

MEMORANDUM

Agenda Item No. 8(N)(1)

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

DATE: November 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing the conveyance of a Perpetual Easement Parcel 800 to Florida Department of Transportation in accordance with section 125.38, of the Florida Statutes, for a nominal price of \$1.00 for the construction of the SR-826 connector to NW 2 Avenue including improvements to the NW 2 Avenue and NW 167 Street intersection, authorizing the County Mayor to take all actions necessary to accomplish the conveyance of same; authorizing the County Mayor to execute the Perpetual Easement and to exercise all rights conferred therein

Resolution No. R-1107-22

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



Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: November 15, 2022

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

From: Daniella Levine Cava 
Mayor

Subject: Resolution Authorizing the Conveyance of a Perpetual Easement to the Florida Department of Transportation (FDOT) on a Portion of NW 2 Avenue between NW 168 Street and NW 169 Street

Recommendation

It is recommended that the Board of County Commissioners (Board) authorize the conveyance of a Perpetual Easement on a portion of County-owned property, to the Department of Transportation (FDOT), for the construction of a roadway project of the SR-826 connector to NW 2 Avenue including improvements to the NW 2 Avenue and NW 167 Street intersection, which is attached to this Memorandum as Attachment 1.

Scope

The subject property is located within Commission District 2, which is represented by Commissioner Jean Monestime.

Fiscal Impact/Funding Source

There is no expenditure of any County funds associated with this item. FDOT is responsible for maintaining the proposed improvements within the easement area.

Track Record/Monitor

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

Delegated Authority

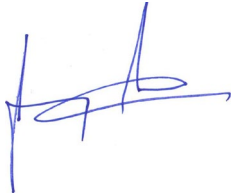
This item delegates the authority to the County Mayor or the County Mayor’s designee to take all actions necessary to accomplish the conveyance of the Perpetual Easement, to execute the Perpetual Easement, and to exercise all rights conferred herein.

Background

FDOT is planning a reconstruction roadway project of the SR-826 connector to NW 2 Avenue including improvements to the NW 2 Avenue and NW 167 Street intersection, the realignment of SR-7/US-441 internal ramps with the Golden Glades Interchange (GGI), and the reconstruction of the ramp from SR-826 westbound to I-95 southbound. Section 337.25 of the Florida Statutes allows FDOT to request donations of County-owned property for public benefit and to use the said donation for the planned improvements. FDOT is requesting this Perpetual Easement for a nominal price of \$1.00.

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

The project will include the installation and maintenance of concrete sidewalk, concrete slab, curb ramp, curb and gutter, sodding, pavement marking, milling, and resurfacing the entire intersections at no cost to the County. The GGI project will be constructed in eight sections. This section of the project is scheduled to begin in early of 2023 and will last approximately two years. If FDOT discontinues use of the Perpetual Easement, it will revert back to the County.



Jimmy Morales
Chief Operations Officer

ATTACHMENT 1

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
March 15, 2022 - MF

Parcel No. : 800.1R(4/08/2022)MN
Item/Segment No. : 428358-8
Managing District : 6
Parcel Folio : N/A

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 purpose of installing, constructing, operating, maintaining, inspecting, repairing, adding to, altering, or changing the size of the drainage trunk line and other appurtenant facilities, in, over, under, upon and through the following described land in Miami-Dade County, Florida, viz:

PARCEL 800

F.P. No. 428358-8

A portion of the Existing Right-of-Way for NW 2nd Avenue as shown on OLETA TERRACE, according to the Plat thereof, recorded in Plat Book 8, Page 117, of the Public Records of Miami-Dade County Florida and more particularly described as follows:

Commence at the Southwest (SW) corner of the Southeast (SE) ¼ of Section 12, Township 52 South, Range 41 East Miami-Dade County, Florida; Thence N03°22'09"W along the West line of the Southeast (SE) ¼ of said Section 12 for a distance of 57.50 feet; Thence S86°37'51"W at right angle from the last described line for a distance of 2.56 feet to the POINT OF BEGINNING of the hereinafter described parcel; Thence continue S86°37'51"W for a distance of 41.84 feet; Thence N41°29'20"W for a distance of 9.08 feet; Thence N03°22'09"W for a distance of 7.86 feet; Thence N86°37'51"E for a distance of 32.06 feet; Thence N04°49'54"W for a distance of 227.57 feet; Thence N02°01'08"W for a distance of 305.00 feet; Thence N01°35'19"W for a distance of 359.13 feet; Thence N88°24'41"E for a distance of 15.00 feet; Thence S01°35'19"E for a distance of 359.07 feet; Thence S02°01'08"E for a distance of 304.58 feet; Thence S04°49'54"E for a distance of 242.59 feet to the POINT OF BEGINNING.

Containing 14,061 square feet more or less.

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

TO HAVE AND TO HOLD the same unto said Grantee, its successors and assigns forever.

MDC005

GRANTOR and GRANTEE further agree as follows:

THAT Grantee shall indemnify and hold Grantor harmless from any and all damages and/or liability, claims, demand, actions and/or suits of any nature arising out of, relating to, or resulting from negligent or wrongful act(s) of Grantee's employees, agents, or instrumentalities, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Grantee hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. However, nothing herein shall be deemed to indemnify Grantor from any liability or claim arising out of the negligent performance or failure of performance of Grantor

THAT this Easement is solely for the purpose set forth herein, including any related and ancillary uses, and no other uses of the Easement Area are permitted.

THAT in the event said transportation use is permanently discontinued or abandoned, Grantee's Easement shall terminate, Grantor shall have the right to immediately repossess same and all property rights shall automatically revert to the Grantor without the necessity of any further action or proceeding. In such event, Grantee shall restore the Easement Area to a like or similar condition as existed prior to the conveyance of the Easement, at its sole cost and expense.

THAT at all times, including but not limited to during the construction of any traffic improvements, Grantee shall provide continuous vehicular and pedestrian ingress and egress to and from the Grantor's abutting property.

THAT during construction, Grantee shall require its construction contractor(s) to maintain Commercial General Liability insurance providing continuous coverage for all work or operations performed under the construction contract. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form as filed for use in the state of Florida. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy, or such other minimum insurance coverage that may be required by the Department for the construction of the project, in accordance with the Florida Department of Transportation's Standards and Specifications for Road Construction.

THAT Grantee shall promptly repair any damage resulting from Grantee's exercising its rights hereunder at its sole expense.

THAT Grantor retains all rights on the land subject to the Easement Area that are not inconsistent with the rights conveyed to Grantee herein.

THAT Grantor makes no representations as to the title or condition of the property within the Easement Area or the suitability of the Easement Area property for the use set forth herein.

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 Chairman or Vice-Chairman of said Board, the day and year aforesaid

ATTEST: HARVEY RUBIN
Clerk of said Board

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

By: _____
Deputy Clerk

(Affix County Seal)

By: _____
Jose "Pepe" Diaz, Chairman of the
Board of County Commissioners

The foregoing was accepted and approved on the _____ day of _____ A.D. 2022, by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida

EXHIBIT "A"

LEGAL DESCRIPTION - PARCEL 800

A portion of the Existing Right-of-Way for NW 2nd Avenue as shown on OLETA TERRACE, according to the Plat thereof, recorded in Plat Book 8, Page 117, of the Public Records of Miami-Dade County Florida and more particularly described as follows:

Commence at the Southwest (SW) corner of the Southeast (SE) $\frac{1}{4}$ of Section 12, Township 52 South, Range 41 East Miami-Dade County, Florida; Thence N03°22'09"W along the West line of the Southeast (SE) $\frac{1}{4}$ of said Section 12 for a distance of 57.50 feet; Thence S86°37'51"W at right angle from the last described line for a distance of 2.56 feet to the POINT OF BEGINNING of the hereinafter described parcel; Thence continue S86°37'51"W for a distance of 41.84 feet; Thence N41°29'20"W for a distance of 9.08 feet; Thence N03°22'09"W for a distance of 7.86 feet; Thence N86°37'51"E for a distance of 32.06 feet; Thence N04°49'54"W for a distance of 227.57 feet; Thence N02°01'08"W for a distance of 305.00 feet; Thence N01°35'19"W for a distance of 359.13 feet; Thence N88°24'41"E for a distance of 15.00 feet; Thence S01°35'19"E for a distance of 359.07 feet; Thence S02°01'08"E for a distance of 304.58 feet; Thence S04°49'54"E for a distance of 242.59 feet to the POINT OF BEGINNING.

Containing 14,061 square feet more or less.

NOT A SURVEY

THIS DOCUMENT CONSISTS OF FIVE (5) 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			
			STATE ROAD NO. 9A (I-95 EXPRESSWAY)			
			MIAMI-DADE COUNTY			
			BY	DATE	PREPARED BY: MANUEL G. VERA AND ASSOCIATES INC., LB#2439 13960 SW 47th STREET, MIAMI FLORIDA 33175	DATA SOURCE: SEE SURVEYOR'S NOTES
			DRAWN	CEA	01-22	
REVISION	BY	DATE	CHECKED	CEA	01-22	F.P. No. 428358-8 SECTION 87270 SHEET 02 OF 05

EXHIBIT "A"

SECTION 12, TOWNSHIP 52 S., RANGE 41 E. MIAMI-DADE COUNTY, FLORIDA

PARCEL NO.	OWNER'S NAME	PARCEL AREA	REMAINDER	COMMENTS
800	MIAMI-DADE COUNTY	± 14,061 SQ. FT.	N/A	N/A

MATCH LINE STA. 13+60.00 SEE SHEET 03 OF 05

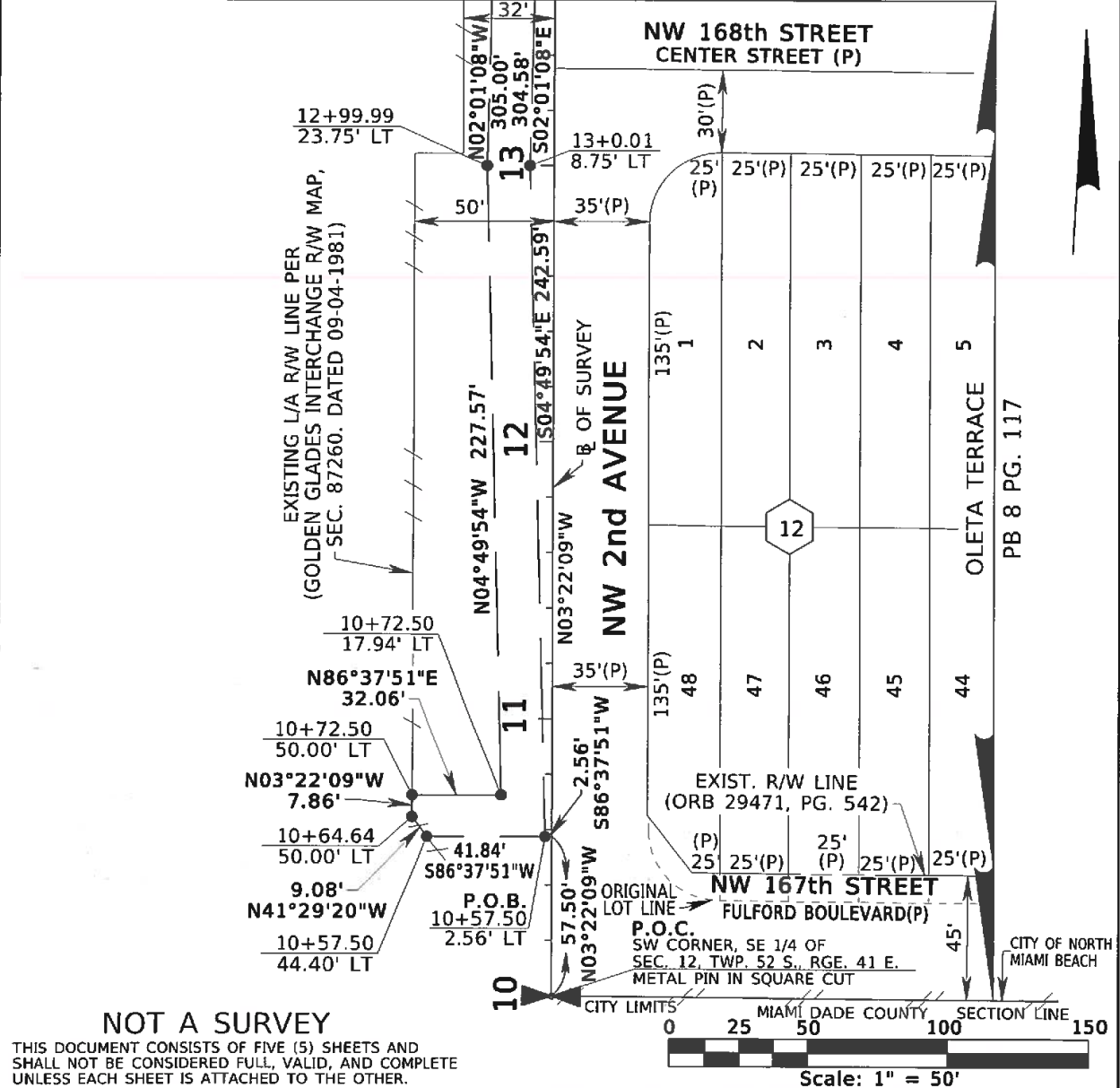
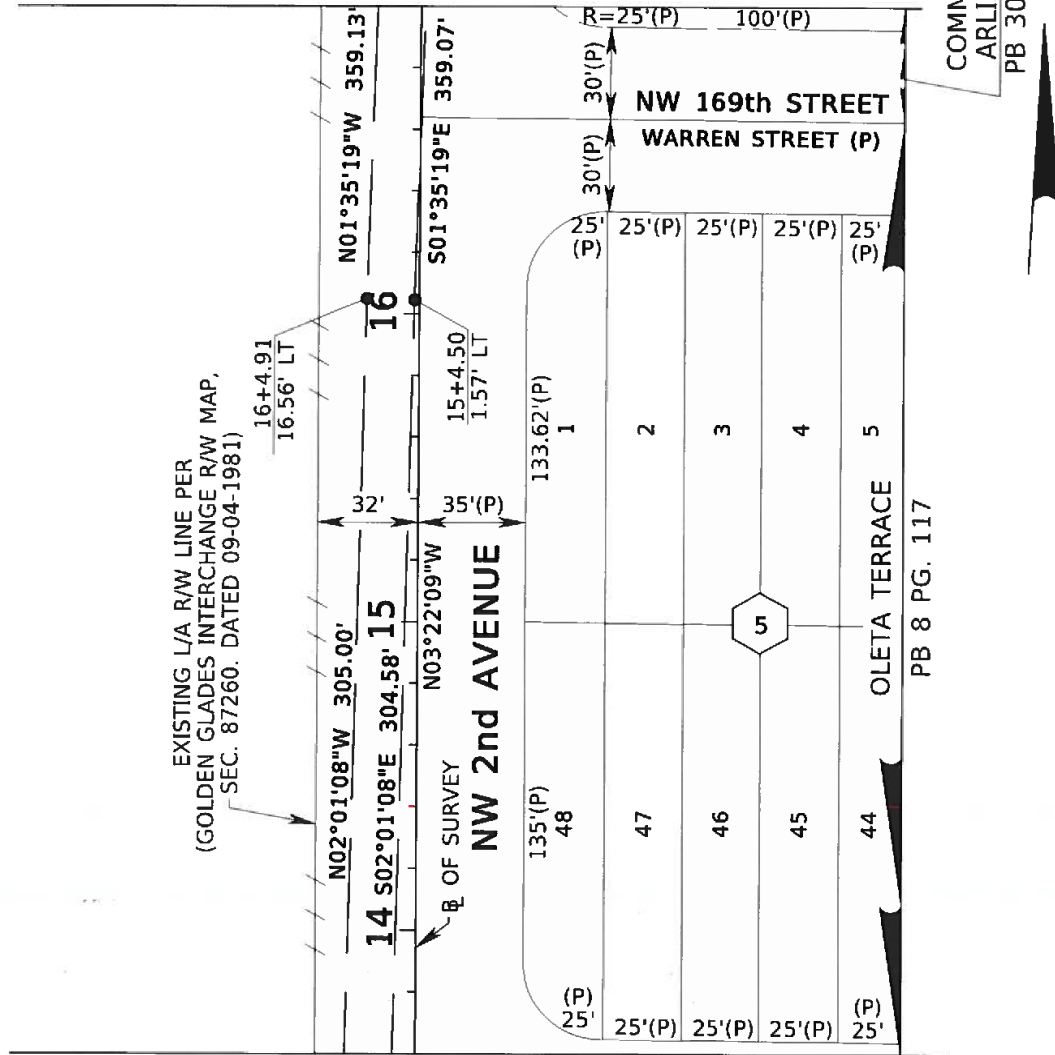


EXHIBIT "A" PARCEL 800

SECTION 12, TOWNSHIP 52 S., RANGE 41 E. MIAMI-DADE COUNTY, FLORIDA

MATCH LINE STA. 17+00.00 SEE SHEET 05 OF 05



MATCH LINE STA. 13+60.00 SEE SHEET 03 OF 05

NOT A SURVEY

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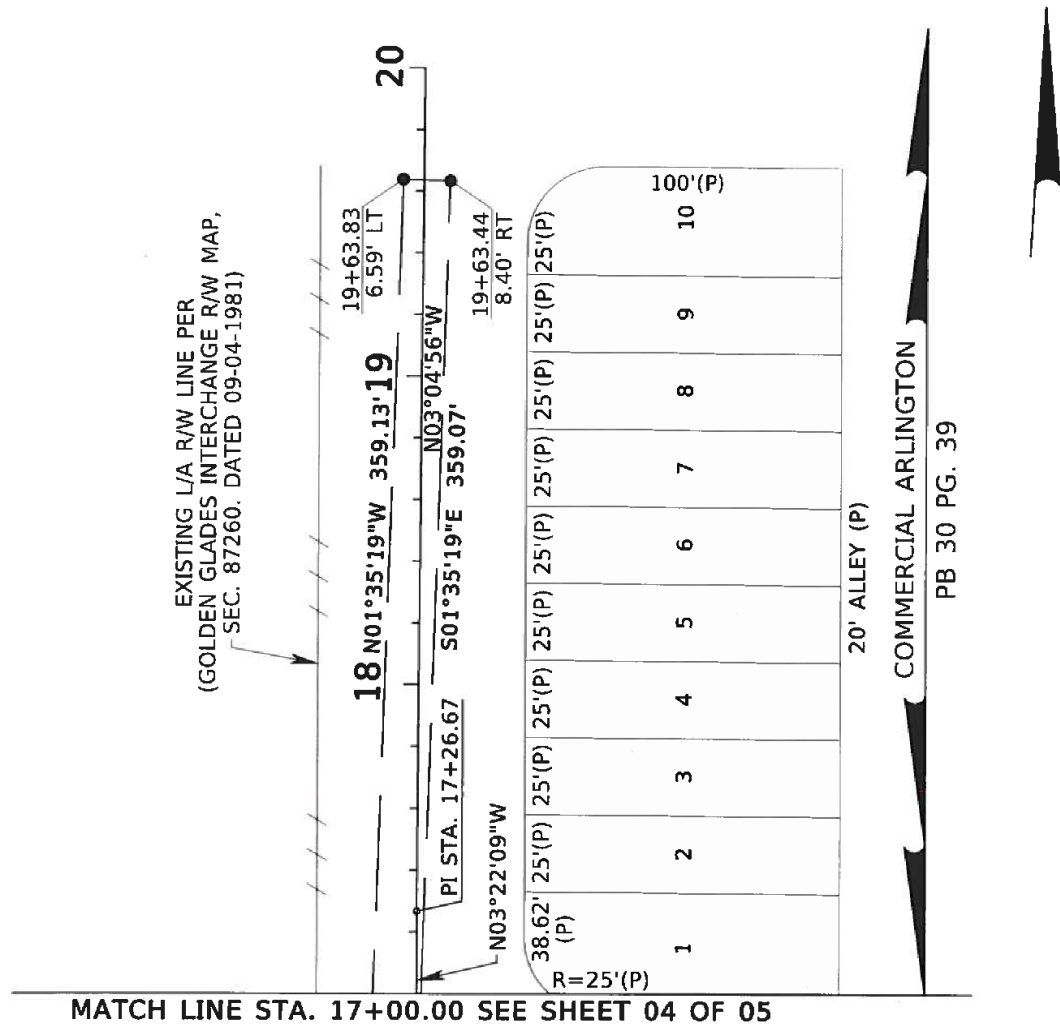
0 25 50 100 150



Scale: 1" = 50'

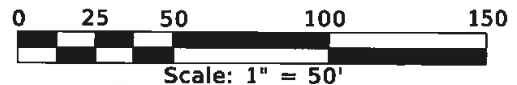
			FLORIDA DEPARTMENT OF TRANSPORTATION			
			SKETCH TO ACCOMPANY LEGAL DESCRIPTION			
			STATE ROAD NO. 9A (I-95 EXPRESSWAY)		MIAMI-DADE COUNTY	
			BY	DATE	PREPARED BY:	DATA SOURCE:
			DRAWN	CEA	01-22	MANUEL G. VERA AND ASSOCIATES INC., LB#2439 13960 SW 47th STREET, MIAMI FLORIDA 33175
			CHECKED	CEA	01-22	SEE SURVEYOR'S NOTES
REVISION	BY	DATE	F.P. No. 428358-8		SECTION 87270	SHEET 04 OF 05

SECTION 12, TOWNSHIP 52 S., RANGE 41 E. MIAMI-DADE COUNTY, FLORIDA



NOT A SURVEY

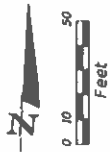
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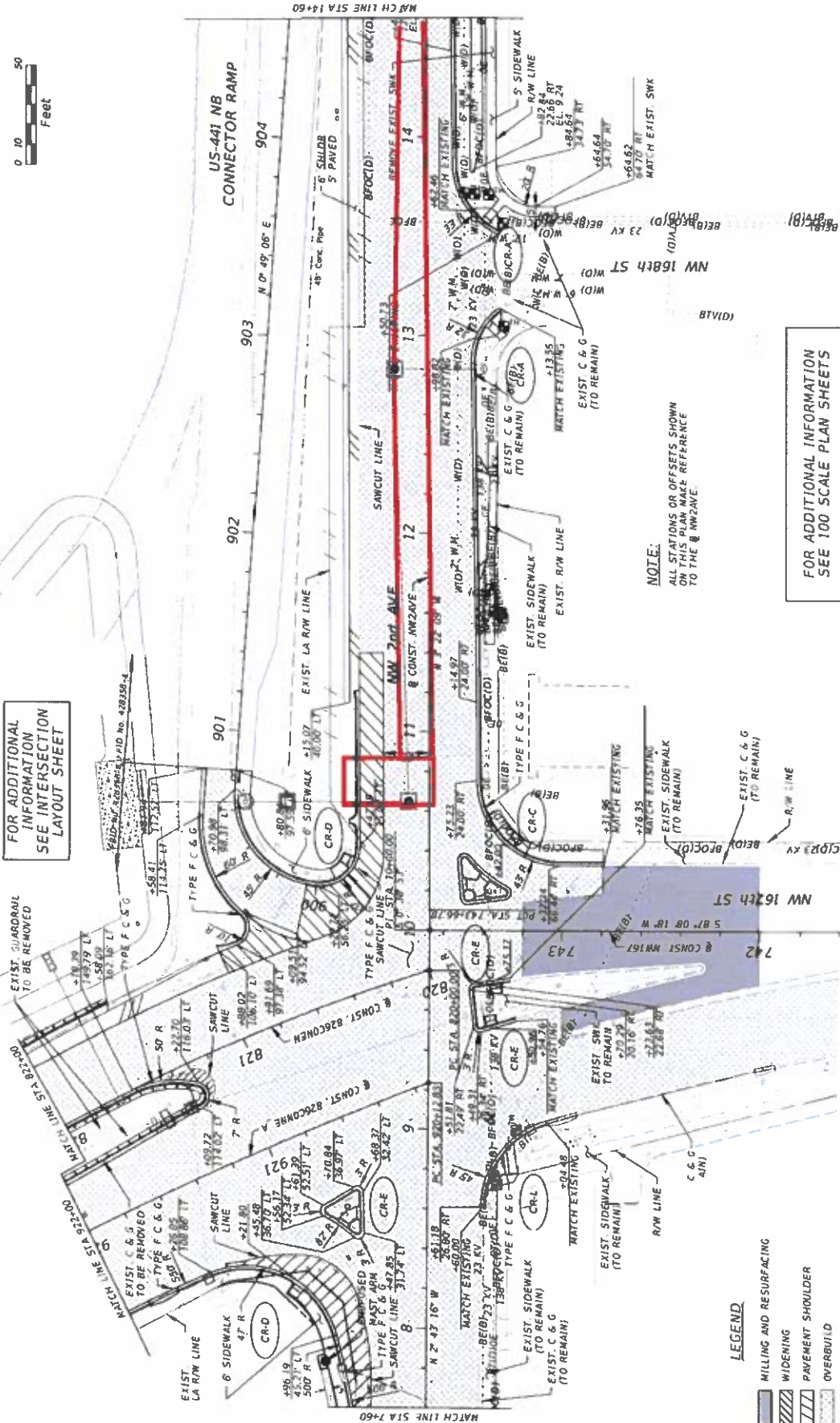
			FLORIDA DEPARTMENT OF TRANSPORTATION SKETCH TO ACCOMPANY LEGAL DESCRIPTION			
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			MIAMI-DADE COUNTY			
			BY	DATE	PREPARED BY: MANUEL G. VERA AND ASSOCIATES INC., LB#2439 13960 SW 47th STREET, MIAMI FLORIDA 33175	DATA SOURCE: SEE SURVEYOR'S NOTES
			DRAWN	CEA	01-22	
REVISION	BY	DATE	CHECKED	CEA	01-22	F.P. No. 428358-8 SECTION 87270
						SHEET 05 OF 05

ATTACHMENT 2

ATTACHMENT 2



FOR ADDITIONAL
INFORMATION
SEE INTERSECTION
LAYOUT SHEET



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 610.5, 23.004, F.A.C.

DATE		REVISIONS		DESCRIPTION	
DATE	DESCRIPTION	DATE	DESCRIPTION	DATE	DESCRIPTION
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION					
ROAD NO. SR 826		COUNTY MIAMI-DADE		FINANCIAL PROJECT ID 428358-9 52-01	
PROJECT NO. 210-2827		PROJECT NAME NW 2nd Ave		PROJECT LOCATION NW 2nd Ave, NW 167th St to NW 168th St	
DESIGNED BY		CHECKED BY		APPROVED BY	
DRAWN BY		PROJECT MANAGER		SHEET NO. 32	

MDC013



MEMORANDUM

(Revised)

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

DATE: November 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(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
- ☐ 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)(1)
11-15-22

RESOLUTION NO. R-1107-22

RESOLUTION AUTHORIZING THE CONVEYANCE OF A PERPETUAL EASEMENT PARCEL 800 TO FLORIDA DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SECTION 125.38, OF THE FLORIDA STATUTES, FOR A NOMINAL PRICE OF \$1.00 FOR THE CONSTRUCTION OF THE SR-826 CONNECTOR TO NW 2 AVENUE INCLUDING IMPROVEMENTS TO THE NW 2 AVENUE AND NW 167 STREET INTERSECTION, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE CONVEYANCE OF SAME; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE PERPETUAL EASEMENT AND TO EXERCISE ALL RIGHTS CONFERRED THEREIN

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

WHEREAS, the Florida Department of Transportation (FDOT) desires the conveyance of an easement upon a portion of certain County-owned property located along NW 2 Avenue between NW 168 Street and NW 169 Street, as identified, depicted, and described in Exhibit "A" of Attachment 1 to the County Mayor's memorandum, referred to as Parcel No. 800 (Perpetual Easement); and

WHEREAS, the FDOT requires the Perpetual Easement in order to install, construct, operate, maintain, inspect, repair, add to, alter, or change the size of the drainage trunk line and other appurtenance facilities as depicted in Attachment 2 to the County Mayor's memorandum identified as Roadway Map and Staking Pictures of Parcel 800, and has applied to the County to convey same for the use and purpose mentioned before; and

WHEREAS, the Board finds the conveyance of the Perpetual Easement to the FDOT would be necessary in order to properly complete said road improvement project, this conveyance would be utilized for the benefit of the public and community interest and welfare, and is consistent with County public purpose; and

WHEREAS, the County desires to convey the Perpetual Easement to the FDOT pursuant to section 125.38, Florida Statutes, for a nominal price of \$1.00; and

WHEREAS, the acceptance of the Perpetual Easement by the FDOT is in accordance with sections 337.25, Florida Statutes, governing FDOT's acceptance of the donation for transportation facilities; and

WHEREAS, the Perpetual Easement will revert to the County in the event that the use by the FDOT for transportation purposes ceases,

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

Section 1. This Board adopts and incorporates the foregoing recitals and the County Mayor's memorandum with attachments as if fully set forth herein.

Section 2. This Board authorizes the conveyance of the Perpetual Easement to FDOT, pursuant to section 125.38, Florida Statutes, for a nominal price of \$1.00, in substantially the form attached to the County Mayor's memorandum as Attachment 1, solely to install, construct, maintain, inspect, repair, alter or change the size of the drainage trunk line and other appurtenance for the use and purpose of enhancing vehicular access, along NW 2 Avenue between NW 168 Street and NW 169 Street.

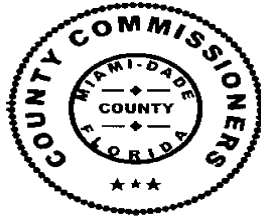
Section 3. This Board authorizes the County Mayor or County Mayor’s designee to take all actions necessary to accomplish the conveyance of the Perpetual Easement, to execute the Perpetual Easement, and to exercise all rights conferred therein.

Section 4. Pursuant to Resolution No. R-974-09, this Board (1) directs the County Mayor or County Mayor’s designee to record the Perpetual Easement 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 the execution of said instrument; and (2) 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 **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** 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	Kionne L. McGhee aye
Jean Monestime	aye	Raquel A. Regalado aye
Rebeca Sosa	aye	Sen. Javier D. Souto absent

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of December, 2022. 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

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

Lauren E. Morse