

MEMORANDUM

Agenda Item No. 8(N)(3)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution accepting an implied offer of dedication for a portion of SW 246 Street from 217.4 feet West of the centerline of SW 129 Avenue to the centerline thereof, in Section 23, Township 56 South, Range 39 East, Miami-Dade County, Florida; authorizing the Mayor to take all actions necessary to effectuate same; and authorizing the recording of the acceptance of the Deed in the Public Records of Miami-Dade County, Florida

Resolution No. R-918-21

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/jp

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Accepting Implied Offer of Dedication to the County for a Portion of
SW 246 Street

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the resolution accepting an implied offer of dedication for a portion of SW 246 Street from 217.4 feet West of the centerline of SW 129 Avenue to the centerline thereof in Section 23, Township 56 South, Range, 39 East, Miami-Dade County, Florida, as legally described in Exhibit A and depicted in Exhibit B. It is in the public’s best interest that the County accept this implied offer to protect the public rights-of-way and subsequently the County Road System.

Scope

The subject property is located within District 8, which is represented by Commissioner Danielle Cohen Higgins.

Delegated Authority

This item delegates the authority to the County Mayor or the County Mayor’s designee to take all actions necessary to effectuate accepting the implied offer of dedication and delegates authority to record the acceptance of the deed in the Public Records of Miami-Dade County.

Fiscal Impact/Funding Source

There is a Fiscal Impact associated with this implied offer of dedication to be included in the Miami-Dade County Roads System. It will increase the costs in maintenance by approximately \$37.65 annually due to the addition of 217 linear feet of one lane road. These costs will be funded through the General Fund (GF) allocation.

Track Record/Monitor

The Department of Transportation and Public Works (DTPW) is the entity overseeing this item and the person responsible is Ms. Maria D. Molina, P.E., Chief, Right of Way Division.

Background

On March 28, 1955, J.W. Walker and Alethia A. Walker his wife, the owners of 10 acres of land described as the Southeast quarter (SE 1/4) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of Section 23, Township 56 South, Range 39 East, in Miami-Dade County, Florida conveyed a portion described as “the North 150 feet lying East of the centerline of the Florida Power & Light Co. power line, less however, the East 25 feet thereof, and also less the North 25 feet thereof, and also less the West 5 feet thereof” of the property to Olin E. Walker and

Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners
Page No. 2

his wife Sara by a Corrective Deed recorded in Deed Book 4070 at Page 550. Such transfer lessened out the North 25 feet that is a part of this implied offer.

Thereafter, J.W. Walker and Alethia A. Walker, being title holders to “the North 25 feet” of the above described conveyance, later granted an easement to Florida Power & Light Co. by a Right-of-Way Agreement dated April 14, 1978, recorded in Official Records Book 10004 at Page 701, confirming their intention to dedicate those North 25 feet for road right-of-way purposes, which is attached as Exhibit C. Specifically, the instrument stated that the North 25 feet were conveyed to FPL “with the understanding that should the anchor attached to the . . . transmission pole . . . affect the future construction and development of said lands for the purpose of road dedication, Florida Power & Light Co. will at its own expense alter, improve or relocate said anchor to conform with the construction of said road”. It is implied therefore that the property owners intended that the North 25 feet be used for road dedication. The current adjacent property owners have come in to develop the property. However, their title does not include the North 25 feet, which is required to be dedicated at the time of development. The department interprets this Agreement as an implied offer of dedication. Common law dedication of property to public use may be made by the express declaration of a party or by its acts. There is no information in the public records that would withdraw, revoke, or impair this implied offer of dedication.



Jimmy Morales
Chief Operations Officer

EXHIBIT "A"

LEGAL DESCRIPTION:

The North 25 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 23, Township 56 South, Range 39 East, lying Easterly of the center line of the Florida Power and Light power line (easement) recorded on Deed Books 1139 at pages 443 and 446 of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S NOTE: Bearings shown hereof are based on an assumed meridian of S00°39'01"E along the center line of SW 129 Avenue, being also the East line of the SW 1/4, of the SE 1/4 of Section 23, TWP 56 S, Range 39 E., referred to a Boundary Survey dated 05-15-19 by American Services of Miami Corporation, LB 6771, Job No.19-468.

By: 
Carlos D. Socarras, PLS
Professional Land Surveyor No. 4953
State of Florida

For: Miami-Dade County Department
of Transportation and Public Works
Right-of-Way Division Engineering Section
111 NW 1 Street, Suite 1610 Miami, Florida
33128-1970

NOTICE: Unless it bears the signature and the original raised seal of a Florida licensed Surveyor and Mapper, this sketch is for informational purposes only and is not valid.

THIS SKETCH IS A GRAPHIC REPRESENTATION OF THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED AND WITHOUT WHICH THIS SKETCH IS TO BE CONSIDERED VOID AND INCOMPLETE.



DTPW THIS IS NOT A SURVEY

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
MIAMI-DADE COUNTY DEPARTMENT
OF TRANSPORTATION AND PUBLIC WORKS
RIGHT OF WAY DIVISION
ENGINEERING SECTION

SW 246 St.

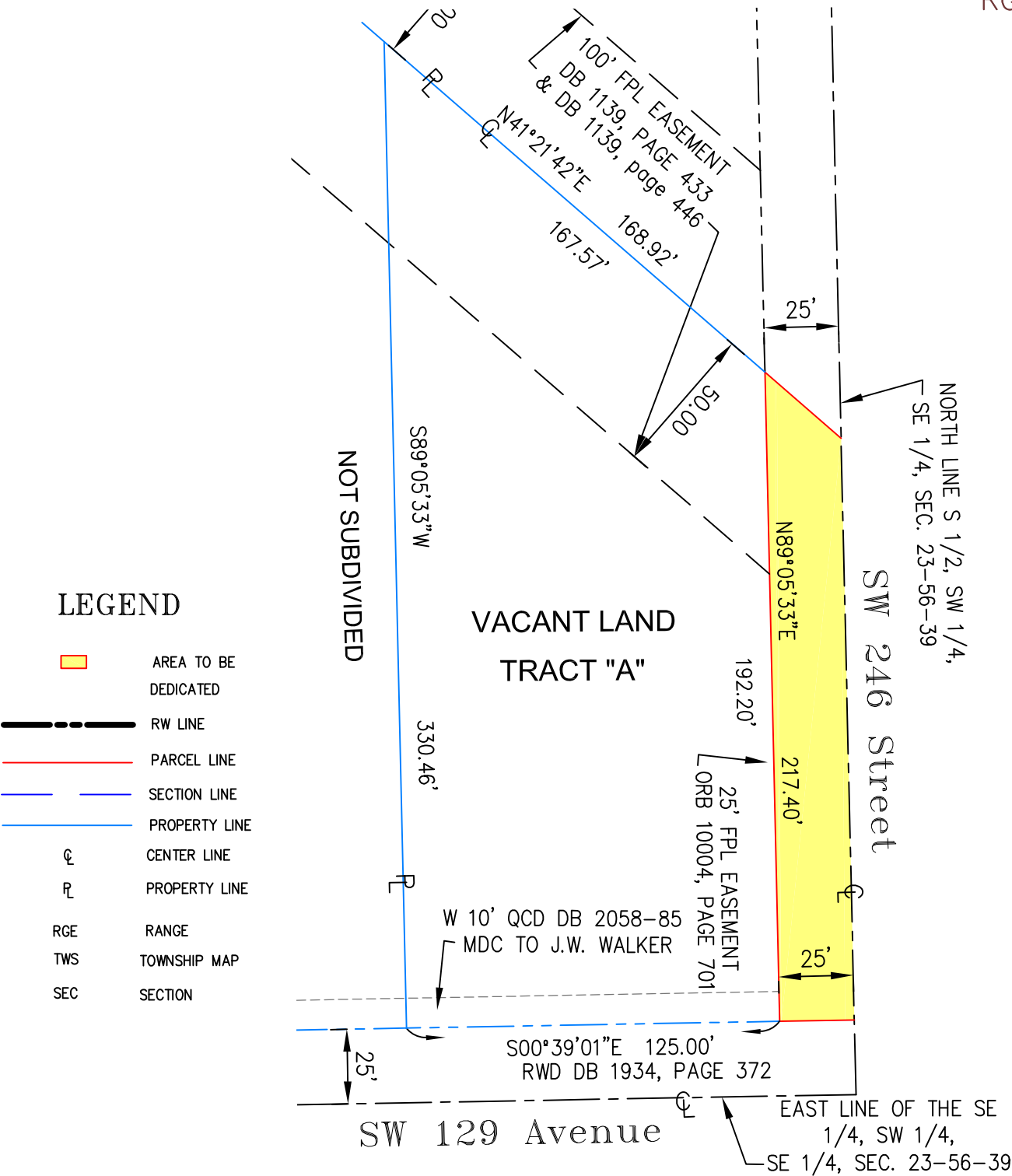
IMPLIED OFFER

SCALE: N/A	DATE: 06-17-21
CHECKED BY: C. Socarras	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 1 of 2



EXHIBIT "B"

SEC 23
TWP 56 S
RGE 39 E



THIS SKETCH IS A GRAPHIC REPRESENTATION OF THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED AND WITHOUT WHICH THIS SKETCH IS TO BE CONSIDERED VOID AND INCOMPLETE.



THIS IS NOT A SURVEY

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
MIAMI-DADE COUNTY DEPARTMENT
OF TRANSPORTATION AND PUBLIC WORKS
RIGHT OF WAY DIVISION
ENGINEERING SECTION

SW 246 St.

5 IMPLIED OFFER

SCALE: 1"=50' DATE: 06-17-21
CHECKED BY: C. Socarras
DRAWN BY: L. Espinosa
PROJECT: SHEET: 2 of 2

EXHIBIT C

30

P. J. Trocchia
FLORIDA POWER & LIGHT
P. O. Box 529311
Miami, FL 33152

RIGHT-OF-WAY AGREEMENT

78R 96809

1978 APR 14 AM 10:37

OFF REC 10004 PG 701

55

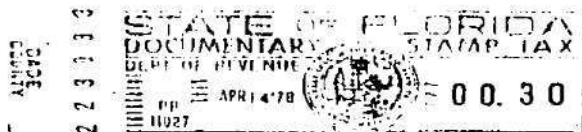
KNOW ALL MEN BY THESE PRESENTS that

John W. Walker and Alethia Walker, his wife

_____ of the County of Dade and State of Florida
In consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, do hereby grant to the Florida Power & Light Company, a corporation organized and existing under the laws of the State of Florida, whose address is P. O. Box 013100 (9250 West Flagler Street), Miami, Florida, and to its successors and assigns (the term "assigns" meaning any person, firm or corporation owning by way of assignment all rights under this Agreement or a portion of such rights with the Grantee or its other assigns retaining and exercising the other rights), an easement forever for a right-of-way 25 feet in width to be used for the construction, operation and maintenance of one or more overhead and under-ground electric transmission and distribution lines (including wires, poles, ~~structures, towers~~, cables, conduits, anchors, guys, telephone and telegraph lines and appurtenant equipment) and one or more pipe lines (including appurtenant equipment) for the transmission of gas or petroleum products in, over, under, upon and across the following described lands of the Grantor S, situated in the County of Dade and State of Florida and more particularly described as follows:

The North twenty-five feet (25') of the SE 1/4 of the SW 1/4 of the SE 1/4 lying Easterly of the centerline of Florida Power & Light Company's powerline, less the east twenty-five feet (25') of Section 23, Township 56 South, Range 39 East of Dade County, Florida.

This easement is being granted with the understanding that should the anchor attached to the Florida Power and Light Co. transmission pole to be located west of the east line and adjacent to the north line of the SE 1/4 of the SW 1/4 of the SE 1/4 of Sec 23, Twp 56 So., Range 39 E, Dade County, Fla., affect the future construction & development of said lands for the purpose of road dedication, Florida Power & Light Co. will at it's own expense alter, improve or relocate said anchor to conform with the construction of said road.

PST
CEAL

together with the right and privilege to reconstruct, inspect, alter, improve, remove or relocate such facilities or any of them on or under the right-of-way above described, with all rights and privileges necessary or convenient for the full enjoyment or the use thereof for the above-mentioned purposes, including the right to construct roads and to cut and keep clear all trees and undergrowth and other obstructions within said right-of-way and all trees of such height on lands of Grantor S adjoining said right-of-way that may interfere with the proper construction, operation and maintenance of such facilities or any of them, and also including the right of ingress and egress over adjoining lands of Grantor S for the purpose of exercising this easement or all or any of the rights granted hereunder and also including the right to mark the location of any underground facilities by above ground and other suitable markers.

The Grantor S, however, reserve the right and privilege to use the above-described right-of-way for agricultural and all other purposes except as herein granted or as might interfere with the Grantee's or assignee's use, occupation or enjoyment thereof, or as might cause a hazardous condition; and provided further by way of illustration and not of limitation to the grant herein made, no portion of the right-of-way shall be excavated or altered without written permission of the Grantee or assignee and no building, structure or obstruction shall be located or constructed on said right-of-way by the Grantor S, successors, heirs or assigns.

IN WITNESS WHEREOF, The Grantor S has executed this agreement this 5th day of

April, 19 78.

Signed, sealed and delivered in the presence of:

Olin E. Walker
Peter Trocchia

John W Walker (SEAL)
John W. Walker
Alethia A. Walker (SEAL)
Alethia Walker - his wife
aka Alethia A. Walker (SEAL)

(SEAL)

ER 4103-4 LOC 980
350-210

Form 3716 Rev. 9/70

STATE OF FLORIDA AND COUNTY OF

Dade

REC T0004 702

I, a Notary Public in and for the County and State aforesaid, do hereby certify that John W. Walker
and Alethia A. Walker known to me, personally appeared before me and acknowledged the execution of the
foregoing instrument for the uses and purposes therein expressed.

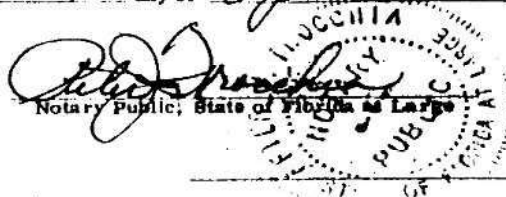
19 78 WITNESS my hand and official seal in said County and State this

5th

day of

April

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES APR 20 1981
BONDED THRU GENERAL INS. UNDERWRITERS



My Commission expires: _____ 19 _____

STATE OF FLORIDA AND COUNTY OF _____

I HEREBY CERTIFY that before me, personally appeared _____, respectively, _____

President and ~~X~~ _____ Secretary of _____

a Corporation organized under the Laws of the State of _____

to me known to be the persons described
in and who executed the foregoing instrument, and severally acknowledged the execution thereof to be their free act and deed as such
officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation and that said
instrument is the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at
in the County of _____ and State of Florida, this _____

day of _____

Notary Public for the State of Florida

My Commission expires: _____

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA.
RECEIVED
RICHARD P. BRINKER,
CLERK CIRCUIT COURT



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(3)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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(N)(3)
10-5-21

RESOLUTION NO. _____ R-918-21

RESOLUTION ACCEPTING AN IMPLIED OFFER OF DEDICATION FOR A PORTION OF SW 246 STREET FROM 217.4 FEET WEST OF THE CENTERLINE OF SW 129 AVENUE TO THE CENTERLINE THEREOF, IN SECTION 23, TOWNSHIP 56 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME; AND AUTHORIZING THE RECORDING OF THE ACCEPTANCE OF THE DEED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

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

WHEREAS, such implied offer is formally acknowledged by the owners of the North 25 less-out abutting SW 246 Street West of the SW 129 Avenue, being granted by a Right-of-Way Agreement dated April 14, 1978, to Florida Power and Light Company recorded in Official Records Book 10004, Page 701, of the Miami-Dade County Public Records,

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

Section 1. This Board incorporates and adopts the foregoing recitals.

Section 2. This Board, upon consideration of the Department of Transportation and Public Works' recommendation, finds and determines that the acceptance of this implied offer of dedication is in the public's best interest.

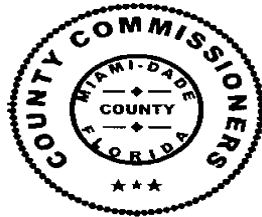
Section 3. This Board hereby approves and accepts the implied offer of dedication, as expressed in the Exhibit "C" to the Mayor's Memorandum, described in Exhibit "A" to the Mayor's Memorandum, and illustrated in the parcel sketch in Exhibit "B" to the Mayor's Memorandum, and authorizes the County Mayor or County Mayor's designee to take all actions necessary to effectuate same.

Section 4. Pursuant to Resolution No. R-974-09, this Board (a) directs the County Mayor or County Mayor’s designee to record the acceptance herein in the Public Records of Miami-Dade County and to provide a recorded copy of each instrument to the Clerk of the Board within thirty (30) days of execution of said instruments; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy of each of said instruments together with this resolution.

The foregoing resolution was offered by Commissioner **Raquel A. Regalado** , who moved its adoption. The motion was seconded by Commissioner **Joe A. Martinez** and upon being put to a vote, the vote was as follows:

Jose “Pepe” Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of October, 2021. 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney
as to form and legal sufficiency.

Lauren E. Morse