Claire K Peterson

State of Florida at Large Seal

My Commission Expires: 4/19/2013



RIGHT-OF-WAY DEED
TO
MIAMI-DADE COUNTY
CONVEYS THE TITLE FOR
CANAL PURPOSES

FROM
TARMAC AMERICA, LLC.

TO
MIAMI-DADE COUNTY, FLORIDA

The foregoing dedication was accepted and approved on the _____ day of _____,
20____, by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County,
Florida.

Sign: _____

Print: Carlos A. Gimenez

Title: Mayor

111 N.W. 1st Street
Stephen P. Clark Center
Miami, Florida 33128

ATTEST: HARVEY RUVIN
Clerk of said Board

By: _____
Deputy Clerk

ATTACHMENT B

W.C. 880

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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:

THE EAST 80 FEET OF THE WEST 130 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND, BEING A PORTION OF THE NW ¼ OF SECTION 31, TOWNSHIP 52 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, STATE OF FLORIDA:

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

BEGIN AT THE NORTHWEST CORNER OF SAID SECTION 31; THENCE N89°27'50"E, AS BASIS OF BEARING ALONG THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 31 FOR A DISTANCE OF 2639.63 FEET TO THE NORTH ¼ CORNER OF SAID SECTION 31; THENCE N89°27'59"E ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 31 FOR A DISTANCE OF 1287.23 FEET; THENCE S02°38'18"E FOR A DISTANCE OF 1115.01 FEET; THENCE S89°28'31"W FOR A DISTANCE OF 1287.32 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST ¼ OF SAID SECTION 31; THENCE CONTINUE S89°28'31"W FOR A DISTANCE OF 1050.85 FEET; THENCE S02°37'45"E FOR A DISTANCE OF 701.11 FEET; THENCE S89°29'20"W FOR A DISTANCE OF 1589.05 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 31; THENCE N02°37'28"W ALONG SAID WEST LINE FOR A DISTANCE OF 1815.01 FEET TO THE POINT BEGINNING.

CONTAINING 145,196 SQUARE FEET OR 3.33 ACRES, MORE OR LESS.

WHEREAS, the Central and Southern Florida Flood Control Districts by Rights in Reservations Deed No. 21 dated August 6, 1959, recorded in Official Records Book 1587 at Page 274 of the Public Records of MIAMI-DADE COUNTY, FLORIDA, conveyed, assigned, set over and granted to Miami-Dade County for canal and levee purposes only, the above described lands; and

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

||

WHEREAS, the aforesaid rights in reservations 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 lands by virtue of the said Rights in Reservations Deed No. 21 dated August 6, 1959, recorded in Official Records Book 1587 at Page 274 of the 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, including but not limited to the South Florida Water Management District, 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____.

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ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

By: _____
Carlos A. Gimenez, Mayor

Print: _____

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.

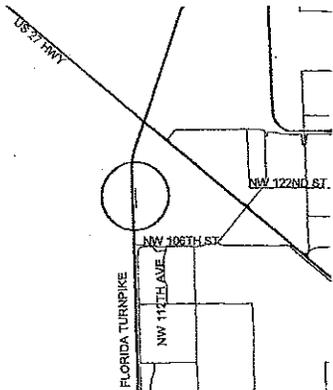
NOTARY PUBLIC:

Sign _____

Print _____

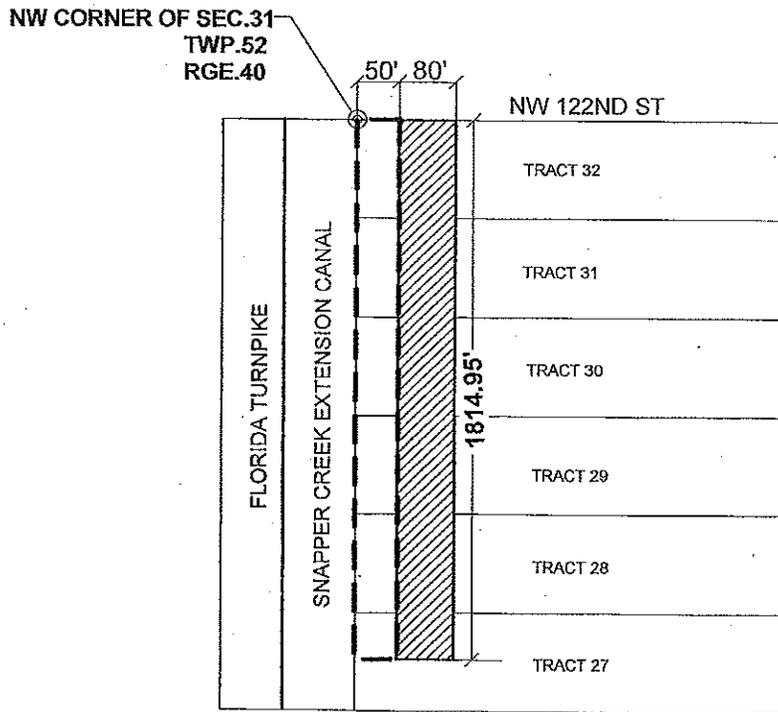
STATE OF FLORIDA at large
(Seal)

My commission expires: _____

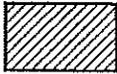


LOCATION SKETCH

WC. 880
 SEC. 31
 TWP. 52
 RGE. 40



DETAIL SKETCH
(NOT TO SCALE)

-  80' CANAL RESERVATION TO BE RELEASED
-  50' CANAL RIGHT OF WAY TO BE ACQUIRED