



AGENDA REPORT
August 21, 2018

**Approval Re: Sovereignty Submerged Lands Easement #27796 Renewal in
the area of Croton Road and Eau Gallie River. – District 4.**

SUBJECT:

Approval Re: Sovereignty Submerged Lands Easement #27796 Renewal in the area of Croton Road and Eau Gallie River. – District 4.

FISCAL IMPACT:

Fiscal Impact: FY 2017 – 2018: No Impact
FY: 2018 – 2019: No Impact

DEPT/OFFICE:

Public Works

REQUESTED ACTION:

It is requested that the Board of County Commissioners approve and authorize the Chair to sign the Sovereignty Submerged Lands Easement #27796 Renewal form.

SUMMARY EXPLANATION and BACKGROUND:

The subject property is located in Section 17, Township 27 South, Range 37 East.

In February of 1986, Brevard County was granted a Sovereignty Submerged Lands Easement (#27796) for improvements and maintenance of the Croton Road culverts at the Eau Gallie River. The Easement has reached the renewal date and the Sovereignty Submerged Lands Easement Renewal form attached is for the purpose of renewing the easement until February 7, 2066.

CLERK TO THE BOARD INSTRUCTIONS:

Return original executed Sovereignty Submerged Lands Easement to Renewal form to Department.

ATTACHMENTS:

Description

- **Sovereignty Submerged Lands Easement Renewal Documents**

BOARD OF COUNTY COMMISSIONERS

AGENDA: RENEWAL OF SOVEREIGNTY SUBMERGED LANDS EASEMENT
#27796 RELATED TO THE CULVERTS FOR EAU GALLIE RIVER
UNDER CROTON ROAD - DISTRICT - 4

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION

AGENCY CONTACT: DAN JONES, LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>DPJ</u>	_____	<u>7/31/18</u>
COUNTY ATTORNEY Jad Brewer Assistant County Attorney	<u>JMB</u>	_____	_____
PUBLIC WORKS Andrew Holmes, Director	_____	_____	_____

AGENDA DUE DATE: August 7, 2018 for the August 21, 2018 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

August 22, 2018

M E M O R A N D U M

TO: Andrew Holmes, Public Works Director

RE: Item F.3., Approval of Sovereignty Submerged Lands Easement #27796 Renewal in the Area of Croton Road and Eau Gallie River

The Board of County Commissioners, in regular session on August 21, 2018, approved and authorized the Chair to sign the Sovereignty Submerged Lands Easement #27796 Renewal Form. Enclosed is an executed Sovereignty Submerged Lands Easement #27796 Renewal Form.

Upon execution by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, please return a fully-executed Easement Renewal to this office for inclusion into the official record.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

This Instrument Prepared By
Celeda Wallace
Action No. 38238
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS EASEMENT RENEWAL

EASEMENT NO. 27796 (3634-05)
BOT FILE NO. 051011184

THIS EASEMENT is hereby granted by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Grantor.

WITNESSETH: That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Grantor does hereby grant to Brevard County, Florida, hereinafter referred to as the Grantee, a nonexclusive easement on, under and across the sovereign lands, if any, contained in the following legal description:

A parcel of sovereignty submerged land in Section 17,
Township 27 South, Range 37 East, in Eau Gallie River,
Brevard County, Florida, as is more particularly described
and shown on Attachment A, dated October 10, 1985.

TO HAVE THE USE OF the hereinabove described premises from February 7, 2016, the effective date of this easement renewal, through February 7, 2066, the expiration date of this easement renewal. The terms and conditions on and for which this easement renewal is granted are as follows:

1. USE OF PROPERTY: The above described parcel of land shall be used solely for public transportation purposes only by or under the supervision of the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION or such local governmental entity having maintenance responsibility. All of the foregoing subject to the remaining conditions of this easement.

2. EASEMENT CONSIDERATION: In the event the Grantor amends its rules related to fees and the amended rules provide the Grantee will be charged a fee or an increased fee for this activity, the Grantee agrees to pay all charges required by such amended rules within 90 days of the date the amended rules become effective or by a date provided by an invoice from the Department, whichever is later. All fees charged under this provision shall be prospective in nature; i.e. they shall begin to accrue on the date that the amended rules become effective.

3. **TERMINATION:** The Grantee, by acceptance of this easement, binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Grantee, its successors and assigns. In the event the Grantee fails or refuses to comply with the provisions and conditions herein set forth or in the event the Grantee violates any of the provisions and conditions herein, this easement may be terminated by the Grantor upon 30 days written notice to the Grantee. If terminated, all of the above-described parcel of land shall revert to the Grantor. Any costs or expenses incurred by the Grantor in removing the Grantee or its property from the easement area shall be paid by the Grantee. All notices required to be given to the Grantee by this easement or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Brevard County, Florida
2000 South Washington Avenue
2nd Floor
Titusville, Florida 32780

The Grantee agrees to notify the Grantor by certified mail of any changes to this address at least ten (10) days before the change is effective.

4. **WARRANTY OF TITLE/GUARANTEED USE OF LAND:** Grantor neither warrants title to the lands described herein nor guarantees the suitability of any of the lands for any particular use.

5. **RIGHTS GRANTED:** The rights hereby granted shall be subject to any and all prior rights of the United States and any and all prior grants by the Grantor in and to the submerged lands situated within the limits of this easement.

6. **DAMAGE TO EASEMENT PROPERTY AND INTERFERENCE WITH PUBLIC AND PRIVATE RIGHTS:** Grantee shall not damage the easement lands or unduly interfere with public or private rights therein.

7. **GRANTOR'S RIGHT TO GRANT COMPATIBLE USES OF THE EASEMENT PROPERTY:** This easement is nonexclusive, and the Grantor, or its duly authorized agent, shall retain the right to enter the property or to engage in management activities not inconsistent with the use herein provided for and shall retain the right to grant compatible uses of the property to third parties during the term of this easement.

8. **RIGHT TO INSPECT:** Grantor, or its duly authorized agent, shall have the right at any time to inspect the works and operations of the Grantee in any matter pertaining to this easement.

9. **RESOLUTION OF ANY INEQUITIES:** Any inequities that may subsequently arise as a result of this easement shall be subject to negotiation upon written request of either party hereto, and the parties agree to negotiate in good faith. In case of failure by the respective staffs to resolve the conflict(s), the matter shall be referred to the Grantor for final resolution.

10. **LIABILITY/INVESTIGATION OF ALL CLAIMS:** The Grantee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

11. **ASSIGNMENT OF EASEMENT:** This easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent and which consent shall not be unreasonably withheld. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

12. **TAXES AND ASSESSMENTS:** The Grantee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this easement which result from the grant of this easement or the activities of Grantee hereunder.

13. CESSATION OF AUTHORIZATION/REMOVAL OF STRUCTURES: Upon termination of this easement all authorization granted shall cease and terminate and Grantee shall remove all facilities and related structures erected at its expense.

14. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Grantor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Grantor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. AMENDMENTS/MODIFICATIONS: This easement is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this easement must be in writing and must be accepted, acknowledged and executed by the Grantee and Grantor.

16. USACE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (USACE) permit if it is required by the USACE. Any modifications to the construction and/or activities authorized herein that may be required by the USACE shall require consideration by and the prior written approval of the Grantor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

17. ADDITIONAL STRUCTURES OR ACTIVITIES/EMERGENCY STRUCTURAL REPAIRS: No additional structures shall be erected and/or activities undertaken, including but not limited to, dredging, relocation/realignment or major repairs or renovations made to authorized structures, on, in or over sovereignty, submerged lands without the prior written consent of the Grantor, with the exception of emergency repairs. Unless specifically authorized in writing by the Grantor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Grantee to administrative fines under Chapter 18-14, Florida Administrative Code. If emergency repairs are required to be undertaken in the interests of public health, safety or welfare, the Grantee shall notify the Grantor of such repairs as quickly as is practicable; provided, however, that such emergency activities shall not exceed the activities authorized by this easement.

18. UPLAND RIPARIAN PROPERTY INTEREST: During the term of this easement, Grantee must have satisfactory evidence of sufficient upland interest as defined in subsection 18-21.003(60), Florida Administrative Code, to the extent required by paragraph 18-21.004(3)(b), Florida Administrative Code, in order to conduct the activity described in this easement. If at any time during the term of this easement, Grantee fails to comply with this requirement, use of sovereignty, submerged lands described in this easement shall immediately cease and this easement shall terminate and title to this easement shall revert to and vest in the Grantor immediately and automatically.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this instrument on the day and year first above written,

WITNESSES:

[Handwritten Signature]

Original Signature

TERRI D. GROSS

Print/Type Name of Witness

[Handwritten Signature]

Original Signature

KATHY C GRIFFIN

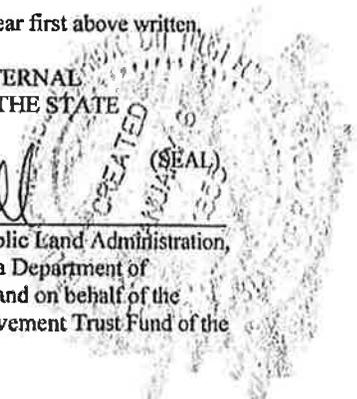
Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY:

[Handwritten Signature]

Cheryl C. McCall, Chief, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the
Board of Trustees of the Internal Improvement Trust Fund of the
State of Florida



"GRANTOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 12th day of September, 2018, by Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

APPROVED AS SUBJECT TO PROPER EXECUTION:

[Handwritten Signature]

7/19/2018

DEP Attorney

Date

[Handwritten Signature]
Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires

Commission/Serial No.



WITNESSES:

Original Signature

Typed/Printed Name of Witness

Original Signature

Typed/Printed Name of Witness

STATE OF FLORIDA

COUNTY OF BREVARD

My Commission Expires:

June 10, 2020

Commission/Serial No. FF 997773

Brevard County, Florida

(SEAL)

BY:

Rita Pritchett
Original Signature of Executing Authority

Rita Pritchett

Typed/Printed Name of Executing Authority

Chair

Title of Executing Authority

ATTEST:

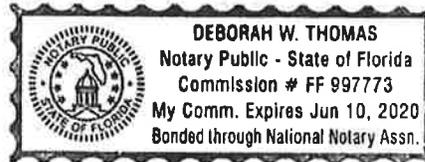
Scott Ellis
SCOTT ELLIS, CLERK

The foregoing instrument was acknowledged before me this 21 day of August, 2018, by Rita Pritchett as Chair, for and on behalf of Brevard County, Florida. She is personally known to me or who has produced _____, as identification.

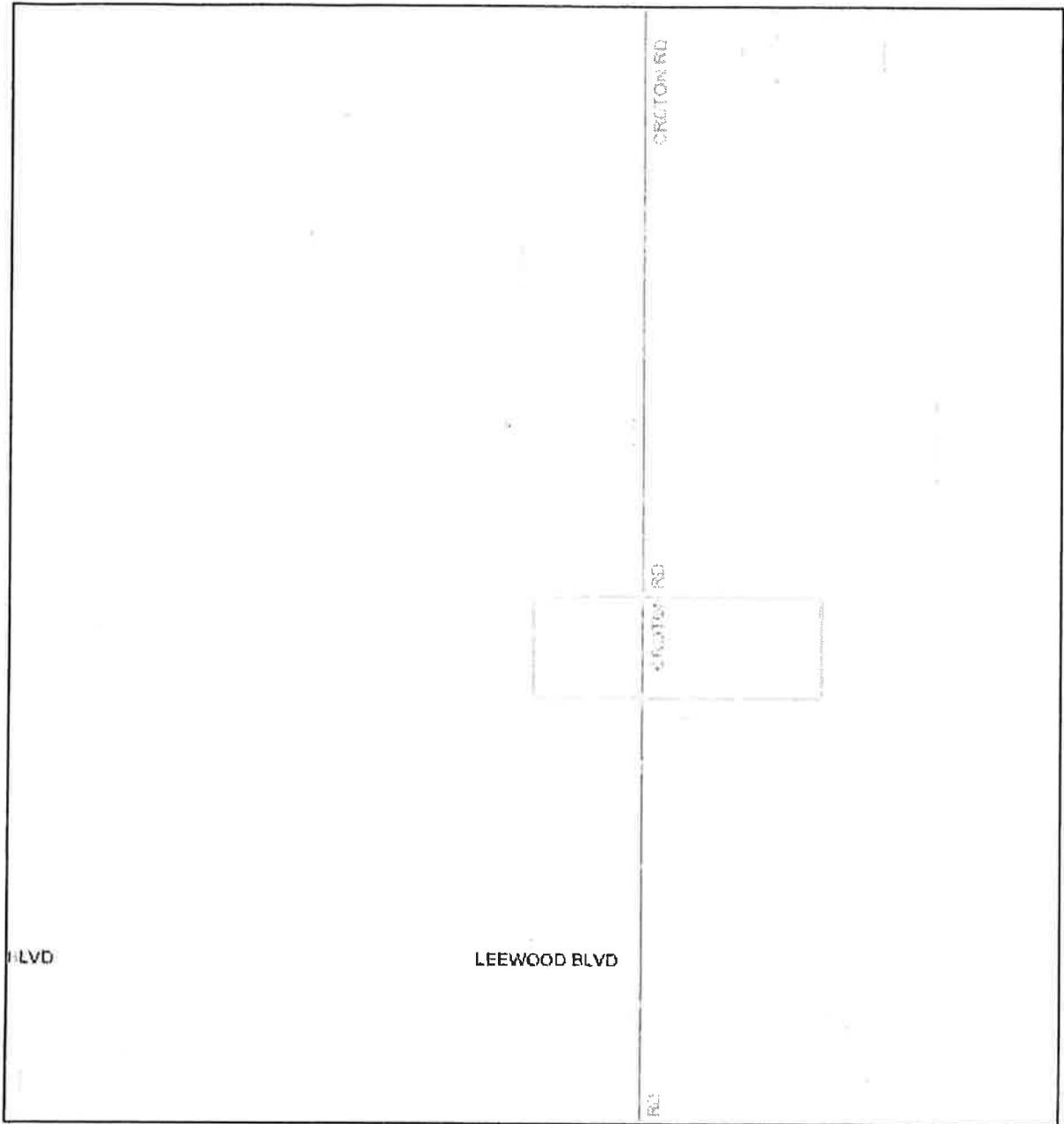
Deborah W. Thomas
Notary Public, State of FLORIDA

DEBORAH W. THOMAS

Printed, Typed or Stamped Name

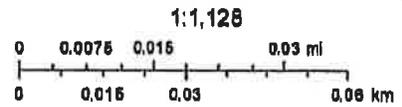


Croton Road and Eau Gallie River, Melbourne, Florida 32935



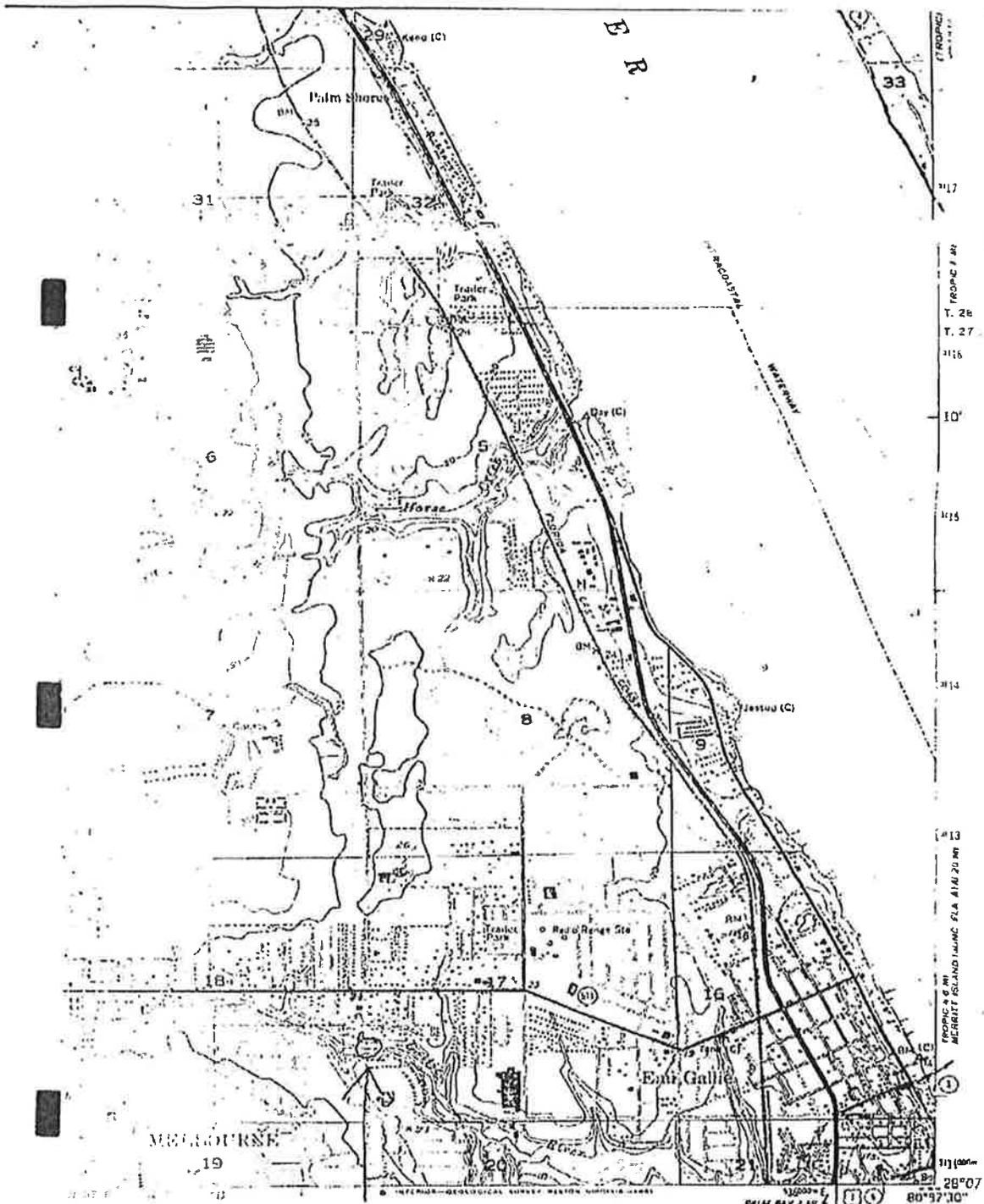
July 9, 2018

- Public Land Survey System 2008
- State Land Records (BTLDSR)



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBasis, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri CHN (Hong Kong), Swisstopo, OpenStreetMap contributors, and the GIS User Community

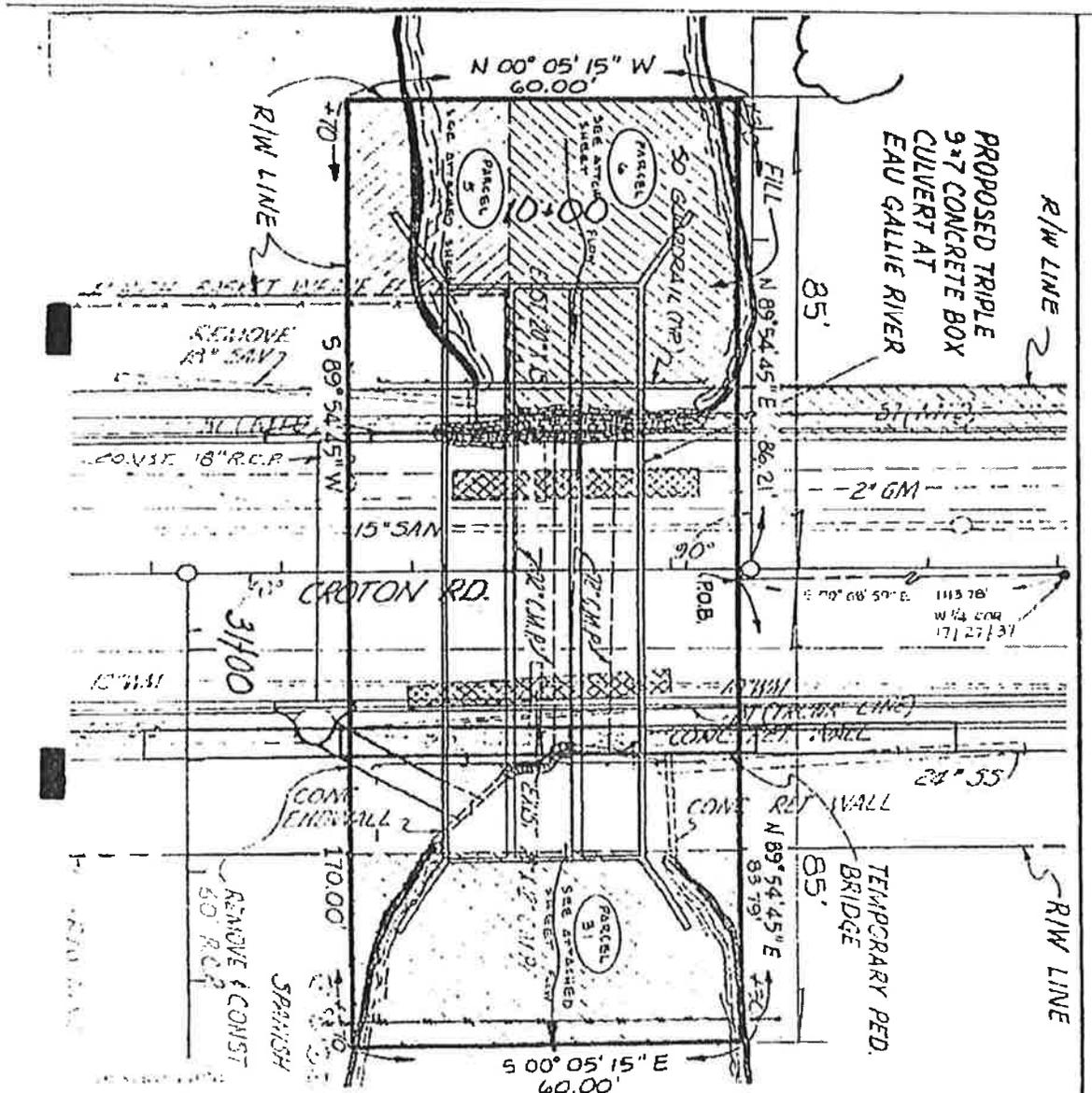
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ROAD CLASSIFICATION

Heavy duty	—————	Light duty	-----
Medium duty	—————	Unimproved dirt
○ Interstate Route	□ U. S. Route	○ State Route	

177 A
EAU GALLIE, FLA.
 N2B07.5-W8037.5/7.5



to certain lands lying within the following described parcel; Commence at the southwest corner of Section 17, Township 27 South, Range 37 East, Brevard County, Florida; thence South 00°08'59" East along the west line of the Southwest Quarter of said Section 17 a distance of 1113.78 feet to the POINT-OF-BEGINNING; thence North 89°54'45" East a distance of 81.79 feet to the described parcel; thence South 00°05'15" East a distance of 60.00 feet; thence South 00°05'15" East a distance of 170.00 feet; thence North 00°05'15" West a distance of 60.00 feet; thence North 89°54'45" East a distance of 86.21 feet to the POINT-OF-BEGINNING, containing 0.23 acre of land, more or less.

DATE 7-3-95	BEARS WITNESS THAT THE SURVEY AS SHOWN HEREON WAS MADE UNDER MY DIRECTION AND IN MY PRESENCE AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE.	PREPARED FOR:
SCALE 1" = 40'	SURVEYED BY: B. J. GUNO, Jr. PLAT LONE SURVEYOR STATE OF FLORIDA No. 1104 10-1-88	PREPARED FOR: