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

MEMORANDUM

Agenda Item No. 8(M)(1)

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

DATE: October 1, 2013

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

SUBJECT: Resolution authorizing the granting of a perpetual easement over a portion of County owned canal right-of-way to the State of Florida Department of Transportation in accordance with Section 125.38 of the Florida Statutes, for no monetary consideration, for improvements and maintenance along State Road No. 823 (NW 57 Avenue) at the intersection with NW 138 Street

Resolution No. R-810-13

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: October 1, 2013

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Granting of a Perpetual Easement over Portions of a County Owned Canal Right-of-Way along NW 57 Avenue to the Florida Department of Transportation for Improvements to State Road No. 823 (NW 57 Avenue) between NW 138 Street and the Gratigny Expressway

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Recommendation

It is recommended that the Board of County Commissioners approve the attached resolution granting a perpetual easement over portions of County-owned canal right-of-way along NW 57 Avenue to the Florida Department of Transportation (FDOT) for roadway improvements and maintenance, and that the Board authorize the County Mayor to execute said instrument granting a perpetual easement to FDOT over the subject parcel. The Department of Regulatory and Economic Resources, Division of Environmental Resources Management (RER-DERM), has no objection to the proposed perpetual easement being granted on County-owned canal right-of-way.

Scope

The proposed perpetual easement location is in Commission District 13 (Commissioner Bovo).

Fiscal Impact/Funding Source

This item does not require the expenditure of any Miami-Dade County funds. The County will realize a positive fiscal impact because the Public Works and Waste Management Department will no longer be responsible for the maintenance of the area within the proposed perpetual easement.

Track Record / Monitor

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

Background

The FDOT has planned improvements along State Road No. 823 (NW 57 Avenue) between NW 138 Street and State Road No. 924 (Gratigny Expressway) within FDOT Parcel No. 800 in order to improve the existing flow and safety of vehicles and pedestrians. Planned improvements include the installation or replacement of traffic signs, guardrails, drainage structures, sidewalks, overhead traffic signs, light poles, pull boxes, manholes and curb ramps; the resurfacing of roadway pavement; the replacement of a traffic signal mast arm on the southwest corner of NW 138 Street and NW 57 Avenue; the installation of a post sign on the same southwest corner; and the installation of a traffic signal mast arm and pull box on the northwest corner of the same intersection.

Section 125.38 of the Florida Statutes allows agencies, such as the FDOT, to request the use of County-owned land when such use is for public interest and welfare. The FDOT has requested that the County grant a perpetual easement for the areas of the planned improvements which are in the public interest and welfare. It is therefore recommended that the Board authorize the execution of the attached Perpetual Easement.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: October 1, 2013

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

SUBJECT: Agenda Item No. 8(M)(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 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. 8(M)(1)
10-1-13

RESOLUTION NO. R-810-13

RESOLUTION AUTHORIZING THE GRANTING OF A PERPETUAL EASEMENT OVER A PORTION OF COUNTY OWNED CANAL RIGHT-OF-WAY TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SECTION 125.38 OF THE FLORIDA STATUTES, FOR NO MONETARY CONSIDERATION, FOR IMPROVEMENTS AND MAINTENANCE ALONG STATE ROAD NO. 823 (NW 57 AVENUE) AT THE INTERSECTION WITH NW 138 STREET; AND AUTHORIZING THE COUNTY MAYOR TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE GRANTING OF SAID EASEMENT, IN SECTION 24, 25, TOWNSHIP 52 SOUTH, RANGE 40 EAST

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

WHEREAS, the State of Florida Department of Transportation (FDOT) proposes to make improvements along State Road No. 823 (NW 57 Avenue) / Segment No. 4290141 in Miami-Dade County; and

WHEREAS, FDOT determined that in order to extend the life of the existing roadway and improve pedestrian and vehicular traffic flow and safety, it was necessary to maintain existing roadway features including traffic signs, guardrail, drainage structures, sidewalk, overhead traffic sign, light poles, pull boxes, manholes and curb ramps; to mill, resurface and maintain existing roadway pavement; to remove, replace and maintain a single mast arm at the southwest corner of NW 138 Street and NW 57 Avenue; and to install and maintain a single post

sign on the southwest corner of the same intersection; and to install, construct and maintain a mast arm and pull box on the northwest corner of the same intersection; and

WHEREAS, FDOT has requested the granting of such an easement, as more particularly described in Exhibit "A" to the Perpetual Easement attached hereto, which legal description encompasses 0.469 acres of land located at the intersection of NW 57 Avenue and NW 138 Street; and

WHEREAS, the Board finds that pursuant to Section 125.38 of the Florida Statutes, that said property is required for such use, and would promote community interest and welfare,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board (1) adopts the foregoing recitals are incorporated as if fully set forth herein; (2) approves the granting of the Perpetual Easement for no monetary consideration, pursuant to Section 125.38, Florida Statutes subject to the restriction that said parcel be used by FDOT for transportation related improvements and maintenance to State Road No. 823; (3) authorizes the County Mayor to execute said Perpetual Easement on behalf of Miami-Dade County and to exercise the provisions therein; and (4) pursuant to Resolution No. R-974-09, (a) directs the County Mayor or County Mayor's designee to record said instrument of conveyance executed herein in the Public Records of Miami-Dade County and to provide a recorded copy of said instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy of said instrument together with this resolution.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman **aye**
Lynda Bell, Vice Chair **absent**

Bruno A. Barreiro	**absent**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**absent**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**absent**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of October, 2013. 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.

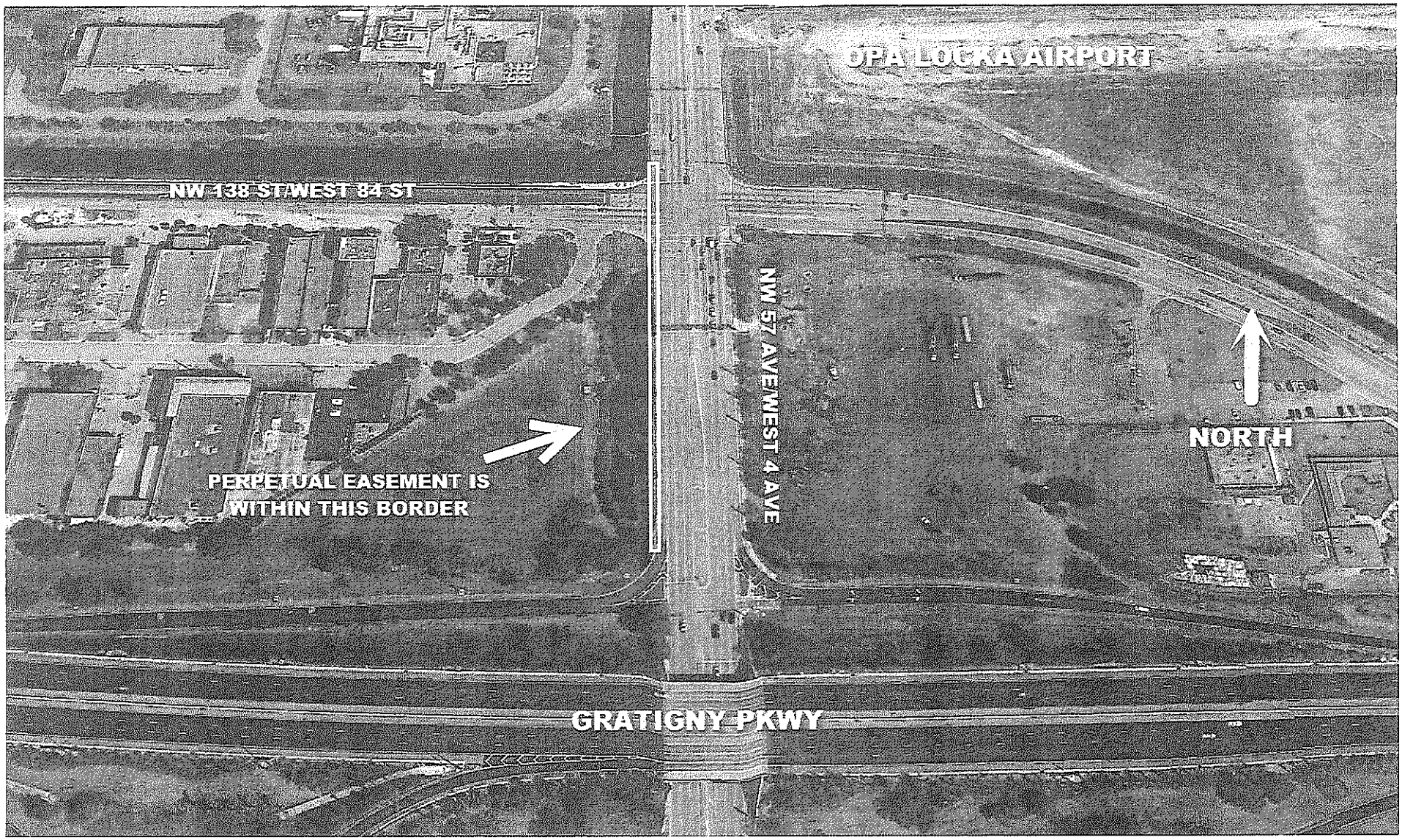
MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell


OPA LOCKA AIRPORT
NW 138 ST/WEST 84 ST
NW 57 AVE/WEST 4 AVE
NORTH
PERPETUAL EASEMENT IS
WITHIN THIS BORDER
GRATIGNY PKWY

07-PE.11-04/93

This instrument prepared by,
or under the direction of,
Alicia Trujillo, Esq.
District General Counsel
State of Florida
Department of Transportation
1000 N.W. 111th Avenue
Miami, Florida 33172
November 21, 2012 - NE

Parcel No. : 800.1R(5-20-2013)
Item/Segment No. : 4290141
Managing District : 6

PERPETUAL EASEMENT

THIS EASEMENT Made the _____ day of _____, 20 _____, by MIAMI-DADE COUNTY, a political subdivision of the State of Florida, grantor, to the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, its successors and assigns, grantee.

WITNESSETH: That the grantor for and in consideration of the sum of One Dollar and other valuable considerations paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants unto the grantee, its successors and assigns, a perpetual easement for the following purposes : to maintain existing roadway features, including traffic signs, guardrail, drainage structures, sidewalk, overhead traffic sign, light poles, pull boxes, manholes, and curb ramps; to mill, resurface and maintain existing roadway pavement; to remove, replace and maintain a mast arm at the SW corner; to install and maintain a single post sign on the SW corner; and to install, construct and maintain a mast arm and pull box on the NW corner, in, over, under, upon and through the following described land in Miami-Dade County, Florida, viz:

AS SHOWN ON EXHIBIT "A" AND EXHIBIT "B" ATTACHED HERETO AND TO BE MADE A PART HEREOF

Subject to the following restrictions:

It is expressly provided that if and whenever the use of the subject property for transportation purposes is discontinued, the title to the said above described land shall immediately revert to the party of the first part, its heirs and assigns, and it shall have the right to immediately repossess the same.

Grantee shall indemnify and hold harmless the Grantor and its officers, employees, agents and instrumentalities from any liability, loss or damages which Grantor or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits causes of actions or proceedings of any kind or nature arising out of , relating to, or resulting from any negligent or wrongful act(s) of Grantee's employees, agents, contractors and subcontractors, or instrumentalities, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Grantee hereunder. However, nothing contained herein shall constitute a waiver by Grantee of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

Nothing in this Easement shall restrict the Grantor's right to utilize said property for any use which is not inconsistent with the rights conveyed hereunder.

This grant conveys only an interest of the County and its Board of County Commissioners in the property herein described, and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF, the said grantor has caused these presents to be executed in its name by its Board of County Commissioners acting by the County Mayor or the County Mayor's designee, the day and year aforesaid.

ATTEST: _____

Clerk (or Deputy Clerk) of the Circuit Court

(Affix County Seal)

Miami-Dade County, Florida,
By its Board of County Commissioners

By: _____
Title: _____
_____
_____
_____
(Address)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

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

_____
(Signature of person taking acknowledgment)

_____
(Type, print or stamp name under signature)
Title or rank and serial number, if any: _____

ATTEST: _____

Clerk (or Deputy Clerk) of the State

(Affix State Seal)

State of Florida Department of Transportation

By: _____
Title: _____
_____
_____
_____
(Address)

STATE OF FLORIDA

COUNTY OF _____

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

_____
(Signature of person taking acknowledgment)

_____
(Type, print or stamp name under signature)
Title or rank and serial number, if any: _____

EXHIBIT "A"

LEGAL DESCRIPTION - PARCEL 800:

Being a parcel of land lying within a Canal Right of Way, in the Northeast one-quarter (¼) of Section 25 and the Southeast one-quarter (¼) of Section 24, all in Township 52 South, Range 40 East, in Miami-Dade County, Florida, and being more particularly described as follows:

BEGIN at the Northeast corner of said Section 25, said point lying on the West right-of-way line of State Road 823 (NW 57th Ave. / West 4th Ave. / Red Road), as shown on the Florida Department of Transportation Right of Way Map, Section 87630-2602, recorded in Road Map Book 70, Page 5; thence S 02°41'16" E, along said West right-of-way line and the East line of said Section 25, a distance of 989.67 feet to the intersection with the South line of Tract 3 of FLORIDA FRUIT LANDS COMPANY SUBDIVISION, according to the plat thereof, as recorded in Plat Book 2, Page 17 in the Public Records of Miami-Dade County, Florida; thence S 89°37'41" W, along said South line of Tract 3, a distance of 15.01 feet; thence N 02°41'16" W, along a line which is parallel with and 15.00 feet West of, as measured at right angles, the aforesaid East line of Section 25, a distance of 329.76 feet to the intersection with the North line of said Tract 3, said line also being the easterly prolongation of the South line of Tract "C" of PALM LAKES INDUSTRIAL PARK, according to the plat thereof, as recorded in Plat Book 76, Page 16 in the Public Records of Miami-Dade County, Florida; thence S 89°37'41" W, along said North line of Tract 3 and said easterly prolongation of the South line of Tract "C", a distance of 5.62 feet; thence N 22°25'11" E 13.24 feet; thence N 02°41'16" W, along a line which is parallel with and 15.00 feet West of, as measured at right angles, the aforesaid East line of Section 25, a distance of 454.70 feet to the beginning of a non-tangent curve, concave to the Southwest, having a radius of 25.00 feet, to which point a radial line bears N 28°29'27" E; thence northwesterly along the arc of said curve 13.60 feet, through a central angle of 31°10'43"; thence S 87°18'44" W 22.06 feet to the intersection with the West right-of-way line of the canal, as shown on aforementioned Plat Book 76, Page 16; thence N 02°41'16" W, along said West right-of-way line, 4.50 feet; thence N 87°18'44" E 22.06 feet; thence N 02°41'16" W 39.80 feet; thence N 46°33'29" W 31.74 feet; thence S 43°29'17" W 6.93 feet to the intersection with said West right-of-way line of the canal; thence N 02°41'16" W, along said West right-of-way line, 119.82 feet; thence N 89°37'24" E 9.19 feet; thence N 00°22'36" W 6.00 feet; thence N 89°37'24" E 10.00 feet; thence N 25°15'52" E 27.73 feet; thence N 03°20'16" W 10.00 feet; thence N 86°39'44" E 7.33 feet to the intersection with the West right-of-way line of aforesaid State Road 823; thence S 03°20'16" E, along said West right-of-way line, 22.40 feet; thence N 89°37'24" E 10.02 feet to the intersection with the East line of Section 24; thence S 03°20'16" E, along said East line of Section 24, a distance of 10.01 feet to the POINT OF BEGINNING.

Containing 20,443 Square Feet (0.469 Acres) of land, more or less.

GENERAL NOTES:

- THIS IS NOT A SURVEY
- Reproductions of this map are not valid without the signature and original raised seal of the Florida Licensed Surveyor and Mapper in responsible charge.
- The Bearings shown hereon are referenced to the Baseline of Survey of State Road 823 (NW 57th Ave.), having a bearing of N 02°41'16" W, as shown on the Florida Department of Transportation Project Network Control for said State Road 823, completed on 01/13/2012 by CH Perez & Associates Consulting Engineers, Inc., for Project No. 429014-1.
- Additions and/or deletions to survey maps, sketches or reports by any party other than the signing party are prohibited without the written consent of the signing party.

This document consists of four (4) sheets and shall not be considered full, valid, and complete unless each sheet is attached to the other.

CARLOS R. GARCIA
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 6790

03/19/2013
DATE

ADDED MISSED WORD TO LEGAL DESC.	D.DENIS	03/19/13
REV. PARCEL AREA	D.DENIS	03/13/13
REVISION	BY	DATE

FLORIDA DEPARTMENT OF TRANSPORTATION

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

STATE ROAD NO. 823 — MIAMI-DADE COUNTY

	BY	DATE
DRAWN	D.DENIS	11/14/12
CHECKED	C.GARCIA	11/15/12

PREPARED BY: FDOT DISTRICT 6

DATA SOURCE: SEE GENERAL NOTES

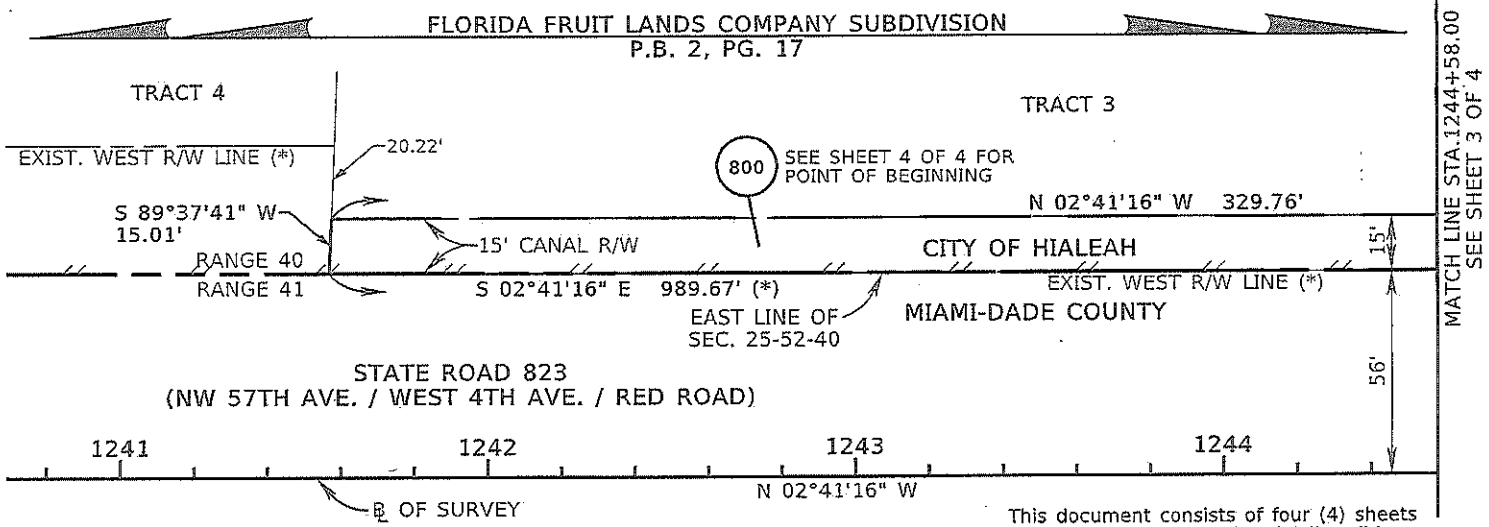
F.P. NO. 429014-1 — SECTION 87002 — SHEET 1 OF 4

LEGEND:

- ℄ - Baseline
- Δ - Curve Delta Angle
- (800) - Parcel Identification Number
- EXIST. - Existing
- FDOT - Florida Department of Transportation
- F.P. - Financial Project
- L - Length
- LT - Left
- MAINT. - Maintenance
- NO. - Number
- P.B. - Plat Book
- PG. - Page
- PI - Point of Intersection
- R - Radius
- RGE. - Range
- R/W - Right-of-Way
- SEC. - Section
- S.R. - State Road
- STA. - Station
- TWP. - Township
- (C) - Calculated
- (P) - Per P.B. 76, PG. 16
- (*) - Per R/W Map Section 87630-2602, Recorded in Road Map Book 70, PG. 5
- (**) - Per R/W Map Section 87008, Recorded in Road Map Book 112, PG. 22
- (***) - Per R/W Map Section 87008-2505, Recorded in Road Plat Book 152, Pg. 4

SEC.25, TWP.52S, RGE.40E

EXHIBIT "A"



This document consists of four (4) sheets and shall not be considered full, valid, and complete unless each sheet is attached to the other.

PARCEL NO.	OWNER'S NAME	PARCEL AREA	REMAINDER	COMMENTS
800	MIAMI-DADE COUNTY DERM	20,443 SQ.FT. (0.469 AC.)	UNDETERMINED	

0 20 40 80 120

Scale: 1" = 40'

FLORIDA DEPARTMENT OF TRANSPORTATION

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

REVISION	BY	DATE
REVISED PARCEL AREA	D.DENIS	03/13/13

STATE ROAD NO. 823 — MIAMI-DADE COUNTY

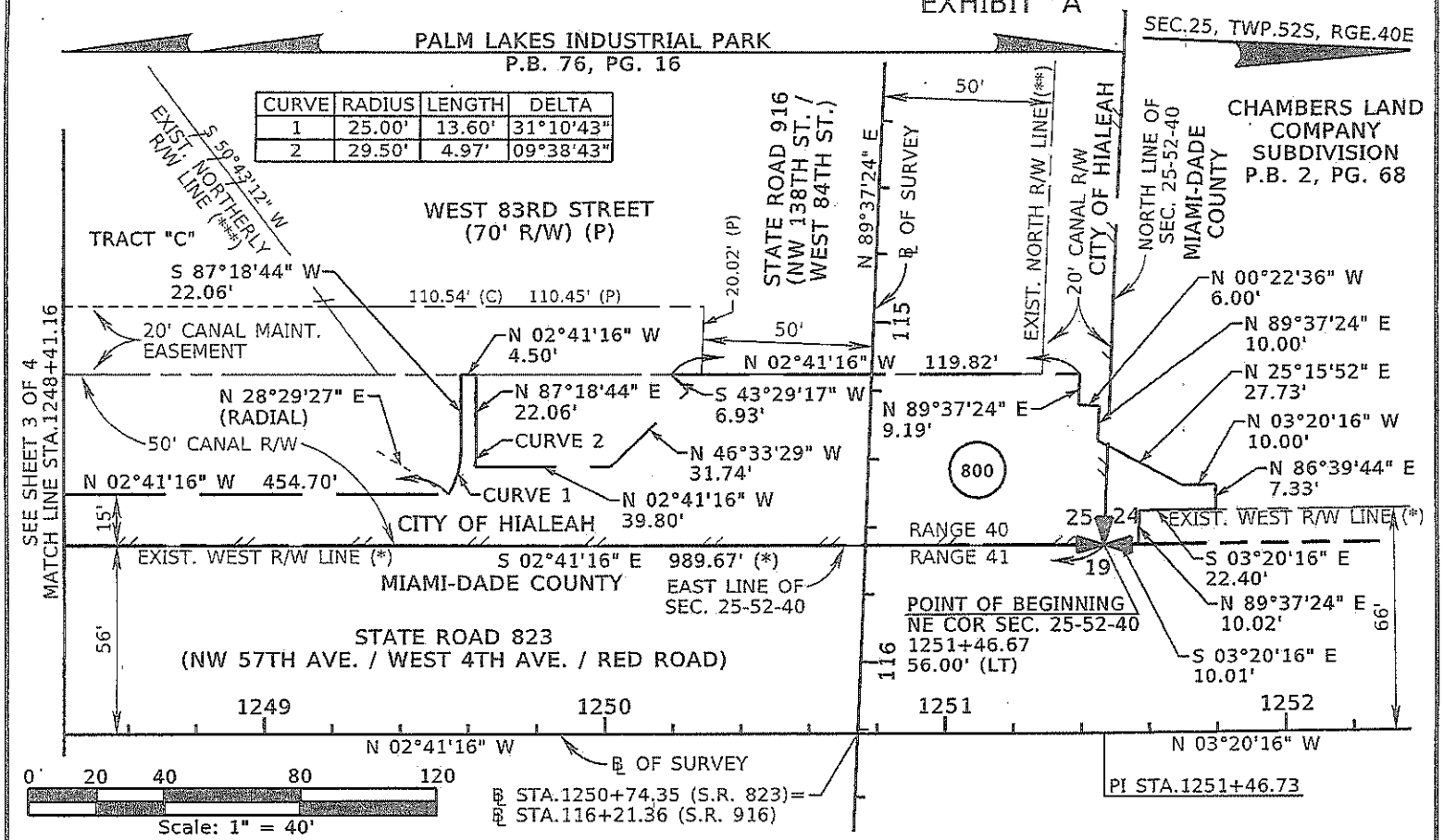
	BY	DATE
DRAWN	D.DENIS	11/14/12
CHECKED	C.GARCIA	11/15/12

PREPARED BY: FDOT DISTRICT 6

DATA SOURCE: SEE GENERAL NOTES ON SHEET 1

F.P. NO. 429014-1 — SECTION 87002 — SHEET 2 OF 4

EXHIBIT "A"



CURVE	RADIUS	LENGTH	DELTA
1	25.00'	13.60'	31°10'43"
2	29.50'	4.97'	09°38'43"

PARCEL NO.	OWNER'S NAME	PARCEL AREA	REMAINDER	COMMENTS
800	MIAMI-DADE COUNTY DERM	20,443 SQ.FT. (0.469 AC.)	UNDETERMINED	

This document consists of four (4) sheets and shall not be considered full, valid, and complete unless each sheet is attached to the other.

FLORIDA DEPARTMENT OF TRANSPORTATION
SKETCH TO ACCOMPANY LEGAL DESCRIPTION

REVISION	BY	DATE
REVISED PARCEL AREA	D.DENIS	03/13/13

STATE ROAD NO. 823 — MIAMI-DADE COUNTY

	BY	DATE
DRAWN	D.DENIS	11/14/12
CHECKED	C.GARCIA	11/15/12

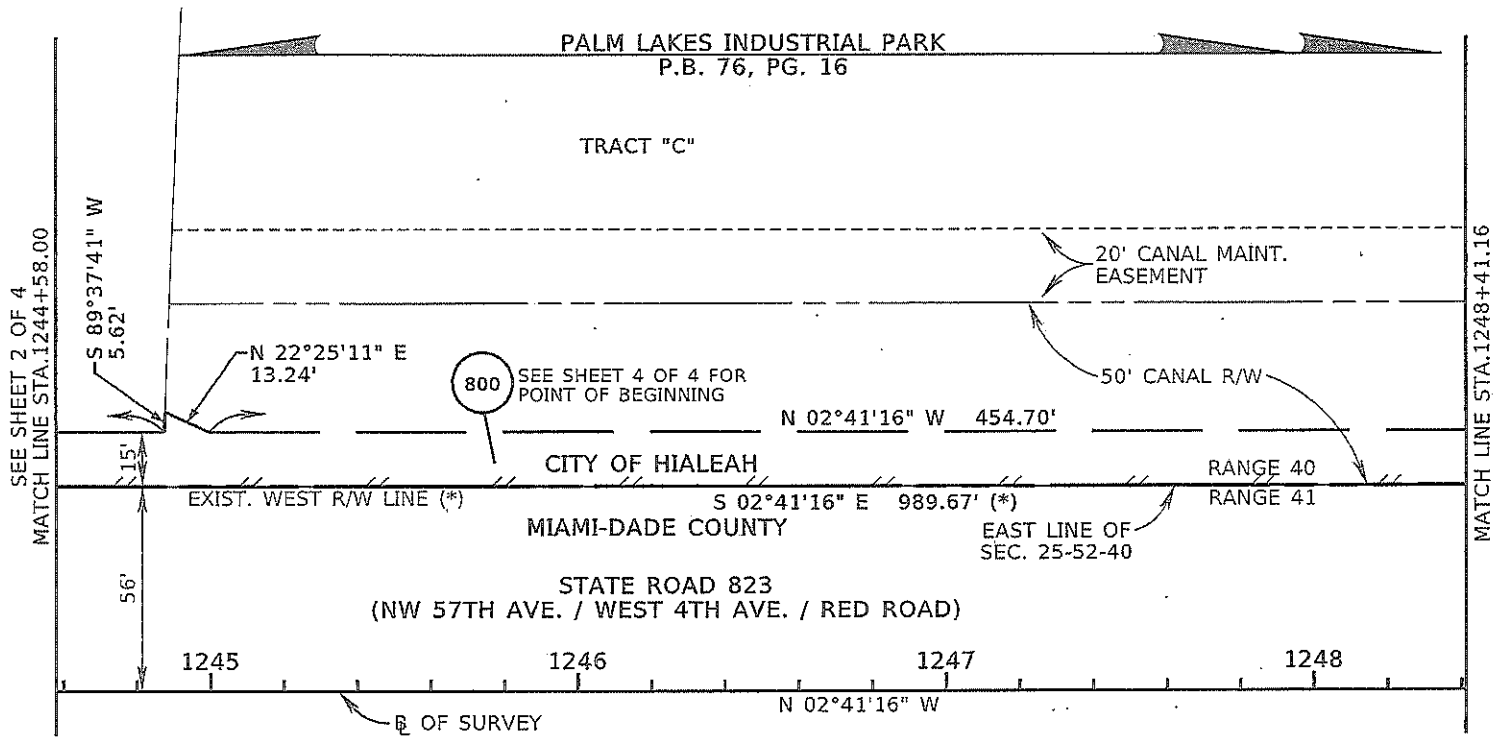
PREPARED BY: FDOT DISTRICT 6
DATA SOURCE: SEE GENERAL NOTES ON SHEET 1
F.P. NO. 429014-1 SECTION 87002 SHEET 4 OF 4

12

PARCEL NO.	OWNER'S NAME	PARCEL AREA	REMAINDER	COMMENTS
800	MIAMI-DADE COUNTY DERM	20,443 SQ.FT. (0.469 AC.)	UNDETERMINED	

SEC.25, TWP.52S, RGE.40E

EXHIBIT "A"



This document consists of four (4) sheets and shall not be considered full, valid, and complete unless each sheet is attached to the other.

0 20 40 80 120
Scale: 1" = 40'

FLORIDA DEPARTMENT OF TRANSPORTATION SKETCH TO ACCOMPANY LEGAL DESCRIPTION				STATE ROAD NO. 823				MIAMI-DADE COUNTY	
					BY	DATE	PREPARED BY: FDOT DISTRICT 6	DATA SOURCE: SEE GENERAL NOTES ON SHEET 1	
	REVISED PARCEL AREA	D.DENIS	03/13/13	DRAWN	D.DENIS	11/14/12			
	REVISION	BY	DATE	CHECKED	C.GARCIA	11/15/12	F.P. NO. 429014-1	SECTION 87002	SHEET 3 OF 4

13

EXHIBIT B

PARCEL 800: F.P. No. 429014-1

Being a parcel of land lying within a Canal Right of Way, in the Northeast one-quarter (¼) of Section 25 and the Southeast one-quarter (¼) of Section 24, all in Township 52 South, Range 40 East, in Miami-Dade County, Florida, and being more particularly described as follows:

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