



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F7

9/17/2019

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### Subject:

Approval Re: Resolution and Off System Right of Way Acquisition Agreement with the Florida Department of Transportation (FDOT) for State Road 500 (US 192) Hollywood Boulevard / Evans Road Intersection Widening Project  
- Districts 3 and 5.

### Fiscal Impact:

None

### Dept/Office:

Public Works

### Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chair to execute the Resolution and Off System Right of Way Acquisition Agreement with FDOT.

### Summary Explanation and Background:

FDOT is planning an intersection widening project for State Road 500, also known as US Highway 192, at the corner of Hollywood Boulevard and Evans Road. The purpose of the project is to improve the intersection by adding turn lanes and widening Hollywood Boulevard. Roadway improvements include the addition of left turn lanes to be added from eastbound/westbound US 192 to northbound Evans Road and southbound Hollywood Boulevard. A receiving lane for the westbound to southbound turn lane will be added onto Hollywood Boulevard and will require additional right of way at the southwest corner of US 192 intersection. Exclusive dual right turn lanes, from southbound Evans Road to Westbound US 192 will be added and a new sidewalk will be provided adjacent to the proposed turn lanes to accommodate pedestrians within the corridor. The existing southbound right/through shared lane on Evans Road will be restriped as a through lane. New sidewalk connecting from US 192 to signalized Mall Entrance intersection will be provided along the east side of Evans Road. Drainage will be designed with additional inlets to accommodate the new turn lanes.

The Resolution authorizes the Chair to execute the Agreement. The Off System Right of Way Acquisition Agreement allows for FDOT to act on behalf of the County in completing all aspects of any portion of the Project not on the State Highway System, including, but not necessarily limited to, the acquisition of real property through voluntary acquisition and through the use of the power of eminent domain, if necessary, to complete this project as authorized by Chapter 336.467, Florida Statutes. The appropriate parcels as depicted in Exhibit A of the agreement shall be conveyed to Brevard County upon completion of the project.

### Clerk to the Board Instructions:

Return original executed Resolution and original executed Off System Right of Way Acquisition Agreement between State of Florida, Department of Transportation (Department) and Brevard County (Local Government) to Public Works Department.

BOARD OF COUNTY COMMISSIONERS

AGENDA: RESOLUTION AND OFF SYSTEM RIGHT OF WAY ACQUISITION  
AGREEMENT – FLORIDA DEPARTMENT OF TRANSPORTATION –  
STATE ROAD 500 (192) – HOLLYWOOD BOULEVARD – EVANS ROAD  
INTERSECTION WIDENING PROJECT – DISTRICTS 3 AND 5

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION

AGENCY CONTACT: LUCY HAMELERS, INTERIM LAND ACQUISITION  
SUPERVISOR

CONTACT PHONE: 321-690-6847 (56316)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Lucy Hamelers, Interim Supervisor	<u>EA</u>	_____	<u>8-27-19</u>
COUNTY ATTORNEY Jad Brewer Assistant County Attorney	<u>JMB</u>	_____	<u>8-27-19</u>

AGENDA DUE DATE: September 10, 2019 for September 17, 2019 Board meeting

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

September 18, 2019

MEMORANDUM

TO: Corrina Gumm, Interim Public Works Director

RE: Item F.7., Resolution and Off System Right-of-Way Acquisition Agreement with the Florida Department of Transportation (FDOT) for State Road 500 (U.S. 192) Hollywood Boulevard/Evans Road Intersection Widening Project

The Board of County Commissioners, in regular session on September 17, 2019, adopted Resolution No. 19-163; and approved and authorized the Chair to execute the Resolution and the Off System Right-of-Way Acquisition Agreement with FDOT for State Road 500 (U.S. 192) Hollywood Boulevard/Evans Road Intersection Widening Project. Enclosed is a fully-executed Resolution and an executed Acquisition Agreement.

**Upon execution by all parties, please return a fully-executed Agreement to this office for inclusion in the official minutes.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/kp

Encls. (2)

RESOLUTION NO. 2019- 163

**A Resolution Authorizing the Execution of the Off System Right of Way Acquisition Agreement with State of Florida, Department of Transportation for State Road 500 (US 192) at Hollywood Boulevard/Evans Road Intersection Widening Project (FM 433655-1-52-0).**

**Whereas**, the State of Florida, Department of Transportation, and Brevard County desire to facilitate the widening of State Road 500 (US 192) at Hollywood Boulevard/Evans Road Intersection, and

**Whereas**, it is in the best interest of the Department of Transportation and of Brevard County for the Department of Transportation to act on behalf of Brevard County in completing all aspects of any portion of the Project not on the State Highway System, including, but not necessarily limited to the acquisition of real property through voluntary acquisition and through the use of the power of eminent domain, if necessary, to complete this Project as authorized by §336.467, Florida Statutes, and

**Whereas**, the Department of Transportation has requested Brevard County to execute and deliver to the Department of Transportation the Off System Right of Way Agreement for the aforementioned project, FM 433655-1-52-01, to allow the Department of Transportation to act on behalf of Brevard County.

**Now, therefore, be it resolved** by the Board of County Commissioners of Brevard County, Florida, that Kristine Isnardi, Chair, of the Board of County Commissioners is hereby authorized to make, execute, and deliver to the Department of Transportation the Off System Right of Way Acquisition Agreement for the aforementioned project, FM 433655-1-52-01, allowing the Department of Transportation to act on behalf of Brevard County.

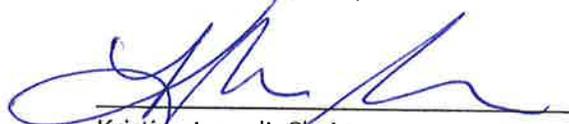
**DONE AND RESOLVED** this 17<sup>th</sup> day of September, 2019.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Kristine Isnardi, Chair

Board Approval Date: 9/17/19  
Agenda Item No: F.7.

**OFF SYSTEM RIGHT OF WAY ACQUISITION AGREEMENT**  
Between  
**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**  
**("DEPARTMENT")**  
and  
**BREVARD COUNTY**  
**("LOCAL GOVERNMENT")**

**WHEREAS**, the State of Florida Legislature has approved and mandated the DEPARTMENT to complete the various projects included in the DEPARTMENT'S Work Program; and

**WHEREAS**, included in the DEPARTMENT'S Work Program is Project Number FM # 433655-1-43-01 (State Road 500 (US 192) at Hollywood Boulevard/ Evans Road Intersection) located in Brevard, Florida, hereinafter referred to as the "Project", some or all of which, is not on the State Highway System; and

**WHEREAS**, the parties hereto agree that it is in the best interest of the DEPARTMENT and of the LOCAL GOVERNMENT for the DEPARTMENT to act on behalf of the LOCAL GOVERNMENT in completing all aspects of any portion of the Project not on the State Highway System, including, but not necessarily limited to the acquisition of real property through voluntary acquisition and through the use of the power of eminent domain, if necessary, to complete this Project as authorized by §336.467, Florida Statutes;

**NOW THEREFORE,**

1. The parties agree that the DEPARTMENT shall undertake and complete the Project. The Project shall include the tasks described in Exhibit "A" hereto and all other tasks associated with or arising out of the tasks listed therein. The LOCAL GOVERNMENT shall fully cooperate with and shall support the DEPARTMENT'S work efforts in these regards. The LOCAL GOVERNMENT hereby grants to the DEPARTMENT, its Contractors, representatives, employees and agents the right to enter onto LOCAL GOVERNMENT property to accomplish the tasks required by the Project. The DEPARTMENT shall have final decision-making authority with respect to the design of the Project, the design review process, and acquisition of property necessary for this Project. The DEPARTMENT shall notify LOCAL GOVERNMENT of any right of way commitments proposed to be made as part of the acquisition of property necessary for the Project that may affect traffic operations, safety, or maintenance of any portion of the Project not on the State Highway System and allow LOCAL GOVERNMENT to provide comment and input into any such proposed right of way commitments.

2. The LOCAL GOVERNMENT by virtue of the formal resolution approving this agreement consents to and authorizes the DEPARTMENT to act on behalf of, for the benefit of, and in the name of the LOCAL GOVERNMENT, to further do all acts necessary, specifically acquiring all necessary right of way, associated with and necessary for the Project. Any and all right of way for the portion of the Project not located on the State Highway System will be acquired in the name

of the DEPARTMENT for the benefit of the LOCAL GOVERNMENT and subsequently conveyed by the DEPARTMENT to the name of the LOCAL GOVERNMENT. The LOCAL GOVERNMENT hereby commits to accept the conveyance of the off the State Highway System parcels upon completion of construction of the Project.

3. The LOCAL GOVERNMENT acknowledges that the DEPARTMENT may be utilizing federal funds on the Project and as a result thereof, the LOCAL GOVERNMENT agrees to maintain those portions of the Project that are located within the jurisdictional limits of the LOCAL GOVERNMENT'S road in perpetuity.

4. This Agreement shall become effective as of the date both parties hereto have executed the Agreement and shall continue in full force and effect until the Project is completed by the DEPARTMENT acquiring all parcels necessary to construct the Project. The DEPARTMENT reserves the right to unilaterally cancel its performance hereunder if it determines that it is in the best interest of the public to do so. This discretion shall include, but shall not be limited to budgetary and bid cost considerations.

5. Pursuant to Section 287.058, Florida Statutes, the DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes and made or received by the LOCAL GOVERNMENT in conjunction with this Agreement except for the obligation of the LOCAL GOVERNMENT to maintain the Project and said Agreement shall be perpetual as to that obligation.

6. If any election, referendum, approval or permit, notice or other proceeding or authorization is required to be undertaken by the LOCAL GOVERNMENT to enter into this Agreement or to undertake the Project, the LOCAL GOVERNMENT will expeditiously initiate and consummate, as provided by law, all actions necessary with respect to any such matters with time being of the essence.

7. It is understood that the DEPARTMENT'S participation in said Project is subject to:

- a.) Legislative approval of the DEPARTMENT'S appropriation request in the work program year that the Project is scheduled;
- b.) Availability of funds based on the following limitations:
  - i.) The DEPARTMENT'S performance and obligations to pay under this Agreement is contingent upon an annual appropriation by the Florida Legislature. If the DEPARTMENT'S funding for this Project is in multiple years, funds approved from the DEPARTMENT'S Comptroller must be received every year prior to costs being incurred.
  - ii.) In the event this Agreement is in excess of \$25,000.00 and has a term of a period of more than one year, the provisions of §339.135(6)(a), Florida Statutes, are hereby incorporated. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on

such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executor only for the value of the services to be rendered or agreed to be paid in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT, which are for an amount in excess of \$25,000.00 and which have term for a period of more than one (1) year.”

8. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

9. The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security’s E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of:

- a.) All persons employed by the LOCAL GOVERNMENT during the term of the Contract to perform employment duties within Florida; and
- b.) All persons, including, subcontractors, assigned by the LOCAL GOVERNMENT to perform work pursuant to the contract with the DEPARTMENT.

10. All general notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, express mail or electronic mail (e-mail) and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. Each party hereto shall have the continuing obligation to notify each other of the appropriate persons for notices to be sent to pursuant to the terms of this Agreement. Unless otherwise notified in writing, notices shall be sent to the following:

To the LOCAL GOVERNMENT:  
Brevard County  
Attn: Tammy Thomas-Wood, Support Services Manager  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940  
[Tammy.Thomas-wood@brevardfl.gov](mailto:Tammy.Thomas-wood@brevardfl.gov)

To the DEPARTMENT:  
District Five - Local Programs  
719 South Woodland Boulevard, M.S. 4-520  
DeLand, Florida 32720  
[D5-LocalPrograms@dot.state.fl.us](mailto:D5-LocalPrograms@dot.state.fl.us)

11. No modification of this Agreement shall be binding on the Parties unless reduced to writing and signed by a duly authorized representative of the Parties.

12. In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.

13. The individual identified as the person to receive notice for the LOCAL GOVERNMENT hereunder shall have the authority to act on behalf of the LOCAL GOVERNMENT for engineering decisions relating to the LOCAL GOVERNMENT roadways as described in Exhibit "A", Scope of Services associated with construction of the Project. The individuals identified below shall have the authority to receive notice and to act on behalf of the LOCAL GOVERNMENT and the DEPARTMENT, respectively, under the terms of this Agreement.

To the LOCAL GOVERNMENT:

Brevard County

Attn: Corina Gumm, P.E., Interim Public Works Director and Traffic Operations Manager  
2725 Judge Fran Jamieson Way, Suite A-201  
Viera, Florida 32940

To the DEPARTMENT:

State of Florida, Department of Transportation  
Alan E. Hyman, P.E., Director of Transportation Operations  
719 South Woodland Boulevard  
DeLand, Florida 32720

*The remainder of this page intentionally left blank.*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates exhibited, by the signatures below.

**BREVARD COUNTY,  
BOARD OF COUNTY  
COMMISSIONERS**

**STATE OF FLORIDA  
DEPARTMENT OF  
TRANSPORTATION**

By:   
Name: Kristine Isnard  
Title: Chair

By: \_\_\_\_\_  
Alan E. Hyman, P.E.  
Director of Transportation Operations

Date: September 17, 2019

Date: \_\_\_\_\_

Attest:   
By: Scott Ellis  
Title: Clerk  
Approved by Board 9/17/19

Approved as to form and legality:

Department Legal Review:

\_\_\_\_\_  
By: Jad Brewer  
Assistant County Attorney

\_\_\_\_\_  
By: Daniel L. McDermott  
Attorney

Exhibit "A"  
SCOPE OF SERVICES  
FM#: 433655-1-52-01

The purpose of the Project is to improve the intersection of State Road 500 (US 192) at Hollywood Blvd./Evans Road by adding turn lanes and widening Hollywood Blvd. Roadway improvements include the addition of left turn lanes to be added from EB/WB State Road 500 (US 192) to NB Evans Road and SB Hollywood Blvd. A receiving lane for the WB to SB turn lane will be added onto Hollywood Blvd. and will require additional right-of-way at the SW corner of the State Road 500 (US 192) intersection. Exclusive dual right turn lanes, from SB Evans Road to WB State Road 500 (US 192), will be added and a new sidewalk will be provided adjacent to the proposed turn lanes to accommodate pedestrians within the corridor. The existing SB right/thru shared lane on Evans Road will be restriped as a thru lane. New sidewalk connecting from US 192 to the signalized Mall Entrance intersection will be provided along the east side of Evans Road. Drainage will be designed with additional inlets to accommodate the new turn lanes.

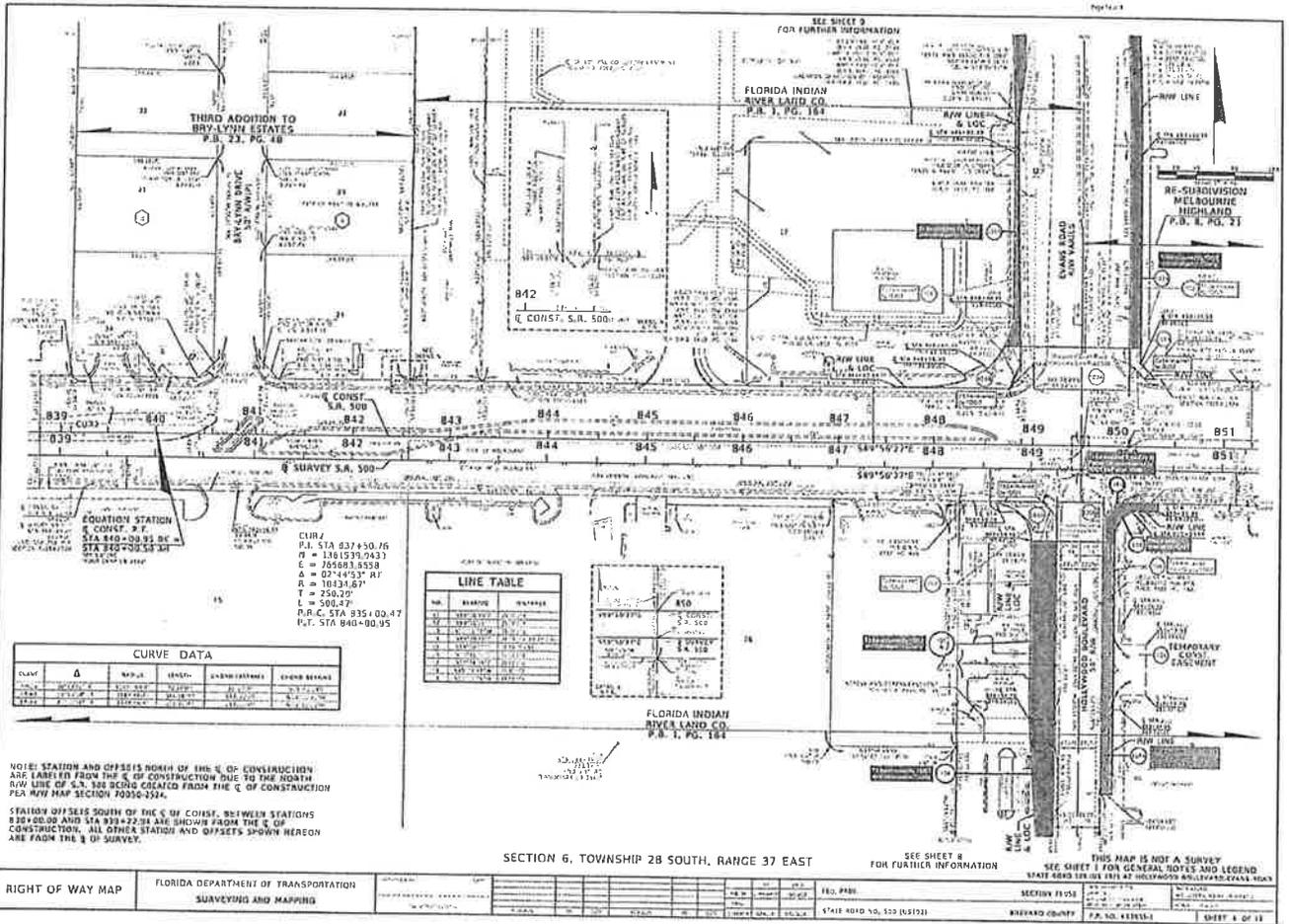
The proposed improvements include the milling and resurfacing of existing travel lanes, replacing mast arms, upgrading pavement markings, replacing existing curb ramps, installing pedestrian lighting, and improving the ITS system.

The DEPARTMENT will acquire those parcels identified on Sheets 4 of 13, and 9 of 13 in the Right of Way Map, Section 70050, F.P. 433655-1, SR 500 (US 192, Brevard County), attached hereto as Exhibit "A-1". The parcels to be acquired are as follows:

- 100 A & B – A portion of Evans Road and a portion of Hollywood Blvd become SR 500.
- 101 – Acquired by FDOT. 101A conveyed to Brevard County post construction. 101B retained by FDOT.
- 102 – Acquired by FDOT. 102A conveyed to Brevard County post construction. 102B retained by FDOT.
- 103 – Acquired by FDOT. 103A conveyed to Brevard County post construction. 103B retained by FDOT.
- 104 – Acquired by FDOT. 104 conveyed to Brevard County post construction.
- 105 – Acquired by FDOT from City of West Melbourne. 105A conveyed to Brevard County post construction. 105B retained by FDOT.
- 106 – Acquired and retained by FDOT.
- 107 – Acquired by FDOT. 107 conveyed to Brevard County post construction.
- 108 – Owned by Brevard County. To be improved by FDOT. No conveyance of the parcel is necessary.

Exhibit "A-1"  
RIGHT OF WAY MAPS  
FM#433655-1-52-01

The Right of Way Maps for the construction of Department Project FM# 433655-1, SR 500 (US 192, Brevard County), are identified herein by attaching Sheets 4 of 13, and 9 of 13 of said maps and by such, the entire set of Right of Way Maps are incorporated by reference.



EQUATION STATION  
 & CONST. P.T.  
 STA 840+00.93 DE  
 STA 840+00.53 DE  
 STA 840+00.53 DE

CURVE  
 P.I. STA 837+50.76  
 P.C. STA 835+00.47  
 P.T. STA 840+00.93

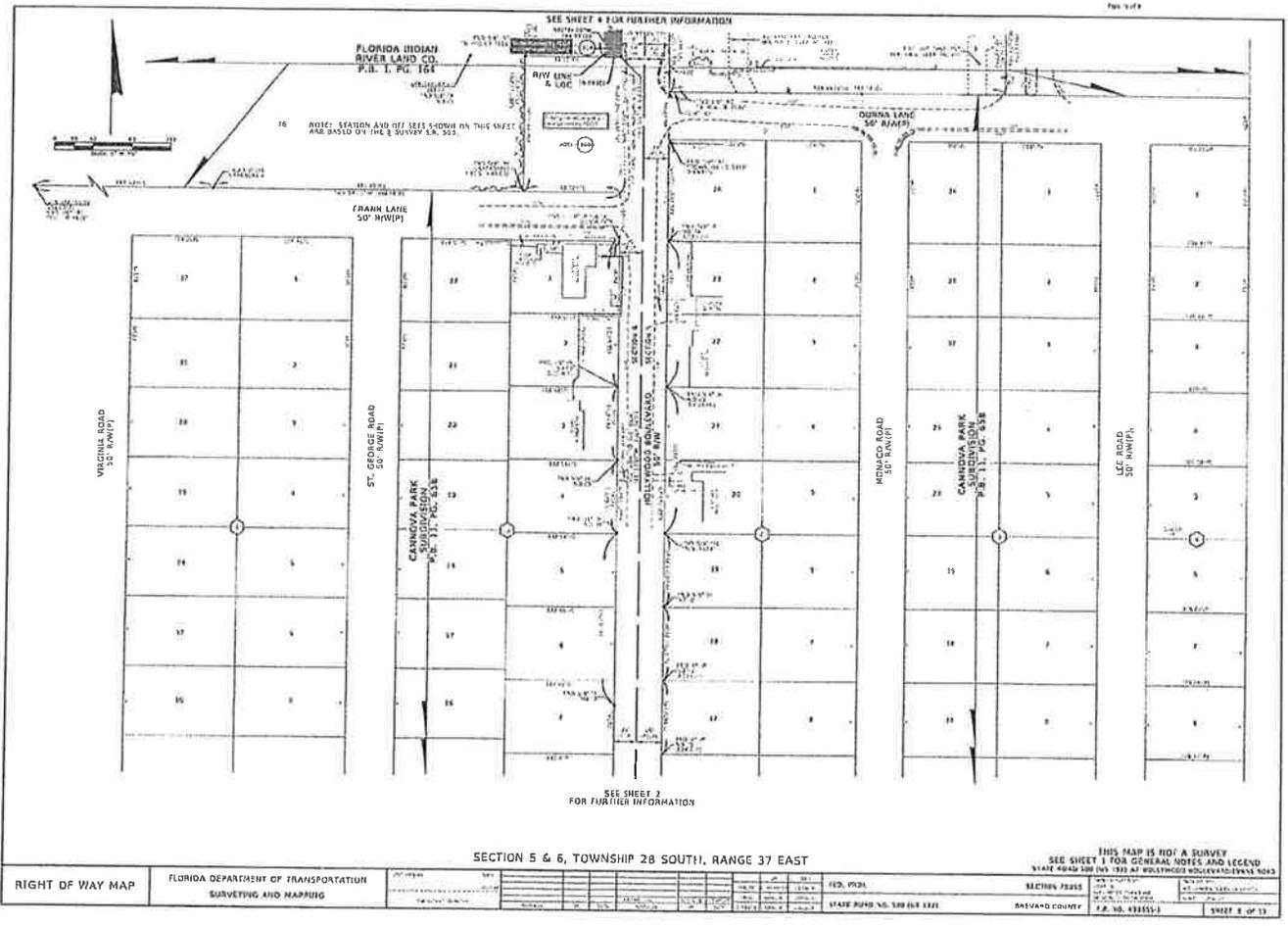
NO.	START	END	DESCRIPTION
1	839+00.00	840+00.00	CONSTRUCTION
2	840+00.00	841+00.00	CONSTRUCTION
3	841+00.00	842+00.00	CONSTRUCTION
4	842+00.00	843+00.00	CONSTRUCTION
5	843+00.00	844+00.00	CONSTRUCTION
6	844+00.00	845+00.00	CONSTRUCTION
7	845+00.00	846+00.00	CONSTRUCTION
8	846+00.00	847+00.00	CONSTRUCTION
9	847+00.00	848+00.00	CONSTRUCTION
10	848+00.00	849+00.00	CONSTRUCTION
11	849+00.00	850+00.00	CONSTRUCTION
12	850+00.00	851+00.00	CONSTRUCTION

NAME	Δ	MAP L.	LENGTH	CHORD DISTANCE	CHORD BEARING
1	104.3167°	104.3167	250.20'	250.20'	270.00°

NOTE: STATION AND OFFSETS NORTH OF THE C. OF CONSTRUCTION ARE LABELED FROM THE C. OF CONSTRUCTION DUE TO THE NORTH R/W LINE OF S.T. 300 BEING CREATED FROM THE C. OF CONSTRUCTION PER R/W MAP SECTION 10000-0304.

STATION OFFSETS SOUTH OF THE C. OF CONST. BETWEEN STATIONS 830+00.00 AND STA 839+22.94 ARE SHOWN FROM THE C. OF CONSTRUCTION. ALL OTHER STATION AND OFFSETS SHOWN HEREON ARE FROM THE S. OF SURVEY.

SECTION 6, TOWNSHIP 28 SOUTH, RANGE 37 EAST



SECTION 5 & 6, TOWNSHIP 28 SOUTH, RANGE 37 EAST

RIGHT OF WAY MAP	FLORIDA DEPARTMENT OF TRANSPORTATION SURVEYING AND MAPPING	DATE	NO.	REV.	BY	CHKD.	APP'D.	TYP.	SHEET NO.	SHEET TOTAL	FED. PROJ.	SECTION 72215	THIS MAP IS NOT A SURVEY SEE SHEET 3 FOR GENERAL NOTES AND LEGEND	
													STATE ROAD NO. 100 (EX. 131)	STATE ROAD NO. 100 (EX. 131)



Exhibit "B"  
AGENCY RESOLUTION  
FM#: 433655-1-52-01

The agency Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.