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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 14(A)(20)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 19, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution authorizing the release of an unneeded drainage easement for drainage swale lying within the Northeast 1/4 of Section 23, Township 54 South, Range 40 East, in Miami-Dade County; and authorizing the County Mayor to execute disclaimer of interest for release of the drainage easement for drainage swale and to perform all acts required to effectuate the release, and directing the County Mayor to record instruments of conveyance authorized herein and provide copies to the clerk of the board

Resolution No. R-742-16

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

Abigail Price-Williams
County Attorney

APW/lmp

Memorandum

MIAMI-DADE COUNTY

Date: July 19, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Release of Unneeded Drainage Easement for Drainage Swale between the Florida East Coast Railway Right-of-Way and SW 70 Court, South of SW 40 Street as Requested by Amerilumber Hardware & Building Material, Inc.

Recommendation

It is recommended that the Board of County Commissioners (Board) authorize the County Mayor or County Mayor's designee to execute the attached Miami-Dade County disclaimer for the release of unneeded drainage easement for drainage swale between the Florida East Coast Railway right-of-way and SW 70 Court, south of SW 40 Street (Bird Road), encumbering Lot 2, Block 1, of the Amerilumber plat. The disclaimer is included as Attachment A to the resolution.

Scope

The site is located east of SW 70 Court in the vicinity of SW 40 Street (Bird Road), in Commission District 7, which is represented by Commissioner Xavier L. Suarez.

Fiscal Impact/Funding Source

This item does not require the expenditure of any funds by Miami-Dade County.

Track Record/Monitor

The Development Services Division of the Department of Regulatory and Economic Resources administers matters affecting plats and waivers of plat, and the person responsible for this function is Raul A. Pino, P. L. S.

Background

In 1959, Mary Opsahl, a widow, gave Miami-Dade County a "drainage easement for drainage swale over and across said property..." in Section 23, Township 54 South, Range 40 East, Miami-Dade County, Florida (Exhibit B to the disclaimer). The easement is located on the south 20 feet of the north 97.76 feet of Lot 2, Block 1, as measured along the east and west lines of said Lot 2, Block 1, of the plat of Amerilumber, recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida. A site diagram is attached as Exhibit C to the disclaimer.

The property encumbered by the above-stated drainage easement for drainage swale is owned by Amerilumber Hardware & Building Material, Inc., which has requested the release of the 20-foot wide drainage easement within the subject property on the east side of SW 70 Court near SW 40 Street. In accordance with the required roadway improvements within SW 70 Court, made a part of and as requirements of the recorded Amerilumber plat, and also noted on the approved paving and drainage plans associated with said plat, the aforementioned drainage easement for drainage swale, with an area of 0.09 acres, is not needed for drainage purposes. The Department of Transportation and Public Works has no objection to this release of easement.

Jack Osterholt
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 19, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 14(A)(20)

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**

_____ **Statement of social equity 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. 14(A)(20)
7-19-16

RESOLUTION NO. R-742-16

RESOLUTION AUTHORIZING THE RELEASE OF AN UNNEEDED DRAINAGE EASEMENT FOR DRAINAGE SWALE LYING WITHIN THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE DISCLAIMER OF INTEREST FOR RELEASE OF THE DRAINAGE EASEMENT FOR DRAINAGE SWALE AND TO PERFORM ALL ACTS REQUIRED TO EFFECTUATE THE RELEASE, AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD INSTRUMENTS OF CONVEYANCE AUTHORIZED HEREIN AND PROVIDE COPIES TO THE CLERK OF THE BOARD

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

WHEREAS, Amerilumber Hardware & Building Material, Inc., a Florida Corporation, is the owner of the property in Section 23, Township 54 South, Range 40 East, which is encumbered by those rights in the drainage easement for drainage swale given to Miami-Dade County in 1959 by Mary Opsahl, a widow, to be used for drainage and swale purposes; and

WHEREAS, Amerilumber Hardware & Building Material, Inc., has requested the release of the 20-foot wide drainage easement for drainage swale encumbering Lot 2, Block 1, of the Amerilumber plat recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida by virtue of an Indenture by Mary Opsahl, a widow, recorded in Official Records Book 1631 at Page 639, of the Public Records of Miami-Dade County, Florida, in Section 23, Township 54 South, and Range 40 East, with a total area of 0.09 acres; and

WHEREAS, the drainage easement for drainage swale is not needed for the drainage purposes of SW 70 Court; and

WHEREAS, in consideration of this and on behalf of Miami-Dade County in accordance with the Miami-Dade County Public Works Manual, the Department of Regulatory and Economic Resources has determined that the requested drainage easement for drainage swale is no longer needed by Miami-Dade County for drainage purpose protection; and

WHEREAS, in order to promote development, and because the easement is no longer needed by the County, this Board finds that such release may be effectuated,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board hereby adopts and incorporates the foregoing recitals as if fully set forth herein.

Section 2. This Board authorizes the release of the unneeded drainage easement for drainage swale from Miami-Dade County in Section 23, Township 54 South, Range 40 East, as indicated in the Mayor's memorandum, a copy of which is attached hereto and incorporated herein by reference; and authorizes the County Mayor or County Mayor's designee to execute the disclaimer for release of the drainage easement for drainage swale from Miami-Dade County through the instrument of conveyance, in substantially the form attached hereto and made a part hereof, on or after the effective date of this resolution, and to perform all acts necessary to effectuate same.

Section 3. Pursuant to Resolution No. R-974-09, the Board directs the County Mayor or the County Mayor's designee to record the instrument of conveyance accepted herein in the Public Records of Miami-Dade County, Florida and to provide a recorded copy of the instrument

to the Clerk of the Board within 30 days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

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

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

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of July, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

Lauren E. Morse

ATTACHMENT A

This instrument was prepared by:

Department of Regulatory and Economic Resources
111 NW 1st Street, 11th Floor
Miami, Florida 33136

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:

SEE EXHIBIT A

WHEREAS, Mary Opsahl, a widow, by Indenture dated September 11, 1959, recorded in Official Records Book 1631 at Page 639 of the Public Records of MIAMI-DADE COUNTY, FLORIDA, conveyed, assigned, set over and granted to Miami-Dade County for drainage easement for drainage swale purposes only, the above described lands; and

WHEREAS, the aforesaid rights in reservations upon the said above described land are not now needed by MIAMI-DADE COUNTY for drainage purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned lands by virtue of the said Indenture dated September 11, 1959, recorded in Official Records Book 1631 at Page 639 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 other existing drainage easement nor the rights of any other agency or governmental body 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_____.

ATTEST:

MIAMI-DADE COUTNY, FLORIDA
BY ITS MAYOR

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____

By: _____
Carlos A. Gimenez, Mayor

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: _____

EXHIBIT A

The S 20.00 ft of the following: "Commencing at the NW corner of the E ½, NW ¼, NE ¼ of Sec 23, Twp 54 S, Rge 40 E; thence run East along the north line of the said NE ¼ of Sec 23 for a dist of 486.54 ft to the West line of the FEC RR r/w line; thence S 0° 39' 35"W along the said FEC RR r/w line for a dist. of 50.00 ft. to the POB of the tract of land herein described: thence continue S 0° 39' 35"W for a dist. of 395.54 ft.; thence S89°52'00"W for a dist. of 200.00 feet; thence N0° 39' 35"E 396.01 ft. to a point lying 50.00 ft. south of the aforesaid north line of the NE ¼ of Sec 23; thence run East along a line 50.00 ft. south of & parallel to the said north line of the NE ¼ of Sec 23 for a distance of 200.00 ft. to the POB, lying in Dade County, Florida and containing 1.36 acres, more or less."

Also known as:

The South 20 feet, of the North 97.76 feet of Lot 2, Block 1, as measured along the east and west lines of said Lot 2, Block 1, of the plat of Amerilumber, recorded in Plat Book 171, Page 66, of the Public Records of Miami-Dade County, Florida.

EXHIBIT B

Form 17-7 (Rev. 1-61)

DRAINAGE EASEMENT FOR DRAINAGE SWALE

STATE OF FLORIDA,
COUNTY OF DADE

THIS INDENTURE, made and entered into by and between

MARY O'GRAHL, A WIDOW, Party

of the County and State aforesaid, as Party of the First Part, and the County of Dade, a political subdivision of the State of Florida, whose permanent post office address is Tenth Floor, Dade County Court House, Miami, Florida, as Party of the Second Part.

KNOW ALL MEN BY THESE PRESENTS that whereas the Parties of the First Part are the owners of the following described land in Dade County, Florida, "Commencing at the NW corner of the E 1/2, NW 1/4, NE 1/4 of Sec 23, Twp 54 S, Rge 40 E; thence run East along the north line of the said NE 1/4 of Sec 23 for a dist. of 486.54 ft to the West line of the FEC RR r/w line; thence S 0° 39' 35" W along the said FEC RR r/w line for a dist. of 50.00 ft; to the POB of the tract of land herein described; thence continue S 0° 39' 35" W for a dist. of 395.54 ft.; thence S 89° 52' 00" W for a dist. of 200.00 ft.; thence N 0° 39' 35" E 396.01 ft. to a point lying 50.00 ft. south of the aforesaid north line of the NE 1/4 of Sec 23; thence run East along a line 50.00 ft. south of and parallel to the said north line of the NE 1/4 of Sec 23 for a distance of 200.00 ft. to the POB, lying in Dade County, Florida and containing 1.36 acres, more or less."

And whereas the parties hereto desire that

a drainage swale be constructed

over and across said property, and that said swale be maintained and kept free and clear of all obstructions, debris, silt, hyacinths, and other vegetable matter, and the Party of the First Part, to accomplish said purpose, are willing to convey to the Party of the Second Part an easement hereinafter described to be used by the Party of the Second Part for the construction, cleaning, and maintenance of said swale.

NOW THEREFORE, in consideration of the premises, and of the sum of One Dollar ($1.00) in hand paid by the Party of the Second Part to the Parties of the First Part, receipt whereof is hereby acknowledged, the Party of the First Part have granted, bargained and sold and by these presents do hereby grant, bargain, sell and convey to the Party of the Second Part an easement over, along and across that certain strip of land being a part of the land hereinabove described, the description of which is as follows: The S 20.00 ft of the following: "Commencing at the NW corner of the E 1/2, NW 1/4, NE 1/4 of Sec 23, Twp 54 S, Rge 40 E; thence run East along the north line of the said NE 1/4 of Sec 23 for a dist. of 486.54 ft to the West line of the FEC RR r/w line; thence S 0° 39' 35" W along the said FEC RR r/w line for a dist. of 50.00 ft. to the POB of the tract of land herein described; thence continue S 0° 39' 35" W for a dist. of 395.54 ft.; thence S 89° 52' 00" W for a dist. of 200.00 feet; thence N 0° 39' 35" E 396.01 ft. to a point lying 50.00 ft. south of the aforesaid north line of the NE 1/4 of Sec 23; thence run East along a line 50.00 ft. south of & parallel to the said north line of the NE 1/4 of Sec 23 for a distance of 200.00 ft. to the POB; lying in Dade County, Florida and containing 1.36 acres, more or less."

together with the right to remove all trees, growth and shrubbery therefrom and to deposit such spoil, silt, hyacinths, and other vegetable matter which the Party of the Second Part shall remove from the swale from time to time in the construction, cleaning, and maintenance of said swale and together also with the right to the Party of the Second Part to use said strip of land in such manner as may be necessary in the operation of its heavy equipment used by the Party of the Second Part in the construction and cleaning of said swale.

All of the provisions hereof shall enure to the benefit of the heirs, executors, administrators and assigns and the successors in interest of the respective parties.

IN WITNESS WHEREOF, the Party of the First Part have hereunto set her hands and seals on this, the 23 day of January A. D. 19[illegible]

Mary O'Grahl (SEAL)

Signed, sealed and delivered
in the presence of:

(SEAL)

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CLERK AND COUNTY COURTS IN GOD WE TRUST DADE COUNTY, FLORIDA

STATE OF FLORIDA, } SS.
COUNTY OF DADE }

BEFORE ME, the undersigned authority, on this day personally appeared the above and within named MARY OPSAHL, A WIDOW

~~XXXXX~~ to me well known and known by me to be the persons described in and who executed the foregoing instrument and ~~they~~ she acknowledged to me that ~~they~~ she executed the foregoing instrument and ~~they~~ she acknowledged to me that ~~they~~ she executed the same freely and voluntarily and for the uses and purposes therein set forth.

WITNESS my hand and official seal at and in the County and State aforesaid on this, the 12 day of January, A. D. 1957.

Notary Public, State of Florida at Large

My commission expires:

Notary Public, State of Florida at Large
My Commission Expires Jan. 7, 1961
Bonded by Agents, Inc. Surety Bond

DRAINAGE EASEMENT

FOR

Mary Opsahl, a widow

To

DADE COUNTY, FLORIDA

STATE OF FLORIDA } SS.
COUNTY OF DADE }
This instrument was filed for record
11 day of SEP 1959 at M.
and duly recorded in OFFICIAL RECORDS
BOOK 1631 on PAGE 639
Record verified
E. H. [illegible], Clerk Circuit Court
By [illegible] D. C.

DADE COUNTY, FLORIDA

STATE OF FLORIDA COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and correct copy of the original on file in this office. 7-7 AD 20 16
HARVEY RUVIN, CLERK, of Circuit and County Courts
Deputy Clerk [signature]
LAWRENCE PIERRE SIMEON #217855

Rec 175

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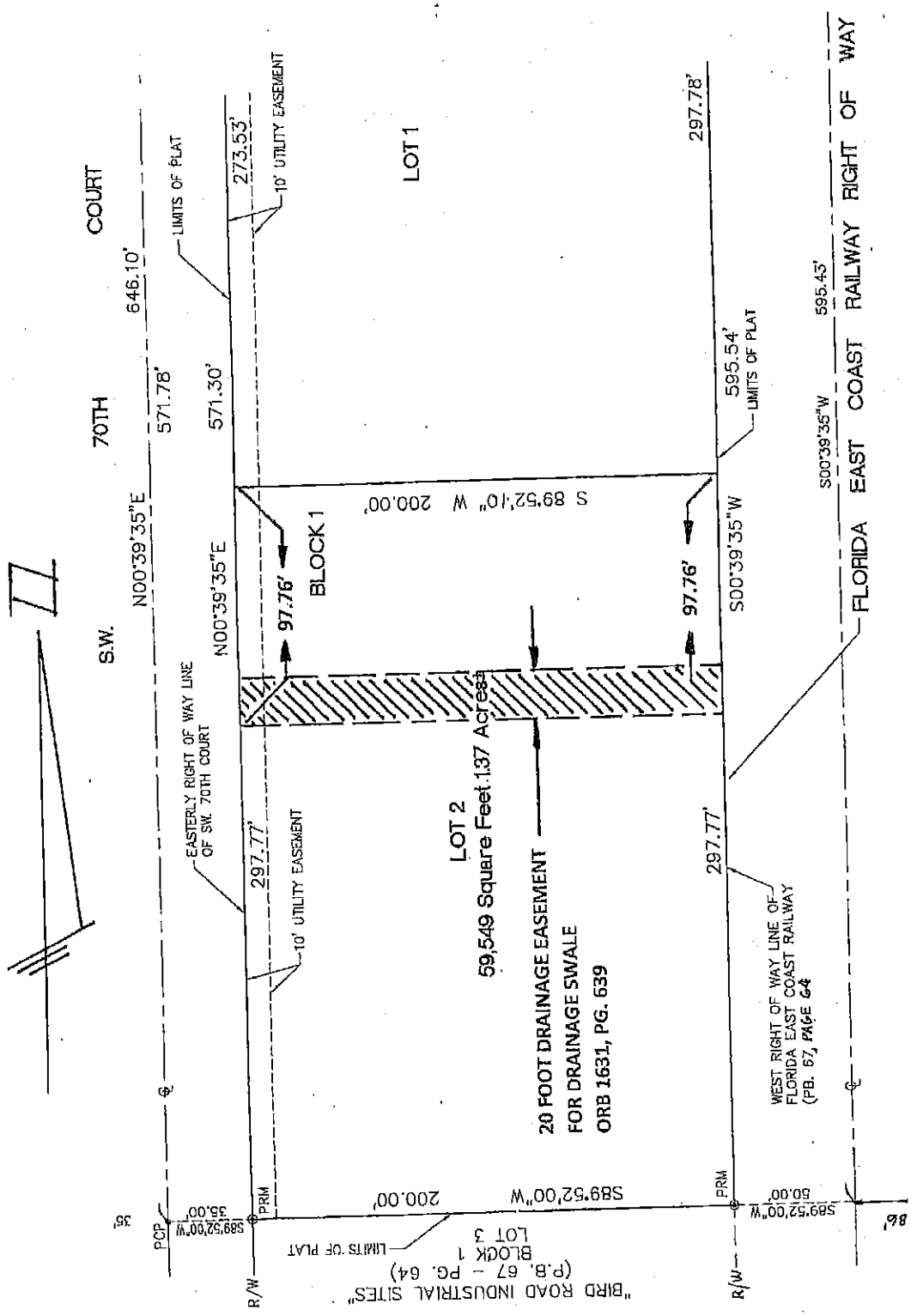
EXHIBIT C



SITE DIAGRAM

AMERILUMBER, PLAT 171, PAGE 66