

MEMORANDUM

Agenda Item No. 5(B)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 2, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution granting petition
to close NW 132 Avenue from
NW 130 Street to NW 138 Street
(Vacation of Right-of-Way
Petition No. P-1008) filed by
Cemex Construction Materials
Florida, LLC; and waiving the
signature requirements of
Resolution No. 7606 as adjacent
property owners

Resolution No. R-240-24

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



Geri Bonzon-Keenan
County Attorney

GBK/ks

Memorandum



Date: April 2, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Vacation of Right-of-Way Petition P-1008
Section: 26-52-39
NW 132 Avenue from NW 130 Street to NW 138 Street
Commission District: 12

Executive Summary

The purpose of this item is for the Board of County Commissioners (Board) to grant a petition filed by CEMEX Construction Materials Florida, LLC to vacate the subject portion of County-owned land so that it becomes incorporated into the abutting properties. The \$14,336.93 fee for this vacation of right-of-way petition has been paid.

Recommendation

It is recommended that the Board grant vacation of right-of-way petition P-1008, attached to this Memorandum as Exhibit 2, following a public hearing. The Miami-Dade County (County) Departments of Regulatory and Economic Resources, Transportation and Public Works (DTPW), Water and Sewer (WASD), and Fire Rescue have no objection to this portion of land being vacated. This request conforms with County regulations governing the procedures for the vacation of County right-of-way as set forth in Resolution No. 7606. Location maps are attached as Exhibit 1. The subject land has never been improved nor maintained by the County as a roadway.

Scope

The subject vacation of right-of-way petition is located within District 12, which is represented by Commissioner Juan Carlos Bermudez.

Fiscal Impact/Funding Source

The Property Appraiser's Office has assessed the properties adjacent to the subject land at an average rate of \$0.69 per square foot. Therefore, it has an estimated value of approximately \$123,770. If the subject land is vacated and acquired by the petitioner, it will be placed on the tax roll, generating an estimated \$2,110 per year in additional property taxes. The fee for this vacation of right-of-way petition is \$14,336.93.

Track Record/Monitor

DTPW is the entity overseeing this project and the person responsible for monitoring is Maria D. Molina, P.E., Chief, Right-of-Way Division.

Delegated Authority

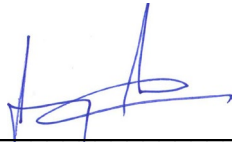
There is no delegation of authority associated with this item.

Attachments: Exhibit 1 – Location & Aerial Maps, Exhibit 2 – Vacation of Right-of-Way Petition P-1008, Exhibit “A” – Sketch & Legal Description

Background

In 1950, the County acquired this portion of land now known as NW 132 Avenue from NW 130 Street to NW 138 Street from the Board of Commissioners of Everglades Drainage District, as evidenced by the deed recorded in Deed Book 3383, at Page 582, of the Public Records of Miami-Dade County, Florida. According to this deed, the subject land was transferred to the County "in fee simple forever" with no mention of reversionary rights to the original owner or its heirs, successors, or assigns. However, Section 336.12 of the Florida Statutes states that "...if the fee of road space has been vested in the county, same will be thereby surrendered and will vest in the abutting fee owners to the extent and in the same manner as in the case of termination of an easement for road purposes." Therefore, the underlying land will become part of the petitioner's abutting properties if this petition is granted. The petitioner wishes to acquire the subject land for the purpose of maximizing the efficiency of the existing limestone mining operations taking place on the abutting properties.

The subject portion of land has never been improved nor maintained as a roadway by the County. It includes areas of grass, brush, trees, and bare earth. This land lies outside the Urban Development Boundary (UDB) and within the Rockmining Overlay Zoning Area (ROZA). The abutting properties are zoned GU (Interim District).



Jimmy Morales
Chief Operations Officer

Location & Aerial Map

SECTION 26 TOWNSHIP 52 S RANGE 39 E



EXHIBIT "1"



This is not a survey

P- 1008

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Juan Carlos Bermudez 12

Legend



P-1008 ROAD CLOSING

MIAMI-DADE COUNTY
Department of Transportation and Public Works
Right-of-Way Division
111 NW 1st Street, Suite 1610,
Miami, Florida 33128
PH (305) 375-2714 FAX (305) 375-2825

Date: May 10, 2023
Prepared by : ym

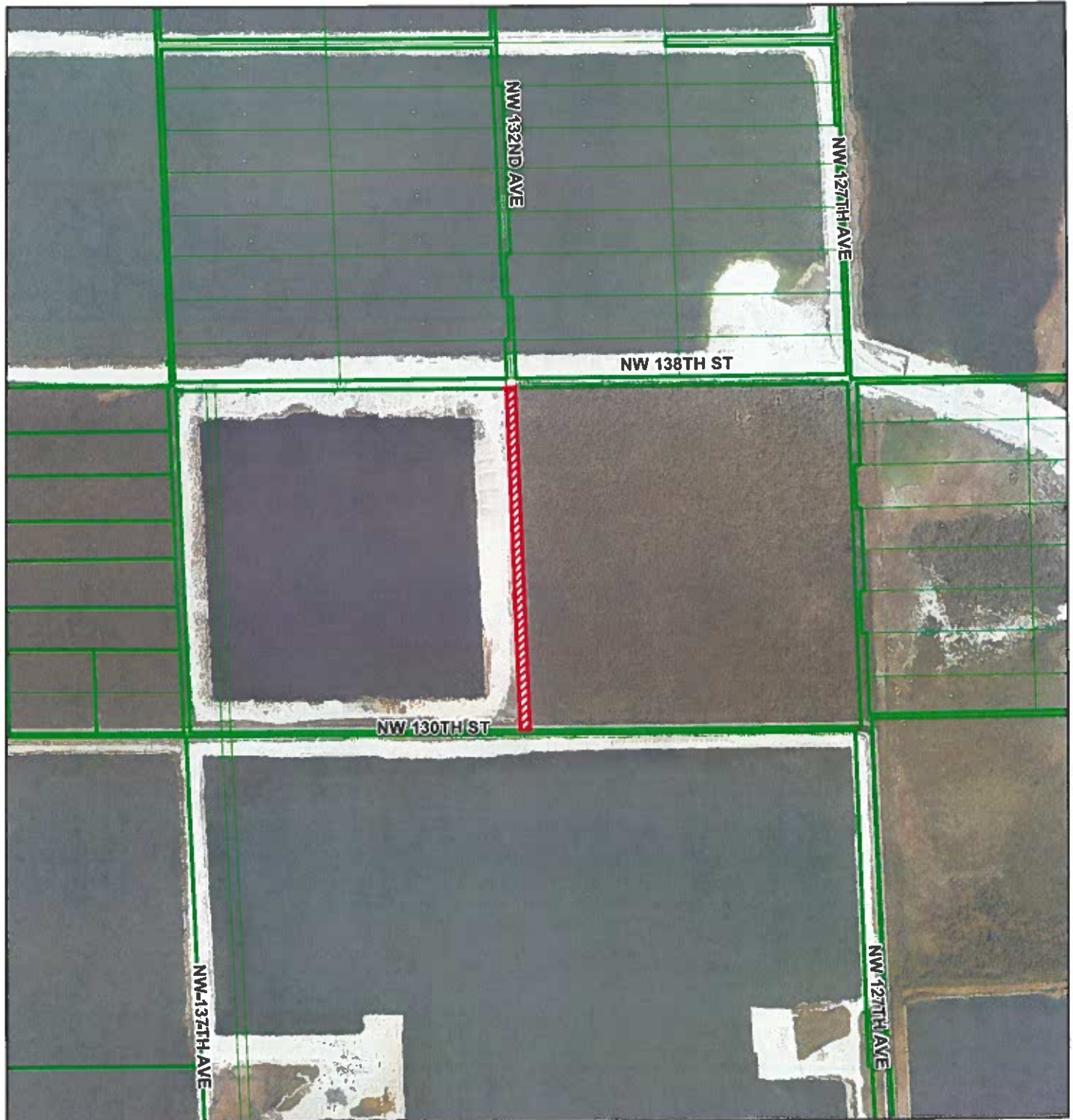
MDC004

Location & Aerial Map

SECTION 26 TOWNSHIP 52 S RANGE 39 E



EXHIBIT "1"



This is not a survey

P- 1008

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Juan Carlos Bermudez 12

Legend



P-1008 ROAD CLOSING

MIAMI-DADE COUNTY
Department of Transportation and Public Works
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111 NW 1st Street, Suite 1610,
Miami, Florida 33128
PH (305) 375-2714 FAX (305) 375-2825

Date: May 10, 2023
Prepared by : ym

MDC005

EXHIBIT 2
PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 - 336.12 Florida Statutes, hereby petitions the Board of County Commissioners to vacate, abandon, discontinue and close an existing public street, alleyway, road, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

1. LEGAL DESCRIPTION: The complete and accurate legal description of the road right-of-way sought to be closed is as follows:

The East 35.00 feet of the NW 1/4 of Section 26, Township 52 South, Range 39 East, less the North 35.00 feet and less the South 35.00 feet thereof, lying in Miami-Dade County, Florida.

AND

The West 35.00 feet of the NE 1/4 of Section 26, Township 52 South, Range 39 East, less the North 35.00 feet and less the South 35.00 feet thereof, lying in Miami-Dade County, Florida.

2. PUBLIC INTEREST IN ROAD: The title or interest of the county and the Public in and to the above-described road right-of-way was acquired and is evidenced in the following manner (state whether public interest was acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

Acquired by Deed No. 7025 between Board of Commissioners of Everglades Drainage District and County of Dade recorded in Deed Book 3383 Page 582.

3. Attach SURVEY SKETCH: Attached hereto is a survey accurately showing and describing the above-described right-of-way and its location and relation to surrounding property, and showing all encroachments and utility easements.

Reference Exhibit 'A' Sketch of Description.

4. ABUTTING PROPERTY OWNERS: the following constitutes a complete and accurate schedule of all owners of property abutting upon the above-described right-of-way.

NAME	FOLIO NO.	ADDRESS
Northerly Abutting Owners		
<u>CEMEX CONSTRUCTION MATERIALS FL, LLC</u>	<u>30-2923-001-0050</u>	<u>1720 Centrepark Dr. E West Palm Beach, FL 33401</u>
Southerly Abutting Owners		
<u>MIAMI-DADE COUNTY NW WELLFIELD CANAL</u>	<u></u>	<u></u>
Easterly Abutting Owners		
<u>CEMEX CONSTRUCTION MATERIALS FL, LLC</u>	<u>30-2926-000-0010</u>	<u>1720 Centrepark Dr. E West Palm Beach, FL 33401</u>
Westerly Abutting Owners		
<u>CEMEX CONSTRUCTION MATERIALS FL, LLC</u>	<u>30-2926-000-0011</u>	<u>1720 Centrepark Dr. E West Palm Beach, FL 33401</u>

5. ACCESS TO OTHER PROPERTY: The undersigned certify that in the event this petition is granted no other property owners will be prevented from access to and from their property and no other property owners in the vicinity will be adversely affected.
6. GROUNDS FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST: The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):

These dedicated rights-of-way are located within the FEC Quarry, a limestone quarry within the Rockmining Overlay Zoning Area ("ROZA") as described in Chapter 33, Article XLI Code of Miami-Dade County and the Lake Belt Plan described in Title XXVIII Florida Statutes ("LAKE BELT"). Areas of ROZA and the LAKE BELT were set aside by the Miami-Dade Board of County Commissioners and the Florida Legislature, respectively, to maximize efficient recovery of limestone. Among other means, said efficiency is achieved by the consolidation of lakes and adjoining parcels of land. Federal, State and County permits for lake excavation within FEC Quarry stipulate that upon cessation of limestone extraction Section 26 Township 52 South, Range 39 East shall be placed under conservation easement, thereby prohibiting the development of residential or commercial dwellings. The dedicated rights-of-way requested for vacation are not necessary for access to non-rock mining properties.

7. Signatures of all abutting property owners:

SIGNATURE


Gilberto G. Gonzalez, Vice President

ADDRESS

1720 Centrepark Dr. E
West Palm Beach, FL 33401

Attorney for Petitioner:

KERRI L. BARSH
GREENBERG TRAURIG, P.A.
333 S.E. 2ND AVENUE
MIAMI, FL 33131

STATE OF FLORIDA

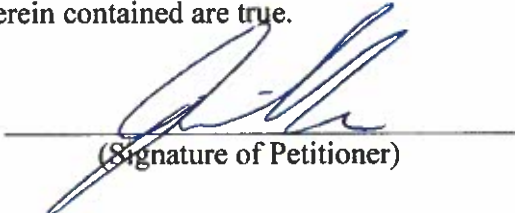
)

) SS

MIAMI-DADE COUNTY

)

BEFORE ME, the undersigned authority, personally appeared by means of ☐ physical or ☐ online notarization GILBERTO GONZALEZ GONZALEZ who first by me duly sworn, deposes and says that he/she is one of the petitioners named in and who signed the foregoing petition; that he/she is duly authorized to make this verification for and on behalf of all petitioners; that he/she has read the foregoing petition and that the statements therein contained are true.


(Signature of Petitioner)

Sworn and subscribed to before me this

9th day of May, 2023

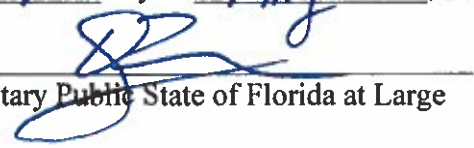

Notary Public State of Florida at Large



EXHIBIT "A"

EXHIBIT "A"

LEGAL DESCRIPTION: N.W. 132nd Avenue - Section 26-52-39

That portion of N.W. 132nd Avenue to be vacated in Section 26, Township 52 South, Range 39 East, lying in Miami-Dade County, Florida and being more particularly described as follows:

The East 35.00 feet of the NW $\frac{1}{4}$ of Section 26, Township 52 South, Range 39 East, less the North 35.00 feet and less the South 35.00 feet thereof, lying in Miami-Dade County, Florida.

AND

The West 35.00 feet of the NE $\frac{1}{4}$ of Section 26, Township 52 South, Range 39 East, less the North 35.00 feet and less the South 35.00 feet thereof, lying in Miami-Dade County, Florida.

SURVEYOR'S NOTES:

- This site lies in Section 26, Township 52 South, Range 39 East, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- This is not a "Land Survey" but only a graphic depiction of the description shown hereon.
- Area shown hereon containing 179,713 square feet or 4.125 acres more or less.
- Dimensions shown hereon are based on Fortin, Leavy, Skiles, sketch #2020-057.
- There are no utilities or other visible improvements found within this subject area as of July 6, 2023.
- The private pole is to be removed before development.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on July 6, 2023, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

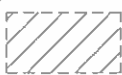
"Not valid without the signature and original raised seal or a digital signature of the Florida Licensed Surveyor and Mapper shown below"

FORTIN, LEAVY, SKILES, INC., LB3653

By: _____
Daniel C. Fortin Jr., For The Firm
Surveyor and Mapper, LS6435
State of Florida.

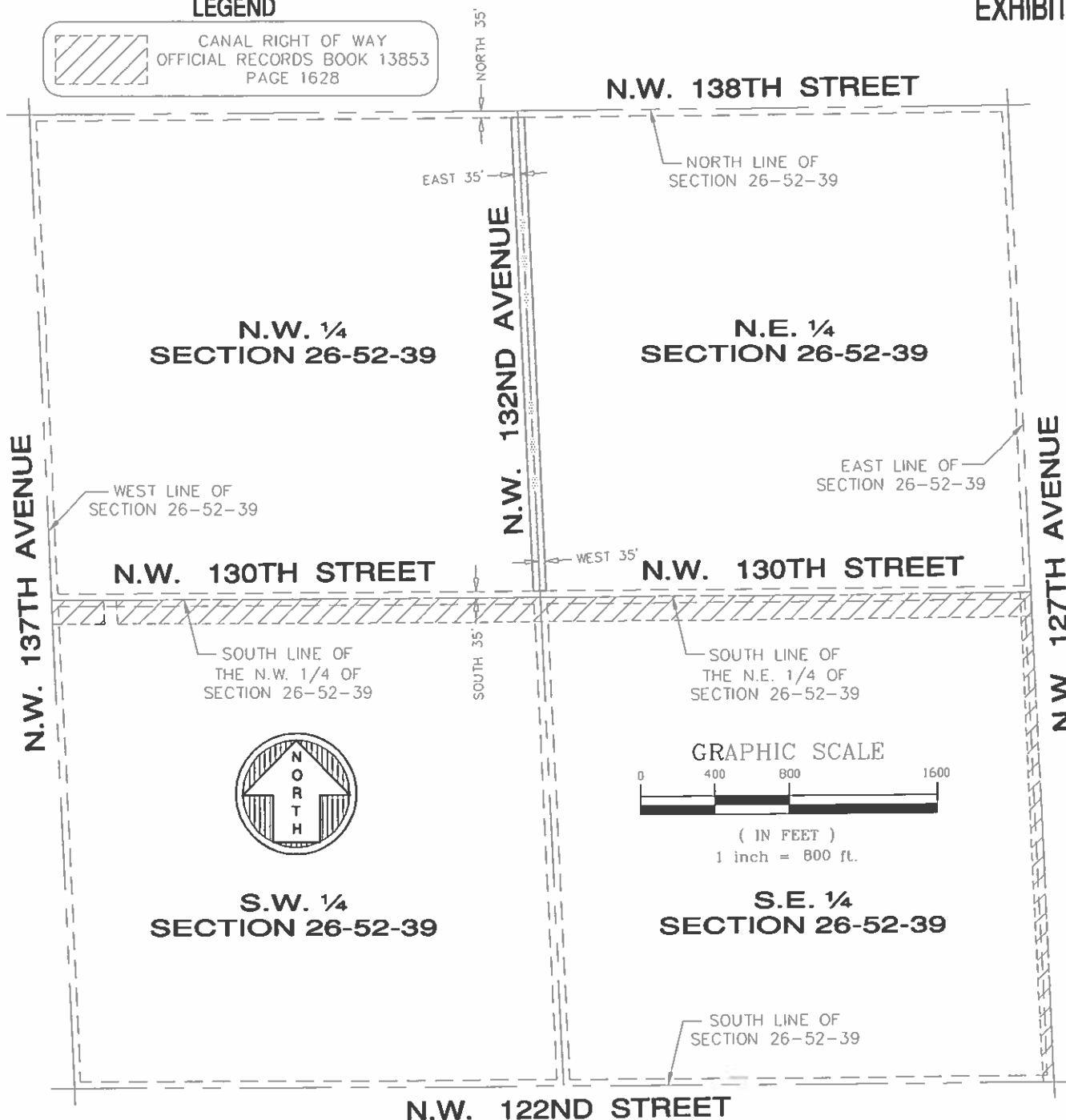
Drawn By MAP	LEGAL DESCRIPTION, NOTES & CERTIFICATION FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th. Street / North Miami Beach, Florida. 33162 Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com	Date 7/6/23
Cad. No. 220093		Scale NOT TO SCALE
Ref. Dwg. 2020-057		Job. No. 220093
AMEND TO SHOW CANAL RIGHT OF WAY (230529)		Dwg. No. 1022-011-D
Plotted: 7/6/23 11:50a		Sheet 1 of 3

LEGEND



CANAL RIGHT OF WAY
OFFICIAL RECORDS BOOK 13853
PAGE 1628

EXHIBIT "A"



Drawn By MAP

Cad. No. 220093

Ref. Dwg. 2020-057

AMEND TO SHOW CANAL
RIGHT OF WAY (230529)

Plotted: 7/6/23 11:50a

SKETCH OF DESCRIPTION

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th. Street / North Miami Beach, Florida. 33162
Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@flsurvey.com

Date 7/6/23

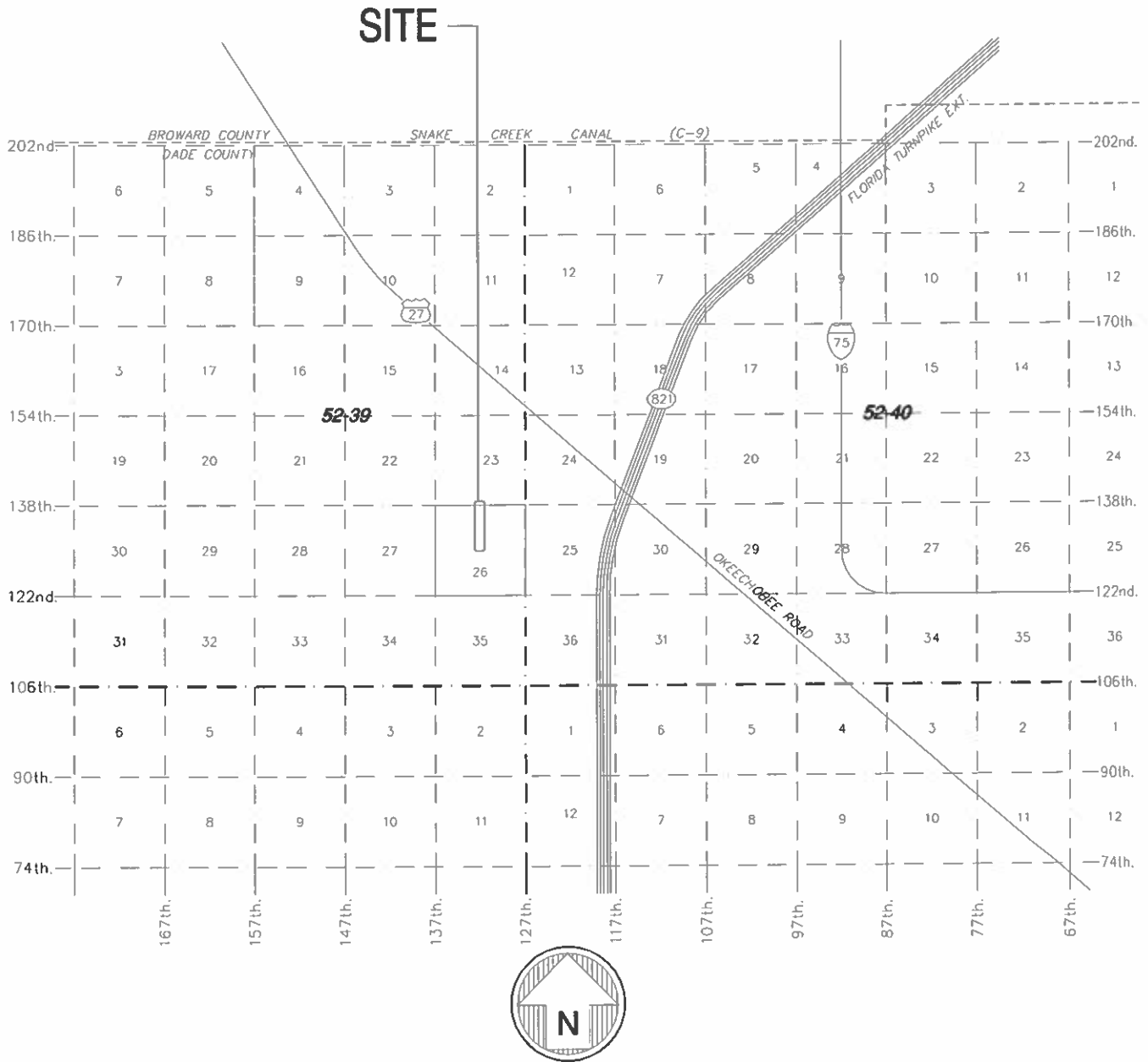
Scale 1"=800'

Job. No. 220093

Dwg. No. 1022-011-D

Sheet 2 of 3

EXHIBIT "A"



Drawn By MAP

Cad. No. 220093

Ref. Dwg. 2020-057

AMEND TO SHOW CANAL
RIGHT OF WAY (230529)

Plotted: 7/6/23 11:50a

LOCATION SKETCH

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th. Street / North Miami Beach, Florida. 33162
Phone: 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com

Date 7/6/23

Scale NOT TO SCALE

Job. No. 220093

Dwg. No. 1022-011-D

Sheet 3 of 3



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 2, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(B)

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. 5(B)
4-2-24

RESOLUTION NO. R-240-24

RESOLUTION GRANTING PETITION TO CLOSE NW 132 AVENUE FROM NW 130 STREET TO NW 138 STREET (VACATION OF RIGHT-OF-WAY PETITION NO. P-1008) FILED BY CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC; AND WAIVING THE SIGNATURE REQUIREMENTS OF RESOLUTION NO. 7606 AS TO ADJACENT PROPERTY OWNERS

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

WHEREAS, Vacation of Right-of-Way Petition No. P-1008 was signed by the property owner abutting the right-of-way sought to be closed on three sides; and

WHEREAS, Miami-Dade County owns a wellfield canal on the fourth side of the right-of-way and was given notice regarding the right-of-way sought to be closed by this petition but did not have delegated authority to sign the petition; and

WHEREAS, a public hearing was held in compliance with Resolution No. 7606,

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

Section 1. The foregoing recitals are approved and incorporated by reference.

Section 2. Resolution No. 7606 is waived to the extent that it requires the signatures of all adjacent property owners on the petition to close a road.

Section 3. Vacation of Right-of-Way Petition No. P-1008 is hereby granted and the alley, avenue, street, highway, or other place used for travel as described in the petition attached as Exhibit 2 to the County Mayor's Memorandum is hereby vacated, abandoned, and closed.

Section 4. All rights of Miami-Dade County and the public for road right-of-way purposes in and to the same are hereby renounced and disclaimed.

Section 5. It is found that the action will serve a public purpose and benefit the public without violating private property rights.

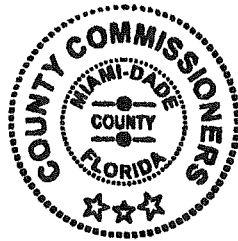
Section 6. The procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 7. Pursuant to Resolution No. 7606, the Clerk is hereby directed to publish notice of the adoption of this resolution one time within 30 days hereafter in a newspaper of general circulation of Miami-Dade County and the County Mayor or County Mayor's designee shall record the proof of publication of the notice of public hearing of this resolution as adopted and the proof of publication of the notice of the adoption of this hearing in the public records of Miami-Dade County.

The foregoing resolution was offered by Commissioner **Marleine Bastien** , who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	absent
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of April, 2024. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
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