

MEMORANDUM

Agenda Item No. 14(A)(8)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: December 16, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving amendment to the exclusive easement agreement between Miami-Dade County and Lion Miami Terrace, LLC (“Developer”) over a privately-owned parcel located along the Ludlam Trail (or theoretical SW 69th Avenue) and the south side of SW 8th Street (Tamiami Trail) (“Easement Area”) to remove requirement that developer construct ramps for the pedestrian bridge in exchange for \$2,750,000.00, relocate Easement Area, provide a temporary construction easement and perpetual maintenance and access easement to the County and the Florida Department of Transportation, and make other necessary revisions; authorizing the County Mayor to negotiate, finalize and, subject to satisfaction of conditions precedent, execute amended agreement, to exercise all provisions contained therein, and to perform all acts and execute all documents necessary to effectuate this transaction; waiving provisions of Resolution No. R-130-06

Resolution No. R-1236-25

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natalie Milian Orbis.


Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001



MEMORANDUM (Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: December 16, 2025

FROM: 
Glen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(8)

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 ____, majority plus one ____, 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) ____, 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. 14(A)(8)
12-16-25

RESOLUTION NO. R-1236-25

RESOLUTION APPROVING AMENDMENT TO THE EXCLUSIVE EASEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND LION MIAMI TERRACE, LLC (“DEVELOPER”) OVER A PRIVATELY-OWNED PARCEL LOCATED ALONG THE LUDLAM TRAIL (OR THEORETICAL SW 69TH AVENUE) AND THE SOUTH SIDE OF SW 8TH STREET (TAMIAMI TRAIL) (“EASEMENT AREA”) TO REMOVE REQUIREMENT THAT DEVELOPER CONSTRUCT RAMPS FOR THE PEDESTRIAN BRIDGE IN EXCHANGE FOR \$2,750,000.00, RELOCATE EASEMENT AREA, PROVIDE A TEMPORARY CONSTRUCTION EASEMENT AND PERPETUAL MAINTENANCE AND ACCESS EASEMENT TO THE COUNTY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION, AND MAKE OTHER NECESSARY REVISIONS; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO NEGOTIATE, FINALIZE AND, SUBJECT TO SATISFACTION OF CONDITIONS PRECEDENT, EXECUTE AMENDED AGREEMENT, TO EXERCISE ALL PROVISIONS CONTAINED THEREIN, AND TO PERFORM ALL ACTS AND EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THIS TRANSACTION; WAIVING PROVISIONS OF RESOLUTION NO. R-130-06

WHEREAS, on July 19, 2017, this Board approved an amendment to the Miami-Dade County (“County”) Comprehensive Development Master Plan for the Ludlam Trail Corridor District; and

WHEREAS, the Ludlam Trail Corridor District applies to an approximately 5.8-mile segment of the former Florida East Coast Railway South Little River Branch spurline that is generally 100 feet wide and extends from approximately 400 feet north of NW 7 Street to SW 80 Street and generally along theoretical NW/SW 69 Avenue, which 5.8 mile segment is commonly referred to as the Ludlam Trail; and

WHEREAS, the Ludlam Trail Corridor District breaks up the Ludlam Trail into either Recreational Trail Segments or Development Areas; and

WHEREAS, the Development Areas are located along the Ludlam Trail at SW 8th Street, Coral Way and Bird Road; and

WHEREAS, the Ludlam Trail Corridor District provides that the Ludlam Trail Recreational Trail Segments must be developed solely with recreational uses, including, but not limited to, a pedestrian and bicycle trail, parks and associated amenities, which may include but not be limited to above-grade pedestrian crossings, parking, restroom facilities, signage, benches, information and vending kiosks, recreational equipment and bicycle rental stations, and shelters, where appropriate; and

WHEREAS, further, within the Development Areas, the Ludlam Trail Corridor District provides for development of a publicly accessible trail to connect to the Recreation Trail Segments; and

WHEREAS, on December 31, 2018, the County closed on the purchase of the Ludlam Trail to acquire the Ludlam Trail Recreational Segments, and easements through the balance of the Ludlam Trail; and

WHEREAS, the easement agreement granting the County and the public access through the Development Area located on the south side of SW 8th Street (Tamiami Trail) allows the County the right to construct the pedestrian bridge over SW 8th Street and to place the bridge support structures on the private property within the Development Area, while the owner of the Development Area is to construct, at its sole cost, the ramps for the pedestrian bridge as well as the recreational easement improvements on the trail; and

WHEREAS, the easement agreement with each of the developers always contemplated that once the Development Areas were designed, the 18-foot wide easements could be relocated east or west within the Ludlam Trail to accommodate the development and ensure an uninterrupted, continuous trail; and

WHEREAS, the private developer for the Development Area south of SW 8th Street is Lion Miami Terrace, LLC (“Developer”); and

WHEREAS, because SW 8th Street is a state road, the County and the Florida Department of Transportation (“FDOT”) have agreed that FDOT will construct the pedestrian bridge over SW 8th Street for the Ludlam Trail; and

WHEREAS, the County and Developer desire to amend the easement agreement for SW 8th Street to, among other revisions: (1) relocate the 18-foot wide easement; (2) remove the requirement that the Developer construct the approach ramps to the pedestrian bridge in exchange for a payment of \$2,750,000.00 from the Developer to the County; (3) provide for the donation by the Developer to the County and to FDOT of a temporary construction easement and a perpetual maintenance and access easement to maintain the pedestrian bridge; and (4) make other necessary revisions required by FDOT; and

WHEREAS, the Amended and Restated Agreement for Perpetual Tail Easement, Maintenance Access Easement and Grant of Exclusive Temporary Construction Easement (“Amended Easement”) attached hereto as Attachment 1 reflects the aforementioned revisions to the original easement agreement; and

WHEREAS, pursuant to the terms of the interlocal agreement between the County and FDOT approved by this Board on July 19, 2022 pursuant to Resolution No. R-695-22, FDOT has the right to review any revisions to the easement agreements with the private developers along Ludlam Trail and the County must consult with FDOT regarding same; and

WHEREAS, FDOT has provided preliminary comments and revisions to the attached Amended Easement but the attached draft is still subject to final negotiation with the Developer and approval by FDOT; and

WHEREAS, this Board desires to authorize the County Mayor or Mayor's designee to finalize the terms and conditions of the Amended Easement in generally the form attached hereto and to make all reasonable revisions required by FDOT as a condition precedent to execution of the Amended Easement,

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

Section 1. This Board approves the foregoing recitals and incorporates them into this resolution.

Section 2. This Board approves the Amended Easement between the County and Developer for the easement through the SW 8th Street development area in generally the form attached hereto and made a part hereof as Attachment 1 and in exchange for a payment to the County of \$2,750,000.00, and authorizes the County Mayor or County Mayor's designee to finalize the terms and conditions of the Amended Easement and to make all reasonable revisions required by FDOT, provided that no revision materially alters the terms detailed in the accompanying memorandum or otherwise allocates rights or obligations in a manner which is materially different than is currently provided for in the attached Amended Easement.

Section 3. Subject to finalizing the Amended Easement with Developer and undertaking the required consultation with FDOT, this Board authorizes the County Mayor or County Mayor's designee to: (a) execute the Amended Easement; (b) take all actions and execute all documents necessary to effectuate the transactions set forth herein; (c) submit a copy of the final executed Amended Easement to the Clerk of the Board, who shall file same along with this resolution in accordance with Resolution No. R-974-09; and (d) execute and record the Amended Easement in the public records of Miami-Dade County.

Section 4. This Board directs the County Mayor or County Mayor's designee to provide the Property Appraiser's Office with a copy of the executed Amended Agreement within 30 days of its execution.

Section 5. This Board waives the provisions of Resolution No. R-130-06 requiring that all agreements presented to this Board be fully negotiated, in final form and executed by the non-County parties.

The Prime Sponsor of the foregoing resolution is Commissioner Natalie Milian Orbis. It was offered by Commissioner **Vicki L. Lopez**, who moved its adoption. The motion was seconded by Commissioner **Roberto J. Gonzalez** and upon being put to a vote, the vote was as follows:

Anthony Rodriguez, Chairman	aye
Kionne L. McGhee, Vice Chairman	aye
Marleine Bastien	aye
Sen. René García	aye
Roberto J. Gonzalez	aye
Danielle Cohen Higgins	aye
Natalie Milian Orbis	aye
Micky Steinberg	aye
Juan Carlos Bermudez	aye
Oliver G. Gilbert, III	aye
Keon Hardemon	aye
Vicki L. Lopez	aye
Raquel A. Regalado	aye

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of December, 2025. 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.

mep

Monica Rizo Perez

This instrument was prepared by:

Name: _____, Esq.

Address:

(Space reserved for Clerk of Court)

**AMENDED AND RESTATED AGREEMENT FOR PERPETUAL TRAIL EASEMENT,
MAINTENANCE ACCESS EASEMENT, AND
GRANT OF EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT**

THIS AMENDED AND RESTATED AGREEMENT FOR PERPETUAL TRAIL EASEMENT, MAINTENANCE ACCESS EASEMENT, AND GRANT OF EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT (this “**Restated Agreement**”) is made as of the ____ day of _____, 202__, (“**Effective Date**”) by and between **Lion Miami Terrace LLC**, a Florida limited liability company, its successors and/or assigns (collectively “**LMT**”), and **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, its successors and/or assigns (the “**County**”).

W-I-T-N-E-S-S-E-T-H:

WHEREAS, the County owns and/or has an ownership interest in certain portions of real property in Miami-Dade County, Florida, more particularly described on Exhibit “A” attached hereto and made a part hereof (the “**County’s Trail Property**”), and which extends, non-contiguously, from SW 80th Street to NW 7th Street (the “**Trail Limits**”), as depicted on the map attached hereto as Exhibit “B”, and made part hereof, and the County seeks to create an uninterrupted, continuous shared-use trail (the “**Ludlam Trail**” or the “**Shared Use Trail**”) upon the County’s Trail Property and portions of other real property within the Trail Limits for recreational and non-motorized transportation use of the Shared Use Trail by the County and the public for the Trail Use (as hereinafter defined); and

WHEREAS, LMT owns a parcel of real property in Miami-Dade County, Florida, located within the Trail Limits, said real property being more particularly described on Exhibit “C” attached hereto and made a part hereof (collectively, the “**LMT Trail Parcel**”) and which LMT Trail Parcel adjacent to the public right of way known as S.W. 8th Street or Tamiami Trail and SW 12th Street (the “**Public Road**”); and

WHEREAS, on November 19, 2018, the predecessor in ownership to LMT and prior owner of LMT Trail Parcel granted, and the County purchased for fair market value as determined by appraisals, a perpetual and exclusive easement in favor of the County on, over, through, and upon a portion of LMT’s Trail Parcel for public Trail Use (defined below); and

WHEREAS, said perpetual easement for the original Easement Area was recorded on January 2, 2019, in Official Records Book 31275, Pages 3818-3854 and Pages 3324-3360 of the Public Records of Miami-Dade County, Florida (the “**Original Easement**”); and

WHEREAS, LMT requested to amend and restate the Original Easement to revise and relocate the legal description of the area over which LMT is granting an easement to the County. The relocated easement area shall consist of the real property more particularly described on Exhibit “D” attached hereto and made a part hereof (the “**Trail Easement Area**”) to provide, as further set forth in this Restated Agreement, for the perpetual continuous public access within the Trail Easement Area to and for the maintenance of the Easement Improvements (as defined herein); and

WHEREAS, the County is desirous of approving LMT’s request to amend and restate the Original Easement to relocate the **Trail Easement Area**; and

WHEREAS, the parties acknowledge that the relocation of the area of the perpetual easement to the County within LMT’s Trail Parcel was expressly contemplated and provided for within the Original Easement, and therefore no additional compensation is sought or required for the relocation of the perpetual easement to the County for public purposes for the construction, operation, and maintenance of the Ludlam Trail; and

WHEREAS, the parties desire to amend and restate the Original Easement to include LMT’s grant of an exclusive **Temporary Construction Easement** (as defined in Section 3.F.) in, over, under, upon, within, above, below and through the portions of the LMT Trail Parcel as depicted and described in Exhibit “H” attached hereto and incorporated herein by reference to the County and the Florida Department of Transportation (“FDOT”), and their respective employees, contractors, agents, and assigns, including who will be specifically named in the Temporary Construction Easement for the purpose of constructing the Pedestrian Bridge and Ramps; and

WHEREAS, the parties further desire to amend and restate the Original Easement to include a perpetual grant by LMT portions of the LMT Trail Parcel as depicted and described in Exhibit “G” attached hereto and incorporated herein by reference to the County and FDOT, and their respective employees, contractors, agents, and assigns of a perpetual maintenance access easement for the purposes set forth in Section 2.A.(ii) hereof; and

WHEREAS, the parties further desire to enter into this Restated Agreement to revise and amend and further delineate the responsibilities between the parties related to the grants of easement, construction, maintenance, inspection, repair, replacement, and responsibility of the Ramps, Pedestrian Bridge and Easement Improvements (as described in Section 3, below); and

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and LMT desire to amend and restate the Original Easement as follows:

1. **Recitals; Title to Trail Easement Area.** The foregoing recitals are incorporated as if fully set forth herein. LMT hereby represents and warrants to the County that it owns the Trail Easement Area in fee simple and that the Trail Easement Area is free and clear of any liens, mortgages, easements, and leases, as well as free from all restrictions, easements or other encumbrances that would compromise the County's ability to exercise any of its rights or enforce any of LMT's obligations hereunder. LMT further represents, warrants, and covenants to the County that it shall not encumber or permit the encumbrance of the Trail Easement Area with any liens, mortgages, leases, and easements or third party agreements and it shall not allow any restrictions or encumbrances on the Trail Easement Area beyond those that existed as of the date of the Original Easement, *unless* each such encumbrance, lien, mortgage, lease, easement, agreement, and restriction is subordinate to the rights of the County to the Easement Area as such rights are set forth in this Restated Easement. Within ten (10) business days of the Effective Date, LMT shall require the beneficiary of any encumbrance, lien, mortgage, lease, easement, agreement or restriction existing as of the Effective Date to execute, record in the public records of Miami-Dade County, and provide the County with a copy of a written subordination to the County and acknowledgement that their interests are subordinate and subject to this Restated Agreement and the rights of the County hereunder in a subordination form that is acceptable to the County (acting reasonably) and which form of subordination has been approved by the County prior to the execution thereof, and, upon such recordation, it shall be considered a permitted encumbrances of the Trail Easement Area for purposes of this Section. If LMT desires to encumber the Trail Easement Area with any encumbrance whatsoever following the Effective Date, including but not limited to those in the nature set forth herein, it shall only be permitted to do so with the prior written consent of the County which shall be subject to the beneficiary of any such encumbrance execute, record in the public records of Miami-Dade County, and provide the County with a copy of a written subordination to the County and acknowledgement that their interests are subordinate and subject to this Restated Agreement and the rights of the County hereunder in a subordination form that is acceptable to the County (acting reasonably) and which form of subordination has been approved by the County prior to the execution thereof.

2. **Grants of Easement for the Trail Easement Area and for a Maintenance Access Easement through the LMT Trail Parcel.**

- A. LMT hereby grants, subject to the terms and conditions of this Restated Agreement:
- (i) a perpetual and exclusive easement in favor of the County on, over, through, above, below and upon a portion of the LMT's Trail Parcel, the **Trail Easement Area** legally described and identified and shown in Exhibit "D" attached hereto for the benefit of and use by the County and the public for Trail Use (as such term is defined herein), *provided, however*, that LMT and its successors, assignees, tenants, and invitees shall be permitted to access, construct, and maintain the Trail Easement Area and Easement Improvements as specifically set forth herein; and
 - (ii) a perpetual and non-exclusive easement in favor of the County and FDOT and their respective employees, contractors, agents, and assigns on, over, above, below, through, and upon a portion of the LMT's Trail Parcel (which is more particularly

described on Exhibit "G" attached hereto and made a part hereof) (the "**Maintenance Access Easement Area**") for the benefit of and use by the County and FDOT and their respective licensees, contractors, agents, successor and assigns, including specifically FDOT ("**County-affiliated Entities**"), for the sole and limited purpose of (a) accessing the Trail Easement Area for the inspection, maintenance, repair, replacement, of the Pedestrian Bridge (as defined in Section 3.E(i) below) and Ramps (as defined in Section 3.E(ii));), (b) installing applicable underground utilities and connections within the Maintenance Access Easement Area that are necessary for the construction, maintenance, and operation of the Bridge and Ramps, including but not limited to electricity, lighting, storm drainage, water and sewer; and (c) to exercise all of its Trail Use rights set forth in 2B(ii) and 2B(iii) below. LMT acknowledges and agrees that LMT will provide, in perpetuity, the County and FDOT and their respective assigns with access through the Maintenance Access Easement Area in order to allow the County, FDOT, and County-affiliated Entities and their respective employees, contractors, agents, and assigns the ability to drive vehicles, heavy equipment and personnel over, across and through the Maintenance Access Easement Area in order to undertake all inspections, repairs, maintenance, and work on the Easement Improvements and Pedestrian Bridge, including the Ramps, as otherwise set forth in this Section 2A(ii). The Maintenance Access Easement Area may be landscaped, and if landscaped, LMT shall provide a six foot (6') by 10 foot (10') gap area in the landscaping within the areas reflected in Exhibit "G", attached hereto, every twenty (20) feet for the purpose of preserving the County's and FDOT's and their respective employees, contractors, agents, and assigns access to the western side of the Ramps and Pedestrian Bridge for inspection, maintenance and repair, including placement of lifts and other equipment as needed. Landscaping in the Maintenance Access Easement Area shall not impede the County's or FDOT's inspection, maintenance, repair or replacement activities on the Pedestrian Bridge and Ramps. Landscape plans within the Maintenance Easement Area have been approved by the County as part of LMT's Administrative Site Plan Review and are on file with the County's Department of Regulatory and Economic Resources, within LMT's zoning application number A2020000048. . LMT will ensure vehicular access is available for the County and FDOT and their respective employees, contractors, agents, and assigns to access and utilize the Maintenance Access Easement Area from the Public Road. LMT shall not, and shall not allow or permit any other entity, to install or erect fixed furniture or structures within the Maintenance Access Easement Area that would prohibit or constrict vehicular access needed by the County or its respective assigns to inspect or maintain the Ramps and **Pedestrian Bridge** structure. All underground utilities to be installed by LMT, the County, FDOT and their respective employees, contractors, agents, and assigns in the Maintenance Access Easement Area must be capable of supporting standard

maintenance and inspection vehicles required by the County such as HS-20. If the Maintenance Access Easement is paved, LMT shall pave the Maintenance Access Easement Area with structural pavers needed to support standard maintenance and inspection vehicles required by the County such as HS-20. The County's and FDOT's and their respective employees, contractors, agents, and assigns non-exclusive easement rights to access and use the Maintenance Access Easement Area shall include the right to temporarily close a portion of the Maintenance Access Easement Area for such time as is reasonably needed by the County, FDOT, and/or County-affiliated Entities and their respective employees, contractors, agents, and assigns or the sole purpose of maintenance, construction staging or inspection staging for the Easement Improvements, the Pedestrian Bridge , Ramps, or Trail Easement Area, provided, however, that any such closure shall be coordinated in such a manner as to minimize the impact on the operation and use of the LMT's Improvements. Except in the case of an emergency, the County, FDOT, and their respective assigns will provide at least fourteen (14) days advance, written notice to LMT of its need to access and/or temporarily close a portion of the Maintenance Access Easement Area for construction staging or inspection staging for construction, inspection, maintenance and repair of the Easement Improvements, the Pedestrian Bridge, Ramps, or the Trail Easement Area; *provided, however*, nothing herein shall require the County or its respective assigns to undertake any construction, inspection, maintenance or repair of the Easement Improvements or the Trail Easement Area. The County and its respective assigns shall use reasonable, good faith efforts to coordinate the timing, sequence, and activities of its construction and/or inspection work with LMT in order to minimize, to the extent practicable, disruption to the other improvements upon and occupants/users of the LMT Trail Parcel. If any closure of the Maintenance Access Easement Area is reasonably anticipated to exceed seventy-two (72) hours, then, except in the case of an emergency, the parties shall work in good faith to establish a plan prior to any such closure to minimize the impact on the occupants/users of the LMT Trail Parcel. In the event of emergencies, the County, FDOT and their respective assigns shall be permitted to take all actions necessary to preserve and safeguard persons and property. Notwithstanding any other provision in this Restated Agreement to the contrary, LMT shall have the rights to access the Trail Easement Area to construct the Easement Improvements (as such term is defined in Section 3 below) as specifically set forth in this Restated Agreement.

B. As used in this Restated Agreement, “**Trail Use**” shall mean: (i) an uninterrupted trail for use by the County and the public, seven (7) days a week, twenty-four (24) hours a day (or as determined in the County's sole discretion), for the purposes of non-motorized transportation and recreation, including, but not limited to, walking, running, jogging, bicycle riding, ingress and egress, and ancillary uses, each within the Trail Easement Area; (ii) the right of the County and

County-affiliated Entities to erect signs within the Trail Easement Area in connection with the Ludlam Trail, including but not limited to the name of the trail, location signs, signs identifying trail amenities or other point-of-sale, County logo, informational or public safety signs in connection with the Ludlam Trail, and signs directing ingress or egress; and (iii) following the construction of the Easement Improvements by LMT as required by this Restated Agreement, the right- but not the obligation- of the County and County-affiliated Entities to inspect, test, improve, reconstruct, replace, change, repair, operate, and maintain the Easement Improvements and any other improvements within the Trail Easement Area or for staging for inspections for or work to the Pedestrian Bridge and Ramps, all as deemed desirable or necessary by the County (subject to the same requirements for construction staging and inspection staging set forth in Section 2(A) above).

C. The County and FDOT shall be authorized and shall have the rights, between the hours of 8:00am and 9:00pm to fly drones and gather still images and videos over the LMT Trail Parcel and the Trail Easement Areas as allowed by the Federal Aviation Administration and applicable law for inspections, monitoring and marketing. In the case of an emergency the County, FDOT and their respective assigns shall be authorized to and shall have the right to fly drones over the LMT's Trail Parcel and the **Trail Easement Area** any time of the day, and any day of the week.

3. Easement Improvements, Pedestrian Bridge and Ramps.

A. Timing of Easement Improvements, Pedestrian Bridge and Ramps.

(i) Within the **Trail Easement Area** described in *Exhibit "D-1" and Exhibit "D"*, LMT has, at its sole cost and expense, designed, constructed and installed, at a minimum: (a) an eighteen (18) foot-wide, "hard surface", properly marked trail (conforming to FDOT Design Manual – Chapter 224 Shared Use Paths standard) suitable for bicycle, jogging and pedestrian use; (b) lighting at levels appropriate for Trail Use and as deemed appropriate by the entities having jurisdiction; in accordance with its applicable laws and regulations and (c) other reasonable improvements, agreed upon by the County and LMT, that are required for uninterrupted Trail Use. The improvements referenced and described in section 3A(i)(a) through and including 3A(i)(c) herein shall be known as the **"Easement Improvements,"** and for avoidance of doubt, expressly exclude any work associated with the design, permitting, maintenance and construction of the Pedestrian Bridge or Ramps (as defined herein). The obligation of LMT to design, construct and maintain the Easement Improvements for publicly accessible Trail Use shall be a material covenant of this Restated Agreement. For purposes of clarity, the Easement Improvements shall include those improvements located in the Trail Easement Area, including all remediation and environmental controls required pursuant to Section 27 of this Restated Agreement, but do not include and specifically exclude the Pedestrian Bridge and Ramps. At such time that LMT Commences Construction of the LMT Improvements, LMT shall also Commence Construction of the Easement Improvements and shall prosecute the construction of the Easement Improvements concurrently with, and on the same development timeline and critical path schedule, as that for LMT's Improvements or concurrently with the phased construction thereof as provided for in this Section. **"Commence(s) Construction"** or **"Commencement of Construction"** shall mean, following the issuance of all

required building permits, the later of: (x) the filing of a notice of commencement under Florida Statutes, Section 713.13, and (y) the physical and visible start of construction work, including, excavation or soil stabilization work (but specifically excluding any necessary environmental testing or geological testing or ceremonial groundbreaking). LMT shall also send the aforementioned notice of commencement to the County and FDOT. LMT may undertake, and nothing herein shall prohibit LMT from undertaking, the phased construction of the Easement Improvements, provided that LMT achieves Substantial Completion (as defined herein) of the Easement Improvements no later than the LMT Deadline. Nothing herein shall be construed as requiring LMT to construct or install Easement Improvements outside of the Trail Easement Area.

(ii) LMT shall achieve Substantial Completion (as defined herein) of the Easement Improvements prior to the issuance of a temporary or final Certificate of Occupancy (“CO”) for the last of the individually Permitted residential buildings being constructed within the Trail Parcel. However, in no event shall LMT achieve Substantial Completion of the Easement Improvements later than one-hundred and twenty (120) days (the **“LMT Deadline”**) after the County achieves final completion of the Pedestrian Bridge and Ramps, as evidenced by the issuance of a final certificate of completion or other similar instrument with the approval of all necessary governmental inspections and with no other deficiencies required to be corrected (the **“County’s Final Completion”**). The LMT Deadline may be extended for up to one (1) additional year upon written approval of the County Mayor or County Mayor’s designee, or further, to the extent necessary, upon the occurrence of an Event of Force Majeure (as defined herein). **“Substantial Completion”** shall be the time and date at which the work for the Easement Improvements has progressed to the point where, in the reasonable opinion of the County’s professional engineering staff and the Parks, Recreation and Open Spaces Department, and approval of all necessary permit and inspections, the work is sufficiently complete, in accordance with the provisions of this Agreement, approved specifications, and construction documents and plans for the Easement Improvements so that the Easement Improvements can be occupied and/or utilized for the purposes for which it is intended. The Easement Improvements for the **Trail Easement Area** inclusive of all specifications, and construction documents and plans have been approved by the County via the Administrative Site Plan Review on January 10, 2022, and are on file with the County’s Department of Regulatory and Economic Resources as part of LMT’s zoning application (A2020000048), and referenced as Exhibit F (the **“Final Trail Plans”**). Prior to achieving Substantial Completion, LMT shall notify PROS and FDOT in writing to inspect the Easement Improvements, the **“Substantial Completion Inspection”**. LMT shall achieve Final Completion (as defined herein) of the Easement Improvements on a date that is no later than sixty (60) days following the date that it achieves Substantial Completion for the Easement Improvements and in no event shall Final Completion of the Easement Improvements occur later than one hundred and eighty (180) days after the County’s Final Completion. **“Final Completion”** shall be the date, as reasonably determined by the County, that LMT: (x) completes all of the work for the Easement Improvements in accordance with the Final Trail Plans and all approved shop drawings; (y) achieves the completion of all construction activities for the Easement Improvements including but not limited to, completion of all punch-list items, correction of all deficiencies noted at time of Substantial Completion, and completion of all required final inspections, close-out documents, delivery of all spares and extra materials and activation of all warranties; and (z) has issued final payment to all contractors, subcontractors, materialmen, suppliers and laborers for the

work thereon, and as evidenced by the closure of all construction-related permits; *provided, however*, that if there is a good-faith dispute between LMT and one of its contractors or subcontractors regarding payment, then LMT shall be deemed to have achieved Final Completion as if it has satisfied all other requirements and maintains or makes provisions for bonding or otherwise escrowing sums in dispute to the reasonable satisfaction of the County.

(iii) If LMT's construction of the Easement Improvements does not comply with the requirements of this Restated Agreement, including but not limited to, compliance with all federal and NEPA requirements, then LMT shall be required to remove and demolish the Easement Improvements and reconstruct the Easement Improvements in accordance with all requirements of this Restated Agreement by the LMT Deadline (as adjusted in accordance with this Restated Agreement). In such an event, if LMT fails to reconstruct by the LMT Deadline, then the County shall have the right to design and construct the Easement Improvements and LMT may only reconstruct the Easement Improvements with the written consent of the County, all of which will be determined in the County's sole discretion. If the County elects to design and/or construct the Easement Improvements pursuant to this provision, the County shall provide LMT ninety (90) days' advance written notice of such intent. Notwithstanding the foregoing, if LMT has commenced reconstruction of the Easement Improvements, then the County, prior to exercising the rights set forth herein, shall provide written notice of default to any lender or surety of record and provide such lender or surety the right to rectify such default and assume the obligation to complete reconstruction thereof within such reasonable period of time as negotiated in good faith between the County and such lender or surety which time period shall not exceed 180 days.

(iv) If the County elects to design and/or construct the Easement Improvements pursuant to Section 3(a)(iii), then LMT shall reimburse the County within thirty (30) days of its receipt of the County's invoice for the actual, reasonable cost and expense incurred by the County during its design, permitting and construction of the Easement Improvements (the "**County's Costs**"), including reasonable soft and hard costs. LMT's obligation to undertake and pay for the Easement Improvements shall take priority over, and constitute a first lien, covenant and encumbrance on the LMT Trail Parcel (the "**County's Payment Rights**"), which shall take priority over any future liens or encumbrances in or on the LMT Trail Parcel, including any mortgages, that are recorded after the effective date of the Original Easement (which effective date is set forth in the introductory paragraph of the Original Easement). Notwithstanding and prevailing over any provision in this Restated Agreement to the contrary, the County's Payment Rights as originally set forth in the Original Easement which are restated herein shall relate back and be effective and enforceable as of the effective date of the Original Easement. All mortgages and encumbrances created, executed and/or recorded subsequent to the effective date of the Original Easement shall be subordinate to the County's Payment Rights. LMT shall require that all lenders subordinate their interest in the LMT Trail Parcel to the County's Payment Rights set forth in the Original Easement as restated in this Restated Agreement or, alternatively, LMT shall post an irrevocable letter of credit (the "**Letter of Credit**") naming the County as the sole beneficiary thereof in an amount equal to secure LMT's remediation, design and construction obligations with respect to the Easement Improvements. The Letter of Credit shall be subject to those terms and conditions reasonably requested by the County and shall remain in place until: (a) the Easement Improvements achieve Final Completion; and (b) to the extent applicable, the County's Costs are paid (to the extent

required under this Restated Agreement). The County's Payment Rights shall expire and have no further force or effect, upon Final Completion and all financial obligations satisfied. The County hereby agrees to execute promptly (but in no event later than thirty (30) business days after expiration), in recordable form, a confirmation of the release of the County's Payment Rights in form and content reasonably requested by LMT or its lender, if any, upon LMT's posting of the Letter of Credit or completion of the Easement Improvements as required by this Restated Agreement.

B. Minimum Standards for the Easement Improvements Made by LMT.

LMT shall comply with the following minimum standards and requirements with regard to the design and construction of the Easement Improvements ("**Minimum Standards**"): (a) all work shall be performed in a good and workmanlike manner; (b) all work shall comply with governmental requirements and applicable law, including, without limitation, all applicable county, state and federal laws, ordinances, codes, statutes, rules and regulations, and including compliance with the Americans with Disability Act; (c) the Easement Improvements shall be designed and constructed in a manner that does not adversely affect the use, safety, appearance, or enjoyment by the public of the Shared Use Trail; (d) the Easement Improvements shall be designed and constructed in a manner that does not adversely affect the construction, maintenance, use, safety, appearance, or enjoyment by the public of the Pedestrian Bridge and Ramps; (e) the Easement Improvements shall be designed and constructed in a manner that provides pedestrians and cyclists traveling north/south along the Shared Use Trail continuous, uninterrupted access to the Shared Use Trail, and traveling east/west along the Public Road access to the Shared Use Trail directly from the Public Road or through an Alternative Access (defined below); and (f) the Easement Improvements shall be designed and constructed in such a manner as to continuously connect the Trail Easement Area to: (1) the abutting County's Trail Property and Shared Use Trail within; (2) the Ramps and Pedestrian Bridge which crosses over the Public Road, the, landscape, and required maintenance areas; and (3) the Public Road and its at-grade sidewalks, either directly from the LMT Trail Parcel or through an Alternative Access on the LMT Trail Parcel, for pedestrians and cyclists wishing to access the Shared Use Trail from the Public Road or its sidewalks, and which is accessible twenty-four (24) hours a day, seven (7) days a week by the public for Trail Use. "Alternative Access" shall mean an alternative, ADA-accessible at-grade continuous connection to the Trail Easement Area from the Public Road through a reasonably direct access way which may be over public streets, roadways or sidewalks and then through the LMT's Trail Parcel, as designated by LMT, and which is safe and accessible twenty-four (24) hours a day, seven (7) days a week by cyclists and pedestrians alike and which has clearly identifiable wayfinding signage. LMT shall comply with the Easement Improvement Design Guidelines and Standards as detailed in Exhibit "E" attached hereto when designing and constructing the Easement Improvements. LMT shall not, at any time, undertake or permit a change or modification to the Trail Easement Area or Easement Improvements that materially deviates from the design and site plans approved by the County pursuant to Section 3D of this Restated Agreement without the written consent of the County.

C. Requirements for Easement Improvements.

(i) Design Professionals and Contractor. LMT has or will select appropriately licensed and qualified architects and engineers to design and engineer the Easement Improvements (“**Design Professionals**”) and licensed and qualified construction contractors to construct the Easement Improvements (“**Contractors**”) in accordance with applicable law. LMT’s contract with its Design Professionals and with its Contractor shall make the County an express and intended third-party beneficiary thereof, shall be assignable to the County (at the County’s request), and, with respect to construction activities, shall require the Contractor and Design Professionals to indemnify the County to the same extent as LMT has agreed to indemnify the County in this Restated Agreement.

(ii) Compliance with Federal, State, and County Laws in General; Federal Funding. LMT acknowledges that federal funding for the Ludlam Trail was expended on the project by the County. Additionally, federal funding has been awarded for design and construction of segments of the Ludlam Trail. Accordingly, **and only to the extent applicable under Federal Law, LMT will** comply with the requirements of the Federal Highway Administration and Florida Department of Transportation with respect to the design and construction of the Easement Improvements within the **Trail Easement Area**. LMT shall follow, only to the extent applicable, and shall ensure that its contractors follow, only to the extent applicable, all the laws and regulations necessary to be in compliance with federal regulations, which are applicable that would apply to the development of the Easement Improvements required under this Restated Agreement, (understanding that no federal, state or County funds are being used for the design or construction of the Easement Improvements). LMT agrees to comply with, and shall ensure that its contractors comply with, the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the design and construction of the Easement Improvements required under this Restated Agreement and as a result of the federal funding, including but not limited to the federal regulations set forth in the Required Contract Provisions Federal-Aid Construction Contracts (“**FHWA Form 1273**”), attached hereto as *Exhibit “I”* and incorporated herein by reference. LMT shall include FHWA Form 1273 in all its contracts with contractors, subcontractors, consultants, and/or subconsultants who perform work or services pertaining to the Trail Easement Area. Non-Discrimination. During the performance of this Restated Agreement, LMT agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

(iii) NEPA Commitments. Pursuant to the Ludlam Trail Project Development and Environment Study, certain National Environmental Policy Act (“**NEPA**”) requirements have been imposed on the Ludlam Trail. LMT shall be responsible for the following NEPA commitments, but only as such commitments relate to the Trail Easement Area:

(1) Consistent with the recommendations by United States Federal Fish and Wildlife Service (“USFWS”) provided to the County in the Efficient Transportation Decision Making (ETDM) Summary Report, LMT shall, to the maximum extent practicable, use native wildflowers, bushes, and trees in any landscaping of the Trail Easement Area and Easement Improvements to benefit fish and wildlife resources including pollinators such as butterflies and bees.

(2) During final design of the Easement Improvements and prior to construction activities thereof, LMT shall coordinate with PROS and FDOT prior to initiating a survey for the Florida bonneted bat of the Trail Easement Area upon which it will be constructing the Easement Improvements. All surveys will be conducted in accordance with the applicable USFWS survey guidelines, currently entitled Florida Bonneted Bat Consultation Guidelines, dated October 2019. If any signs of the bonneted bat are observed, LMT shall immediately notify the County so that coordination through the FDOT and USFWS can be reinitiated and consultation undertaken, as necessary and LMT shall comply with all requirements imposed by USFWS and FDOT regarding the Florida bonneted bat. Upon completion of the bat survey, LMT shall provide the County with documentation of the completed survey and findings to demonstrate compliance. LMT will continue to coordinate with PROS, FDOT, and USFWS as needed, regarding the Florida bonneted bat, prior to conducting Florida bonneted bat surveys during future phases of development.

(3) LMT will incorporate USFWS’s most current protection guidelines for the eastern indigo snake, currently entitled Standard Protection Protocols for the Eastern Indigo Snake (the “**Protocols**”) as applicable, into the final project design for the Easement Improvements and will require that its construction Contractor comply with the Protocols, during construction of the Easement Improvements. LMT shall provide documentation to the County regarding requirement of its Contractor to abide by applicable Protocols regarding the eastern indigo snake.

(4) Should protected plant species be identified within the Trail Easement Area upon which it will be constructing the Easement Improvements during the design and permitting phase of the Easement Improvements, LMT shall promptly notify the County so that coordination through FDOT and other environmental agencies, as appropriate, can be reinitiated to allow for relocation to adjacent habitats or other suitable protected lands prior to construction.

(5) During the construction of the Easement Improvements, LMT and its Contractor shall adhere to the Florida stormwater management program per the Water Resources Implementation Rule (Chapter 62-40.431 FAC) and shall implement best management practices to avoid, where possible, and otherwise minimize adverse impacts to surface waters and water quality within the area of the Easement Improvements.

(6) Due to the documented soil and groundwater contamination, a Soil Management Plan (along with Health and Safety Plan, Dust Control Plan, and Air Monitoring Plan) will be prepared by LMT prior to submitting the construction/drainage plans. Any proposed

activities related to soil handling and stormwater management must be conducted in accordance with these plans.

LMT shall cooperate, as needed, with the County for NEPA re-evaluations to be performed by the County per the applicable NEPA requirements. For more information on details relative to NEPA re-evaluations and when they may be warranted, please refer to Part 1, Chapter 13: Re-evaluations of the Department's Project Development and Environment Manual (PD&E Manual), which can be found at: <https://www.fdot.gov/environment/pubs/pdeman/pdeman-current>. At the completion of the construction of the Easement Improvements, LMT shall provide the County with an affidavit attesting that it has complied with all of the NEPA requirements set forth in this Section.

D. Approvals and Undertaking of Easement Improvements.

(i) Pre-Zoning Design Review and Approval Process.

- a. Prior to LMT's submission of its zoning application(s) to regulatory agencies for the LMT Improvements and corresponding Easement Improvements proposed for the **Trail Easement Area**, LMT submitted its design and specifications for the Easement Improvements to Miami-Dade County Parks, Recreation and Open Spaces Department, or successor agency ("**PROS**"), and LMT incorporated or addressed comments and/or suggested revisions ultimately requested by the PROS, the County Mayor or Mayor's designee.
- b. For any future, proposed Easement Improvements, LMT shall submit its design and specifications for the Easement Improvements to PROS and FDOT. LMT shall incorporate or address all comments and/or suggested revisions ultimately required by the County Mayor or Mayor's designee. The County's review and approval process for any future Easement Improvements proposed on the north side of the Public Road shall proceed as follows: (1) PROS and FDOT shall review and approve or provide comments and/or suggested revisions to the design and site plans for the Easement Improvements no later than fourteen (14) business days after receipt; (2) LMT shall incorporate all comments and/or revisions submitted by PROS and FDOT and shall resubmit to PROS revised plans within fourteen (14) business days, and PROS and LMT shall work collaboratively in good faith with each other to resolve any disagreements; (3) PROS shall then provide its approval or comments/suggested revisions to all subsequent submissions provided by LMT within twenty-five (25) business days after receipt; and (4) if PROS, FDOT and LMT are unable to resolve disagreement(s) regarding PROS' comments/suggested revisions, then the County Mayor or Mayor's designee shall review the comments/suggested revisions requested by PROS and FDOT and shall provide final direction, review and comments to LMT.
- c. The County's approval of any plans pursuant to the preceding subsection is being undertaken pursuant to the County's proprietary, and not governmental or

regulatory, capacity. The County's approval pursuant to the preceding subsection shall not relieve LMT of its obligations under law to file such plans with any departments of the County or any other governmental authority having jurisdiction over the issuance of building or other permits and to take such steps as are necessary to obtain issuance of such permits. Further, nothing contained herein shall be construed to limit the County's authority to review any design and make appropriate comments or recommendations through the County's regulatory review processes, including zoning and site plan review. LMT acknowledges that any approval given by the County or FDOT pursuant to the preceding two subsections shall not constitute an opinion or agreement by the County that the plans are structurally sufficient or in compliance with any applicable laws, and no such approval shall impose any liability upon the County.

(ii) Post-Zoning and Site Plan Design Review and Approval.

- a. For future Easement Improvements, LMT shall provide the County and FDOT with its full 50% design plans and specifications for the Easements Improvements for the County's and FDOT's review and approval process prior to proceeding to final 100% design plans, specifications and construction drawings. The County and FDOT shall have 30 days to review and provide its approval, or any comments and requested revisions and the County shall not unreasonably, withhold, condition or delay its approval or comments/requested revisions. The County's and FDOT's review shall be limited to: (I) confirming that the 50% Plans are consistent with the pre-zoning plans approved by the County; and (II) that the 50% Plans are otherwise consistent with the terms and conditions of this Restated Easement.
- b. For future Easement Improvements, LMT shall provide the County with its full 100% final, design plans and specifications for the Easements Improvements for the north and south sides of the Public Road for the County's review and approval process prior to applying for permits. The County shall have 30 days to review and provide its approval, or any comments and requested revisions and the County shall not unreasonably, withhold, condition or delay its approval or comments/requested revisions. The County's review shall be limited to: (I) confirming that the 100% Plans are consistent with the pre-zoning plans approved by the County; and (II) that the 100% Plans are otherwise consistent with the terms and conditions of this Restated Easement.

- (iii) Permits. It shall be the responsibility of LMT to seek and obtain from all governmental entities having jurisdiction over the Trail Easement Area and the Easement Improvements all required permits for the construction and use of the Easement Improvements, and LMT shall exercise commercially reasonable efforts in attempting to obtain such permits. In no event shall LMT be responsible to seek or obtain any required permits for the construction of the Pedestrian Bridge or Ramps, which shall be the sole responsibility of the County to obtain.

E. Ramps and Pedestrian Bridge.

(i) The parties acknowledge that the Pedestrian Bridge is required for the safe passage of the public, trail users, and pedestrians or cyclists across the Public Road. The County and/or FDOT and the respective assigns and contractors shall be responsible for undertaking the design and construction of the Ramps, within the Trail Easement Area, and Pedestrian Bridge which includes the bridge superstructure, substructure, and foundation, and all associated structural elements (collectively, the “**Pedestrian Bridge**”) in the Trail Easement Area and across the Public Road. Notwithstanding anything to the contrary herein, the County or County-affiliated Entities shall be responsible for undertaking the inspection, maintenance, and repair of the Ramps and Pedestrian Bridge. As defined by the Florida Statute Title XXVI, Chapter 334.03, “Bridge” means a structure including supports, erected over a depression or an obstruction, such as water, or a highway or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between the under copings of abutments. As defined by the FDOT (850-010-030-k), appurtenances are items that are not technically part of the bridge but are generally associated, inspected, and maintained with the bridge. Examples include approach guardrail, fender systems, traffic control devices, bridge mounted signs and approach slabs.

(ii) The County and/or FDOT and their respective assigns and contractors shall design, permit, and construct in the Trail Easement Area leading up to the Public Road and identified in Exhibit “D”, a trail that gradually ramps up at an incline (the “**Ramps**”) to connect the Easement Improvements to the supports of the Pedestrian Bridge. Notwithstanding anything to the contrary herein, the County or County-affiliated Entities shall be responsible for undertaking the inspection, maintenance, and repair of the Ramps. For clarification, the Ramp(s) shall be defined as the entire sloped, grade-separated and elevated portion of the trail that is within the **Trail Easement Area**, which includes portions constructed on an embankment, piers, or other structures.

(iii) Grant of Temporary Construction Easement for Construction of the Pedestrian Bridge and Ramps. LMT hereby grants an exclusive **Temporary Construction Easement** (the “**TCE**”) in, over, under, upon, within, above, below and through the portions of the LMT Trail Parcel as depicted and described in Exhibit “H” attached hereto and incorporated herein by reference (the “**TCE Area**”) to the County, FDOT and their respective assigns for the purpose of constructing the Pedestrian Bridge and Ramps subject to terms of this Agreement. This TCE grants the County, FDOT and their respective assigns the right to access the TCE Area and to bring heavy construction equipment, cranes, materials, and other items necessary within the TCE Area to complete the installation and construction of the Pedestrian Bridge and Ramps. This TCE also grants the County, FDOT and their respective assigns the right to install construction signage within the TCE Area. The TCE shall commence 60 days after LMT’s receipt of written notification by the County, FDOT or their respective assigns of its intent to commence construction of the Pedestrian Bridge and Ramps (the “**TCE Commencement**”) and shall expire upon final acceptance of the Pedestrian Bridge and Ramps by the County and its respective assigns (the “**TCE Expiration**”). Notwithstanding anything to the contrary herein, LMT shall discontinue use of, and have the TCE area clear and free of all vehicles, fixtures, or other improvements no later than the TCE Commencement date. LMT and successor fee owners of the Property shall not grant any

other easements that would interfere with the TCE Area purpose without the County's and FDOT's prior written consent. Throughout the duration of the TCE, no obstructions shall be permitted within the entirety of the TCE Area without prior written consent of the County and FDOT. The TCE Area shall be available to the County, FDOT and their respective assigns, twenty-four hours a day, seven days a week, and certain portions of the TCE identified by the County and/or FDOT shall be closed to LMT'S residents and staff, as well as to the public from the TCE Commencement until the TCE Expiration.

(iv) Simultaneously with the execution of this Agreement by LMT, LMT shall make payment to the County in the amount of Two Million Seven Hundred and Fifty Thousand and XX/100 Dollars (\$2,750,000.00) in full satisfaction of its obligation to fund the design, construction of the Ramp within the Trail Easement Area.

(iv) LMT agrees that, with respect to the Pedestrian Bridge and Ramps, LMT shall not make any physical connections such as catwalks, or breezeways connecting from the LMT Improvements to the Ramps or Pedestrian Bridge. Any vertical structures or buildings to be constructed beyond the 12-foot setback shall be evaluated by structural and geotechnical engineers registered in the State of Florida, to determine the effects to Ramps and the Pedestrian Bridge. This evaluation shall be reviewed and must be approved by Miami-Dade County and FDOT in writing prior to any vertical structures or buildings being constructed beyond the 12-foot setback. The intent of this provision is to not jeopardize the structural integrity of the Ramps and Pedestrian Bridge.

(v) LMT and the County shall use reasonable, good faith efforts to coordinate construction between LMT's Improvements on the LMT Trail Parcel, the Pedestrian Bridge and Ramps, and the Easement Improvements. The foundations, supports, and structures for the Ramps and Pedestrian Bridge shall be separate and independent of any foundations, supports and structures constructed or erected by LMT on the LMT Trail Parcel.

(vi) The area at-grade underneath the free-standing Ramps and within the portions of the Trail Easement Area shall be installed, improved, and maintained by LMT. If the County damages the landscaping or other improvements underneath the Ramps during inspection, repair, restoration or maintenance of the Ramps, the County shall promptly restore the improvements to equal condition. LMT shall not install or construct any permanent structures underneath the Ramps. Any improvements proposed to be constructed or installed underneath the Ramps structures shall be submitted to PROS and DTPW a minimum of ninety (90) days prior to construction, for review and approval, which approval shall not be unreasonably withheld.

(vi) Neither Party shall use, or permit the use of, any area under the Ramps or Pedestrian Bridge for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any applicable federal, state, or local laws, orders, directions, ordinances, or regulations. Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common

usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials is prohibited.

F. Ownership and Maintenance of Easement Improvements and Pedestrian Bridge and Ramps.

(i) All of the Easement Improvements shall be owned by LMT and LMT shall be obligated to maintain the Easement Improvements in a clean, and safe manner and open to the public at all times in accordance with the requirements of this Restated Agreement.

(ii) The County shall own the Pedestrian Bridge and all parts associated therewith as provided in Section 3E(i), including the Components, Supports and the Ramps, and the County shall be obligated to maintain the Pedestrian Bridge and Ramps in a clean and safe manner and in compliance with applicable laws. The Pedestrian Bridge and Ramps shall be at all times, twenty-four (24) hours a day, seven (7) days a week, open, accessible and available for use by the County and the public for any and all public purposes consistent with Trail Use, except in cases of emergency or required maintenance and repairs, which in such instance public access shall temporarily be suspended. The obligation of the County to maintain the Pedestrian Bridge and Ramps publicly accessible for Trail Use shall be a material covenant of this Restated Agreement.

4. Operations, Maintenance, and Repair and Right of Entry.

A. LMT shall, at its sole cost and expense, maintain the LMT Trail Parcel, the Easement Improvements, and the Trail Easement Area, exclusive of the Pedestrian Bridge and Ramps, in safe and good condition and repair and in compliance with applicable laws, all in such a manner so as to not: (i) adversely impact the structural integrity and physical condition of the Trail Easement Area, the Pedestrian Bridge or the Ramps; (ii) cause any physical damage whatsoever to the Easement Improvements, the Pedestrian Bridge, or Ramps; or (iii) interfere with the use of the Pedestrian Bridge, and/or the Trail Use of the Trail Easement Area and Easement Improvements; or (iv) in the case of conducting capital repairs or construction to the LMT Trail Parcel, unreasonably interfere with Trail Use or use of the Pedestrian Bridge by the County or public; provided that temporary closures of the Trail Easement Area (not to exceed 24 hours unless mutually agreed by LMT and the County) to perform required maintenance or repair work in the Trail Easement Area, or of the LMT Trail Parcel shall not be deemed an unreasonable interference with Trail Use, provided that LMT shall provide ninety (90) days advance notice to the County of the timing of the work (except for emergency repairs or maintenance). LMT shall provide a temporary alternate route for public use of the Ludlam Trail or only partially constrict Ludlam Trail as it undertakes all repairs to the Trail Easement Area. All repairs, maintenance or work undertaken by LMT that has the potential of interfering with or adversely impacting Trail Use shall be closely coordinated by LMT between itself, PROS and DTPW, and shall require prior written approval by PROS. For the avoidance of doubt, LMT's obligations as described in this Section 4(A) expressly excludes any obligation to maintain the Pedestrian Bridge or Ramps

B. In the event that LMT fails to act or perform in accordance with the provisions of Subsection 4(A) or violates any of the provisions herein, the County shall provide written notice

to LMT and LMT shall, within thirty (30) days of receipt of such written notice, cure the defaults; provided that if such default cannot reasonably be cured within thirty (30) days, so long as LMT has commenced the cure within said thirty (30) day period and continues to diligently pursue to completion, LMT shall have such additional time as is reasonably necessary to cure the default. If LMT fails to complete the maintenance work within the thirty (30) day period, as same may be extended as expressly provided hereinabove, the County may enter the Trail Easement Area and perform such work, and the commercially reasonable cost thereof shall be chargeable to LMT and shall be due and payable to the County upon the performance of such work, within thirty (30) days of submission of an invoice for such costs and expenses by the County to LMT.

C. If LMT or its agents, contractors or subcontractors cause any physical damage or adversely impact the structural integrity or physical condition of the Ramps or the Pedestrian Bridge, then LMT shall be responsible for the commercially reasonable costs incurred by the County to repair, replace, or reconstruct the damage or impact. LMT has no responsibility whatsoever for the repair, maintenance or replacement of the Pedestrian Bridge or Ramps, including, without limitation, any the bridge superstructure, substructure, columns, and foundation, and all associated structural elements and components its Supports and Components.

D. LMT shall maintain the Maintenance Easement Area clear of any fixtures, furniture or other permanently installed items that would obstruct the County's or its respective assigns access to inspect, maintain, and repair the Ramps and Pedestrian Bridge. LMT has provided Landscape Plans to PROS and DTPW for review and approval and PROS and DTPW have approved said Landscape Plans. Any proposed alterations or modifications to the Landscape Plans shall be approved by PROS and DTPW prior to installation. Additionally, LMT shall maintain any landscaping installed adjacent to the Pedestrian Bridge and Ramps, to ensure that the landscaping does not reduce visibility of maintenance and inspection of the Pedestrian Bridge and Ramps structure and structural components.

Following the date of the County's Final Completion of the Pedestrian Bridge and Ramps as defined Section 3E above, the County shall maintain the Pedestrian Bridge and Ramps (but excluding the areas at-grade underneath the Ramps and Pedestrian Bridge within the Trail Easement Area) in such a manner so as to not: (i) adversely and materially impact the structural integrity and physical condition of the LMT's Improvements and Easement Improvements; (ii) cause physical damage to the LMT Improvements and Easement Improvements, or (iii) in the case of conducting capital repairs or construction of the Ramps and Pedestrian Bridge unreasonably interfere with LMT's use of the LMT Trail Parcel. All repairs, maintenance or work undertaken by the County that has the potential of materially interfering with or adversely impacting LMT's Trail Parcel shall be closely coordinated by the County with LMT. In the event that the County fails to act or perform in accordance with the provisions of this subsection or violates any of the provisions herein, the LMT shall provide written notice to the County and the County shall, within thirty (30) days of receipt of such written notice, cure the defaults; provided that if such default cannot reasonably be cured within thirty (30) days, so long as the County has commenced the cure within said thirty (30) day period and continues to diligently pursue to completion, the County shall have such additional time as is reasonably necessary to cure the default. If the County fails to act or perform in accordance with the provisions of this subsection or violates any of the

provisions herein within ninety (90) days of receipt of such written notice, as same may be extended as expressly provided hereinabove, LMT may, but is not be obligated, enter the Trail Easement Area and perform such work, and the commercially reasonable cost thereof shall be chargeable to the County and shall be due and payable to LMT upon the performance of such work, within ninety (90) days of submission of an invoice for such costs and expenses by the LMT to the County.

5. As-Built Plans. LMT shall provide the County and PROS a complete set of as-built plans for the Easement Improvements and any underground utilities installed by LMT underneath the Trail Easement Area and the Maintenance Access Easement. The as-built plans shall be provided to PROS upon Final Completion of the Easement Improvements and LMT Improvements.

6. Relocation of Trail Easement Area.

A. The portion of the Trail Easement Area that contains the grade-separated improvements, as described in *Exhibit "D"*, shall not be relocated by LMT.

B. Prior to the Commencement of Construction of any future Easement Improvements or at any time with respect to the TCE and the Maintenance Access Easement Area, LMT or the County may request to shift or relocate the location of the Trail Easement Area as described in "*Exhibit D-1*", containing the at-grade trail improvements east or west, or the TCE or the Maintenance Access Easement Area, provide any such proposed relocation is within the area of LMT's Trail Parcel ("**Relocation**"). Such Relocation shall not interfere with the construction, maintenance, construction staging, or use of the Pedestrian Bridge, support, Ramps and components; such Relocation area continues to provide the County and the public with an uninterrupted 18-foot-wide Shared Use Trail over the length of the LMT's Trail Parcel and continues to provide uninterrupted connectivity to the Shared Use Trail and in compliance with the Minimum Standards and County review process set forth in Section 3 above; and continues to provide the County and FDOT with the access necessary for construction and maintenance as it pertains to the Pedestrian Bridge and Ramps. Any written request to relocate the Easement Area, the TCE and the Maintenance Access Easement Area shall specifically set forth and describe the proposed new location in a site plan, survey sketch and legal description, no less than ninety (90) calendar days prior to the date needed for Relocation. The County, through the County Mayor or Mayor's designee, or LMT, as applicable, shall provide its agreement or objection, which may not be unreasonably withheld, by written notice to the requesting party within thirty (30) days of its receipt of such request. If either Party objects to the Relocation, then the Relocation request is deemed denied.

C. In the event of a Relocation, the County Mayor or Mayor's Designee have delegated authority to amend this Restated Agreement to replace legal descriptions in the exhibits associated with the Easement Area, the TCE, or the Maintenance Access Easement Area, as applicable, pursuant to a Relocation. LMT and the County agree to execute in timely fashion such instruments as may reasonably be necessary to evidence a Relocation, and such amended easement shall be recorded in the public records of Miami-Dade County. Notwithstanding any other provision set forth herein,

in no event shall the **Trail Easement Area** be relocated, or the Easement Improvements be constructed, outside of the boundaries of the LMT's Trail Parcel.

7. LMT's Reserved Rights. To the extent not otherwise inconsistent with the terms of this Restated Agreement and the easement rights granted pursuant to this Restated Agreement, LMT reserves all rights to develop, use and enjoy the LMT Trail Parcel in all areas outside of the Trail Easement Area, including, but not limited to, for all lawful purposes, including, without limitation, the development and construction of the LMT Improvements, including, without limitation, the Maintenance Access Easement Area and such other improvements as set forth in the Final LMT Plans. LMT shall, at its sole cost and expense, install or cause to be installed applicable underground utilities and connections in the Trail Easement Area described in *Exhibit "D-1"* of the at-grade portion of the Trail Easement Area, that are necessary for the construction and operation of the Easement Improvements and LMT Improvements, including but not limited to electricity, lighting, storm drainage, water and sewer, whether or not owned by the County, and to grant required easements to utility companies, in connection with the development of the Easement Improvements; and provided further that the County's written consent is first obtained for all such easements within the Trail Easement Area, which consent shall not be unreasonably withheld, conditioned or delayed, and any underground cables for electrical, telecommunications or other utility use within the Trail Easement Area must be at least ten (10) feet away from any underground foundations or structures for the Pedestrian Bridge and Ramps. Underground utilities shall not be installed by LMT within the Trail Easement Area described in *Exhibit "D"*, the grade-separated portion of the Trail Easement Area. LMT shall provide the County (PROS) with as-built plans for any underground utilities installed within the Maintenance Access Easement Area.

8. Restrictions on LMT's Use. LMT shall not use, or permit, or allow its employees, agents or contractors to use the Trail Easement Area, the TCE Area, the Maintenance Access Easement Area or any parts thereof to be occupied or used for any illegal business use or purpose; for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity; or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations. LMT shall not have the right to utilize the Trail Easement Area, the TCE Area, the Maintenance Access Easement Area or any parts thereof for vehicular access to the LMT Trail Parcel from an abutting portion of the Ludlam Trail, except that the foregoing shall not prohibit LMT from using the Public Road for vehicular access to and from the LMT Trail Parcel. Except for the approved Easement Improvements, LMT shall not construct, erect or place any improvements, equipment, materials, or personal property, including but not limited to, billboards, advertising, or other signs within or upon the Trail Easement Area (including, but not limited, the Pedestrian Bridge and Ramps), whether temporary or permanent, or upon the TCE Area, and the Maintenance Access Easement Area whether temporary or permanent. The County and the public shall have access to Easement Improvements through the Trail Easement Area twenty-four (24) hours a day, seven (7) days a week. Any security measures or access gates that LMT may install to prevent access to the private areas of the LMT Trail Parcel shall not be erected entirely on the LMT Trail Parcel and shall not restrict public access to the Trail Easement Area and shall not

restrict the County and its respective assigns access to the TCE Area or the Maintenance Access Easement Area. LMT shall not, in accessing or attempting to access or permitting any party any outdoor signage on the LMT Trail Parcel for the purpose of maintenance, repair or replacement of such outdoor signage or billboards, impede on the use and access of or prohibit public access to the Ludlam Trail, Trail Easement Area or Pedestrian Bridge, even on a temporary basis.

9. No Lien Right.

A. NOTICE IS HEREBY GIVEN TO THIRD PARTIES UNDER CONTRACT WITH COUNTY THAT LMT AND ITS TENANTS WILL NOT BE LIABLE FOR: (a) ANY LABOR, SERVICES OR MATERIAL FURNISHED, OR TO BE FURNISHED, TO OR FOR THE COUNTY BY SAID THIRD PARTY, OR TO ANY AGENT OF COUNTY BY SAID THIRD PARTY; OR (b) TO ANYONE PROVIDING LABOR, SERVICES, MATERIALS OR EQUIPMENT THROUGH OR UNDER COUNTY OR ANY AGENT OF COUNTY, AND THAT NO CONSTRUCTION OR MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES, MATERIALS OR EQUIPMENT WILL ATTACH TO OR AFFECT THE INTERESTS OF LMT OR ITS TENANTS. COUNTY AND EACH AGENT OF COUNTY WILL DISCLOSE THE FOREGOING PROVISIONS TO ANY AND ALL CONTRACTORS ENGAGED BY OR THROUGH COUNTY OR THROUGH SUCH AGENT OF COUNTY TO PROVIDE LABOR, SERVICES, MATERIALS AND/OR EQUIPMENT TO OR ABOUT THE LMT TRAIL PARCEL.

B. NOTICE IS HEREBY GIVEN TO THIRD PARTIES UNDER CONTRACT WITH LMT THAT COUNTY WILL NOT BE LIABLE FOR: (a) ANY LABOR, SERVICES OR MATERIAL FURNISHED, OR TO BE FURNISHED, TO OR FOR LMT BY SAID THIRD PARTY, OR TO ANY AGENT OF LMT BY SAID THIRD PARTY; OR (b) TO ANYONE PROVIDING LABOR, SERVICES, MATERIALS OR EQUIPMENT THROUGH OR UNDER LMT OR ANY AGENT OF COUNTY, AND THAT NO CONSTRUCTION OR MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES, MATERIALS OR EQUIPMENT WILL ATTACH TO OR AFFECT THE INTERESTS OF THE COUNTY TO THE TRAIL EASEMENT AREA AND THE EASEMENT IMPROVEMENTS. LMT AND EACH AGENT OF LMT WILL DISCLOSE THE FOREGOING PROVISIONS TO ANY AND ALL CONTRACTORS ENGAGED BY OR THROUGH LMT OR THROUGH SUCH AGENT OF LMT TO PROVIDE LABOR, SERVICES, MATERIALS AND/OR EQUIPMENT TO OR ABOUT THE LMT TRAIL PARCEL, INCLUDING TO THE TRAIL EASEMENT AREA AND EASEMENT IMPROVEMENTS.

10. Condition of Easement. LMT is the record owner of the fee simple title to the LMT's Trail Parcel and is hereby authorized to make this conveyance of this Perpetual Easement, the TCE, and the Maintenance Access Easement to the County and represents that it has no knowledge of any condition that would frustrate or impede the nature or purpose of the Perpetual Easement, the TCE, or Maintenance Access Easement. The phrase "to its knowledge" includes items which are known, or which should have been known, by LMT. To the extent that any matter, whether recorded or unrecorded, arises which impedes or frustrates the nature or purpose of the Perpetual Easement, TCE or Maintenance Access Easement for the construction or maintenance of a Trail as

set forth herein, LMT shall be responsible for all costs and expenses of rectifying and/or removing such encumbrance.

11. Mutual Indemnification and Insurance.

(a) LMT shall indemnify and hold harmless the County and all of their respective officers, agents, and employees (collectively, "**Indemnitees**") from any claims, liabilities, losses, damages, penalties, judgments, costs, charges, or expenses arising from the following ("collectively, "**Claims**"): (i) injury to person or property sustained by anyone in the LMT Trail Parcel, inclusive of the Trail Easement Area, and the TCE Area, resulting from the negligent act(s) or omission(s) of LMT or its Agents; *provided, however*, that nothing herein shall be deemed to require LMT to indemnify Indemnitees from any Claims arising from injury to person or property sustained by anyone in the Trail Easement Area caused by the negligent act(s) or omission(s) of Indemnitees during the performance of this Restated Agreement; (ii) or relating to alleged diminished use and enjoyment of a billboard, outdoor advertising, signage, residential unit, apartment, retail or other use adjacent or proximate to the Trail, Ramps, or Pedestrian Bridge ; (iii) any member of the public accessing or attempting to access any outdoor advertising structures, with regard to personal injury or any property damage to the outdoor advertising structures or signage..

LMT shall require its contractor performing work within the Trail Easement Area to carry, at no expense to the County or FDOT and to maintain at all times General Liability Insurance protecting Indemnitees against all Claims. Such insurance shall be carried in a minimum amount of not less than One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than One Million Dollars (\$1,000,000.00) for property damage, or a combined coverage of not less than Ten Million Dollars (\$10,000,000.00). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless Indemnitees are given at least sixty (60) days prior written notice of such cancellation or modification. LMT shall provide Indemnitees with an ACORD Certificate of Liability Insurance from its contractor showing such insurance to be in place and showing LMT and Indemnitees as additional insureds under its contractor's General Liability Insurance policy as well as an Additional Insured Endorsement naming LMT and Indemnitees as scheduled additional insureds on LMT's contractor's General Liability Insurance policy.

(b) To the extent permitted by law, and as limited by and subject to the provisions of Section 768.28, Florida Statutes, the County shall indemnify and hold harmless LMT and its Agents from any Claims arising from injury to person or property sustained by anyone in the Trail Easement Area, resulting from the negligent act(s) or omission(s) of Indemnitees during the performance of this Restated Agreement; *provided, however*, that nothing herein shall be deemed to require County to indemnify LMT or its Agents from any Claims arising from injury to person or property sustained by anyone in the Trail Easement Area resulting from the negligent act(s) or omission(s) of LMT or its Agents during the performance of this Restated Agreement.

12. Default.

(a) In the event that LMT fails to comply with any of the obligations set forth in this Restated Agreement, the County may give notice of default to the LMT and the LMT shall have ninety (90) days following the date of receipt of such notice to cure such failure (provided that in the event such cure cannot be completed within such ninety (90) day period, if the LMT commences to cure within said ninety (90) day period and thereafter diligently continues to cure, then the ninety (90) day period shall be extended for a reasonable period thereafter). Notwithstanding the foregoing, if the LMT's default endangers or unreasonably interferes with the Trail Use or otherwise use of Ludlam Trail, including but not limited to the Trail Easement Area and the Easement Improvements, the County shall have the right, at its sole option, to immediately (i) obtain an injunction against any use of the Trail Easement Area and/or the LMT Trail Parcel in violation of this Restated Agreement that is endangering or unreasonably interfering with the Trail Use or otherwise use of Ludlam Trail, and (ii) exercise all other rights available to the County at law or in equity, including, without limitation, bringing a legal action for actual damages incurred. For avoidance of doubt, "actual damages" as uses for herein shall not include punitive or similar damages. Further, following any default (which has not been cured within the cure period, as same may be extended, as set forth above) by LMT of this Agreement, the County shall have the right to (i) obtain an injunction against any use of the Trail Easement Area in violation of this Restated Agreement, or that is otherwise causing damage to property or person, and (ii) exercise all other rights available to the County at law or in equity, including, without limitation, bringing a legal action for damages incurred, provided however, that County shall have no right to terminate this Restated Agreement.

(b) In the event that the County fails to comply with any of the obligations set forth in this Restated Agreement, LMT may give notice of default to the County and the County shall have ninety (90) days following the date of receipt of such notice to cure such failure (provided that in the event such cure cannot be completed within such ninety (90) day period, if the County commences to cure within said ninety (90) day period and thereafter diligently continues to cure, then the ninety (90) day period shall be extended for a reasonable period thereafter). Notwithstanding the foregoing, if the County's default endangers or unreasonably interferes with LMT's use of the LMT Trail Parcel, LMT shall have the right, at its sole option, to immediately (i) obtain an injunction against any use of the Trail Easement Area in violation of this Restated Agreement that is endangering or unreasonably interfering with LMT's use of the LMT Trail Parcel, and (ii) exercise all other rights available to LMT at law or in equity, including, without limitation, bringing a legal action for damages incurred. For avoidance of doubt, "actual damages" as uses for herein shall not include punitive or similar damages. Further, following any default (which has not been cured within the cure period, as same may be extended, as set forth above) by County of this Restated Agreement, LMT shall have the right to (i) obtain an injunction against any use of the Trail Easement Area in violation of this Restated Agreement, or that is otherwise causing damage to property or person, and (ii) exercise all other rights available to LMT at law or in equity, including, without limitation, bringing a legal action for damages incurred, provided however, that LMT shall have no right to terminate this Restated Agreement.

13. Running With the Land. It is the intention of the parties hereto that this Easement shall run with, and be appurtenant to, the LMT's Trail Parcel, including the Trail Easement Area, and

shall be burdens upon those parcels upon which they are imposed, shall run with each of said parcels and shall bind and benefit the owner of said parcels and their successors, tenants, assigns, successors-in-title, and mortgagees. This Restated Agreement is non-terminable.

14. Remedies. The provisions of this Restated Agreement may be enforced by all appropriate actions at law and in equity (including, without limitation, injunctive relief) by LMT and the County, their successors, and assigns.

15. Limitation on Liability. The LMT Trail Parcel is currently under multiple ownership and may further be divided into additional multiple ownerships in the future. As such, as to each transferred portion of or interest in the LMT's Trail Parcel either prior to or after the Effective Date of this Restated Agreement (each a "**Transferred Portion**"), each of the said owners, mortgagees and other parties in interest of the Transferred Portion shall be bound by the terms, provisions and conditions of this Restated Agreement for those portions of the Trail Easement Area located within their respective Transferred Portion, including any and all applicable rights derived therefrom, from and after the date of the recorded change in ownership of the Transferred Portion, and each previous owner of the Transferred Portion, to the extent it no longer owns the Transferred Portion, shall no longer be responsible for the Transferred Portion, except for its time of ownership of the Transferred Portion, including but not limited to the indemnification obligations set forth herein for Claims occurring during that time of ownership of the Transferred Portion. Each owner of a Transferred Portion shall be jointly and severally liable and responsible for the obligations of LMT set forth in this Restated Agreement.

References to LMT shall refer to LMT in this Restated Agreement for so long and to the extent that LMT continues to hold record title ownership to all or any portion of or interest in the LMT Trail Parcel, and then only to the extent of its then ownership in the LMT Trail Parcel and, thereafter, such references to LMT shall be deemed to refer only to the then record owner(s) of the LMT Trail Parcel, but as to each record owner only to the extent of such record owner's owned portion of or interest in the LMT Trail Parcel. The obligations of LMT hereunder shall be binding on LMT and each succeeding owner of the LMT's interest in the LMT Trail Parcel during the period of their respective ownership of the LMT Trail Parcel.

16. Invalidity. If any part of this Restated Agreement is contrary to, prohibited by or deemed invalid under Applicable Law, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible, provided that the purpose and intent of this Restated Agreement to provide an uninterrupted and continuous Shared Use Trail for use by the County and the public for Trail Use shall not be frustrated or impeded by any such invalidated provision.

17. Waiver. The failure or delay of any party at any time to require performance by another party of any provision of this Restated Agreement, even if known, shall not affect the rights of such party to require performance of that provision or to exercise any right, power or remedy hereunder, and any waiver by any party of any breach of any provision of this Restated Agreement should not be construed as a waiver of the provision itself, or a waiver of any right, power or

remedy under this Restated Agreement. No notice to or demand on any party in any case shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

18. Third Parties. Nothing in this Restated Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Restated Agreement on any person other than the parties hereto, and FDOT, as applicable, and their respective employees, contractors, agents, legal representatives, lenders and mortgagees, and successors and permitted assigns, nor is anything in this Restated Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Restated Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Restated Agreement, and no third party beneficiaries are intended by the provisions herein.

19. Applicable Law. This Restated Agreement is governed by and will be construed in accordance with the laws of the State of Florida, and in the event of any litigation concerning the terms of this Contract, proper venue thereof will be in Miami-Dade County.

20. Notices. All notices given pursuant to this Restated Agreement shall be in writing and shall be given by certified or registered United States mail, postage or delivery charge prepaid, return receipt requested, by personal delivery or by nationally recognized overnight express delivery service (such as FedEx) addressed to the person and address designated below:

Notices as to LMT shall be sent to:

LION MIAMI TERRACE, LLC

c/o Alexander Ruiz
16400 NW 59th Avenue
Miami Lakes, Florida 33014

With copy to:

Alejandro Vilarello, PA
c/o Alejandro Vilarello
16400 NW 59th Avenue
Miami Lakes, Florida 33014

Notices as to County shall be sent to:

MIAMI-DADE COUNTY

Parks, Recreation and Open Spaces
PROS
275 NW 2nd Street, 5th Floor
Miami, FL 33128
Attn: Director

With a copy to:

Miami-Dade County Attorney's Office
111 NW 1 Street, Suite 2810
Miami, Florida 33128
Attention: County Attorney

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other parties. All notices given pursuant to this Restated Agreement shall be deemed given upon the date of delivery of the notice or other document, or in the case of refusal to accept delivery or inability to deliver the notice or other document, the date of the attempted delivery or refusal to accept delivery.

21. Estoppel Certificates. Each of the parties hereto agree, promptly upon request (but in no event later than 15 business days) from any other party hereto, to furnish from time to time in writing certificates containing truthful estoppel information and/or confirmations of the agreements, obligations and easements contained in this Restated Agreement, including, without limitation, and to the extent applicable, any claims of lien for specific amounts County may have pursuant to County's Payment Rights, and otherwise in a form and substance reasonably satisfactory to the party requesting such certificate and its lender, if any, provided that such form and substance are reasonably satisfactory to the party from whom the estoppel certificate is sought.

22. Cooperation. The parties agree to cooperate with each other to perform their obligations and exercise their rights hereunder, including providing such documents and other information as either party may reasonably request.

23. Amendments. Except as specifically set forth herein, this Restated Agreement may not be amended, modified, or supplemented except in writing executed by the LMT and the County, after approval by the Board of County Commissioners. Further, no amendment, modification or supplement shall be effective unless in writing, duly executed, acknowledged and recorded in the Public Records of Miami-Dade County, Florida.

24. Counterparts. This Restated Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, each of which when taken together shall be deemed to be one and the same instrument.

25. Construction. The section headings contained in this Restated Agreement are for reference purposes only and shall not affect the meaning or interpretation hereof. All of the parties to this Restated Agreement have participated fully in the negotiation of this Restated Agreement, and accordingly, this Restated Agreement shall not be more strictly construed against any one of the parties hereto. In construing this Restated Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any particular gender shall be held to include every other and all genders.

26. Entire Agreement. This Restated Agreement amends and restates in its entirety the Perpetual Easement Agreement and constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements, both oral and written, between the parties with respect thereto, including the Perpetual Easement Agreement.

27. Hazardous Materials.

(a) LMT agrees that it retains complete responsibility for all clean-up, monitoring, containment, remediation, and costs associated with the presence of any hazardous materials and/or adverse environmental conditions in violation of applicable environmental permitting rules and regulations in connection therewith within the Trail Easement Area necessary to complete construction of the Easement Improvements, including but not limited to the cost of all environmental testing, monitoring and remediation work and engineering controls maintenance and closure conditions that are required by applicable law ("**Environmental Requirements**"). The term "hazardous materials" shall mean the presence of hazardous material or contaminant as defined in Section 24-5 of the Code of Miami-Dade County or contaminant or hazardous substance as defined in Florida Statutes F.S 376.301 or F.S 403.031 ("**Hazardous Materials**").

(b) Notwithstanding any other provision set forth within this Restated Agreement, LMT agrees to, and shall, undertake and complete all Environmental Requirements within the Trail Easement Area, no later than the LMT Deadline (subject to extension thereof as provided in this Restated Agreement). LMT agrees that it shall be completely and solely responsible for all costs of the development and construction of the Easement Improvements within the Trail Easement Area, arising as a result of Hazardous Materials in violation of applicable environmental permitting rules and regulations in connection therewith, which costs include but are not limited to, the costs of additional fill required, capping expenses and design and construction of the storm water management system. The property owner agrees to "maintain" the approved engineering controls (ECs) (e.g. pavement, 1' clean soil above high visibility geotextile fabric, mulch, etc.). So, as part of this easement agreement, perhaps it should be stipulated as to which party will take that responsibility. In general, it would involve intermittent inspections to verify the ECs are still in the approved condition, take measures to repair the approved ECs and provides for procedures to follow related to any proposed alterations of the approved ECs. Nothing contained in this Restated Agreement shall preclude LMT from seeking a Brownfield designation for the LMT Trail Parcel; which shall not impact or delay the design, permitting or construction of the Easement Improvements.

(c) Prior to any construction work being undertaken on the Trail Easement Area, LMT shall be required to obtain a contaminated Soil Management Plan ("**SMP**"), Dust Control Plan, and Air Monitoring Plan and Health and Safety Plan (to protect worker and public health and safety as well as prevent the spread of contamination) to be approved by the County's Regulatory and Economic Resources Department – Division of Environmental Resource Management ("**DERM**") and shall comply with all applicable environmental permitting rules and regulations in connection therewith.

(h) LMT, on its own behalf and on behalf of any of its affiliates its successors and assigns, hereby waives, releases and agrees not to make any claim or bring any cost recovery action or claim for contribution or other action or claim against County or its agencies or its respective assigns, or any of their respective officers, employees, agents, attorneys, contractors, or assigns based on the presence of Hazardous Materials, including but not limited to, arsenic and/or PAHs on or in the Trail Easement Area, except to the extent that the presence of such Hazardous Materials is the result of the gross negligence or willful misconduct of the County or its agencies

or its respective assigns, or any of their respective officers, employees, agents, attorneys, contractors, or assigns. Further, LMT, on its own behalf and on behalf of any of its affiliates its successors and assigns, hereby agrees to hold harmless and indemnify the County and its agencies and its respective assigns, and all of their respective officers, employees, agents, attorneys, contractors, and assigns from any costs, liabilities, expenses, or third party claims or suits filed against the County or its agencies or its respective assigns, or any of their respective officers, employees, agents, attorneys, contractors, or assigns arising from Hazardous Materials in the Trail Easement Areas, except to the extent that such costs, liabilities, expenses, or third party claims or suits are the result of the gross negligence or willful misconduct of the County or its agencies or its respective assigns, or any of their respective officers, employees, agents, attorneys, contractors, or assigns.

28. County and FDOT as Sovereigns. Notwithstanding and prevailing over any other provision of this Contract, the County and FDOT retain all their sovereign prerogatives and rights and regulatory authority under Florida laws. Additionally, nothing herein shall be deemed to constitute a waiver or limitation of the County's or FDOT's sovereign immunity under Section 768.28, Florida Statutes.

29. Inspector General.

- a) Inspector General Reviews. Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the LMT shall make available to the IPSIG retained by the County all requested records and documentation pertaining to this Restated Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the LMT's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein apply to LMT, its officers, agents, employees, subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the LMT in connection with this Restated Agreement. The terms of this Section 29 shall not impose any liability on the County by the LMT or any third party.
- b) According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above.

- c) The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Public Health Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of an IPSIG to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance, and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the LMT, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.
- d) Upon written notice to the LMT from the Inspector General or IPSIG retained by the Inspector General, the LMT shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the LMT's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

30. Event of Force Majeure. In the event that the performance by either party of any of its obligations hereunder is delayed by natural disaster, epidemic, pandemic, terrorist activity, war, labor dispute, delays in the permitting approval process, shortage of supplies or materials, or beyond the control of such party, without such party's fault or negligence (an "**Event of Force Majeure**"), then the party affected shall notify the other party in writing and within a reasonable period of time after discovery that an Event of Force Majeure has occurred, setting forth the specific obligation delayed, and the duration of the delay, and the deadline for completion of such obligation shall be extended by a like number of days; *provided however*, that COVID-19 is not, and shall not be deemed to be an Event of Force Majeure, unless the associated delay is caused by the cessation or suspension of construction activities due to a governmental authority's imposition of an order or direction that is not directed solely at the affected party hereto.

**[REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURES APPEAR ON FOLLOWING PAGE.]**

IN WITNESS WHEREOF, the parties have executed this instrument as of the date and year first set above.

WITNESSES:

Lion Miami Terrace, LLC, a Florida
limited liability company
By: The Trail Apartments, LLC, a Florida
limited liability company

Signature

Printed Name

By: _____
Name: Alexander Ruiz, Manager
Date: _____

Signature

Printed Name

ATTEST:

COUNTY:

MIAMI-DADE COUNTY

Clerk

By: _____
Name: Roy Coley, Chief Utilities & Regulatory
Services Officer
As its: County Mayor's Designee

Date: _____

Approved as to form and
legal sufficiency

Assistant County Attorney

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 202__ by Alexander Ruiz, as the Manager of The Trail Apartments, LLC, a Florida limited liability company, the Manager of Lion Miami Terrace, LLC, a Florida limited liability company, who executed the foregoing instrument on behalf of said entity for the purposes therein expressed. He/She is personally known to me () or has produced _____ as identification.

Printed Name: _____
Notary Public
My Commission Expires:

EXHIBITS

- **EXHIBIT “A”: LEGAL DESCRIPTION OF COUNTY’S TRAIL PROPERTY**
- **EXHIBIT “B”: MAP OF THE COUNTY’S TRAIL PROPERTY SW 80TH ST TO 400 FEET NORTH OF NW 7TH STREET**
- **EXHIBIT “C”: LEGAL DESCRIPTION OF THE LMT TRAIL PARCEL**
- **EXHIBIT “D”: PERPETUAL EXCLUSIVE TRAIL EASEMENT TO COUNTY (GRADE SEPERATED AREA) LEGAL DESCRIPTION AND SKETCH**
- **EXHIBIT “D-1”: PERPETUAL EXCLUSIVE TRAIL EASEMENT TO COUNTY (AT-GRADE AREA) LEGAL DESCRIPTION AND SKETCH**
- **EXHIBIT “E”: EASEMENT IMPROVEMENT DESIGN GUIDELINES AND STANDARDS**
- **EXHIBIT "F": LMT’S FINAL TRAIL PLANS**
- **EXHIBIT “G”: MAINTENANCE ACCESS EASEMENT AREA WITHIN THE LMT TRAIL PARCEL**
- **EXHIBIT “H”: TEMPORARY CONSTRUCTION EASEMENT AREA FOR THE CONSTRUCTION OF THE PEDESTRIAN BRIDGE AND RAMPS**
- **EXHIBIT “I”: FHWA FORM 1273**

EXHIBIT "A"

LEGAL DESCRIPTION OF COUNTY'S TRAIL PROPERTY

A PORTION OF SECTION 11, 2 AND PORTION OF GOVERNMENT EXCESS LOT 2, TOWNSHIP 54, RANGE 40 EAST, CITY OF MIAMI IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER OF SAID SECTION 2; THENCE N87°00'12"E ALONG THE CENTERLINE OF WEST FLAGLER STREET AS BASIS OF BEARING FOR A DISTANCE OF 1286.39 FEET TO THE POINT OF BEGINNING; THENCE N01°28'54"W FOR A DISTANCE OF 35.01 FEET; THENCE S87°00'12"W FOR A DISTANCE OF 30.01 FEET TO A POINT IN THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE N01°28'54"W ALONG SAID LINE FOR A DISTANCE OF 2782.89 FEET, THENCE N18°32'06"E FOR A DISTANCE OF 292.15 FEET TO A POINT EASTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE S01°28'54"E ALONG SAID LINE FOR A DISTANCE OF 3054.75; THENCE S87°00'12"W FOR A DISTANCE OF 30.01 FEET; THENCE S01°28'54"E FOR A DISTANCE OF 70.02 FEET; THENCE N87°00'12"E FOR A DISTANCE OF 30.01 FEET; THENCE S01°28'54"E FOR A DISTANCE OF 2610.74 FEET; THENCE S87°34'52"W FOR A DISTANCE OF 30.00 FEET; THENCE S01°28'54"E FOR A DISTANCE OF 70.01 FEET; THENCE N87°34'52"E FOR A DISTANCE OF 27.59 FEET; THENCE S01°28'54"E FOR A DISTANCE OF 709.10 FEET; THENCE S88°31'06"W FOR A DISTANCE OF 100.00 FEET TO A POINT IN THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE N01°28'54"W ALONG SAID LINE FOR A DISTANCE OF 707.47 FEET; THENCE N87°34'52"E FOR A DISTANCE OF 32.41 FEET; THENCE N01°28'54"W FOR A DISTANCE OF 70.01 FEET; THENCE S87°34'52"W FOR A DISTANCE OF 30.00 FEET; THENCE N01°28'54"W FOR A DISTANCE OF 2609.73 FEET; THENCE N87°00'12"E FOR A DISTANCE OF 30.01 FEET; THENCE N01°28'54"W FOR A DISTANCE OF 35.01 FEET TO A POINT OF BEGINNING. CONTAINING 629,342 SQUARE FEET OR 14.45 ±ACRES.

LESS AND EXCEPT:

NODE PARCEL (SW 8TH STREET NODE)

A PORTION OF THE RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY LYING IN SECTION 2, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 2; THENCE N87°34'52"E ALONG THE CENTERLINE OF SOUTHWEST 8 STREET AS BASIS OF BEARING FOR A DISTANCE OF 1235.52 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 26134, PAGE 3286, OF THE

OFFICIAL RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE CONTINUE N87°34'52"E ALONG SAID CENTERLINE FOR 40.01 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY; THENCE S01°28'54"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 35.01 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 8TH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE N87°34'52"E ALONG SAID EASTERLY AND SOUTHERLY RIGHT-OF-WAY LINES FOR 27.59 FEET; THENCE CONTINUE S01°28'54"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 709.10 FEET; THENCE S88°31'06"W FOR 100.00 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY; THENCE THE FOLLOWING THREE COURSES ALONG SAID WESTERLY RIGHT-OF-WAY LINE: N01°28'54"W FOR 707.47 FEET TO A POINT OF INTERSECTION WITH SAID SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 8TH STREET; THENCE N87°34'52"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 72.42 FEET TO THE POINT OF BEGINNING, CONTAINING 70,828 SQUARE FEET OR 1.63 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT ANY AND ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED NODE PARCEL.

AND

The land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

COMMENCE AT A PERMANENT CONTROL POINT "DISK" FOUND AT THE INTERSECTIONS OF THE CENTERLINES OF S.W. 72ND AVENUE (60 FEET WIDE) AND S.W. 80TH STREET (DAVIS DRIVE) (WIDTH VARIES) AND BEING THE NORTHWEST CORNER OF THE SOUTHEAST 1 / 4 OF SECTION NO. 35, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA.

THENCE NORTH 86°56'43" EAST ALONG THE CENTERLINE OF S.W. 80TH STREET, 894.34 FEET TO POINT; THENCE SOUTH 01°28'35" EAST, 35.01 FEET TO THE PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;

THE FOLLOWING COURSES ARE ALONG THE VARIABLE WESTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY:

THENCE NORTH 01°28'35" WEST, 2683.12 FEET;
THENCE NORTH 86°30'07" EAST, 30.02 FEET;
THENCE NORTH 01°28'35" WEST, 20.01 FEET;
THENCE SOUTH 86°30'07" WEST, 30.02 FEET;
THENCE NORTH 01°28'35" WEST, 5317.03 FEET;
THENCE NORTH 87°18'01" EAST, 30.01 FEET;

THENCE NORTH 01°28'35" WEST, 30.01 FEET;
 THENCE SOUTH 87°18' 01" WEST, 30.01 FEET;
 THENCE NORTH 01°28'35" WEST, 5454.44 FEET;
 THENCE NORTH 87°50'27" EAST, 30.00 FEET;
 THENCE NORTH 01°28'35" WEST, 32.00 FEET;
 THENCE SOUTH 87°50' 27" WEST, 30.00 FEET;
 THENCE NORTH 01°28'35" WEST, 289.02 FEET;
 THENCE NORTH 88°31'25" EAST, 25.00 FEET;
 THENCE NORTH 01°28'35" WEST, 815.01' FEET;
 THENCE SOUTH 88°31'25" WEST, 25.00 FEET;
 THENCE NORTH 01°28'35" WEST, 4248.20 FEET;
 THENCE SOUTH 89°47'15" EAST, 30.01 FEET;
 THENCE NORTH 01°28'35" WEST, 25.01 FEET;
 THENCE NORTH 89°47' 15" WEST, 30.01 FEET;
 THENCE NORTH 01°28'35" WEST, 364.63 FEET;
 THENCE SOUTH 89°38'05" EAST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 50.03 FEET;
 THENCE NORTH 89°38' 05" WEST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 361.82 FEET;
 THENCE SOUTH 89°38'05" EAST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 50.03 FEET;
 THENCE NORTH 89°38' 05" WEST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 299.65 FEET;
 THENCE SOUTH 89°38'05" EAST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 50.03 FEET;
 THENCE NORTH 89°38' 05" WEST, 30.02 FEET;
 THENCE NORTH 01°28'35" WEST, 2899.90 FEET;
 THENCE SOUTH 87°27'27" WEST, 3.35 FEET;
 THENCE NORTH 01°23'01" WEST, 579.99 FEET;
 THENCE NORTH 88°31'06" EAST, 100.00 FEET

THE FOLLOWING COURSES ARE ALONG THE VARIABLE EASTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY:

THENCE SOUTH 01°23'00" EAST, 1898.87 FEET;
 THENCE NORTH 87°53'51" EAST, 5.50 FEET;
 THENCE SOUTH 01°28'35' EAST, 1584.28 FEET;
 THENCE NORTH 89°38'05" WEST, 30.02 FEET;
 THENCE SOUTH 01°28'35" EAST, 50.03 FEET;
 THENCE SOUTH 89°38' 05" EAST, 30.02 FEET;
 THENCE SOUTH 01°28'35' EAST, 299.65 FEET;
 THENCE NORTH 89°38'05" WEST, 30.02 FEET;
 THENCE SOUTH 01°28'35" EAST, 50.03 FEET;
 THENCE SOUTH 89°38' 05" EAST, 30.02 FEET;
 THENCE SOUTH 01°28'35' EAST, 361.82 FEET;
 THENCE NORTH 89°38'05" WEST, 30.02 FEET;
 THENCE SOUTH 01°28'35" EAST, 50.03 FEET;

THENCE SOUTH 89°38' 05" EAST, 30.02 FEET;
THENCE SOUTH 01°28'35" EAST, 364.36 FEET;
THENCE NORTH 89°47'15" WEST, 30.01 FEET;
THENCE SOUTH 01°28'35" EAST, 25.01 FEET;
THENCE SOUTH 89°47' 15" EAST, 8.70 FEET;
THENCE SOUTH 02°35'07" EAST, 1100.68 FEET;
THENCE SOUTH 01°28'35" EAST, 4248.24 FEET;
THENCE SOUTH 87°50'27" WEST, 30.00 FEET;
THENCE SOUTH 01°28'35" EAST, 32.00 FEET;
THENCE NORTH 87°50'27" EAST, 30.00 FEET;
THENCE SOUTH 01°28'35" EAST, 5453.50 FEET;
THENCE SOUTH 87°18'01" WEST, 30.01 FEET;
THENCE SOUTH 01°28'35" EAST, 30.01 FEET;
THENCE NORTH 87°18' 01" EAST, 30.01 FEET;
THENCE SOUTH 01°28'35" EAST, 5315.63 FEET;
THENCE SOUTH 86°30'07" WEST, 30.02 FEET;
THENCE SOUTH 01°28'35" EAST, 20.01 FEET;
THENCE NORTH 86°30'07" EAST, 25.52 FEET;
THENCE SOUTH 02°02'21" EAST, 1354.07 FEET;
THENCE SOUTH 88°31'25" WEST, 8.80 FEET;
THENCE SOUTH 01°28'35" EAST, 1118.71 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE CURVED EASTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY, DEFLECTING TO THE LEFT, AN ARC OF 212.28, SAID CURVE HAVING A RADIUS OF 905.64 FEET AND A CHORD THAT BEARS SOUTH 08°11'29" EAST, 211.79 FEET TO A POINT ON THE EXTENDED RIGHT-OF-WAY OF S.W. 80TH STREET;

THENCE SOUTH 86°56'43" WEST, 124.81 FEET TO THE PLACE OF BEGINNING AND AS SURVEYED AND SUBJECT TO ALL LEGAL HIGHWAYS, RESTRICTIONS, RESERVATIONS AND EASEMENTS OF RECORD.

BASIS OF BEARINGS: THE NORTHERLY LINE OF THE SOUTHEAST OF SECTION 35, TOWNSHIP 54 SOUTH AND RANGE 40 EAST AND BEING THE CENTERLINE OF S.W. 80TH STREET AS NORTH 86°56'43" EAST AS RECORDED IN DADELAND NORTH METRORAIL STATION AS RECORDED IN PLAT BOOK 147, PAGE 55 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, CONTAINING 2,308,172 SQUARE FEET OR 52.98 ACRES, MORE OR LESS.

LESS AND EXCEPT

PARCEL 1 NODE (SOUTH OF SW 8TH STREET)
A PORTION OF THE RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY

DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTERLINES OF SOUTHWEST 72ND AVENUE AND SOUTHWEST 12TH STREET AND BEING THE SW CORNER OF NW 1/4 OF THE NE 1/4 OF SECTION 11, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY, FLORIDA. THENCE N87°27'27"E AS A BASIS OF BEARINGS ALONG SAID CENTERLINE OF SOUTHWEST 12TH STREET FOR 1213.80 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY COMPANY; THENCE N01°23'01"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 25.01 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED A PARCEL OF LAND, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 12TH STREET; THENCE CONTINUE N01°23'01"W ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY FOR 554.98 FEET TO THE SOUTHWESTERLY CORNER OF "LR 11.7-13" AS SHOWN IN THAT SPECIAL WARRANTY DEED IN OFFICIAL RECORDS BOOK 30595, PAGE 1770, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N88°31'06"E ALONG SAID SOUTHERLY LINE OF "LR 11.7-13" FOR 100.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID "LR 11.7-13", SAID POINT ALSO BEING A ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY COMPANY; THENCE S01°23'00"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 553.13 FEET TO A POINT OF INTERSECTION WITH SAID NORTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 12TH STREET; THENCE S87°27'27"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 100.02 FEET TO THE POINT OF BEGINNING, CONTAINING 55,404 SQUARE FEET OR 1.27 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT PARCEL 1 NODE ANY AND ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED PARCEL 1 NODE.

AND LESS AND EXCEPT

PARCEL 2 NORTH NODE (NORTH OF CORAL WAY R/W)
A PORTION OF THE RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY NORTH OF SOUTHWEST 24TH STREET (CORAL WAY) IN SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY AND THE CENTERLINE OF SOUTHWEST 24TH STREET; THENCE N89°47'15"W ALONG SAID CENTERLINE OF SOUTHWEST 24TH STREET AS A BASIS OF BEARINGS FOR 48.72

FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY COMPANY; THENCE THE FOLLOWING THREE COURSES ALONG SAID WESTERLY RIGHT-OF-WAY LINE: N°01'28'35"W FOR 25.01 FEET; N89°47'15"W FOR 30.01 FEET; AND N01°28'35"W FOR 25.01 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE N01°28'35"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 219.98 FEET; THENCE S89°47'15"E FOR 100.04 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY COMPANY; THENCE S01°28'35"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 219.98 FEET; THENCE N89°47'15"W FOR 100.04 FEET TO THE POINT OF BEGINNING, CONTAINING 21,998 SQUARE FEET OR 0.50 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT PARCEL 2 NORTH NODE ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED PARCEL 2 NORTH NODE.

AND LESS AND EXCEPT

PARCEL 2 SOUTH NODE (SOUTH OF CORAL WAY)

A PORTION OF THE RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILWAY COMPANY NORTH OF SOUTHWEST 24TH STREET (CORAL WAY) IN SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, IN MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY COMPANY AND THE CENTERLINE OF SOUTHWEST 24TH STREET; THENCE S02°35'07"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE AS A BASIS OF BEARINGS FOR 50.02 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 24TH STREET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE S02°35'07"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 189.97 FEET; THENCE N89°53'34"W FOR 83.38 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILWAY COMPANY; THENCE N01°28'35"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 189.98 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 24TH STREET; THENCE S89°47'15"E FOR 79.70 FEET TO THE POINT OF BEGINNING, CONTAINING 15,478 SQUARE FEET OR 0.35 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT PARCEL 2 SOUTH NODE ANY AND ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED PARCEL 2 SOUTH NODE.

AND LESS AND EXCEPT

PARCEL 3 NORTH NODE (NORTH OF BIRD ROAD R/W)

A PORTION OF THE FLORIDA EAST COAST RAILWAY RIGHT OF WAY LYING IN A PORTION OF SECTION 14 AND 23, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE CENTERLINES OF SOUTHWEST 72ND AVENUE AND SOUTHWEST 40TH STREET (BIRD ROAD), BEING THE SOUTH 1/4 CORNER OF SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA; THENCE N87°50'27"E ALONG SAID CENTERLINE OF SOUTHWEST 40TH STREET AS A BASIS OF BEARINGS FOR 1183.97 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE THE FOLLOWING THREE COURSES ALONG SAID WESTERLY RIGHT-OF-WAY LINE; N01°28'35"W FOR 16.00 FEET; S87°50'27"W FOR 30.00 FEET; AND N01°28'35"W FOR 34.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 40TH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE N01°28'35"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 255.02 FEET; THENCE N88°31'25"E FOR 100.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE SAID FLORIDA EAST COAST RAILWAY; THENCE S01°28'35"E FOR 253.83 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 40TH STREET; THENCE S87°50'27"W FOR 100.01 FEET TO THE POINT OF BEGINNING, CONTAINING 25,442 SQUARE FEET OR 0.58 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT PARCEL 3 NORTH NODE ANY AND ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED PARCEL 2 NORTH NODE.

AND LESS AND EXCEPT

PARCEL 3 SOUTH NODE (SOUTH OF BIRD ROAD R/W)

A PORTION OF THE FLORIDA EAST COAST RAILWAY RIGHT OF WAY LYING IN A PORTION OF SECTION 14 AND 23, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE CENTERLINES OF SOUTHWEST 72ND AVENUE AND SOUTHWEST 40TH STREET (BIRD ROAD), BEING THE SOUTH 1/4 CORNER OF SECTION 14, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA; THENCE N87°50'27"E ALONG SAID CENTERLINE OF

SOUTHWEST 40TH STREET AS A BASIS OF BEARINGS FOR 1183.97 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE THE FOLLOWING THREE COURSES ALONG SAID WESTERLY RIGHT-OF-WAY LINE; S01°28'35"E FOR 16.00 FEET; S87°50'27"W FOR 30.00 FEET; AND S01°28'35"E FOR 34.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 40TH STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE N87°50'27"E FOR 100.01 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY RIGHT-OF-WAY; THENCE S01°28'35"E FOR 2550.58 FEET; THENCE S88°31'25"W FOR 100.00 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY RIGHT-OF-WAY LINE; THENCE N01°28'35"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2549.39 FEET TO THE POINT OF BEGINNING, CONTAINING 255,001 SQUARE FEET OR 5.85 ACRES, MORE OR LESS.

EXCLUDING FROM SUCH LESSOUT PARCEL 3 SOUTH NODE ANY AND ALL EXISTING ROADWAYS, STREETS, AND HIGHWAYS WITHIN THE FOREGOING DESCRIBED PARCEL 2 SOUTH NODE.

EXHIBIT "B"
MAP OF THE COUNTY'S TRAIL PROPERTY
SW 80TH ST TO 400 FEET NORTH OF NW 7TH ST



EXHIBIT "C"

LEGAL DESCRIPTION OF THE LMT TRAIL PARCEL

LEGAL DESCRIPTION

FOLIO # 30-4011-000-0052

O.R.B. 31693-3065

PARCEL 7

A PORTION OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF TRACT "A", "READY BANK SUBDIVISION", AS RECORDED IN PLAT BOOK 133 AT PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE NORTH 00 DEGREES 52 MINUTES 18 SECONDS EAST, ALONG THE EAST LINE OF THE AFORESAID TRACT "A", ALSO BEING THE WEST RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAIL ROAD, FOR 307.06 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST 1/4 OF THE AFORESAID SECTION 11; THENCE NORTH 89 DEGREES 52 MINUTES 25 SECONDS EAST, ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 11, FOR 100.02 FEET; THENCE SOUTH 00 DEGREES 52 MINUTES 18 SECONDS WEST, ALONG THE WEST LINE OF BLOCK 1, "TAMIAMI CITY", AS RECORDED IN PLAT BOOK 14 AT PAGE 9 OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA, ALSO BEING THE EAST RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAIL ROAD, FOR 308.80 FEET; THENCE NORTH 89 DEGREES 07 MINUTES 42 SECONDS WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE FOR 100.00 FEET TO THE POINT OF BEGINNING, SUBJECT TO THE NORTH 50.00 FEET THEREOF FOR ROAD RIGHT-OF-WAY, ALL LYING AND BEING IN THE MIAMI-DADE COUNTY, FLORIDA.

FOLIO # 30-4011-000-0055

O.R.B. 31598-1166

A PORTION OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF TRACT "A", "READY BANK SUBDIVISION," AS RECORDED IN PLAT BOOK 133 AT PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE S89°07'42"E FOR 100.00 FEET; THENCE S00°52'18"W ALONG THE WEST UNE OF BLOCKS 1 AND 6, "TAMIAMI CITY," AS RECORDED IN PLAT BOOK 14 AT PAGE 9 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA FOR 435.51 FEET; THENCE N89°11'33"W FOR 100.00 FEET;

THENCE 00°52'18"E ALONG THE EAST LINES OF TRACTS 42-A AND 43-A OF "TAMIAMI CITY SECTION B" AS RECORDED IN PLAT BOOK 35 AT PAGE 22 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA FOR 435.42 FEET TO THE POINT OF BEGINNING, (THE LAST 3 COURSES BEING ALONG THE LIMITS OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 30595 AT PAGE 1770 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

FOLIO # 30-4011-000-0051

O.R.B. 31374-1767

Parcel 2 (South Fee Parcel)

The land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

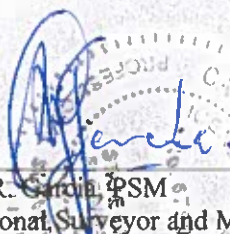
A PORTION OF THE NE 1/4 OF SECTION 11, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF TRACT 33-A, "REVISED PLAT OF TAMIAMI CITY SECTION B," AS RECORDED IN OFFICIAL RECORDS BOOK 35 AT PAGE 22 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N00°52'18"E ALONG THE EAST LINES OF TRACT 33-A AND TRACT 42-A OF THE SAID PLAT OF "REVISED PLAT OF TAMIAMI CITY SECTION B" FOR 553.96 FEET; THENCE S89°11'33"E ALONG THE LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 30595 AT PAGE 1770 IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA FOR 100.00 FEET; THENCE S00°52'18"W ALONG THE WEST LINE OF BLOCKS 6 AND 7 "TAMIAMI CITY", AS RECORDED IN PLAT BOOK 14 AT PAGE 9 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA FOR 552.66 FEET; THENCE N89°56'16"W ALONG THE NORTH RIGHT-OF-WAY LINE OF SW 12TH STREET OF AS SHOWN ON THE AFORESAID PLATS OF "TAMIAMI CITY" AND "REVISED PLAT OF TAMIAMI CITY" FOR 100.01 FEET TO THE POINT OF BEGINNING, ALL LYING AND BEING IN THE CITY OF MIAMI, MIAMI-DADE COUNTY, FLORIDA.

EXHIBIT "D"
PERPETUAL EXCLUSIVE TRAIL EASEMENT
(RAMP AREA)

SURVEYOR'S NOTE:

- 1- This is not a Boundary Survey.
- 2- Bearings shown hereon are based on an assumed meridian, along the centerline of SW 8th Street, which bears S 87°29'47"W; said line also being the North line of Section 11, Township 54 South, Range 40 East, in Miami-Dade County, Florida, as shown on Township Map surveyed by the Miami-Dade County Public Works Surveying Section dated July 1968.
- 3- Reproductions of this Map are not valid without the signature and original raised seal of the Florida Licensed Surveyor and Mapper in responsible charge.
- 4- The South right-of-way line of SW 8th Street (S.R. 90/Tamiami Trail/US 41) shown on this sketch represents the actual geometry based on current project documentation. However, the actual right-of-way line is subject to change and will be determined by the official recordation of the "Lions Trail Subdivision" plat. Final right-of-way location should be verified against the recorded plat, prior to any construction or development activities.
- 5- The Sketch and Legal Description shown herein is based on the Survey information provided by Ford Armenteros & Fernandez, Inc. on 2/6/2025 .

By: 
Carlos R. Garcia, PSM
Professional Surveyor and Mapper No. 6790
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



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

EXHIBIT D

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
UDLAM TRAIL

MDC052

SCALE: N/A	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 1 of 4

EXHIBIT "D"
PERPETUAL EXCLUSIVE TRAIL EASEMENT
(RAMP AREA)

LEGAL DESCRIPTION:

PERPETUAL EASEMENT RAMP AREA (SOUTH OF SW 8th STREET)

All that portion of the former right-of-way of the Florida East Coast Railway Company lying in the Northeast quarter of Section 11, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 11, Township 54 South, Range 40 East; thence run S87°29'47"W along the North line of said Section 11 for a distance of 1320.03 feet; thence run S02°30'13"E for a distance of 35.00 feet to a point on the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41), said point being the **POINT OF BEGINNING** of the herein described easement: thence S01°31'59"E along a line that is 15.00 feet West of and parallel with the East line of said former right-of-way of the Florida East Coast Railway Company, said line also being the centerline of said easement, for a distance of 30.00 feet to point A; thence continue S01°31'59"E for a distance of 370.51 feet to the **POINT OF TERMINUS**; said easement having the following widths to the right and left of the herein described centerline: from the **POINT OF BEGINNING** to point A - right 15.00 feet and left 15.00 feet; thence from point A to the **POINT OF TERMINUS** right - 9.00 feet and left 9.00 feet; said easement to be extended or shortened to meet at angle points and to terminate at the said right-of-way line limits.

Containing 7,569 square feet or 0.174 acres more or less.



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

EXHIBIT D

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
UDLAM TRAIL

SCALE: N/A

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT:

SHEET: 2 of 4

MDC053

EXHIBIT "D"
PERPETUAL EXCLUSIVE TRAIL EASEMENT
(RAMP AREA)



DTPW

THIS IS NOT A SURVEY

SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 3 of 4

MDC054

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D" PERPETUAL EXCLUSIVE TRAIL EASEMENT (RAMP AREA)

MATCHLINE (SEE SHEET 3 OF 4)



LEGEND

	R/W EXISTING
	PROPERTY LINE
	SECTION LINE
	LOT LINE
	CENTER LINE
	EASEMENT LINE
	EASEMENT AREA
(R)	RADIUS
(Δ)	INTERIOR ANGLE
(L)	ARC LENGTH
$\bar{C}$	CENTER LINE
$\bar{S}$	SECTION LINE
$\bar{P}$	PROPERTY LINE
$\bar{M}$	MONUMENT LINE
R/W	RIGHT OF WAY
SEC.	SECTION
TWP	TOWNSHIP
RGE	RANGE
ORB	OFFICIAL RECORDS BOOK
P.B.	PLAT BOOK
PG.	PAGE
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
POT	POINT OF TERMINUS
S.R.	STATE ROAD

TRACT A
READY BANK SUBDIVISION
(P.B. 133, PG. 54)

TRACT 44-A
REVISED PLAT OF TAMAMI CITY,
SEC. "B"
(P.B. 35, PG. 22)

TRACT 41-A
REVISED PLAT OF TAMAMI CITY,
SEC. "B"
(P.B. 35, PG. 22)

PORTION OF NE 1/4 SEC. 11-54-40

100' FORMER FLORIDA EAST
COAST RAILWAY R/W

BUILDING #5

PERPETUAL EASEMENT

AT-GRADE AREA

LOT 8

LOT 9

LOT 10

LOT 11

LOT 12

LOT 13

S.W. 9th
STREET

POT

LOT 1

LOT 2

LOT 3

LOT 4

LOT 5

BLOCK 1
TAMAMI CITY
(P.B. 14, PG. 9)

BLOCK 6
TAMAMI CITY
(P.B. 14, PG. 9)

EAST R/W LINE OF FORMERLY
FLORIDA EAST COAST RAILWAY

2.78'

2.50'

15.00'

6.00'

S01°31'59"E 370.51'



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

EXHIBIT D

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
DUDLAM TRAIL

SCALE: 1"=40'

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT:

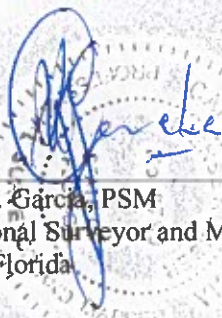
SHEET: 4 of 4

MDC055

EXHIBIT "D1"
PERPETUAL EXCLUSIVE TRAIL EASEMENT
(AT-GRADE AREA)

SURVEYOR'S NOTE:

- 1- This is not a Boundary Survey.
- 2- Bearings shown hereon are based on an assumed meridian, along the centerline of SW 8th Street, which bears S 87°29'47"W; said line also being the North line of Section 11, Township 54 South, Range 40 East, in Miami-Dade County, Florida, as shown on Township Map surveyed by the Miami-Dade County Public Works Surveying Section dated July 1968.
- 3- Reproductions of this Map are not valid without the signature and original raised seal of the Florida Licensed Surveyor and Mapper in responsible charge.
- 4- The South right-of-way line of SW 8th Street (S.R. 90/Tamiami Trail/US 41) shown on this sketch represents the actual geometry based on current project documentation. However, the actual right-of-way line is subject to change and will be determined by the official recordation of the "Lions Trail Subdivision" plat. Final right-of-way location should be verified against the recorded plat, prior to any construction or development activities.
- 5- The Sketch and Legal Description shown herein is based on the survey information provided by Ford Armenteros & Fernandez, Inc. on 2/6/2025.

By: 
Carlos R. Garcia, PSM
Professional Surveyor and Mapper No. 6790
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



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
TUDLAM TRAIL

SCALE: N/A	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 1 of 7

MDC056

EXHIBIT "D1"
PERPETUAL EXCLUSIVE TRAIL EASEMENTS
(AT-GRADE AREA)

LEGAL DESCRIPTION:

PERPETUAL EASEMENT AT-GRADE (SOUTH OF SW 8th STREET)

All that portion of the former right-of-way of the Florida East Coast Railway Company lying in the Northeast quarter of Section 11, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 11, Township 54 South, Range 40 East; thence run S87°29'47"W along the North line of said Section 11 for a distance of 1320.03 feet; thence run S02°30'13"E for a distance of 35.00 feet to a point on the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41); thence run S01°31'59"E along a line that is 15.00 feet West of and parallel with the East line of said former right-of-way of the Florida East Coast Railway Company for a distance of 400.51 feet to the **POINT OF BEGINNING** of the herein described easement, said easement being a strip of land 18.00 feet wide, the centerline of which is described as follows: thence run S01°31'59"E a distance of 415.03 feet to the beginning of a curve to the right, having a radius of 69.00 feet; thence run 41.72 feet through a central angle of 34°38'28"; thence run S33°06'30"W a distance of 62.32 feet to the beginning of a curve to the left having a radius of 72.58 feet; thence run 43.88 feet through a central angle of 34°38'28"; thence run S01°31'59"E a distance of 315.40 feet to the intersection with the North right-of-way line of SW 12th Street said intersection being the **POINT OF TERMINUS** of the herein described easement. The side lines of said 18.00 feet easement to be extended or shortened to meet at angle points and to terminate at the said right-of-way line limits.

Containing 15, 811 square feet or 0.363 acres more or less.



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

EXHIBIT D1

PERPETUAL EASEMENT AREAS

MDC057 LUDLAM TRAIL

SCALE: N/A

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT:

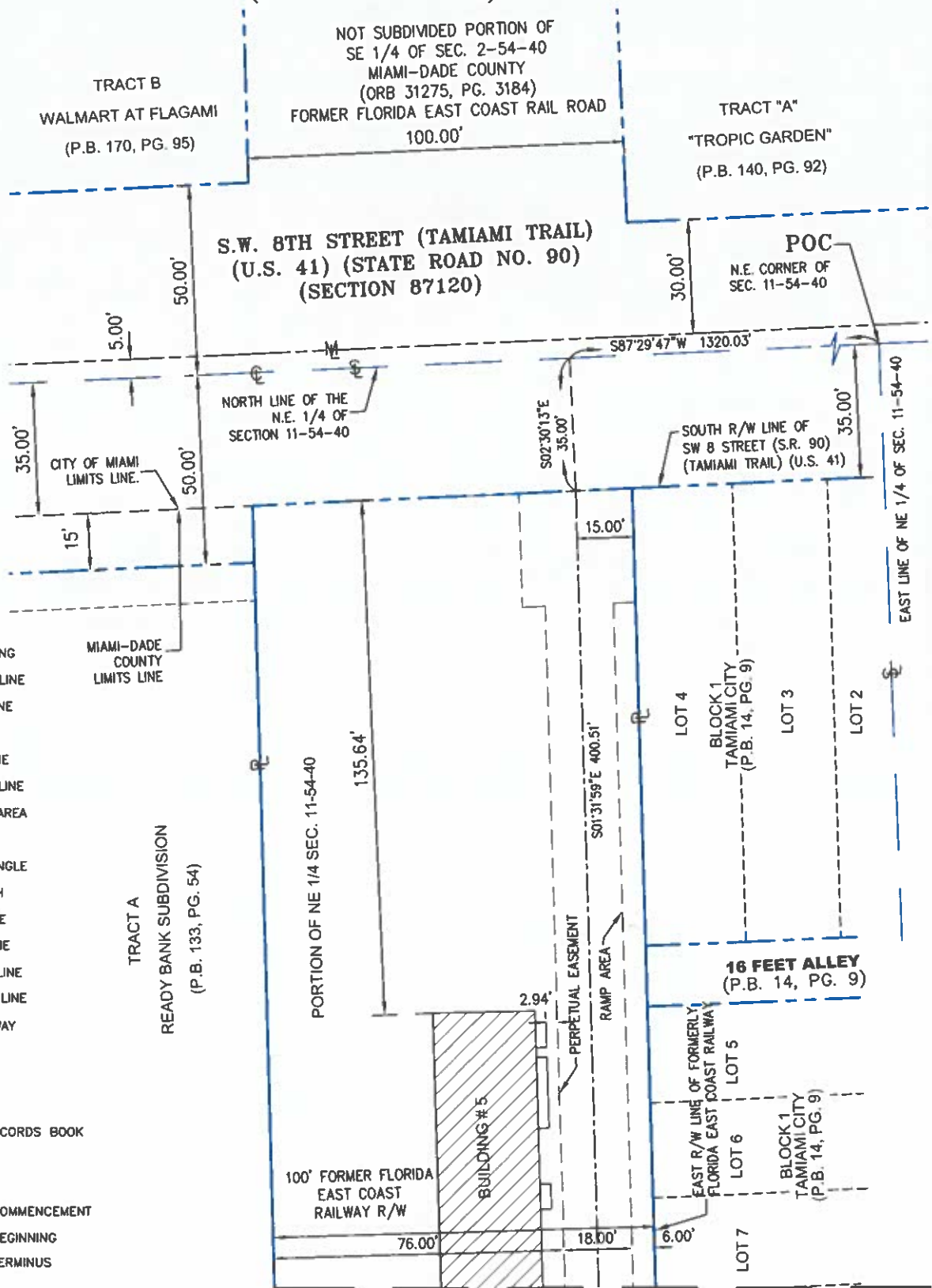
SHEET: 2 of 7

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D1" PERPETUAL EXCLUSIVE TRAIL EASEMENTS (AT-GRADE AREA)

LEGEND

	R/W EXISTING
	PROPERTY LINE
	SECTION LINE
	LOT LINE
	CENTER LINE
	EASEMENT LINE
	EASEMENT AREA
(R)	RADIUS
(A)	INTERIOR ANGLE
(L)	ARC LENGTH
⊕	CENTER LINE
⊔	SECTION LINE
⊥	PROPERTY LINE
⊥	MONUMENT LINE
R/W	RIGHT OF WAY
SEC.	SECTION
TWP	TOWNSHIP
RGE	RANGE
ORB	OFFICIAL RECORDS BOOK
P.B.	PLAT BOOK
PG.	PAGE
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
POT	POINT OF TERMINUS
S.R.	STATE ROAD



MATCHLINE (SEE SHEET 4 OF 7)



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
UDLAM TRAIL

SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 3 of 7

MDC058

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D1" PERPETUAL EXCLUSIVE TRAIL EASEMENT (AT-GRADE AREA)

MATCHLINE (SEE SHEET 3 OF 7)



LEGEND

- R/W EXISTING
- PROPERTY LINE
- SECTION LINE
- LOT LINE
- CENTER LINE
- EASEMENT LINE
- EASEMENT AREA
- (R) RADIUS
- (Δ) INTERIOR ANGLE
- (L) ARC LENGTH
- ℄ CENTER LINE
- ℄ SECTION LINE
- ℄ PROPERTY LINE
- ℄ MONUMENT LINE
- R/W RIGHT OF WAY
- SEC. SECTION
- TWP TOWNSHIP
- RGE RANGE
- ORB OFFICIAL RECORDS BOOK
- P.B. PLAT BOOK
- PG. PAGE
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- POT POINT OF TERMINUS
- S.R. STATE ROAD

TRACT A
READY BANK SUBDIVISION
(P.B. 133, PG. 54)

TRACT 44-A
REVISED PLAT OF TAMAMI CITY,
SEC. "B"
(P.B. 35, PG. 22)

TRACT 41-A
REVISED PLAT OF TAMAMI CITY,
SEC. "B"
(P.B. 35, PG. 22)

PORTION OF NE 1/4 SEC. 11-54-40

100' FORMER FLORIDA EAST
COAST RAILWAY R/W

BUILDING #5

18.00'

24.00'

PERPETUAL EASEMENT
RAMP AREA

50°31'59"E 400.51'

18.00'

9.0' 9.0'

15.00'

2.54'

50°31'59"E 415.03'

18.00'

2.50'

24.00'

LOT 8

LOT 9

LOT 10

LOT 11

LOT 12

LOT 13

S.W. 9th
STREET

POB

LOT 14

LOT 2

LOT 3

LOT 4

LOT 5

BLOCK 1
TAMAMI CITY
(P.B. 14, PG. 9)

BLOCK 6
TAMAMI CITY
(P.B. 14, PG. 9)

EAST R/W LINE OF FORMERLY
FLORIDA EAST COAST RAILWAY

MATCHLINE (SEE SHEET 5 OF 7)



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
DUDDAM TRAIL

SCALE: 1"=40'

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT:

SHEET: 4 of 7

MDC059

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D1" PERPETUAL EXCLUSIVE TRAIL EASEMENT (AT-GRADE AREA)

MATCHLINE (SEE SHEET 4 OF 7)



LEGEND

- R/W EXISTING
- PROPERTY LINE
- SECTION LINE
- LOT LINE
- CENTER LINE
- EASEMENT LINE
- EASEMENT AREA
- (R) RADIUS
- (Δ) INTERIOR ANGLE
- (L) ARC LENGTH
- ℄ CENTER LINE
- ℄ SECTION LINE
- ℄ PROPERTY LINE
- ℄ MONUMENT LINE
- R/W RIGHT OF WAY
- SEC. SECTION
- TWP TOWNSHIP
- RGE RANGE
- ORB OFFICIAL RECORDS BOOK
- P.B. PLAT BOOK
- PG. PAGE
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- POT POINT OF TERMINUS
- S.R. STATE ROAD

TRACT 41-A
REVISED PLAT OF TAMAMI CITY,
SEC. "B"
(P.B. 35, PG. 22)

PORTION OF NE 1/4 SEC. 11-54-40

BUILDING #5

100' FORMER FLORIDA EAST
COAST RAILWAY R/W

18.00'
9.0' 9.0'

501°31'59"E 415.03'

5.55' 18.00'
9.0' 9.0'

29.53'

R=60.00' L=4172'
Δ=34°38'28"

9.0' 9.0'

FORMER SW 10 ST.
CLOSED
BY RESOLUTION
R-735-72
50.00'

EAST R/W LINE OF FORMERLY
FLORIDA EAST COAST RAILWAY
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
BLOCK 6
TAMAMI CITY
(P.B. 14, PG. 9)

LOT 6

LOT 7

LOT 8

LOT 9

LOT 10

LOT 11

LOT 12

LOT 13

LOT 14

LOT 15

LOT 16

MATCHLINE (SEE SHEET 6 OF 7)



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
UDLAM TRAIL

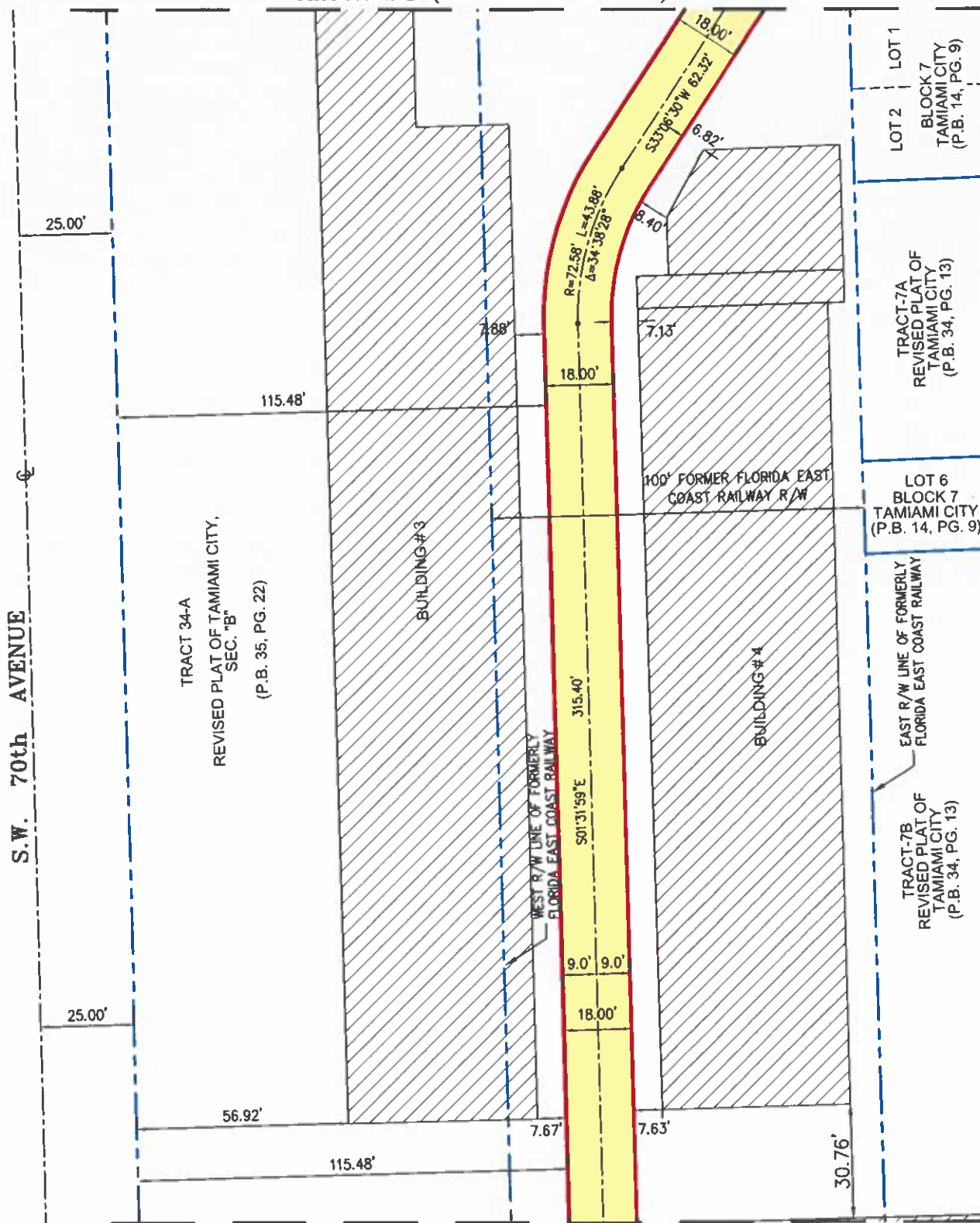
SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 5 of 7

MDC060

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D1" PERPETUAL EXCLUSIVE TRAIL EASEMENT (AT-GRADE AREA)

MATCHLINE (SEE SHEET 5 OF 7)



MATCHLINE (SEE SHEET 7 OF 7)



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
LUDLAM TRAIL

SCALE: 1"=40'

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

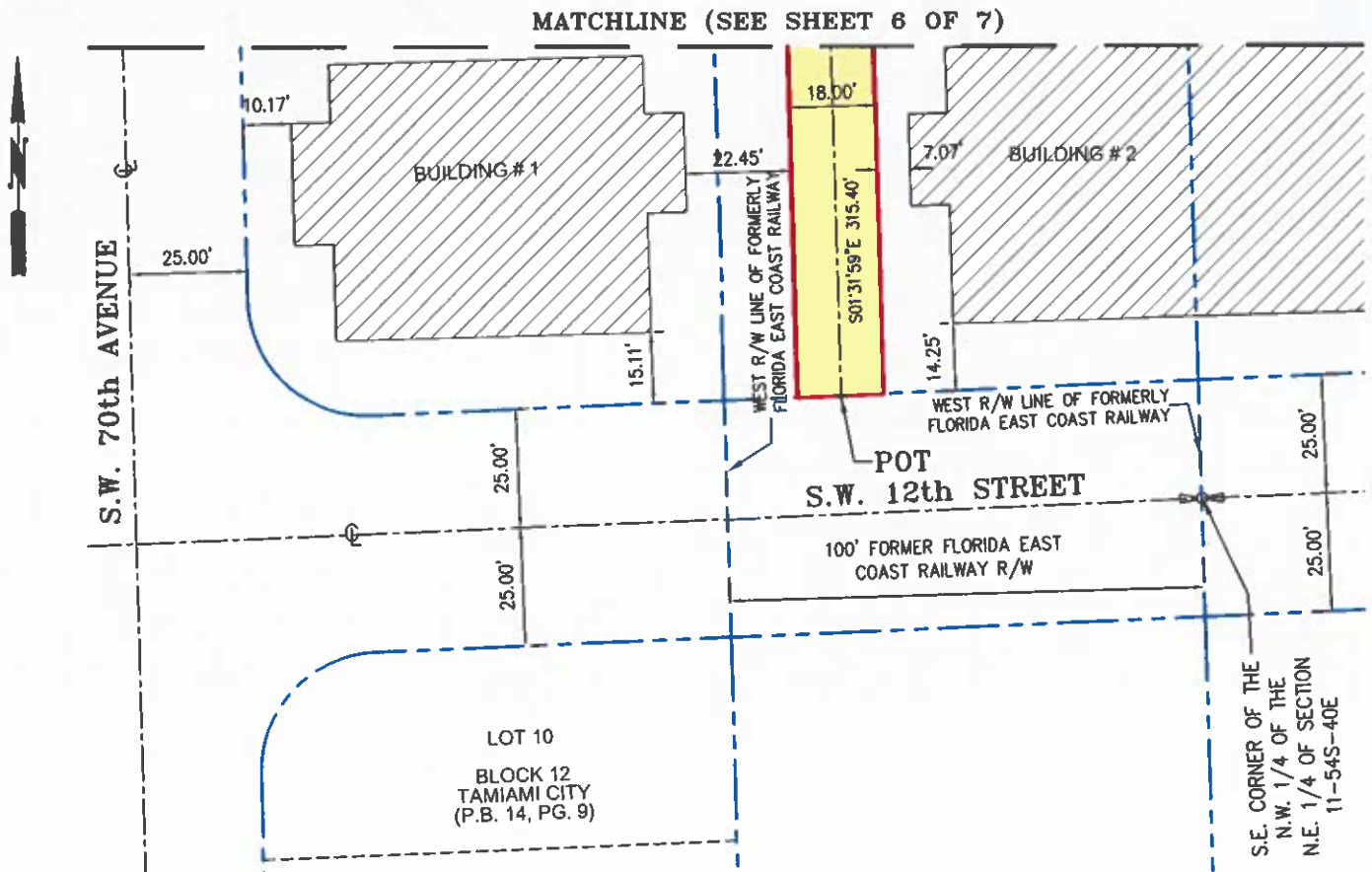
PROJECT:

SHEET: 6 of 7

MDC061

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "D1" PERPETUAL EXCLUSIVE TRAIL EASEMENT (AT-GRADE AREA)



LEGEND

	R/W EXISTING		PROPERTY LINE
	PROPERTY LINE		R/W
	SECTION LINE		SEC.
	LOT LINE		TWP
	CENTER LINE		RGE
	EASEMENT LINE		ORB
	EASEMENT AREA		P.B.
(R)	RADIUS		PG.
(Δ)	INTERIOR ANGLE		POC
(L)	ARC LENGTH		POB
℄	CENTER LINE		POT
℄	SECTION LINE		S.R.
℄	MONUMENT LINE		



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

EXHIBIT D1

PERPETUAL EXCLUSIVE
TRAIL EASEMENT
JUDLAM TRAIL

SCALE: 1"=40' DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT: SHEET: 7 of 7

MDC062

EXHIBIT "E"

EASEMENT IMPROVEMENT DESIGN GUIDELINES AND STANDARDS

EASEMENT IMPROVEMENT DESIGN GUIDELINES

I. Purpose:

These guidelines provide a working framework to enhance the identity and quality of place of the trail design within the designated eighteen (18) foot Easement through each development node along the Ludlam Trail corridor. These guidelines are intended to promote better collaboration between the Grantee, the Grantor and the professionals that may design elements within or adjacent to the easements and/or review these designs for approval. This exhibit provides guidance, not regulations. It complements, but does not supersede, Miami-Dade Zoning code and development regulations. Nothing in this document shall be construed as a zoning approval which may only occur upon the filing and subsequent approval of a zoning hearing application at a quasi-judicial zoning hearing.

II. Best Practices:

Grantor and Grantee have a mutual understanding that selected designers responsible for configuring any improvements to the trail and adjacent portions of the development areas will have working familiarity with best practices and standards in trail design, as promulgated by federal, state, and local authorities, and these designers should apply a standard of care to ensure that all designs align with best practices and applicable law.

III. Guidelines:

a. **Design for a Variety of User Groups:** Users of urban non-motorized shared-use paths are a unique blend of cyclists and pedestrians and other users. In addition to cyclists, other wheeled modes of travel may include skating, scooters, strollers, or other non-motorized means. Designed improvements should reflect this diversity of users and provide the widths, heights, and features needed for the safe enjoyment of the trail. Sensitivity to these needs include using consistently smooth surfaces for paths, providing enough space so users can avoid obstacles, taking into account the unpredictable or erratic motorist, and reflecting the objective of universal accessibility.

- i. **Pedestrians:** Taking all abilities into consideration, pedestrian paths should have a minimum width of six feet, with an ideal of eight feet to allow individuals to pass groups or couples.
- ii. **Cyclists:** Among wheeled users, cyclists require the greatest widths and design considerations due to travel speeds, maneuvering, and variation in the skills of riders. Minimum spatial needs include a two-foot shy distance from the edge of pavement. For a typical path with separated facilities for pedestrians and cyclists, the bike lanes in each direction require a minimum lane width of six feet, made up of four feet for travel and two feet of shy

space at the edge of pavement. This results in a minimum two-way bike path width of twelve feet.

In addition to the paved area of the path, lateral clear zones and clearances to vertical objects and steep grades (where railing or fencing are not provided) should be taken into consideration.

b. Accessibility and Safety

- i. Provision of Access:** The full width of the path and required clearances and connections should be open and accessible to the County for use 24 hours a day, 7 days a week, 365 days a year, unless specifically permitted by the County.
- ii. Park Connectivity:** Access points and areas of connection to parkland adjacent the Ludlam Trail easements or along the corridor are expected to meet the same guidelines as the easement.
- iii. Universal Access:** All pedestrian paths, sidewalks, stairways, and ramps within the provided Easement should be designed to provide continuous passage and meet accessible needs in keeping with state and national standards.

c. Built Environment

- i. Building Design and Urban Design:** Building façades and other accompanying architectural components of development that front the trail should treat the trail as a primary public space, and therefore that space should be faced by the fronts, not the backs, of buildings. This will provide ease of interaction with the trail, natural surveillance, visual interest, and comfort for both trail users and building occupants. This goal may be achieved by providing plentiful, frequent, transparent windows and doors. The designs of these frontages may employ shopfronts, stoops, porches, forecourts, outdoor dining areas, canopies, colonnades, and/or arcades. The buildings and other development components spatially define the edge of the trail space, so their designs should avoid large expanses of blank or inactive walls and minimize areas with few windows and/or doors. Any parking areas placed adjacent to the trail space should be set back and screened with habitable space or landscaping; unscreened parking areas (whether inside or outside of structures) next to the trail should be avoided.
- ii. Glazing and Transparency:** All building façades facing the trail easement should reflect the general intent of the glazing and transparency requirements that apply to portions of buildings facing or adjoining the building frontage zone as written in the zoning regulations, Sec. 33-485. - Development Parameters and Design Standards for Development Areas., (C) Development parameters, (1) (d) Glazing.

- iii. **Trail Path Segments Passing Through and Under Buildings:** The Ludlam Trail is envisioned as a space that is open to daylight and air. Short sections along the shared-use path may however be covered overhead with structures connecting buildings, including habitable space, roofs, upper story terraces, pedestrian bridges, or automobile bridges between parking garages. In general, any such areas where the trail is covered overhead should be minimized to the extent feasible. Gaps to let light and air down to the path between covered areas should be frequent and wide. Clearance should be generous in height from the finished grade of the path to the structure overhead.
- iv. **Lighting:** Aesthetic lighting of path elements should be considered in the design, including full cutoff lighting where feasible to minimize light pollution.
- v. **Signage:** All wayfinding and directional signage associated with the path that is installed within the developed segments of the Corridor District should conform to *Sec. 33-486. - Development Parameters and Design Standards for Recreational Trail Segments, (A) Trail Components, (4) Wayfinding and Directional Signage.*
- vi. **Public Art:** Public art within the development areas should be welcomed. In particular, any public art within the path easement itself should follow the guidelines in the *Miami-Dade County Public Art in Parks Master Plan* and *Miami-Dade County Aesthetic Master Plan.*
- vii. **Above-Grade Bridge Crossings:** The goal is a relatively straight, continuous alignment for the trail; therefore, ramp switchbacks should be avoided if possible. A continuous, unobstructed, at-grade path should be provided to connect the primary corridor to the beginning of the access ramp, accessible to the public 24 hours a day, 7 days a week, 365 days a year, under the same conditions of the main trail.

EXHIBIT "F"

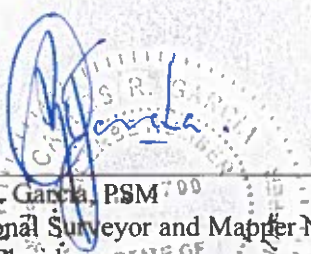
LMT'S FINAL TRAIL PLANS

On file with the Miami-Dade County Department of Regulatory and Economic Resources, Administrative Site Plan Review, Zoning Application Number A2020000048

EXHIBIT "G"
MAINTENANCE ACCESS EASEMENT

SURVEYOR'S NOTE:

- 1- This is not a Boundary Survey.
- 2- Bearings shown hereon are based on an assumed meridian, along the centerline of SW 8th Street, which bears S87°29'47"W; said line also being the north line of Section 11, Township 54 South, Range 40 East, in Miami-Dade County, Florida, as shown on Township Map surveyed by the Miami-Dade County Public Works Surveying Section dated July 1968.
- 3- Reproductions of this Map are not valid without the signature and original raised seal of the Florida Licensed Surveyor and Mapper in responsible charge.
- 4- The easement herein described is a perpetual, non-exclusive maintenance access easement granting Miami-Dade County the rights on, over, through, above, below and upon the easement area.
- 5- The South right-of-way line of SW 8th Street (S.R. 90/Tamiami Trail/US 41) shown on this sketch represents the actual geometry based on current project documentation. However, the actual right-of-way line is subject to change and will be determined by the official recordation of the "Lions Trail Subdivision" plat. Final right-of-way location should be verified against the recorded plat, prior to any construction or development activities.
- 6- This easement may extend vertically above the finished grade as may be necessary to carry out maintenance operations to the Ludlam Trail public park area lying within it.
- 7- The Sketch and Legal Description shown herein is based on the survey information provided by Ford Armenteros & Fernandez, Inc. on 2/6/2025.

By: 
Carlos R. Garcia, PSM 700
Professional Surveyor and Mapper No. 6790
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



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

EXHIBIT G

MAINTENANCE ACCESS EASEMENT
MDC067 LUDLAM TRAIL

SCALE: N/A	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT: 20220206	SHEET: 1 of 4

EXHIBIT "G"
MAINTENANCE ACCESS EASEMENT

LEGAL DESCRIPTION:

All that portion of the former right-of-way of the Florida East Coast Railway Company lying in the northeast quarter of Section 11, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 11, Township 54 South, Range 40 East; thence run S87°29'47"W along the North line of said Section 11 for a distance of 1305.03 feet; thence run S02°30'13"E for a distance of 35.00 feet to a point on the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41), said point being the **POINT OF BEGINNING** of the herein described easement; thence run S01°31'59"E along the former East right-of-way line of the Florida East Coast Railway Company for a distance of 400.76 feet; thence run S88°28'01"W for a distance of 6.00 feet; thence run N01°31'59"W for a distance of 400.66 feet to the South right-of-way line SW 8th Street (State Road 90/Tamiami Trail/U.S. 41)); thence run N87°29'47"E along said South right-of-way line for a distance a distance of 6.00 feet to the **POINT OF BEGINNING**.

Containing 2,404 square feet or 0.006 acres more or less.

AND

All that portion of the former right-of-way of the Florida East Coast Railway Company lying in the northeast quarter of Section 11, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the northeast corner of Section 11, Township 54 South, Range 40 East; thence run S87°29'47"W along the North line of said Section 11 for a distance of 1329.04 feet; thence run S02°30'13"E for a distance of 35.00 feet to a point on the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41), said point being the **POINT OF BEGINNING** of the herein described easement; thence run S01°31'59"E along a line that is 24.00 feet West of and parallel with the East line of said former right-of-way of the Florida East Coast Railway Company for a distance of 400.36 feet; thence run S88°28'01"W for a distance of 2.50 feet; thence run N01°31'59"W for a distance of 263.86 feet; thence run S89°05'48"W for a distance of 9.50 feet; thence run N01°31'59"W for a distance of 136.23 feet to the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41); thence run N87°29'47"E along said South right-of-way line a distance of 12.00 feet to the **POINT OF BEGINNING**.

Containing 2,296 square feet or 0.053 acres more or less.



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

EXHIBIT G

MAINTENANCE ACCESS EASEMENT
UDLAM TRAIL
MDC068

SCALE: N/A

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT: 20220206

SHEET: 2 of 4

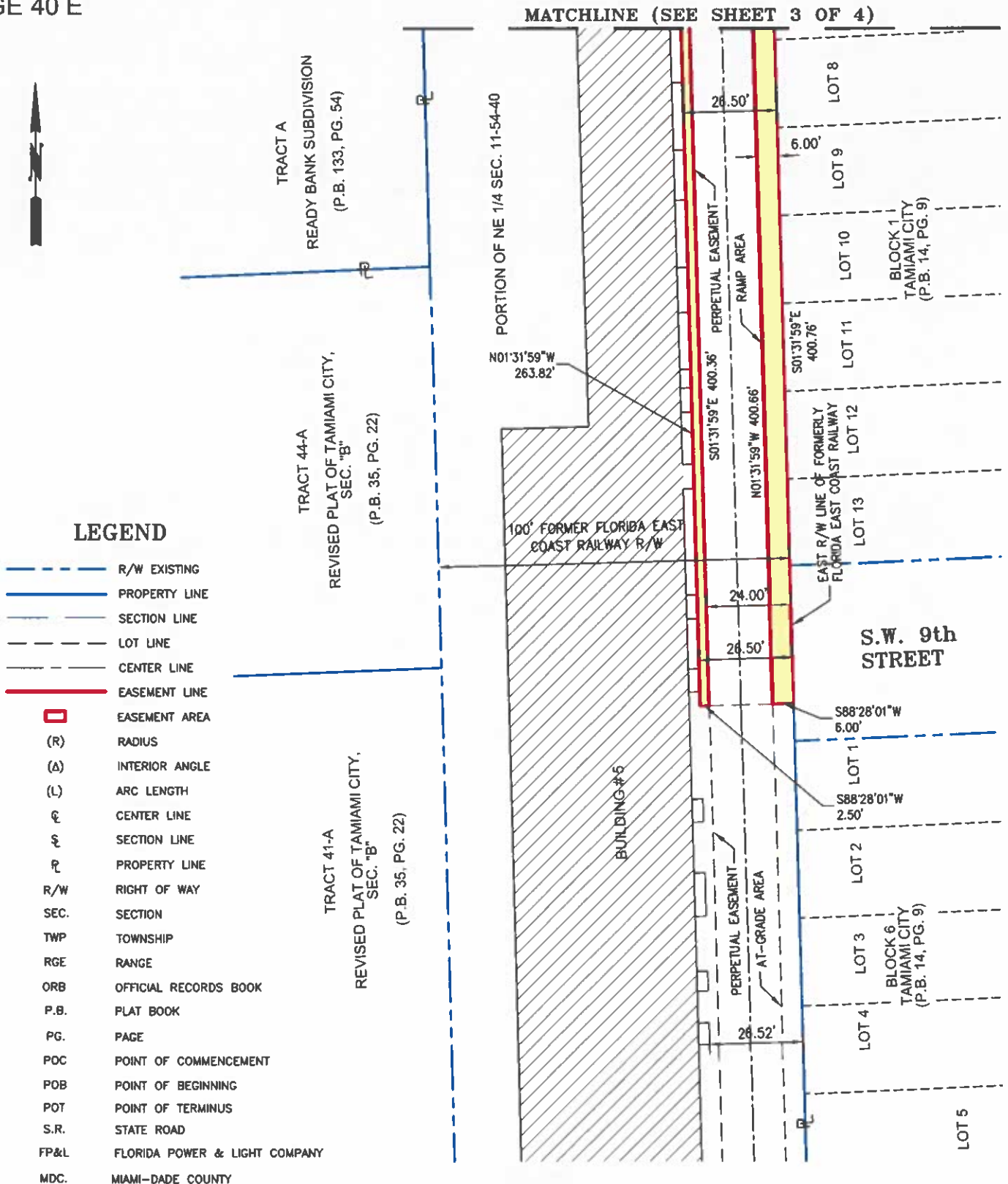
EXHIBIT "G"
MAINTENANCE ACCESS EASEMENT



SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT: 20220206	SHEET: 3 of 4

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "G" MAINTENANCE ACCESS EASEMENT



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

EXHIBIT G

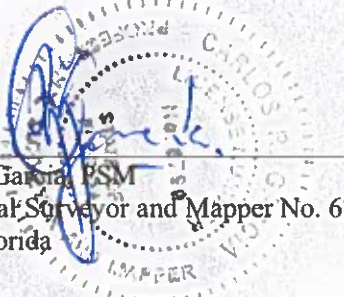
MAINTENANCE ACCESS EASEMENT
MDC070 JUDLAM TRAIL

SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT: 20220206	SHEET: 4 of 4

EXHIBIT "H"
TEMPORARY CONSTRUCTION EASEMENT

SURVEYOR'S NOTE:

- 1- This is not a Boundary Survey.
- 2- Bearings shown hereon are based on an assumed meridian, along the centerline of SW 8th Street, which bears S 87°29'47"W; said line also being the North line of Section 11, Township 54 South, Range 40 East, in Miami-Dade County, Florida, as shown on Township Map surveyed by the Miami-Dade County Public Works Surveying Section dated July 1968.
- 3- Reproductions of this Map are not valid without the signature and original raised seal of the Florida Licensed Surveyor and Mapper in responsible charge.
- 4- The South right-of-way line of SW 8th Street (S.R. 90/Tamiami Trail/US 41) shown on this sketch represents the actual geometry based on current project documentation. However, the actual right-of-way line is subject to change and will be determined by the official recordation of the "Lions Trail Subdivision" plat. Final right-of-way location should be verified against the recorded plat, prior to any construction or development activities.
- 4- The Sketch and Legal Description shown herein is based on the survey information provided by Ford Armenteros & Fernandez, Inc. on 2/6/2025.

By: 
Carlos R. Garcia, PSM
Professional Surveyor and Mapper No. 6790
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



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

EXHIBIT H

TEMPORARY CONSTRUCTION EASEMENT

MDC071 LUDLAM TRAIL

SCALE: N/A

DATE: 11-17-25

CHECKED BY: C.R. Garcia

DRAWN BY: L. Espinosa

PROJECT:

SHEET: 1 of 4

EXHIBIT "H"
TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION:

TEMPORARY CONSTRUCTION EASEMENT AREA (SOUTH OF 8th STREET)

All that portion of the former right-of-way of the Florida East Coast Railway Company lying in the northeast quarter of Section 11, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 11, Township 54 South, Range 40 East; thence run S87°29'47"W along the north line of said Section 11 for a distance of 1305.03 feet; thence run S02°30'13"E for a distance of 35.00 feet to a point on the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41), said point being the **POINT OF BEGINNING** of the herein described easement; thence run S01°31'59"E along the former East right-of-way line of the Florida East Coast Railway Company for a distance of 400.76 feet; thence run S88°28'01"W for a distance of 26.50 feet; thence run N01°31'59"W for a distance of 263.82 feet; thence run S89°05'48"W for a distance of 31.28 feet; thence run N01°31'59"W for a distance of 135.62 to the South right-of-way line of SW 8th Street (State Road 90/Tamiami Trail/U.S. 41); thence run N87°29'47"E along said right-of-way line a distance of 57.78 feet to the **POINT OF BEGINNING**.

Containing 14,869 square feet or 0.341 acres more or less.



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

EXHIBIT H

TEMPORARY CONSTRUCTION EASEMENT

MDC072 LUDLAM TRAIL

SCALE: N/A

DATE: 11-17-25

CHECKED BY: C.R. Garcia

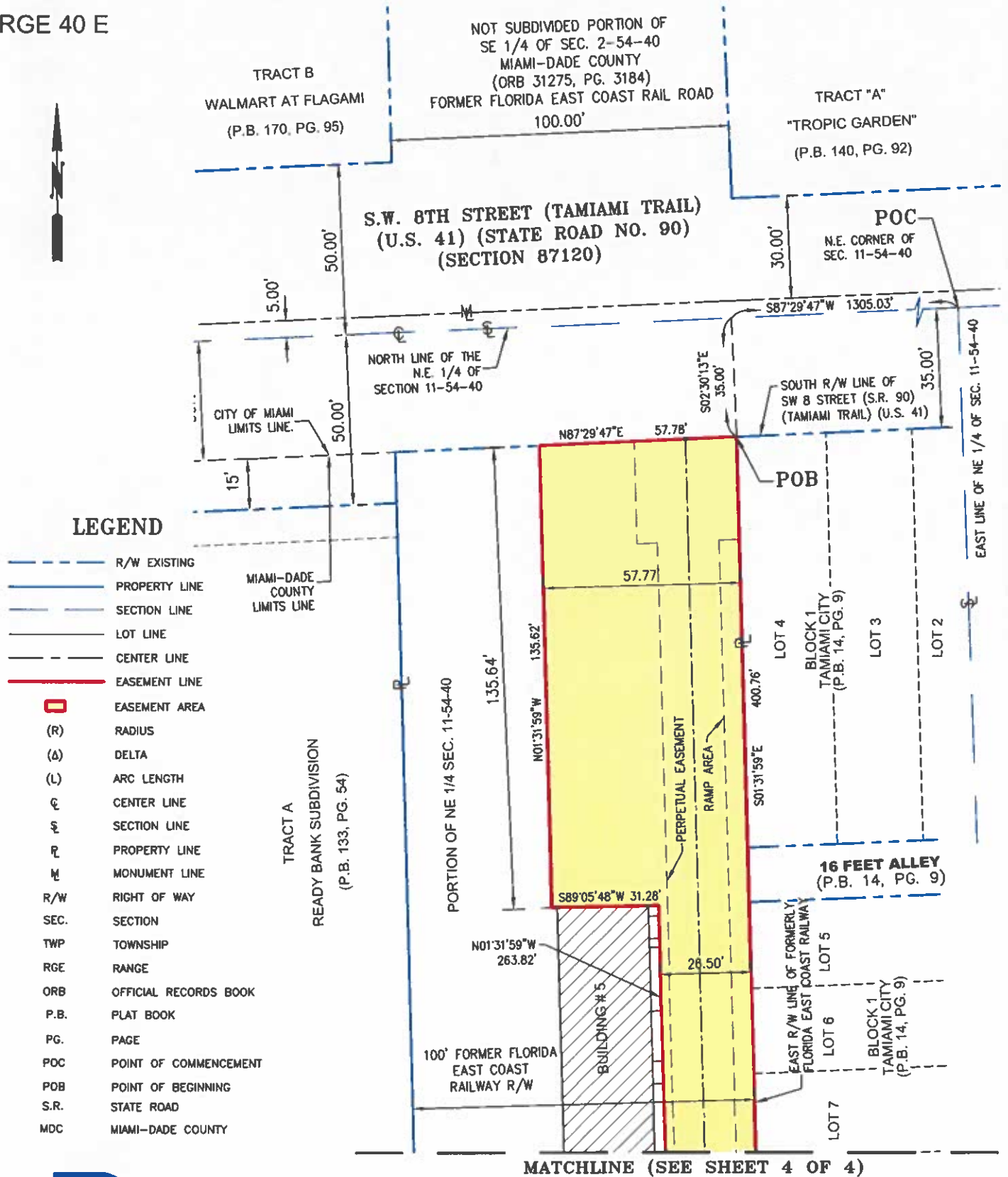
DRAWN BY: L. Espinosa

PROJECT:

SHEET: 2 of 4

SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "H" TEMPORARY CONSTRUCTION EASEMENT



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

EXHIBIT H

TEMPORARY CONSTRUCTION EASEMENT
LUUDLAM TRAIL

SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 3 of 4

MDC073

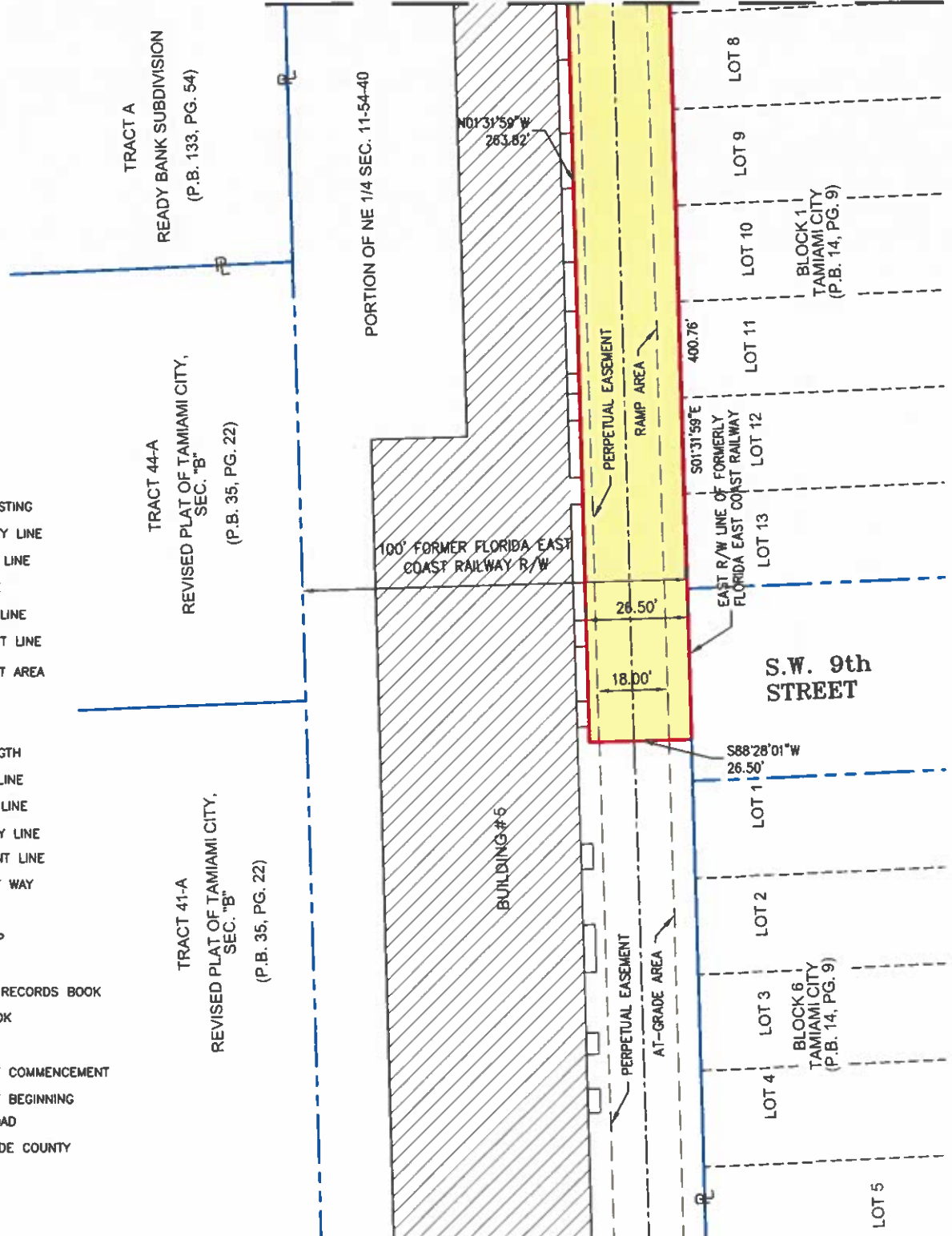
SEC 11
TWP 54 S
RGE 40 E

EXHIBIT "H" TEMPORARY CONSTRUCTION EASEMENT

MATCHLINE (SEE SHEET 3 OF 4)

LEGEND

	R/W EXISTING
	PROPERTY LINE
	SECTION LINE
	LOT LINE
	CENTER LINE
	EASEMENT LINE
	EASEMENT AREA
(R)	RADIUS
(Δ)	DELTA
(L)	ARC LENGTH
CL	CENTER LINE
SL	SECTION LINE
PL	PROPERTY LINE
ML	MONUMENT LINE
R/W	RIGHT OF WAY
SEC.	SECTION
TWP	TOWNSHIP
RGE	RANGE
ORB	OFFICIAL RECORDS BOOK
P.B.	PLAT BOOK
PG.	PAGE
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
S.R.	STATE ROAD
MDC	MIAMI-DADE COUNTY



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

EXHIBIT H

TEMPORARY CONSTRUCTION EASEMENT
MDC074 LUDLAM TRAIL

SCALE: 1"=40'	DATE: 11-17-25
CHECKED BY: C.R. Garcia	
DRAWN BY: L. Espinosa	
PROJECT:	SHEET: 4 of 4

EXHIBIT "I"

FHWA FORM 1273

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its procurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

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XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.