

Meeting Date
10/21/2014



AGENDA	
Section	New Business
Item No.	V A 4

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Contract for Purchase of Easement Rights and acceptance of a Permanent Drainage Easement from Racetrac Petroleum, Inc. for use in conjunction with the Crane Creek (Lamplighter) Drainage Project - District 5.
DEPT/OFFICE:	Public Works Department / Land Acquisition / Natural Resources Management Department Watershed Management Program

Requested Action:

It is requested that the Board of County Commissioners accept and authorize the Chairman to 1) execute the Contract for Purchase of Easement Rights, 2) accept the Permanent Drainage Easement from Racetrac Petroleum, Inc. for the Crane Creek (Lamplighter) Drainage Project, and 3) authorize necessary budget change requests.

Summary Explanation & Background:

The subject property is located in Section 23, Township 27 South, Range 36 East.

The property is a portion of the parent parcel located to the south of Eau Gallie Boulevard and east of I-95.

The St. Johns-Crane Creek Outfall Project addresses an area where severe flooding occurred due to T.S. Fay in the vicinity of Lamplighter and Groveland Mobile Home Parks along John Rodes Boulevard, south of Sarno Road and west of Wickham Road. The project goals are to dramatically reduce the elevation and duration of flooding east of I-95 in the project area, add control to all eastward flow, and provide control for all additional westward flow volumes. Another benefit of the project will be to direct fresh water flows back to their historical path to the St. Johns River basin instead of the Indian River Lagoon.

Land Acquisition Policies and Procedures require approval and acceptance by the Board of County Commissioners for all Easements.

Fiscal Impact: FY 2014/2015: recording fees / 1115-260085-5610000

FY 2015/2016: No Impact

Clerk to the Board Instructions: Return Board Approval Letter, Executed Original Contract, and Addendum to Department

Exhibits Attached: Original Contract, Copy of Permanent Drainage Easement with Description, Property Fact Sheet, Location Map

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager	Department Director / Extension
	Mel Scott	 John P Denninghoff / 57202
Stockton Whitten	Assistant County Manager	
	Venetta Valdengo	 Ernest Brown / 52016



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

October 22, 2014

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item V.A.4., Contract for Purchase of Easement Rights and Acceptance of a Permanent Drainage Easement from Racetrac Petroleum, Inc. for Use in Conjunction with the Crane Creek (Lamplighter) Drainage Project

The Board of County Commissioners, in regular session on October 21, 2014, executed Contract for Purchase of Easement Rights with Racetrac Petroleum, Inc. and accepted Permanent Drainage Easement from Racetrac Petroleum, Inc. for use in conjunction with the Crane Creek (Lamplighter) Drainage Project; and authorized necessary budget change requests. Enclosed is the original Contract.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

Tammy Etheridge, Deputy Clerk

Encl. (1)

cc: Natural Resources Management Director
Asset Management
Contracts Administration
Finance
Budget

BOARD OF COUNTY COMMISSIONERS

AGENDA: CONTRACT FOR PURCHASE OF EASEMENT RIGHTS AND PERMANENT DRAINAGE EASEMENT FROM RACETRAC PETROLEUM, INC. FOR CRANE CREEK DRAINAGE PROJECT.

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION / NATURAL RESOURCES MANAGEMENT DEPARTMENT

AGENCY CONTACT: DAN JONES LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847 (5-2726)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u></u>	_____	<u>10/14/14</u>
COUNTY ATTORNEY Scott Knox, County Attorney	<u></u>	_____	<u>10/14/14</u>
NATURAL RESOURCES Ernest Brown, Director	<u>See attached</u>	_____	<u>10/14/14</u>
PUBLIC WORKS John Denninghoff, Director	<u></u>	_____	<u>10/15/14</u>

AGENDA DUE DATE: October 7, 2014 for the **October 21, 2014 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.

BOARD OF COUNTY COMMISSIONERS

AGENDA: CONTRACT FOR PURCHASE OF EASEMENT RIGHTS AND PERMANENT DRAINAGE EASEMENT FROM RACETRAC PETROLEUM, INC. FOR CRANE CREEK DRAINAGE PROJECT.

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LAND ACQUISITION Dan Jones, Supervisor	<u>DPJ</u>	_____	<u>10/14/14</u>
COUNTY ATTORNEY Scott Knox, County Attorney	_____	_____	_____
NATURAL RESOURCES Ernest Brown, Director	<u>/</u>	_____	<u>10/14/14</u>
PUBLIC WORKS John Denninghoff, Director	_____	_____	_____

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

THANK YOU.

CONTRACT FOR PURCHASE OF EASEMENT RIGHTS

Seller: RACETRAC PETROLEUM, Inc., whose address is 3225 Cumberland Road, Suite 100, Atlanta, GA 30339

Buyer: Board of County Commissioners, Brevard County, Florida
2725 Judge Fran Jamieson Way, Viera, Florida 32940

Legal description of easement area being transferred:

See Attached Exhibit "A"

The transfer shall be made pursuant to the following terms and conditions and the Standards for Real Estate Transactions, on the reverse side of this contract.

Purchase price: \$ 1.00 (ONE DOLLAR AND NO CENTS)

Closing Date: This transaction shall be fully executed and the easement document recorded upon Brevard County's acceptance and execution.

Buyer Acknowledges:

Warranties: The following warranties are made and shall survive closing.

- a. Seller makes no warranty as to suitability or fitness of use for a Permanent Drainage Easement.
- b. SELLER hereby represents and warrants to COUNTY that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. SELLER hereby acknowledges and covenants that SELLER is solely responsible for any and all commissions due arising out of or connected within the sale or transfer of the property rights. SELLER hereby indemnifies COUNTY and agrees to hold COUNTY free and harmless from and against any and all liability, loss, costs, damage and expense, including but not limited to attorney's fees and costs of litigation both prior to and on appeal, which COUNTY shall ever suffer or incur because of any claim by any agent, broker or finder engaged by SELLER, including broker, whether or not meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the property rights contemplated hereby.

Condemnation: This property is is not being acquired under threat of condemnation. If so, this agreement includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with §196.295, Fla. Stat.

Special Clauses: See attached addendum

NOT APPLICABLE

Brevard County

Seller: Racetrac Petroleum, Inc.

By: Mary Bolin Lewis
Mary Bolin Lewis, Chair Brevard County Commission

By: [Signature] Date 10/6/14

Print: BILL MILAM

As approved by Brevard County Commission on 10-21 2014

Agenda Item # _____

Reviewed for legal form and content:

[Signature], County Attorney

Addendum

This addendum is made this ____ day of _____, 2014 and amends the CONTRACT FOR PURCHASE OF EASEMENT RIGHTS between Seller: **Racetrac Petroleum, Inc.**, 3225 Cumberland Road, Suite 100, Atlanta, GA 30339, and Buyer: **Brevard County, Florida**, 2725 Judge Fran Jamieson Way, Viera, Florida 32940:

For value received, the parties hereto agree as follows:

1. This contract shall constitute full settlement of all claims for compensation from the Board whatsoever, regarding the subject property, including land value, improvements, severance damages, attorney fees, expert fees and costs and all other damages.
2. Construction activities shall be completed no later than forty five (45) days after the commencement of construction within the easement area.
3. Minimum of one lane of the Haul Road entrance open at all times.
4. Water service interruptions are to be minimal and should occur only between the hours of 8 P.M. and 6 A.M.
5. If necessary, Seller's "price sign" shall be relocated (at Buyer's expense) to a temporary roadside location and remain unobstructed for the duration of the construction. Upon completion of construction the "price sign" shall be relocated (at buyer's expense) to it's original location.
6. All other terms and conditions of the contract for purchase of easement rights between the parties shall remain in full force and effect.

BREVARD COUNTY, FLORIDA

By: Mary Bolin Lewis
Mary Bolin Lewis, Chair,
Brevard County Commission

(Seller) **Racetrac Petroleum, Inc.**

By: [Signature] Date 10/6/14

Print: BILL MILAM

As Approved by Brevard County Commission on 10-21, 2014
Agenda Item # _____

Reviewed for legal form and content:

[Signature], County Attorney

SKETCH & DESCRIPTION

SHEET 1 OF 2

SECTION 23, TOWNSHIP 27 SOUTH, RANGE 36 EAST

NOT VALID WITHOUT THE SKETCH
ON SHEET 2 OF 2

THIS IS NOT A SURVEY
SEE SURVEYORS NOTE #2

PROJECT: LAMPLIGHTER DRAINAGE BASIN
LOCATION: I-95 & EAU GALLIE BOULEVARD
PURPOSE OF SKETCH & DESCRIPTION: ACQUIRE A 30' x 105'
DRAINAGE EASEMENT

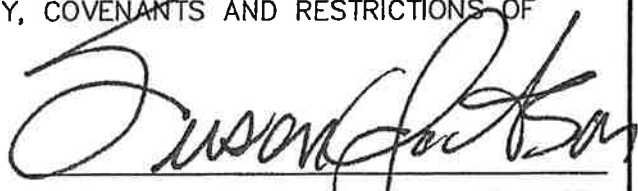
LEGAL DESCRIPTION: (PREPARED BY SURVEYOR)

THE NORTH 105 FEET OF THE WEST 30 FEET OF THE LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3107, PAGE 2669 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 23, TOWNSHIP 27 SOUTH, RANGE 36 EAST.

CONTAINING 3,149.08 SQUARE FEET (0.078 ACRES) MORE OR LESS.

SURVEYORS NOTES:

1. BEARINGS ARE BASED ON ASSUMED NORTH, REFERENCED TO THE SOUTH RIGHT OF WAY LINE OF EAU GALLIE BOULEVARD WHICH BEARS S 88°30'30" W, PER OFFICIAL RECORDS BOOK 3107, PAGE 2669.
2. **THIS IS NOT A SURVEY** – THIS SKETCH IS ONLY A GRAPHIC DEPICTION OF THE LAND DESCRIBED IN THE LEGAL DESCRIPTION HEREON. NO SURVEY WORK WAS PERFORMED TO CREATE THIS SKETCH AND DESCRIPTION. THE PURPOSE OF THIS DESCRIPTION IS TO ACQUIRE A 30'X150' DRAINAGE EASEMENT TO SUPPORT THE PROPOSED STORMWATER IMPROVEMENTS FOR THE LAMPLIGHTER DRAINAGE BASIN PROJECT.
3. NO INSTRUMENTS OF RECORD REGARDING EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD WERE PROVIDED TO THE SURVEYOR. THIS DESCRIPTION OF LAND IS SUBJECT TO EASEMENTS, RIGHTS OF WAY, COVENANTS AND RESTRICTIONS OF RECORD.



PREPARED FOR: N.R.M.O.
WATESHED PROGRAM
MANAGER: BACH McCLURE

SUSAN G. JACKSON, COUNTY SURVEYOR
SURVEYOR & MAPPER, PSM NO. 4637
NOT VALID UNLESS SIGNED AND SEALED

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940
PHONE: (321) 633-2080

DRAWN BY: T VITALE	CHECKED BY: S JACKSON	PROJECT NO. 10-06-022-7	SECTION 23 TOWNSHIP 27 SOUTH RANGE 36 EAST
DATE: 08-12-10	SHEET: 1 OF 2	REVISIONS _____	

SKETCH & DESCRIPTION

SECTION 23, TOWNSHIP 27 SOUTH, RANGE 36 EAST

SHEET 2 OF 2

(THIS IS NOT A SURVEY, BUT ONLY A GRAPHIC DEPICTION OF THE STRIP OF LAND DESCRIBED HEREIN.)

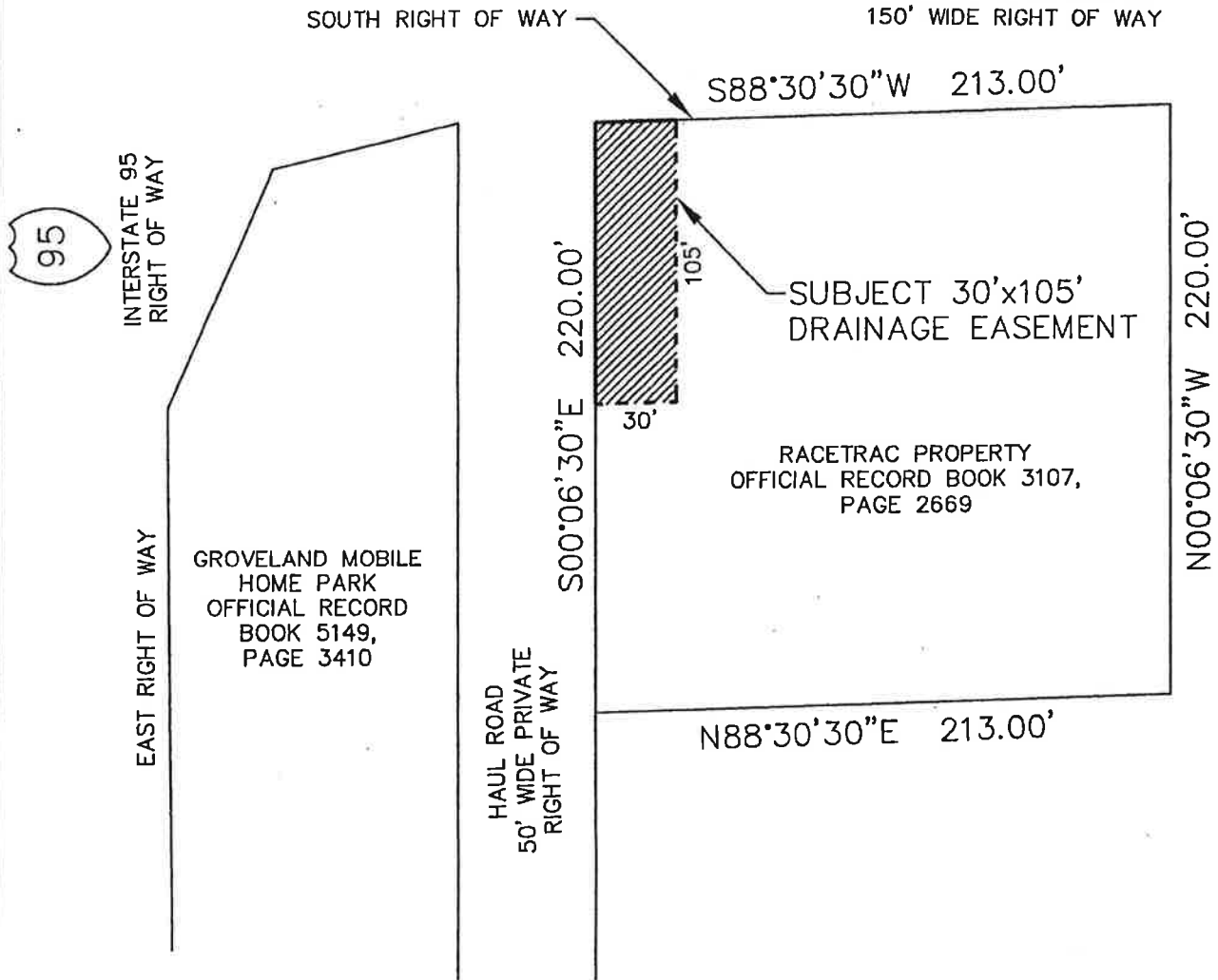


SCALE:
NOT TO SCALE

PROJECT: LAMPLIGHTER DRAINAGE BASIN
LOCATION: I-95 & EAU GALLIE BOULEVARD
PURPOSE OF SKETCH & DESCRIPTION: ACQUIRE A 30' x 105'
DRAINAGE EASEMENT



EAU GALLIE BOULEVARD
150' WIDE RIGHT OF WAY



PREPARED BY: Brevard County Land Acquisition office
RETURN TO: Dan Jones, BLDG A, VIERA

PARCEL ID#: PART 27-36-23-00-00517.0-0000.00
Eau Gallie Blvd., Eau Gallie

PERMANENT DRAINAGE EASEMENT

THIS INDENTURE, made this ___ day of _____, 20__, between RACETRAC PETROLEUM, INC. whose address is 3225 Cumberland Road, Suite 100, Atlanta, GA 30339, the first party, and BREVARD COUNTY, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Melbourne, FL 32940, as the second party, for the use and benefit of BREVARD COUNTY, FLORIDA.

WITNESSETH: That the first party, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is hereby acknowledged, hereby grants unto the second party, its successors and assigns, a non-exclusive, perpetual easement commencing on the above date, for the sole purpose of constructing and maintaining a permanent drainage system and other allied uses pertaining thereto with full right of ingress and egress for the purpose herein stated.

The land affected by the granting of this easement is located in Section 23 Township 27 South, Range 36 East, County of Brevard, State of Florida, and is more particularly described as follows:

Legal description of Easement Area: See attached Exhibit "A"

TO HAVE AND TO HOLD said easement unto the County of Brevard.

The first party does hereby covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey this easement.

IN WITNESS WHEREOF, the first party having set his/her hand and seal this, the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:
RACETRAC PETROLEUM, INC.

[Signature]
Witness:

[Signature]

DANIEL BROWN
(Type or Print Name)

Print: BILL MILAM

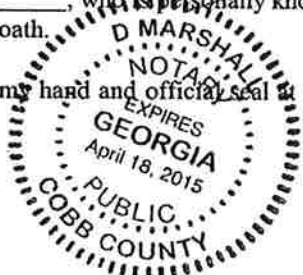
[Signature]
Witness:

DAVE CUMMINGS
(Type or Print Name)

STATE OF GEORGIA
COUNTY OF COBB

The foregoing instrument was acknowledged before me this 6 day of OCTOBER, 2014 by BILL MILAM, who is personally known to me or who has produced _____ as identification and who did not take an oath.

WITNESS my hand and official seal at (city) ATLANTA (state) GEORGIA (county) COBB, this 6 day of OCT, 2014.



(sign) [Signature]

(print) DALE MARSHALL, NOTARY PUBLIC

As approved at the Board meeting of _____ Item # _____

SKETCH & DESCRIPTION

SHEET 1 OF 2

SECTION 23, TOWNSHIP 27 SOUTH, RANGE 36 EAST

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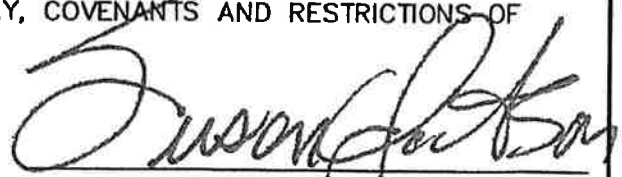
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PREPARED FOR: N.R.M.O.
WATSHED PROGRAM
MANAGER: BACH McCLURE

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DRAWN BY: T VITALE	CHECKED BY: S JACKSON	PROJECT NO. 10-06-022-7	SECTION 23
DATE: 08-12-10	SHEET: 1 OF 2	REVISIONS _____	TOWNSHIP 27 SOUTH
			RANGE 36 EAST

SKETCH & DESCRIPTION

SECTION 23, TOWNSHIP 27 SOUTH, RANGE 36 EAST

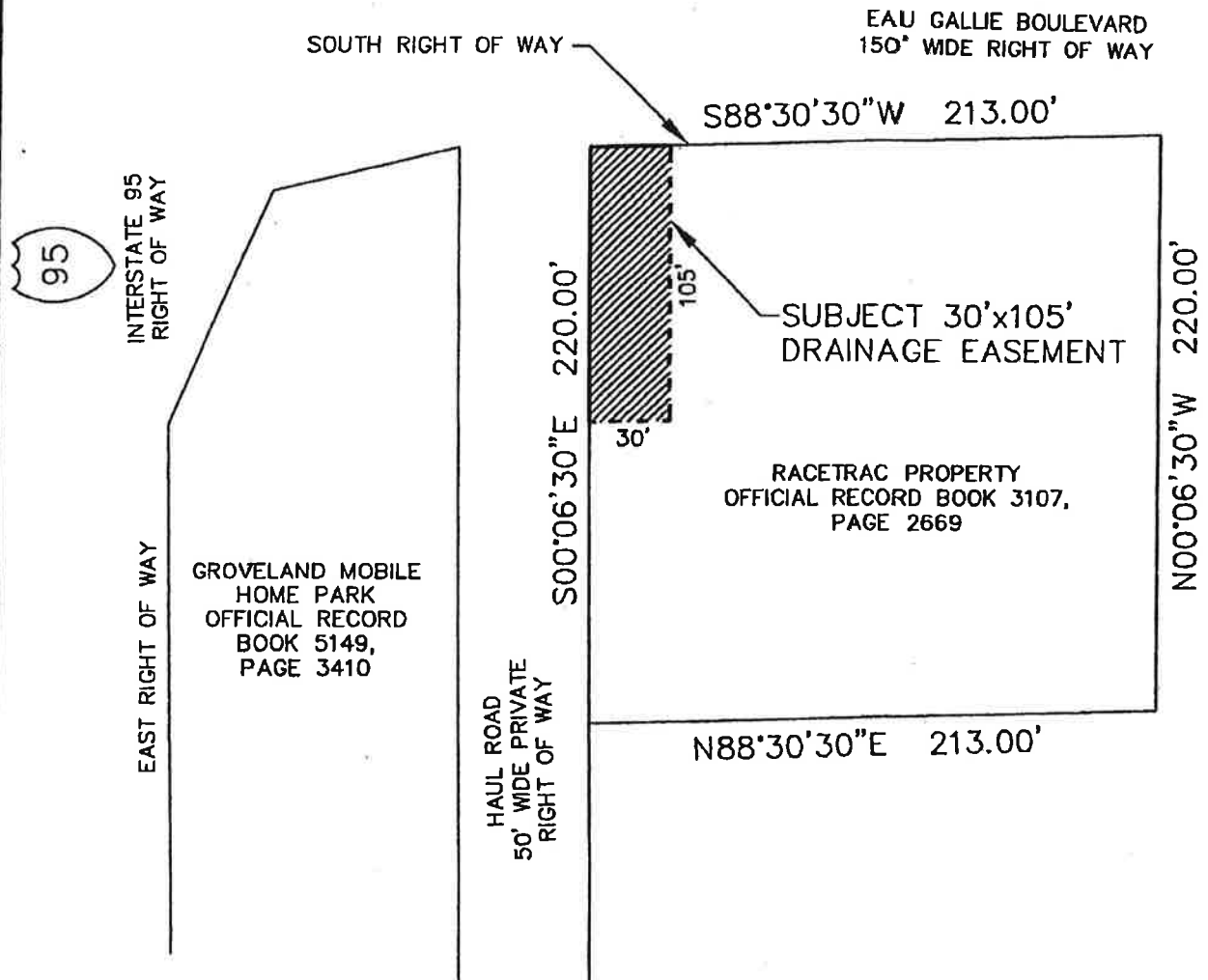
SHEET 2 OF 2

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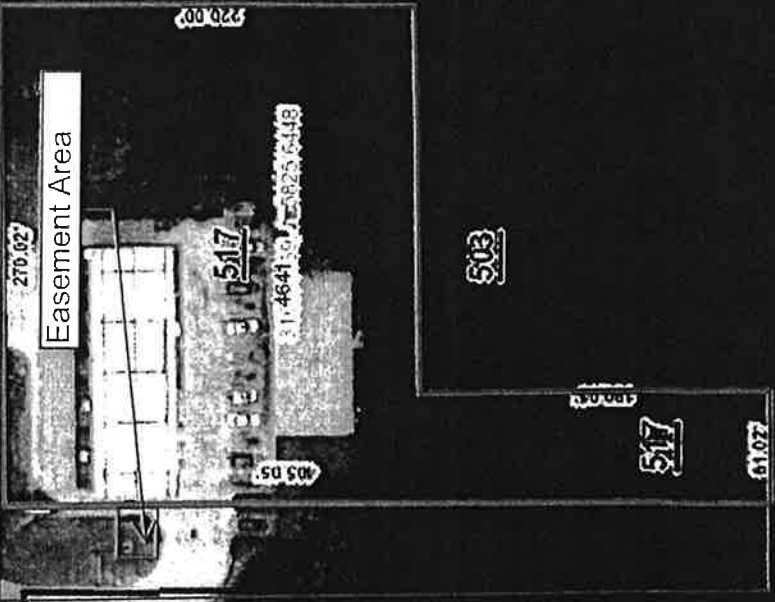
PROPERTY FACT SHEET
PROJECT: CRANE CREEK DRAINAGE

OWNER:	Racetrac Petroleum, Inc.
PARCEL LOCATION:	4641 W. Eau Gallie Blvd., Melbourne, FL 32934
PARENT PARCEL SIZE:	1.61 Acres (per Property Appraiser)
ACQUISITION AREA:	0.078 Acre
ZONING/LANDUSE:	C-Convenience store with gas pump.
TOPOGRAPHY:	Level with road grade, no wetlands indicated
FLOOD ZONE:	X (outside 500-year flood)
TAX PARCEL ID#:	27-36-23-00-00517.0-0000.00
PARENT TRACT MARKET VALUE: (Appraiser's Records)	\$755,000.00 (2014 Assessment Property)
PUBLIC UTILITIES:	All utilities
PROPERTY TRANSACTION: (Clerk of the Court Records)	Purchase date: September 2008 Sale amount: \$100.00 (OR Book 5902, Page 9090) January 1991 Amount \$370,000.00 (OR Book 3107, Page 2669)

Eau Gallie Blvd.

Interstate 95

Easement Area



T27 R36 S22

MELBOURNE

505

503

517

61.027

Location Map:
 Racetrac Petroleum Parent Tract-
 27-36-23-00-00517.0-0000.00 (2732351)

PRIVATE ACCESS