

Meeting Date: 03-22-16

Agenda Item 24

REQUESTED COMMISSION ACTION:

Consent Ordinance X Resolution Consideration/Discussion Presentation

SHORT TITLE A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A ROADWAY TRANSFER AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF POMPANO BEACH FOR THE TRANSFER OF SR 814/ATLANTIC BOULEVARD FROM EAST OF NW 6TH AVENUE TO SR A1A (EXCLUDING S.C. FOX MEMORIAL BRIDGE - BRIDGE ID 860157) AND SR 811/DIXIE HIGHWAY FROM NORTHERN LIMIT OF BRIDGE 860032 TO SR 834/SAMPLE ROAD; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

On December 15, 2015, the City Commission approved Resolution 2016-83 to cancel two Florida Department of Transportation (FDOT) resurfacing projects on Dixie Highway in return for an estimated \$4,000,000 and authorized staff to negotiate a transfer agreement from FDOT to the City of Pompano Beach (COPB) for Dixie Highway from McNab Road to Sample Road and Atlantic Boulevard from NW 6th Avenue to A1A. We have completed negotiations with FDOT, vetted the transfer agreement with the City Attorney's Office and are now prepared to recommend your approval of the transfer agreement in return for \$4,562,065 to be paid to COPB by January 1, 2017.

- (1) Origin of request for this action: CRA
(2) Primary staff contact: Greg Harrison, Assistant City Manager
(3) Expiration of contract, if applicable: N/A
(4) Fiscal impact and source of funding: COPB will receive \$4,562,065 from FDOT that will be used for enhanced intersections of Atlantic/Dixie, Dixie/MLK and Atlantic and SE 1st Avenue.

Table with 4 columns: DEPARTMENTAL COORDINATION, DATE, DEPARTMENTAL RECOMMENDATION, DEPARTMENTAL HEAD SIGNATURE. Rows include CRA, CITY ENGINEER, PUBLIC WORKS, CITY ATTORNEY, FINANCE, and City Manager.

Table with 4 columns: Ordinance, Resolution, Consideration, Workshop. Rows include 1st Reading and 2nd Reading.





**City Attorney's Communication #2016-621**

March 14, 2016

**TO:** Greg Harrison, Assistant City Manager  
**FROM:** Mark E. Berman, City Attorney  
**RE:** Resolution – FDOT Transfer Agreement

As requested, I have prepared and attached the following form of Resolution captioned as follows:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A ROADWAY TRANSFER AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF POMPANO BEACH FOR THE TRANSFER OF SR 814/ATLANTIC BOULEVARD FROM EAST OF NW 6<sup>TH</sup> AVENUE TO SR A1A (EXCLUDING S.C. FOX MEMORIAL BRIDGE – BRIDGE ID 860157) AND SR 811/DIXIE HIGHWAY FROM NORTHERN LIMIT OF BRIDGE 860032 TO SR 834/SAMPLE ROAD; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.

  
\_\_\_\_\_  
MARK E. BERMAN

/jrm  
L:cor/mgr/asstmgr/2016-621

Attachment

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A ROADWAY TRANSFER AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF POMPANO BEACH FOR THE TRANSFER OF SR 814/ATLANTIC BOULEVARD FROM EAST OF NW 6<sup>TH</sup> AVENUE TO SR A1A (EXCLUDING S.C. FOX MEMORIAL BRIDGE – BRIDGE ID 860157) AND SR 811/DIXIE HIGHWAY FROM NORTHERN LIMIT OF BRIDGE 860032 TO SR 834/SAMPLE ROAD; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Pompano Beach approved the cancelation of two resurfacing projects on S.R. 811/Dixie Highway, FMs 427011-2 and 430606-1, from FDOT’s Work Program on December 15, 2015, approved by Resolution No 2016-83, with the intent to enter into a mutually agreed upon Transfer Agreement to convey and accept designated portions of Atlantic Boulevard from East of NW 6<sup>th</sup> Avenue to S.R. A1A along with a portion of Dixie Highway from McNab Road to Sample Road; now, therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That an Agreement between the State of Florida Department of Transportation and the City of Pompano Beach for a roadway transfer, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement between the State of Florida Department of Transportation and the City of Pompano Beach.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
3/11/16  
I:reso/2016-159

**ROADWAY TRANSFER AGREEMENT**

**From Florida Department of Transportation to City of Pompano Beach**

**SR 814/Atlantic Boulevard from East of NW 6 Avenue to SR A1A  
(Excluding S.C. Fox Memorial Bridge – Bridge ID 860157)**

**AND**

**SR 811/Dixie Highway from Northern Limit of Bridge 860032 to SR 834/Sample Road**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the DEPARTMENT, and the CITY OF POMPANO BEACH, hereinafter called the CITY.

**WITNESSETH**

**WHEREAS**, the roadway segments on SR814/Atlantic Boulevard from east of NW 6<sup>th</sup> Avenue to SR A1A and SR 811/Dixie Highway from northern limit of Bridge 860032 to SR 834/Sample Road are located within the CITY boundaries and are currently owned by the DEPARTMENT, hereinafter called ROADWAYS, as depicted on the Location Maps attached and incorporated herein as Exhibits "A" and "B", and,

**WHEREAS**, the CITY, has agreed to accept the transfer of the ROADWAYS, with the exception of the S.C. Fox Memorial Bridge (Bridge ID: 860157, Section ID: 86130000 from Mile Point 7.641 to Mile Point 7.712), to the CITY Street System, and these transfers are mutually agreed upon, between the CITY and the DEPARTMENT; and

WHEREAS, this AGREEMENT is being entered into in accordance with Section 335.0415, Florida Statutes; and

**WHEREAS**, the AGREEMENT has been approved by the CITY Commissioners through Resolution No. \_\_\_\_\_, adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and attached and incorporated herein as Exhibit "C".

**NOW, THEREFORE, THIS INDENTURE WITNESSETH:** in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the DEPARTMENT agree as set forth below:

1. The above recitals are true and correct and are incorporated herein by reference.
2. This AGREEMENT, pursuant to Section 335.0415, Florida Statutes, sets forth the terms and conditions under which the CITY and the DEPARTMENT will abide. The commencement of jurisdictional and maintenance responsibilities is the date of the approval of the roadway transfer by the Secretary of the Florida Department of Transportation.

3. The DEPARTMENT gives up all rights to the ROADWAYS, including the right of way, except as may be specified in this AGREEMENT.

4. **Atlantic Boulevard** (SR 814) – from east of NW 6<sup>th</sup> Avenue to SR A1A (Excluding S.C. Fox Memorial Bridge – Bridge ID 860157)

The DEPARTMENT gives up all rights to the Atlantic Boulevard segment of roadway, identified above, including the right of way, except as may be specified herein.

(a) The S.C. Fox Memorial Bridge (Bridge ID: 860157) over the Intracoastal from abutment to abutment will continue to be owned, operated and maintained by the DEPARTMENT.

(b) The handrail, bridge lighting system connected to the bridge electric power, the approach slabs, signs pertaining to the bridge, roadway barriers to the end of the approach slabs, and traffic control signals associated with the S.C. Fox Memorial Bridge (Bridge ID: 860157) will continue to be owned, operated and maintained by the DEPARTMENT. The CITY agrees to perform maintenance of all roadway features, including sidewalks, on both approaches up to the bridge abutments as well as on the bridge. This includes the repair and maintenance of traffic stripes and markings, raised pavement markers, asphalt pavement, sweeping, litter pick-up and graffiti removal to keep the bridge fully and properly functioning at all times. Improvements constructed by the CITY on the S.C. Fox Memorial Bridge and the respective tender house will continue to require a permit from or a construction agreement with the DEPARTMENT. The CITY is responsible for maintaining any decorative features and other improvements added to the area by the CITY after this AGREEMENT is effective.

(c) The CITY will designate two parking spaces to the DEPARTMENT for the sole use of bridge tenders and maintenance of the S.C. Fox Memorial Bridge (Bridge ID: 860157) as shown on Exhibit "A" or an alternate location agreed upon by the DEPARTMENT. The CITY agrees to retain these spaces in perpetuity while the bridge exists.

5. **Dixie Highway** (SR 811) - from Northern Limit of Bridge 860032 to SR 834/Sample Road

The DEPARTMENT gives up all rights to the Dixie Highway segment of roadway, identified above, including the right of way, except as may be specified herein.

(a) The DEPARTMENT currently has a Lease Agreement with the Florida East Coast (FEC) Railway for bus stop locations along Dixie Highway; eleven locations of which are within the CITY limits of Pompano Beach (Exhibit "D"). This lease expires January 24, 2020. The DEPARTMENT shall pay for the required insurance coverage for the continuous use of the existing eleven bus stops located within the CITY limits for the duration of the lease or until terminated. It is understood, however, that the DEPARTMENT does not intend to renew the lease at the end of the expiration period and at that time, the CITY will be responsible for any arrangements regarding the use of the bus stop locations. Further, the DEPARTMENT retains the right to terminate that portion of the lease lying within the CITY prior to the expiration period. Upon such expiration or termination of the lease, the

DEPARTMENT will have no further obligations with respect to the bus stops or the landscape areas identified in the lease that are located within the CITY.

- (b) The area on the north approach slab to Bridge 860032, as illustrated in Exhibit B, will continue to be owned by the DEPARTMENT. The CITY agrees to maintain roadway features in the approach slab such as, but not limited to, asphalt overlay, traffic stripes and markings, raised pavement markers, and signs and perform all activities such as sweeping, picking up litter, graffiti removal, etc., to keep the approach to Bridge 860032 fully and properly functioning at all times.

#### **6. Obligations as to both Roadways:**

Prior to this transfer, the DEPARTMENT had scheduled two roadway improvement projects along the subject roadway segments of Dixie Highway. A total of \$4,562,065 (Four Million Five Hundred Sixty Two Thousand Sixty Five Dollars), shall be provided to the CITY after this transfer but prior to January 1, 2017 for improvements towards the subject roadway(s) or within the roadway right of way. The allocations shall be as follows:

- (a) Under FM No 427011.2 (SR-811/Dixie Highway from south of McNab Road to south of Atlantic Boulevard), the DEPARTMENT agrees to transfer the CITY a lump sum amount of \$1,675,855 (One Million Six Hundred Seventy-Five Thousand Eight Hundred Fifty-Five Dollars).
- (b) Under FM No 430606.1 (SR-811/Dixie Highway from Atlantic Boulevard to Copans Road), the DEPARTMENT agrees to transfer the CITY a lump sum amount of \$2,406,210 (Two Million Four Hundred Six Thousand Two Hundred Ten Dollars).
- (c) The DEPARTMENT also agrees to transfer to the CITY a lump sum amount of \$480,000 (Four Hundred Eighty Thousand Dollars).

It is understood that the obligation regarding any funds to be transferred to the CITY must be in accordance with Section 339.135(6)(a), Florida Statutes and that the DEPARTMENT's performance and obligation to transfer funding under this agreement shall be contingent upon annual appropriation by the Legislature.

Upon the effective date of transfer, the CITY accepts all responsibility for operation and maintenance of the ROADWAYS referenced above, including but not limited to:

- (a) All traffic control signals and devices, landscape, roadway lighting system, curbs, culverts and drainage structures within the right of way at the time of transfer. The DEPARTMENT agrees to remove State Road signs, as appropriate. The ownership and maintenance responsibilities for all remaining signs and signage structures located within the transfer limits are included in this transfer to the CITY.
- (b) The right of way and public sidewalks, bike paths, and other ways in the right of way.

- (c) The CITY agrees to perform all activities necessary to keep the ROADWAYS fully and properly functioning at all times. Examples of maintenance activities may include, but not limited to, maintenance of pavement and sidewalk surfaces, mowing, cleaning and desilting of ditches, retention ponds, drainage structures and other underground drainage systems, picking up litter, graffiti removal, repair/replacement of signs, etc. The DEPARTMENT will provide any information it has or becomes aware of that may have an impact on the function or operation of the ROADWAYS.
- (d) The CITY shall be fully responsible for maintaining the drainage system associated with the ROADWAYS. The DEPARTMENT shall retain flowage rights to the drainage system. Currently this drainage system is operational. Since the drainage system serves drainage for SR A1A, Bridge 860157 and other segments of SR 811 and SR 814, the CITY agrees that any modification or alteration to the drainage system shall be reviewed and concurred by the DEPARTMENT before implementation. If the drainage system is not properly maintained by the CITY, the DEPARTMENT reserves the right to perform necessary maintenance activities at the CITY's expense only after giving the CITY advance written notice of any maintenance activities or repairs.
- (e) The DEPARTMENT retains the right to access Bridges 860032 and 860157 without the need to obtain permits from the CITY for conducting its own maintenance or betterment projects to the bridges or bridge features. Except for emergencies, the DEPARTMENT's Maintenance Office will notify the CITY in advance to provide scope of work and corresponding work schedule and will coordinate the maintenance of traffic (MOT) with the CITY's Public Works Department prior to starting the work when one or more lane closures is required.
- (f) It is agreed that all obligations of the DEPARTMENT, under any maintenance, utility, railroad crossing AGREEMENT or other such AGREEMENT, or permits relating to any specific road to be transferred, shall be transferred at the same time, or soon thereafter, and in the same manner as jurisdictional responsibility. The CITY agrees to accept the ownership and assume all required maintenance obligations and duties of the two railroad crossings, along with the relevant traffic control devices, located within the ROADWAYS through a separate Railroad Transfer Agreement that is to be approved and executed subsequent to approval of this AGREEMENT. Copies of any existing permits, agreements and easements will be turned over to the CITY for their records prior to execution of this AGREEMENT or shortly after execution and approval of this AGREEMENT. The DEPARTMENT will assign all of its rights, title and interest related to the two railroad crossings and the relevant traffic control devices located within the ROADWAY boundaries described in this AGREEMENT through a separate Railroad Transfer Agreement. Such documents listed in assigning the rights, title and interest related to the two railroad crossings, once approved, will become Exhibit "E" to the CITY in this AGREEMENT.
- (g) Historical and archaeological resources were identified within or adjacent to the transfer area and the segments of railway within the ROADWAYS have been deemed National-Register eligible. The DEPARTMENT has provided the CITY with a letter from the Florida Department of State (Exhibit "F," dated January 25, 2016) confirming that based on the results of a cultural resource assessment survey no historic properties will be directly

affected by the transfer of ownership of the ROADWAYS. The CITY agrees to maintain any existing and all subsequently discovered historical or archaeological resources determined to be significant pursuant to Section 267.061, F. S. The CITY also agrees to coordinate with the Florida State Historic Preservation Officer to determinate the potential impacts to any historic resources should an improvement to any of these ROADWAYS occur in the future.

(h) The CITY shall continue the traffic data collection of 24-hour average daily traffic (ADT) count data at the following Traffic Monitoring Sites (TMSs):

- SR 814/Atlantic Boulevard: 860071, 867423, 860435
- SR 811/Dixie Highway: 860025, 860048, 860029, 865334

Collection shall occur at the locations as depicted in Exhibits "A" and "B," at least once a year during the peak season (typically between January and mid-April). Traffic count data shall be collected by following the existing guidelines/policies/procedures of the DEPARTMENT and submitted via e-mail in format compatible (TXT is preferred, PRN is acceptable) with the most current version of Survey Processing Software (SPS) to the District Traffic Data Coordinator for the preparation of the DEPARTMENT's annual data processing within 30 calendar days after the data are collected. Contact the District Traffic Data Coordinator with any questions or additional information at 954-777-4364.

(i) Federal-aid funds were expended on the ROADWAYS on the following F.M. numbers:

- SR 814/Atlantic Blvd: 227921-1, 227921-2, 406506-1
- SR 811/Dixie Hwy: 424671-1

It is understood that the DEPARTMENT may conduct periodic inspections of the ROADWAYS in accordance with the provisions in DEPARTMENT's Procedure Number: 850-065-001, Inspection of Federal-Aid Projects under Local Jurisdiction (Exhibit "G"). Such inspections will be conducted to ensure compliance with obligations related to the maintenance activities to be undertaken by the CITY as set forth in this agreement.

(j) Pursuant to Chapter 479, FS and Chapter 14-10, FAC, limitations apply to the use or erection of signs, displays or devices located within 660 feet or less from the nearest edge of the right of way of the ROADWAYS. In certain cases, depending on the nature of the signs that will be erected at the right of way parcel, permits from the DEPARTMENT may be required. Under the circumstance that a permit from the DEPARTMENT is not required, the CITY agrees to comply with all applicable laws, regulations and design standards to ascertain that the sight distance to the ROADWAYS and adjacent driveway intersections shall not be blocked by any sign erected on the right of way parcel.

7. Pursuant to Section 337.29, Florida Statutes (F.S.), deeds or existing right of way maps, including any existing sketch and legal descriptions, if available, will be recorded by the DEPARTMENT into the official records of Broward County. The DEPARTMENT, which currently has jurisdiction of the ROADWAYS, shall supply all right of way documentation.

8. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

9. This AGREEMENT embodies the whole AGREEMENT of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this AGREEMENT shall supersede all previous communications, representations, or AGREEMENTs, either verbal or written, between the parties hereto.

10. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida.

11. Each party is an independent contractor and is not an agent of the other party. Nothing contained in this AGREEMENT shall be construed to create any fiduciary relationship between the parties, during or after the performance of this AGREEMENT. Neither party shall have the authority to bind the other party to any obligation whatsoever to any third party without the express specific written consent of the other.

12. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

13. If any part of this AGREEMENT shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this AGREEMENT shall remain in full force and effect provided that the part of this AGREEMENT thus invalidated or declared unenforceable is not material to the intended operation of this AGREEMENT.

14. The parties may be reached at the following addresses and phone numbers.

**City of Pompano Beach**  
Dennis Beach  
City Manager  
100 West Atlantic Boulevard  
Pompano Beach, FL 33060  
Telephone: (954) 786-4601

**Florida Department of Transportation**  
Steven C. Braun, P.E.  
District Planning and Environmental Engineer  
3400 West Commercial Boulevard  
Fort Lauderdale, Florida 33309-3421  
Telephone: (954) 777-4143

**With a copy to:**

City Attorney  
100 West Atlantic Boulevard  
Pompano Beach, Florida 33061-2083  
Telephone: (954) 786-4614

Office of General Counsel  
3400 West Commercial Boulevard  
Fort Lauderdale, Florida 33309-3421  
Telephone: (954) 777-4529

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed, the day and year first above written.

CITY OF POMPANO BEACH

STATE OF FLORIDA  
DEPARTMENT OF  
TRANSPORTATION

BY: \_\_\_\_\_  
Lamar Fisher  
Mayor, City of Pompano Beach

BY: \_\_\_\_\_  
Gerry O'Reilly, P.E.  
District Four Secretary

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

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

ATTEST: \_\_\_\_\_

Legal Review

ATTEST: \_\_\_\_\_

Legal Review

\_\_\_\_\_  
Mark E. Berman  
City Attorney

\_\_\_\_\_  
Laurice Mayes, Esq.  
District Four Legal Counsel

**"CITY":**

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
DENNIS W. BEACH  
CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND  
CITY CLERK

(SEAL)

Approved As To Form:

\_\_\_\_\_  
MARK E. BERMAN  
CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by LAMAR FISHER as Mayor, DENNIS W. BEACH, as City Manager and ASCELETA HAMMOND, City Clerk of the City of Pompano Beach, Florida, a municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

# **EXHIBIT A**



**Legend**

- Traffic Count Station
- Proposed Roadway Transfer To City
- RCI Bridges
- On System Roadways
- Off System Roadways

This data is intended for the use of FDOT personnel and authorized consultants. The data has been compiled from a variety of sources and there is no guarantee of its accuracy, completeness, reliability or suitability for any particular purpose or any representation or warranty, express or implied, by the Florida Department of Transportation concerning the data. It is the responsibility of the user to use the data appropriately and in accordance with its limits. Contact the source agency or FDOT to determine if the data is accurate and correct.



**Exhibit A**  
 Overview Map  
 SR 814 Atlantic Blvd  
 Location Map

Broward County, FL



Transfer Start  
 NW 6 Ave  
 Route: 86130000  
 MP: 5.361

**Legend**

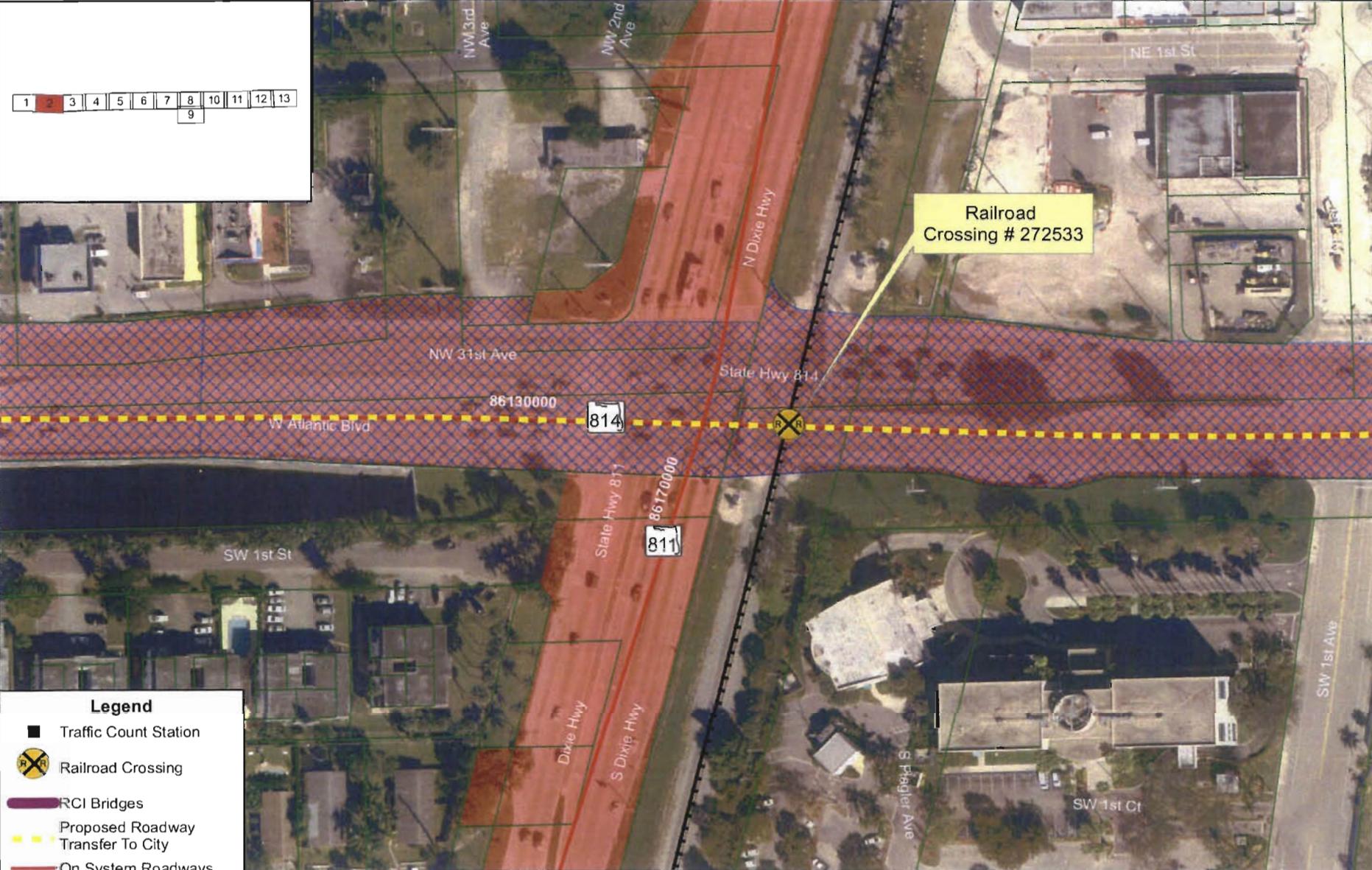
- Railroad Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 1 of 13  
 Broward County, FL

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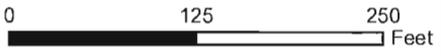


**Railroad Crossing # 272533**

**Legend**

- Traffic Count Station
- Railroad Crossing
- RCI Bridges
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 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 2 of 13  
 Broward County, FL

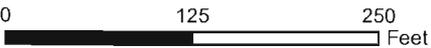
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**Legend**

-  Railroad Crossing
-  Traffic Count Station
-  RCI Bridges
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-  On System Roadways
-  Off System Roadways
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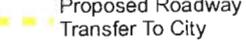
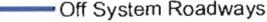
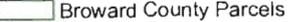
**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 3 of 13  
 Broward County, FL



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**Legend**

-  Railroad Crossing
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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 5 of 13  
 Broward County, FL





**Legend**

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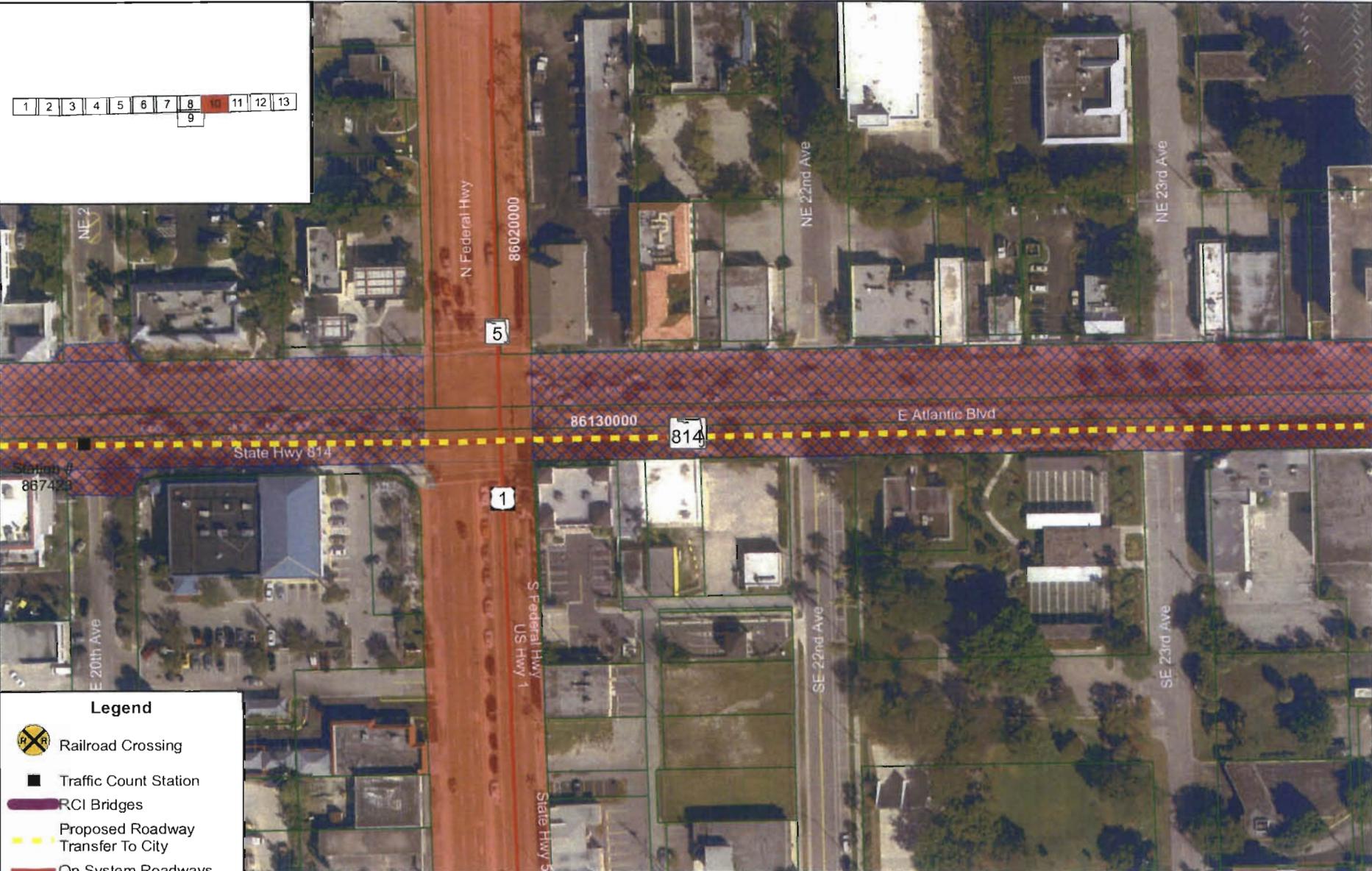


**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 7 of 13  
 Broward County, FL





1	2	3	4	5	6	7	8	9	10	11	12	13



**Legend**

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-  FDOT Owned ROW

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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 10 of 13  
 Broward County, FL

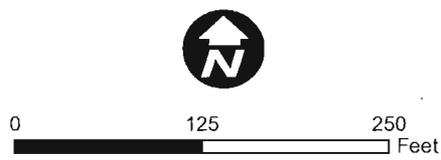
1	2	3	4	5	6	7	8	10	11	12	13
							9				



**Legend**

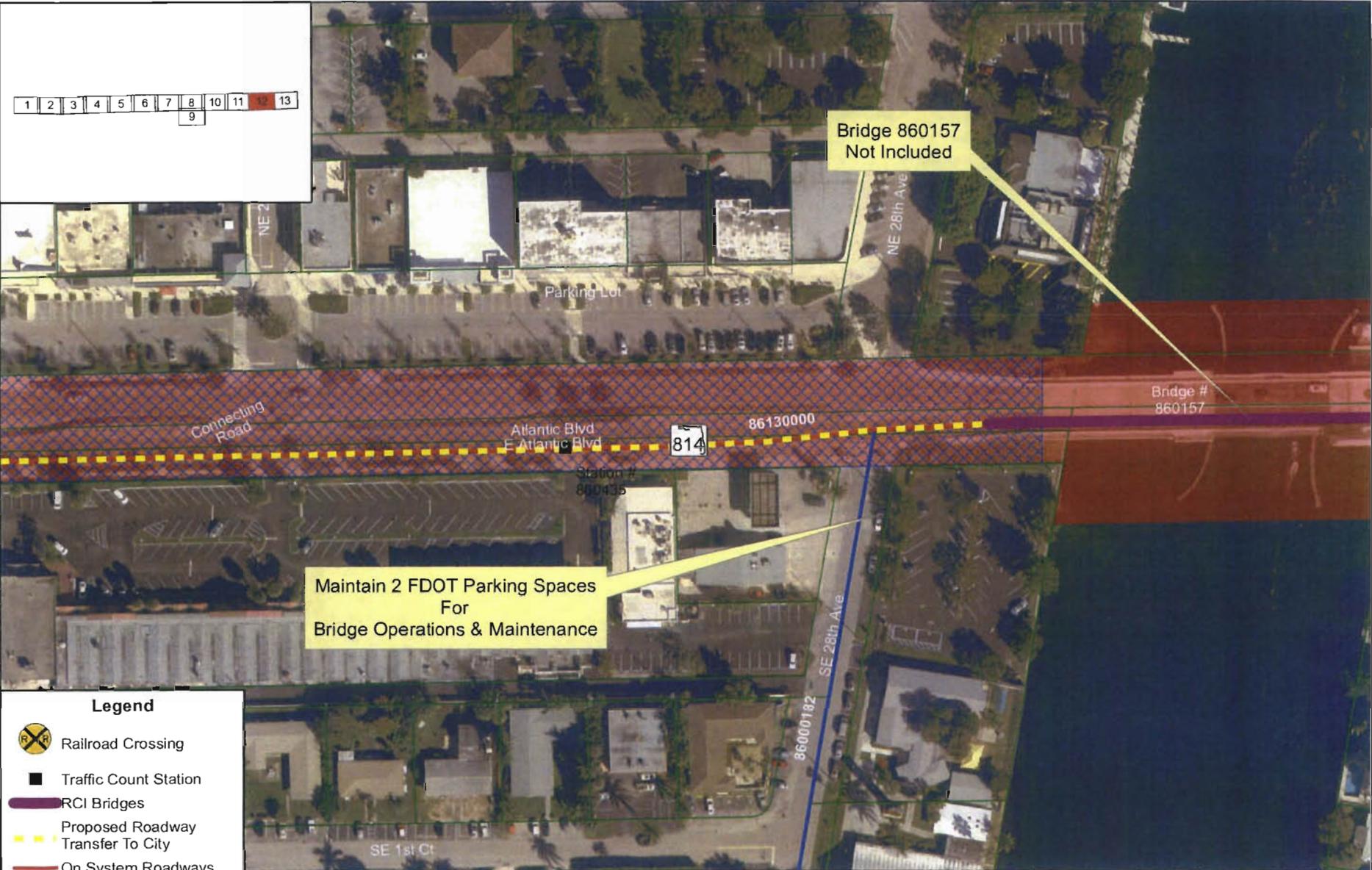
-  Railroad Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 11 of 13  
 Broward County, FL

1	2	3	4	5	6	7	8	9	10	11	12	13



**Legend**

-  Railroad Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 12 of 13  
 Broward County, FL

1	2	3	4	5	6	7	8	9	10	11	12	13



**Legend**

- Railroad Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit A**  
 Location Map Of  
 SR 814 Atlantic Blvd  
 Transfer to City  
 Page 13 of 13  
 Broward County, FL

## **EXHIBIT B**



**FM # 430606.1**  
From Atlantic Blvd To Copans Rd

**FM # 427011.2**  
From S. Of McNab Rd To S. Of Atlantic Blvd

Transfer End  
Sample Rd  
Route: 86170000  
MP: 10.038

Station #  
860029

Station #  
860048

Station #  
860025

Station #  
865334

One Way Pair  
Route: 86170001  
BMP 0.000 - EMP 1.336  
Included

Transfer Start  
Begin Bridge 860032 (Included)  
Route: 86170000  
MP: 5.114

**Legend**

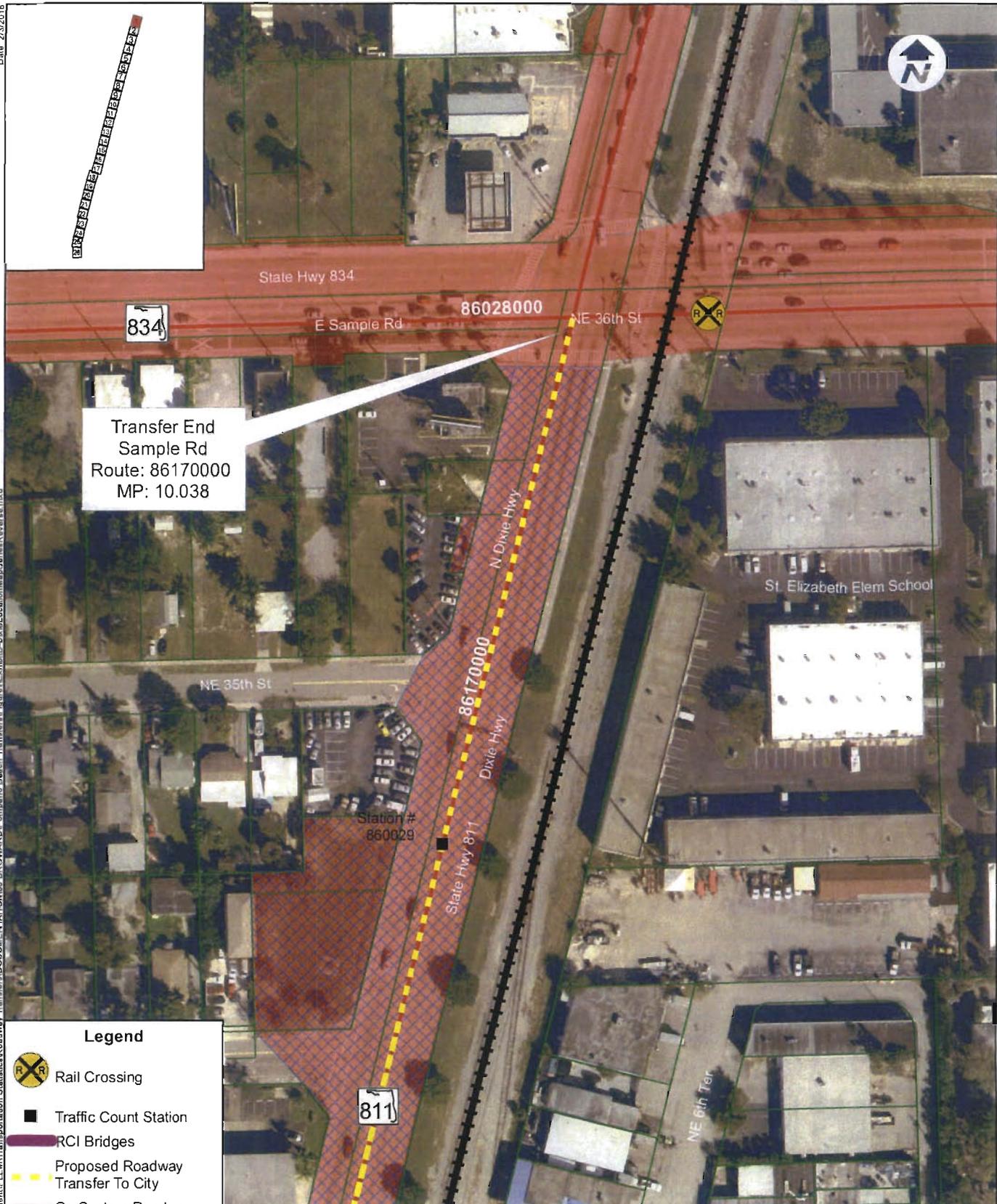
- Traffic Count Station
- RCI Bridges
- Proposed Roadway
- Transfer To City
- On System Roadways
- Off System Roadways
- Other City Limits

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0 2,000 4,000 Feet



**Exhibit B**  
Overview Map  
SR 811 Dixie Hwy  
Location Map  
Broward County, FL



Transfer End  
 Sample Rd  
 Route: 86170000  
 MP: 10.038

**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 1 of 26  
 Broward County, FL



**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 2 of 26  
 Broward County, FL



**Legend**

-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 3 of 26

Broward County, FL



**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 4 of 26  
 Broward County, FL



**Legend**

-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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 Feet



**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 5 of 26  
 Broward County, FL





**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

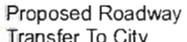
This data is intended for the use of FDOT personnel and authorized consultants. The data has been compiled from a variety of sources and there is no guarantee of its accuracy, completeness, reliability or suitability for any particular purpose or any representation or warranty, express or implied, by the Florida Department of Transportation concerning the data. It is the responsibility of the user to use the data appropriately and in accordance with its limits. Contact the source agency or FDOT to determine if the data is accurate and correct.



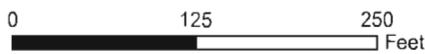
**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 7 of 26  
 Broward County, FL



**Legend**

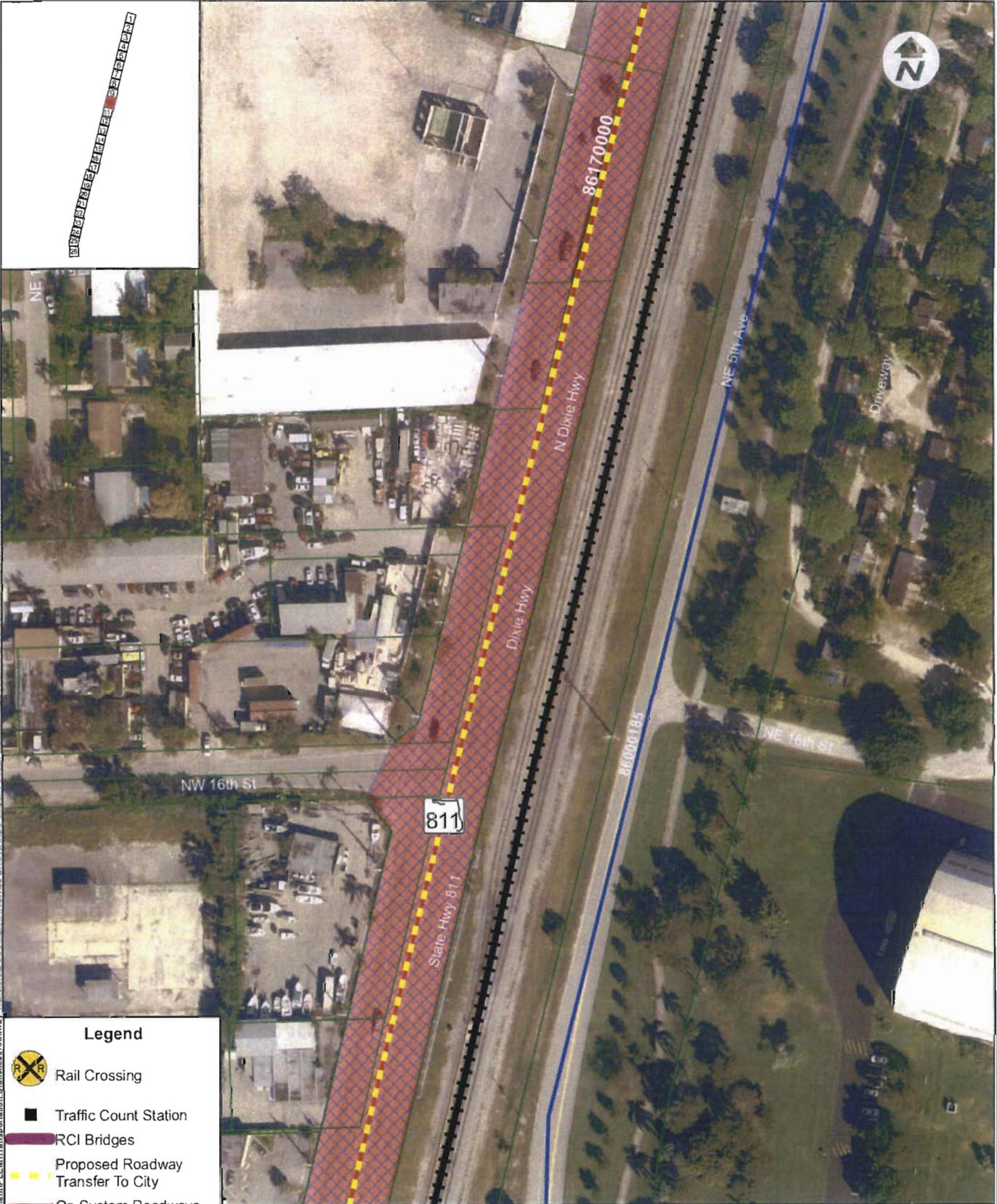
-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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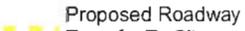
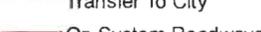
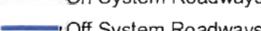


**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 8 of 26





**Legend**

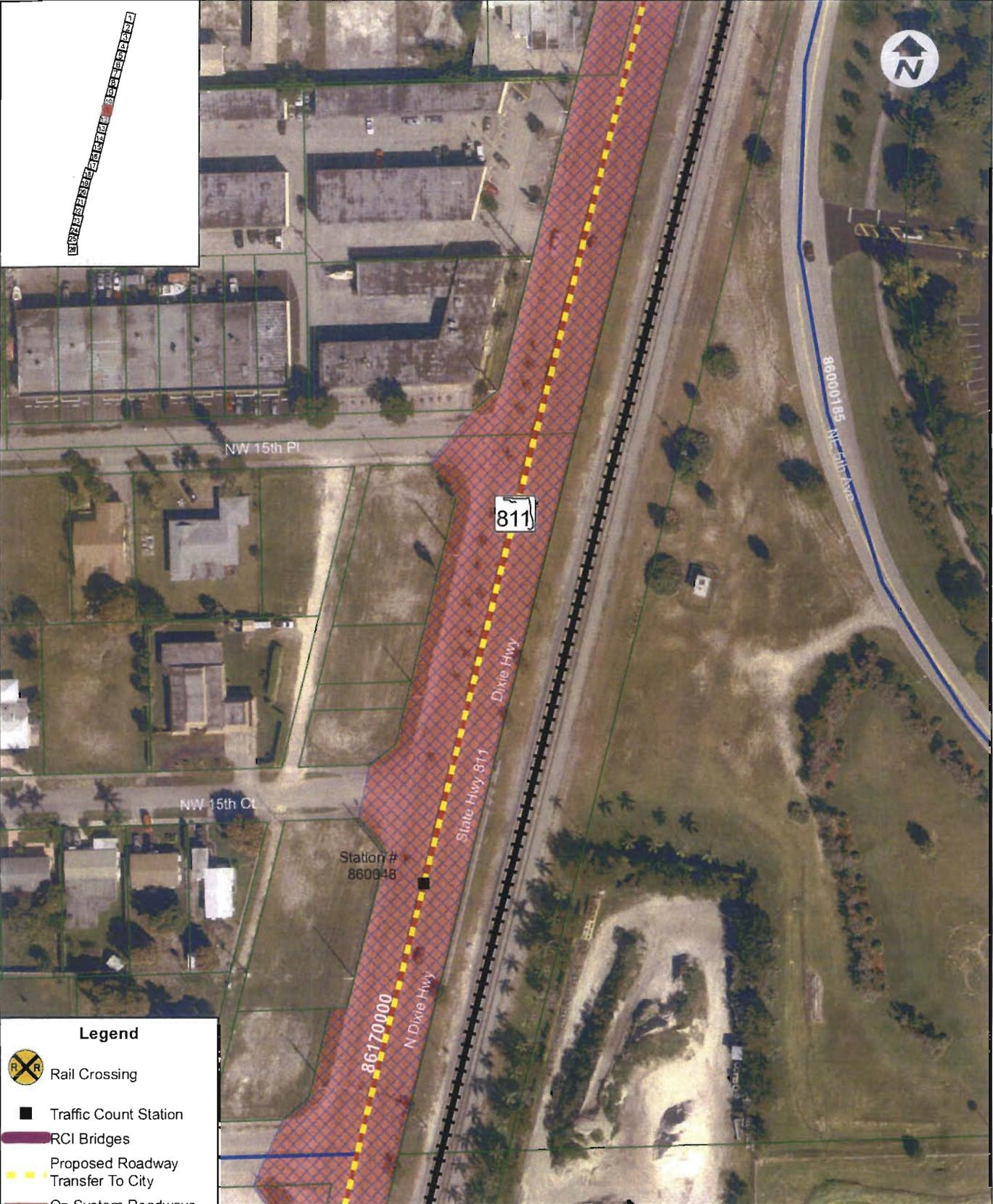
-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 10 of 26

Broward County, FL



**Legend**

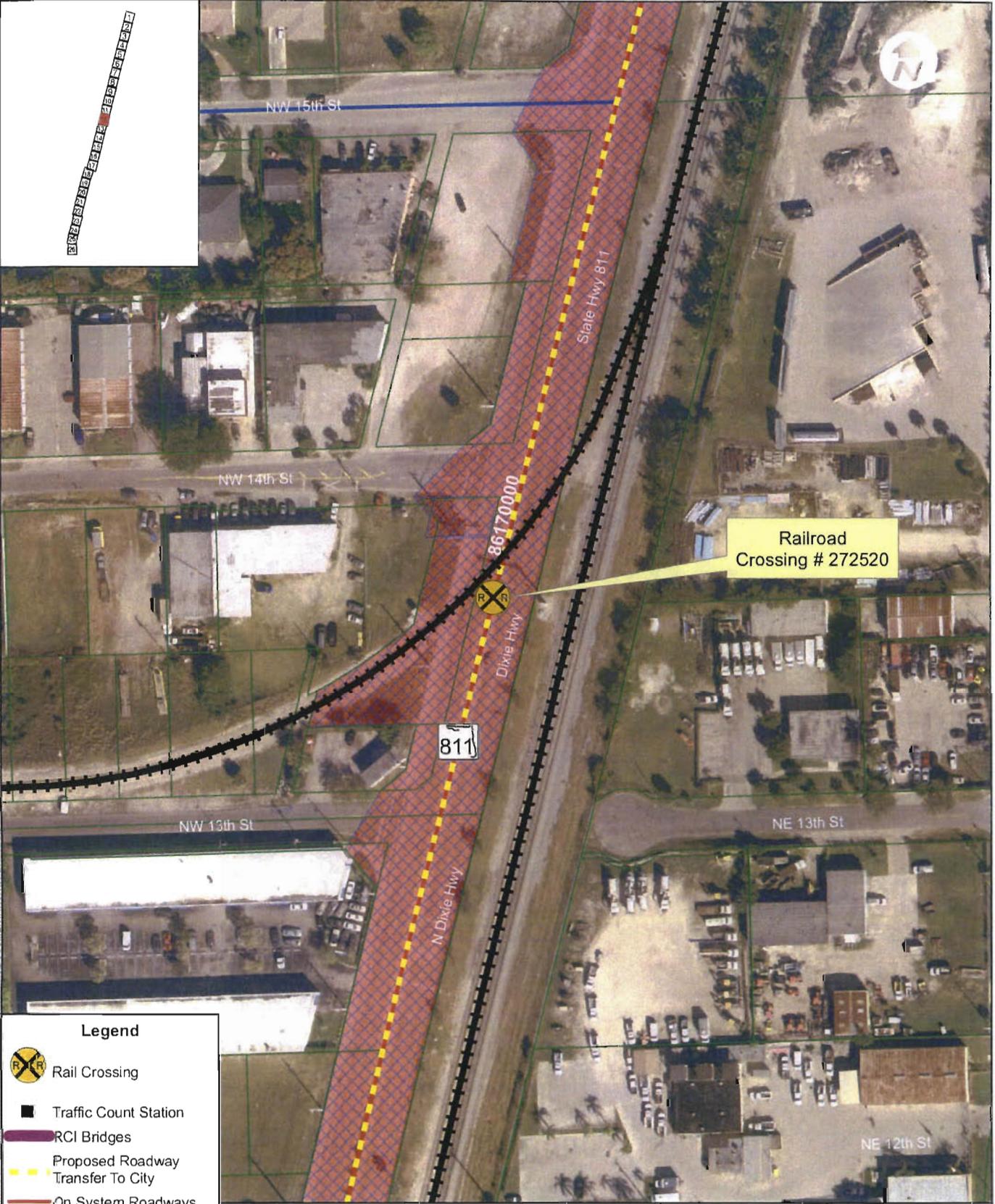
-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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 Feet



**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 11 of 26  
 Broward County, FL



**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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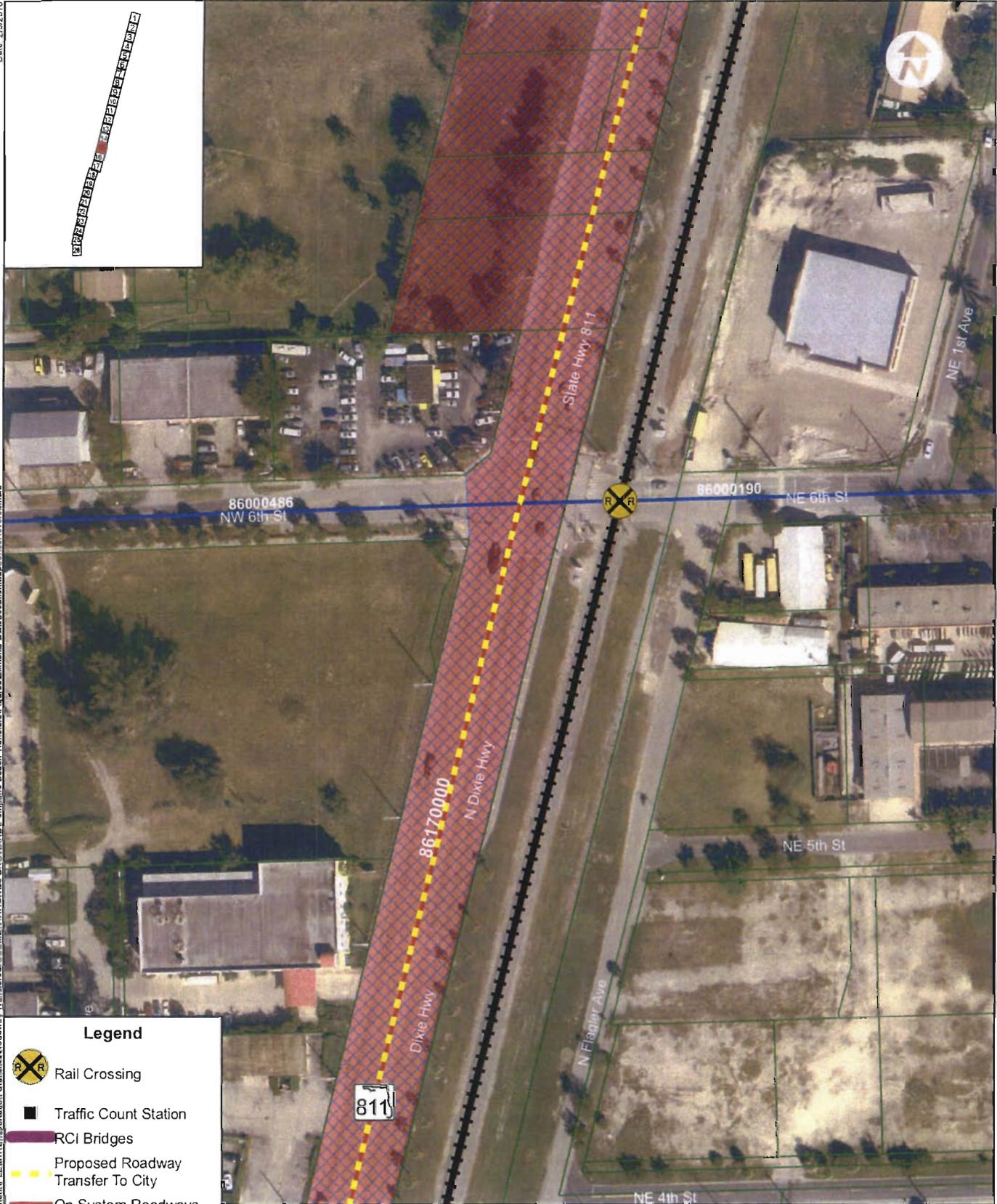
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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 12 of 26  
 Broward County, FL







**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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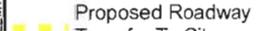
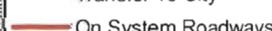
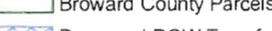
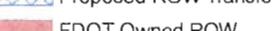


**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 15 of 26  
 Broward County, FL





**Legend**

-  Rail Crossing
-  Traffic Count Station
-  RCI Bridges
-  Proposed Roadway Transfer To City
-  On System Roadways
-  Off System Roadways
-  Railroad
-  Broward County Parcels
-  Proposed ROW Transfer
-  FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 16 of 26



**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 17 of 26  
 Broward County, FL



**Legend**

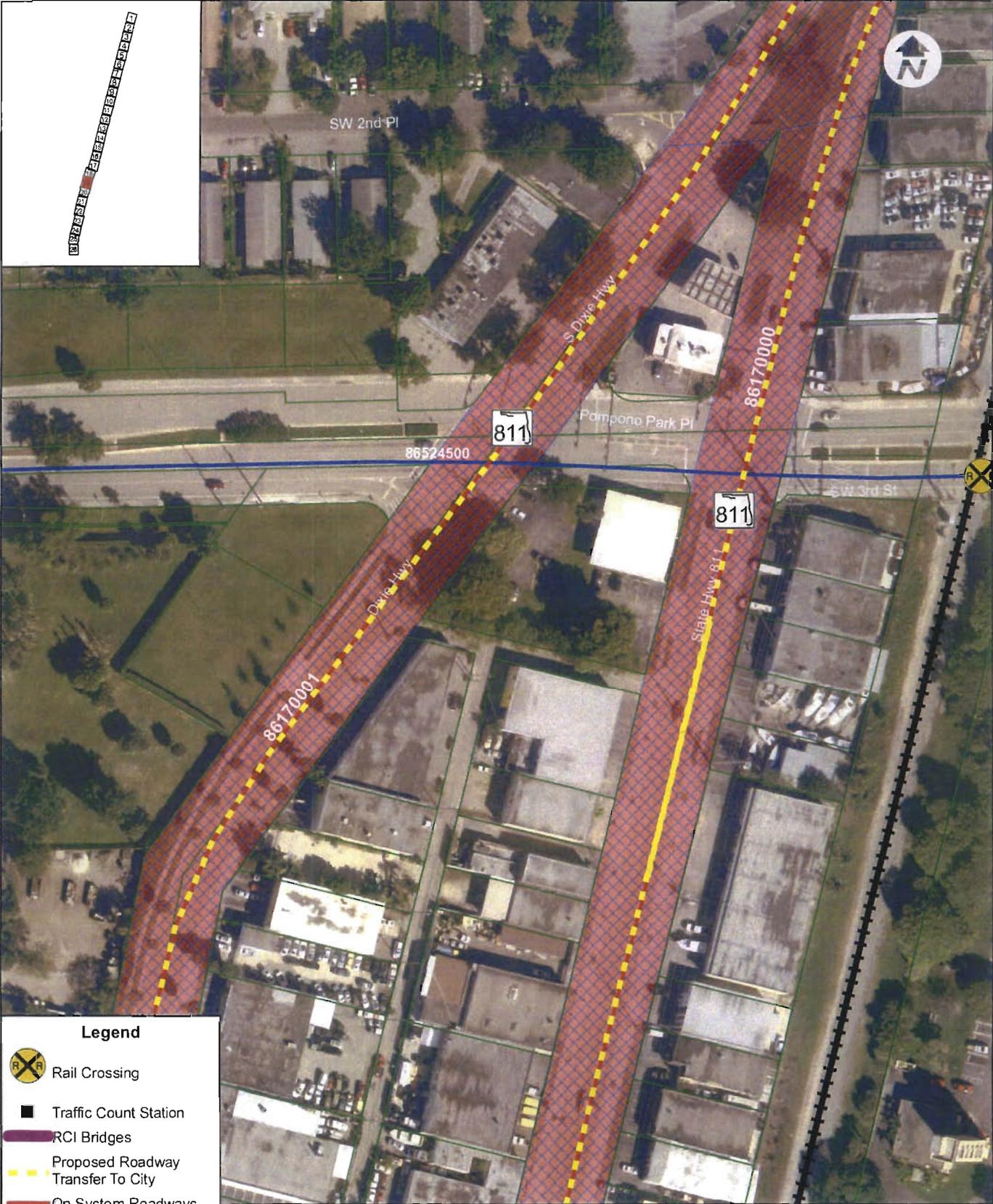
- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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0 125 250 Feet



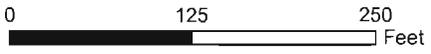
**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 18 of 26  
 Broward County, FL



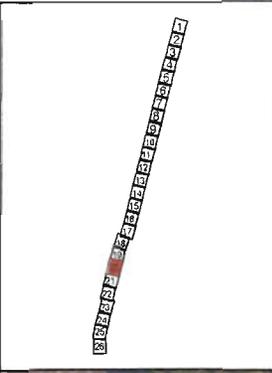
**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 19 of 26  
 Broward County, FL



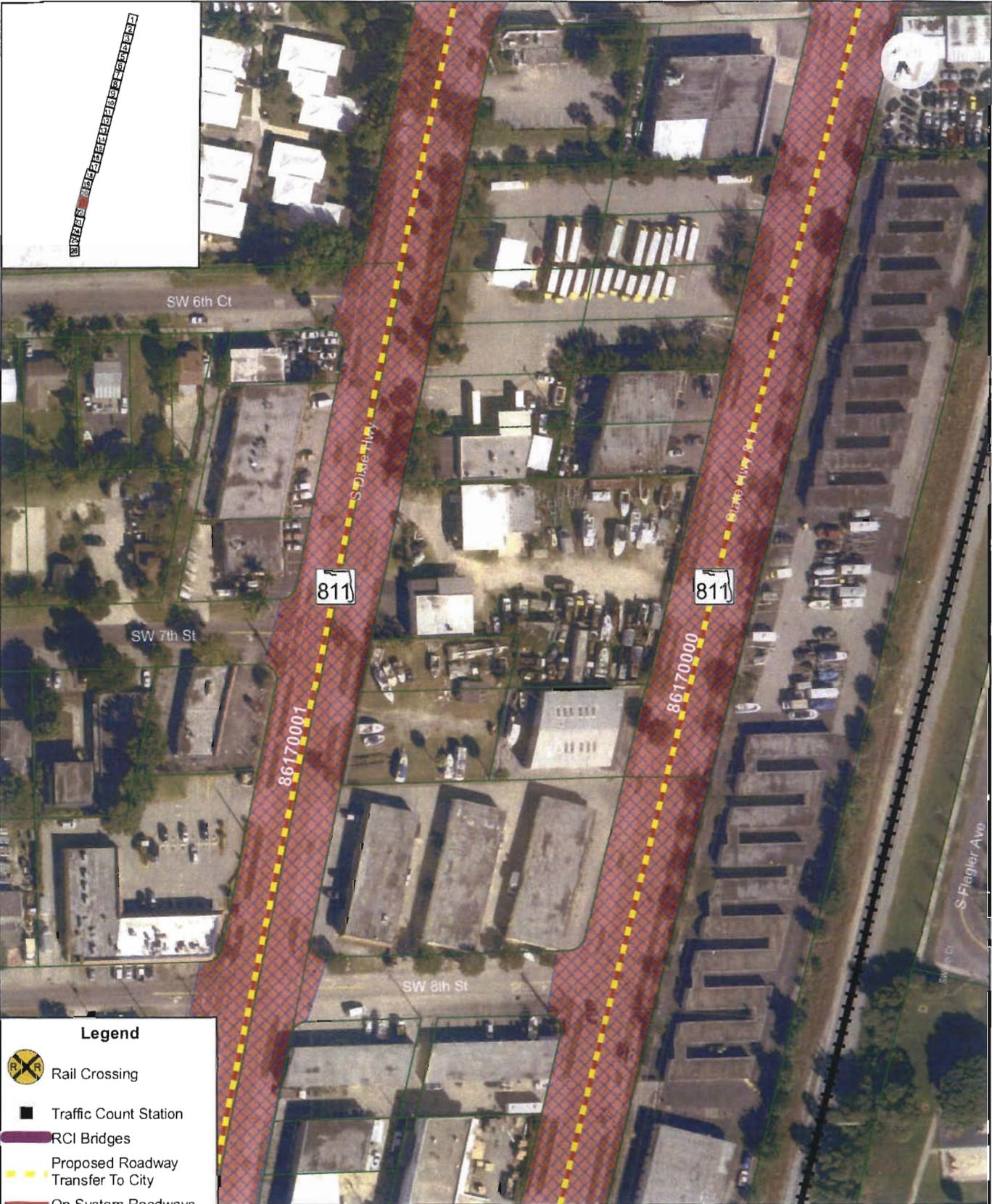
**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 20 of 26  
 Broward County, FL



**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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0 125 250 Feet



**Exhibit B**  
 Location Map Of  
 SR 811 Dixie Hwy  
 Transfer to City  
 Page 21 of 26  
 Broward County, FL



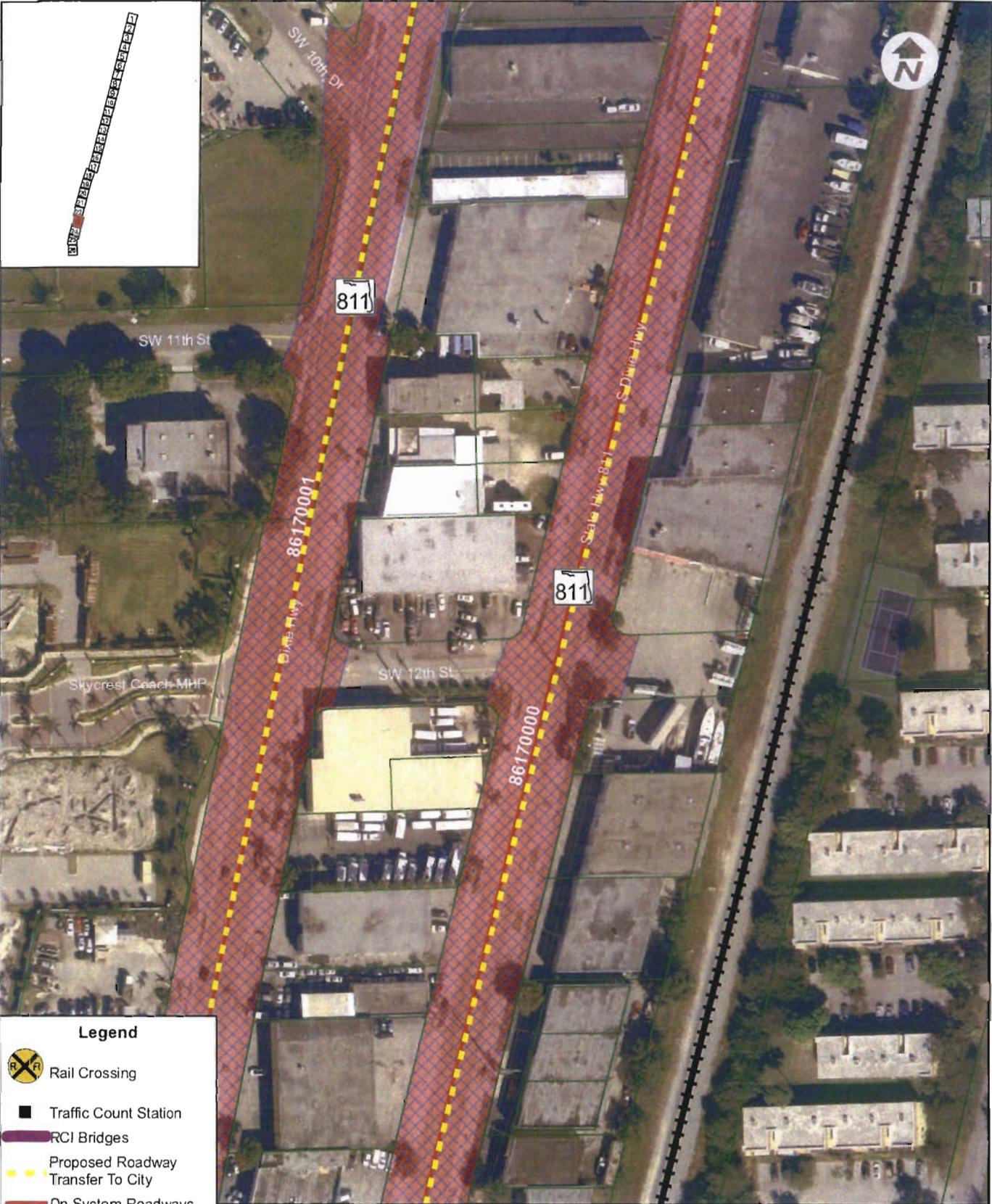
**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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 \_\_\_\_\_ Feet





**Legend**

- Rail Crossing
- Traffic Count Station
- RCI Bridges
- Proposed Roadway Transfer To City
- On System Roadways
- Off System Roadways
- Railroad
- Broward County Parcels
- Proposed ROW Transfer
- FDOT Owned ROW

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0 125 250 Feet









# **EXHIBIT C**

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A ROADWAY TRANSFER AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF POMPANO BEACH FOR THE TRANSFER OF SR 814/ATLANTIC BOULEVARD FROM EAST OF NW 6<sup>TH</sup> AVENUE TO SR A1A (EXCLUDING S.C. FOX MEMORIAL BRIDGE – BRIDGE ID 860157) AND SR 811/DIXIE HIGHWAY FROM NORTHERN LIMIT OF BRIDGE 860032 TO SR 834/SAMPLE ROAD; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Pompano Beach approved the cancelation of two resurfacing projects on S.R. 811/Dixie Highway, FMs 427011-2 and 430606-1, from FDOT’s Work Program on December 15, 2015, approved by Resolution No 2016-83, with the intent to enter into a mutually agreed upon Transfer Agreement to convey and accept designated portions of Atlantic Boulevard from East of NW 6<sup>th</sup> Avenue to S.R. A1A along with a portion of Dixie Highway from McNab Road to Sample Road; now, therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That an Agreement between the State of Florida Department of Transportation and the City of Pompano Beach for a roadway transfer, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement between the State of Florida Department of Transportation and the City of Pompano Beach.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
3/11/16  
l:reso/2016-159

# **EXHIBIT D**



**REAL ESTATE LEASE TO FLORIDA DEPARTMENT OF TRANSPORTATION**

(Land, Inside ROW – Multi Year)

The Real Estate Lease (this “Lease”) is made effective as of this 27<sup>th</sup> day of April, 2010, by and between **FDG Flagler Station II LLC**, a Delaware limited liability company, as successor by merger with FDG ROW Holdings LLC, a Delaware limited liability company (“**FDG**”) and the **Florida Department of Transportation**, an agency of the State of Florida, whose business address is 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309 (“**FDOT**”).

1.A Leased Premises: FDG hereby leases to FDOT and FDOT hereby leases from FDG under the terms and conditions set forth in this Lease, the following described property:

**SEE EXHIBIT A**

**[Attached hereto and made a part hereof]**

All as located within the Florida East Coast Railway, L.L.C. (the “Railway”) right of way (the “ROW”), and a portion of which is as shown on Railway’s Drawing No. F-217 (sheets 1 through 6), dated December 19, 1994, attached hereto as **Exhibit B**, and made a part hereof (collectively with any buildings, facilities and improvements currently or in the future located on the described property, the “Leased Premises”).

1.B Railway is Third Party Beneficiary

The parties hereto agree and acknowledge that (i) FDG and Railway, entered into that certain Grant of Easement (the “Easement”), pursuant to which the Railway granted to FDG certain rights with respect to the ROW, including the right to enter into this Lease, and (ii) the terms and conditions of the Easement require that the Railway shall be a third party beneficiary of this Lease due to the Railway’s continuing use of the ROW. Accordingly, by executing this Lease (with initials set forth below), FDOT agrees to abide by the terms and conditions set forth herein (including, without limitation, those terms and conditions that are for the benefit of the Railway) and that, in addition to the rights and remedies granted FDG herein, the terms and conditions set forth herein shall be enforceable against FDOT by the Railway as a third party beneficiary; and Railway, by its authorized signature affixed hereto does hereby consent to FDG and FDOT entering into the same. Further, unless requested otherwise by FDG and excluding payments hereunder, a copy of each notice request (including requests for consent) and/or delivery made by the FDOT hereunder to FDG shall be simultaneously delivered to the Railway at c/o Director, Industrial Development and Real Estate, Florida East Coast Railway, L.L.C., 7411 Fullerton Street, Suite 110, Jacksonville, Florida 32256.

2. Term

The initial term of this Lease shall be from January 25, 2010 through January 24, 2020 (the “Initial Term”); provided, however, that **FDOT SHALL HAVE NO RIGHT TO POSSESSION OF THE LEASED PREMISES UNTIL** (a) the Rent, as required under the terms

of this Lease, has been delivered to FDG, (b) FDOT has provided FDG with a certificate of insurance evidencing the insurance coverages FDOT is obligated to maintain pursuant to this Lease and (c) the Lease has been fully executed by both FDOT and FDG and a copy of the Lease has been received by FDOT from FDG.

This Lease shall automatically renew after the expiration of the Initial Term and any renewals thereof, for additional twelve (12) month periods (collectively the “Renewal Terms”) unless terminated at least thirty (30) days before the expiration of the Initial Term or Renewal Terms, as the case may be, by furnishing written notice of termination to the other party. Unless FDG indicates otherwise in writing, or it is mutually agreed in writing by FDG and FDOT, the covenants and conditions of this Lease in force during the Initial Term, as the same may be modified from time to time, shall continue to be in effect during all Renewal Terms, except that the annual rent for the Renewal Term beginning January 25, 2020, shall be \$24,990.00, and for any renewals thereafter, the rent shall be increased by five percent (5%) of the rental rate for the term immediately preceding the Renewal Term. Except as set forth in this Paragraph 2, FDOT shall have no expectation of renewal and this Lease may be terminated in accordance with its terms regardless of the length of time FDOT has occupied the Leased Premises, or the construction by FDOT of any buildings, structures, works, paving, barricades or the placement of FDOT’s personal property on the Leased Premises.

3. Rent

(a) Rent

During the Initial Term of this Lease, the FDOT shall pay to FDG a lump sum base rental not more than thirty (30) days after execution of this Lease by all parties. For purposes of prorating base rental if required pursuant to the express terms of this Lease, this lump sum base rental payment is broken out annually as follows:

<u>Effective Date</u>	<u>Base Rental</u>
January 25, 2010	\$ 15,325.00
January 25, 2011	\$ 16,100.00
January 25, 2012	\$ 16,910.00
January 25, 2013	\$ 17,760.00
January 25, 2014	\$ 18,650.00
January 25, 2015	\$ 19,585.00
January 25, 2016	\$ 20,560.00
January 25, 2017	\$ 21,590.00
January 25, 2018	\$ 22,670.00
January 25, 2019	\$ <u>23,800.00</u>
 TOTAL	 \$192,950.00

Rent shall be paid to FDG at FDG Flagler Station II LLC, P.O. Box 864638, Orlando, Florida 32886-4638, or as otherwise indicated on the applicable invoices. THE REQUIREMENT TO PAY RENT AND OTHER PAYMENTS SHALL SURVIVE

EXPIRATION OR TERMINATION OF THIS LEASE UNTIL ALL FDOT'S PROPERTY (AS DEFINED IN PARAGRAPH 14 HEREOF) IS REMOVED FROM THE LEASED PREMISES IN ACCORDANCE WITH THIS LEASE AND THE REQUIREMENTS OF PARAGRAPH 14 OF THIS LEASE ARE MET.

(b) Additional Charges

If FDOT's presence or activities on the Leased Premises causes FDG to incur costs for cleaning, trash removal, inspections, or like expenses, FDOT agrees to pay such cost to FDG on demand the amount of such costs incurred by FDG. Notwithstanding the foregoing, FDOT will pay on demand the greater of the actual inspection costs or \$350.00 for any inspection conducted by FDG or its agents (including representatives of the Railway) on the Leased Premises the results of which show, in FDG's sole determination, a violation of this Lease or any federal, state or municipal law or regulation. FDOT shall also pay on demand the greater of the actual inspection costs or \$350.00 for any follow-up inspections related to the violation.

(c) Late Charge

If any rent or other payment due under this Lease is not received by FDG within ten (10) days of the due date of such payment, FDOT shall pay, in addition to such payment a late charge equal to five percent (5%) of the payment which is past due. If any payment due from FDOT shall remain overdue for more than sixty (60) days, interest shall accrue daily on the past due amount from the date such amount was due until paid or judgment is entered at the rate established pursuant to Section 55.03, Florida Statutes. Interest on the past due amount shall be in addition to and not in lieu of the five percent (5%) late charge or any other remedy available to FDG hereunder, at law and/or in equity.

4. Utility Charges, Taxes, Document Stamps

(a) Utility Charges

All charges on the Leased Premises, due to FDOT usage, for all utilities, including but not limited to water, electricity, telephone, gas, heat, storm water, and sewers and for taxes on FDOT's improvements, if any, shall be paid by FDOT within forty (40) days after date of invoice.

(b) Ad Valorem Taxes

FDOT agrees to pay, within forty (40) days after presentation unto FDOT by FDG, bills for all special assessments, ad valorem taxes and any other taxes of whatsoever kind or nature, if any, levied by the United States of America, State of Florida, any county, municipality or special taxing district organized and existing under the laws of the State of Florida, upon any of the Leased Premises, for FDOT usage or improvements, on a pro-rated basis. All taxes and special assessments, payable on an annual basis, are to be pro-rated by the parties hereto for the year during which this Lease is made, as well as the year in which the same may be terminated.

5. As Is. Maintenance

FDG MAKES NO WARRANTY, REPRESENTATION OR UNDERTAKING, EXPRESSED OR IMPLIED AS TO THE CONDITION OF THE LEASED PREMISES and FDOT, at its sole cost and expense, hereby agrees to put the Leased Premises in such condition for its proposed use and to maintain them in their entirety. The Leased Premises is leased as it currently exists in an AS IS condition and the FDOT, who has inspected the Leased Premises prior to entering into this Lease, accepts the Leased Premises AS IS and shall henceforth be responsible for any and all repairs and maintenance to the land and any buildings, facilities and improvements located thereon. FDOT shall, at its sole cost and expense, obtain any required permits and consents and perform all work required for the preparation of the Leased Premises for occupancy by FDOT, in the absence of any special provision herein contained to the contrary, and FDOT does hereby accept the Leased Premises as now being in fit and leaseable condition for all purposes of FDOT.

FDOT will keep the Leased Premises free and clear of any and all trash, brush and debris of any kind, so as to prevent the trash, brush and debris from becoming dangerous, inflammable or objectionable. FDG shall have no duty to inspect or maintain any of the Leased Premises during the term of this Lease.

FDOT shall have no claim of any kind or description for damages to goods, wares, personal property or merchandise on the Leased Premises from any cause whatsoever, INCLUDING FIRE, STORM, CASUALTY OR ACT OF GOD, OR NEGLIGENCE OF FDG OR THE RAILWAY UNLESS CAUSED BY THE WILLFUL OR INTENTIONAL ACTS OF FDG OR THE RAILWAY.

6. FDOT's Compliance With Law

(a) Zoning and Use Regulation

FDOT will release FDG from any loss, claim or damage which FDOT may sustain arising directly or indirectly by reason of either existing or future zoning or other regulations promulgated by any governmental agency which may adversely affect use by FDOT of the Leased Premises. FDOT shall assume all responsibility for procuring or complying with any ordinance, resolution, order, permit, consent or other such regulation, promulgated by any governmental agency whatsoever, for building or otherwise, required for the use of the Leased Premises or for the construction of any facilities upon the Leased Premises. FDOT shall reimburse FDG and the Railway for any loss or damage suffered by FDG or the Railway for FDOT's failure to properly and completely perform this responsibility.

(b) Other Regulation

FDOT shall comply with all federal, state and municipal regulations as to health, safety, zoning, police, nuisance, fire, water, liquid, solid waste and hazardous waste, highways, sidewalks and other matters, and with the regulations of all persons or corporations supplying water, gas, heat, electricity, telephone, or steam on the premises. FDOT is solely responsible for obtaining any and all federal, state and local licenses, permits, or other authority for its use of the premises and shall reimburse FDG and the Railway for all fines, penalties, expenses, damage and costs directly paid by FDG or the Railway for violation of or failure to comply with any federal,

state or local laws or regulations caused by FDOT. THE PROVISIONS OF THIS PARAGRAPH 6 SHALL SURVIVE THE EXPIRATION OR ANY TERMINATION OF THIS LEASE.

7. Hazardous Materials

FDOT will prevent the presence, use, generation, release, discharge, storage, disposal, or transportation of any Hazardous Materials (as hereinafter defined) on, under, in, above, to, or from the Leased Premises except that Hazardous Materials may be used in the Leased Premises as necessary for the customary maintenance of the Leased Premises provided that same are used, stored and disposed of in the ordinary course of business in strict compliance with applicable laws. For purposes of this provision, the term "Hazardous Materials" will mean and refer to any wastes, materials, or other substances of any kind or character that are or become regulated as hazardous or toxic waste or substances, or which require special handling or treatment, under any federal, state or local laws.

If FDOT's activities at the Leased Premises or FDOT's use of the Leased Premises (a) results in a release of Hazardous Materials that is not in compliance with applicable laws or permits issued thereunder; (b) gives rise to any claim or requires a response under common law or applicable laws or permits issued thereunder; (c) causes a significant public health effect; or (d) creates a nuisance, then FDOT shall, at its sole cost and expense: (i) immediately provide verbal notice thereof to FDG (with a follow-up of written notice to FDG in the manner required by this Lease), which notice shall identify the Hazardous Materials involved and the emergency procedures taken or to be taken; and (ii) promptly take all action in response to such situation required by applicable laws, provided that FDOT shall first obtain FDG's approval of the non-emergency remediation plan to be undertaken. THE PROVISIONS OF THIS PARAGRAPH 7 SHALL SURVIVE THE EXPIRATION OR ANY TERMINATION OF THIS LEASE.

8. Inspection and Access by Railway

FDG shall have the right, at reasonable times and upon reasonable prior notice to FDOT, to enter the Leased Premises for the purpose of examining and inspecting the condition of the Leased Premises and to evaluate FDOT's compliance with the terms and conditions of this Lease. The FDOT agrees and acknowledges that FDG intends to consult with the Railway to confirm whether or not FDOT's use of the Leased Premises is in compliance with the terms of this Agreement, and upon the written request of FDG, FDOT shall work directly with the Railway to resolve any non-compliance issues identified by the Railway. In accordance with the foregoing, each of FDG and the Railway shall have the right at all times to enter the Leased Premises without prior notice to FDOT and take action in the event of any emergency affecting the Leased Premises, including but not limited to leakage of Hazardous Materials or other materials from or onto the Leased Premises, the detection of odors that appear to be coming from the Leased Premises, suspected illegal activity on or use of the Leased Premises for like activities or events. FDOT hereby releases and holds FDG and the Railway harmless from any action taken by FDG and/or the Railway to access the Leased Premises under the conditions set forth herein and/or to control or respond to any emergency affecting the Leased Premises.

9. Signs

FDOT shall not place any signs on the Leased Premises except with the prior written consent of FDG, including consent as to location and design, which may be withheld in FDG's sole discretion. Any and all such approved signs shall be installed and shall be maintained by FDOT, at its sole cost and expense and shall be in compliance with all applicable laws. FDOT shall be responsible to FDG for the installation, use, or maintenance of said signs and any damage caused thereby. Any signs on the Leased Premises shall be considered part of FDOT's Property for purposes of Paragraph 14 hereof and FDOT shall remove said signs in accordance with same prior to termination or expiration of the Lease.

10. RESPONSIBILITY OF FDOT TO FDG

A. General

FDOT hereby agrees to reimburse FDG and Railway for, and defend and hold harmless FDG and the Railway from and against, solely and only to the extent such may be expressly authorized under Section 768.28, Florida Statutes, any and all liability for any loss, injury or damage, including, without limitation, damage to the Leased Premises or to FDOT's property, consequential damage, all costs, expenses, court costs and reasonable attorneys' fees, imposed on FDG and/or the Railway, as applicable, by any person whomsoever that occurs on or in (i) the Leased Premises, or (ii) any lands, buildings, structures, access areas or the like adjacent to the Leased Premises, as a result of or arising from or related in any way to the acts or failure to act of FDOT, its employees, agents or contractors, including any failure to comply with the terms and conditions of this Lease, or the presence of FDOT, its employees, agents or contractors, or the property of any of the same, on the Leased Premises or adjacent areas. Notwithstanding any provision of this Lease to the contrary, the parties hereto understand that FDOT, as a sovereign creature, cannot contractually indemnify and save harmless FDG or Railway or any other party without an express waiver of sovereign immunity by the Florida Legislature, and that as of the date hereof, no waiver of sovereign immunity exists except and to the extent as allowed under Section 768.28, Florida Statutes (2009) for tort. The liability insurance that FDOT is required to carry pursuant to this Lease shall include coverage of the foregoing contractual obligation to defend and hold harmless, solely by the inclusion of FDG and Railway as additional named insureds thereon. THE PROVISIONS OF THIS PARAGRAPH 10.A. SHALL SURVIVE THE EXPIRATION OR ANY TERMINATION OF THIS LEASE.

B. FDOT's Insurance

FDOT will throughout the Initial Term and any Renewal Terms (and any other period when FDOT is in possession of the Leased Premises or has failed to comply with the requirements of Paragraph 14 of this Lease) carry and maintain, at its sole cost and expense, the following types of insurance, which shall provide coverage on an occurrence basis, with respect to the Leased Premises, in the amounts specified with deductible amounts reasonably satisfactory to FDG:

(1) Commercial General Liability Insurance. Commercial general liability ("CGL") insurance covering claims arising from personal injury, death and property damage with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate and insuring against legal liability of the insured with respect to the Leased Premises or arising out of

the maintenance, use or occupancy thereof by FDOT. The CGL policy shall include contractual liability coverage of all such liabilities arising pursuant to this Lease.

(2) Policy Form. All policies referred to above shall: (i) be taken out with insurers licensed to do business in Florida having an A.M Best's rating of A-, Class IX, or otherwise approved in advance by FDG; (ii) be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to FDG and the Railway or any mortgagee; (iv) have all railroad exclusions removed, and (v) contain an obligation of the insurers to notify FDG and the Railway by certified mail not less than thirty (30) days prior to any material change, cancellation, or termination of any such policy. Certificates of insurance on FDG's standard form or, if required by a mortgagee, copies of such insurance policies certified by an authorized officer of FDOT's insurer as being complete and current, SHALL BE DELIVERED TO FDG PRIOR TO FDOT'S USE OF THE LEASED PREMISES hereunder and promptly upon request. If FDOT fails to deliver the required certificates or certified policies, fails to take out or to keep in force any insurance required hereunder, or should any such insurance not be approved by FDG or any mortgagee, then FDG has the right, without assuming any obligation in connection therewith, to procure such insurance at the sole cost of the FDOT, and all outlays by FDG shall be paid by the FDOT to FDG without prejudice to any other rights or remedies of FDG under this Lease. FDOT shall not keep or use in the Leased Premises any article that may be prohibited by any fire, casualty or other insurance policy in force from time to time covering the Leased Premises. FDOT agrees and acknowledges that FDG intends to consult with the Railway to confirm whether or not the insurance maintained by FDOT is in compliance with the terms of this Agreement, and upon the written request of FDG, FDOT shall work directly with the Railway to resolve any non-compliance issues identified by the Railway.

### C. Claims Handling

If a claim or action is made or brought against either party and for which the other party may be responsible hereunder in whole or in part, such other party shall be notified and permitted to participate in the handling or defense of such matter.

### 11. Purpose of Lease

The premises shall be used only for the purpose of construction, maintenance and operation of bus stops, sidewalks, railing, and beautification within the Leased Premises and appurtenances related thereto.

### 12. No Interference with Railway Operations. Reservation of Rights

FDOT's use and/or maintenance of the Leased Premises shall not in any way, or at any time, interfere with or obstruct the use of the Leased Premises or of the ROW by FDG or the Railway or their respective agents, employees, patrons or assigns. The FDOT will not discharge surface water upon any portion of the ROW or any of the Railway's property and/or railroad tracks and FDOT hereby expressly releases FDG and the Railway from liability for any surface water flowing across the ROW. FDOT further agrees not to alter the Leased Premises so

as to cause water to drain or flow onto the ROW or any of the Railway's property nor so as to cause an undermining of the ROW or any adjacent property.

FDOT SHALL NOTIFY FDG BEFORE PERFORMING ANY WORK ON THE LEASED PREMISES. Notification shall be made to [c/o Flagler Development Group, LLC, Attn: Lewis W. Graham, Jr., 10151 Deerwood Park Blvd., Bldg 100, Suite 330, Jacksonville, Florida 32256]. FDOT agrees and acknowledges that FDG intends to consult with the Railway to confirm whether or not the Railway objects to any such work, and upon the written request of FDG, FDOT shall work directly with the Railway to resolve any issues identified by the Railway with respect to such work.

If Railway requires a Railway watchman or flagman be present while work is performed on the Leased Premises, the Railway will provide such watchman or flagman at FDOT's sole cost and expense.

FDOT shall not have or assert any claim or demand whatsoever for compensation or damages to the Leased Premises or to any improvements now or hereafter erected or property located thereon which may be caused by the operation, maintenance, repair, relocation, or removal of the Railway's railroad, its operations or which may be caused by vibration resulting from the operation of said railroad and FDOT releases FDG and the Railway from any liability for any such damage.

Unless specifically set forth in this Lease, no right of way, expressed or implied, over the ROW is granted by this Lease.

It is understood between the parties hereto that FDG reserves unto itself, its successors, permittees, licensees, or other persons, the right to construct and maintain other facilities, including but not limited to pipelines and/or communication cables, over, under and across the Leased Premises, and further, that FDOT shall take no measures to interfere with the construction or maintenance of said facilities and shall at all times allow ingress and egress to the Leased Premises by FDG, the Railway and their respective successors, permittees, licensees or other persons provided that such shall not unreasonably interfere with FDOT's use of the Leased Premises in accordance with the terms hereof.

**FDOT ACKNOWLEDGES THAT THE LEASED PREMISES MAY CONTAIN FIBER OPTIC COMMUNICATION SYSTEMS, RAILWAY SIGNAL AND TRAIN CONTROL CABLES AND OTHER UTILITIES. PRIOR TO ANY DIGGING OR SUBGRADE WORK ON THE LEASED PREMISES, FDOT MUST NOTIFY FDG AND CALL SUNSHINE FOR UTILITY LOCATIONS AT 1-800-432-4770 AND THE RAILWAY SIGNAL DEPARTMENT AT 904-279-3131 FOR SIGNAL AND TRAIN CONTROL CABLE LOCATIONS. PROPER NOTIFICATION IS REQUIRED FOR CABLE LOCATIONS AND FIELD INSPECTIONS TO PROTECT AGAINST DAMAGES.**

### 13. Termination

Either party may, in its discretion, for any reason whatsoever, terminate this Lease at any time by the giving of 30 days prior written notice to the other party. NOTWITHSTANDING

THE FOREGOING, UNTIL THE REQUIREMENTS OF PARAGRAPH 14 OF THIS LEASE ARE MET BY FDOT, SUCH TERMINATION SHALL NOT IN ANY WAY RELEASE FDOT FROM ANY OF ITS OBLIGATIONS UNDER THIS LEASE, INCLUDING BUT NOT LIMITED TO FDOT'S OBLIGATIONS TO PAY RENT AND OTHER CHARGES AND FEES AND MAINTAIN INSURANCE, EACH IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS LEASE. In the event of early termination of the Lease pursuant to this Paragraph 13, FDOT shall be entitled to a refund of any pro-rata rent paid by FDOT to FDG for any unused period of the Initial Term or Renewal Term, which refund FDG shall pay to FDOT within not more than 30 days of FDOT's compliance with any requirements it has under Paragraph 14 of this Lease.

14. Condition of Premises on Termination

FDOT shall not mutilate, damage, misuse, or alter, the Leased Premises, but shall keep the same in good condition and repair. Any and all repairs, alterations or improvements made on the Leased Premises by FDG at FDOT's request shall be at FDOT's sole cost and expense unless otherwise expressly agreed in writing.

Except as otherwise set forth herein, upon the termination or expiration of the Lease, FDOT shall surrender the Leased Premises to FDG in condition acceptable to FDG. PRIOR TO TERMINATION OR EXPIRATION OF THIS LEASE, FDOT shall properly remove all trash, debris, and other waste materials from the Leased Premises. If FDOT is not then in default and if the personal property of FDOT on the Leased Premises (the "FDOT's Property") is not then subject to any other rights, liens or interests of FDG or if removal is not prohibited by law, FDOT shall also properly remove FDOT's Property prior to termination or expiration of this Lease. If FDOT is in default or FDOT's Property is subject to any other rights, liens or interest of FDG, then FDOT shall remove only such of FDOT's Property as FDG shall direct. IN ADDITION, IF FDG SO DIRECTS, FDOT SHALL REMOVE ANY OTHER PROPERTY ON THE LEASED PREMISES, WHETHER SUCH PROPERTY WAS PLACED ON THE LEASED PREMISES BY RAILWAY, FDG OR OTHERS AND WHETHER IT WAS PLACED ON THE LEASED PREMISES PRIOR TO OR DURING THE LEASE TERM (THE "ADDITIONAL PROPERTY"). In no event, however, shall FDOT remove any of the following materials or equipment unless FDG directs otherwise in writing: any power wiring or power panels; lighting or lighting fixtures; millwork and cabinetry; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings; heaters, air conditioners, or any other heating or air conditioning equipment; fencing or security gates; plumbing fixtures, water fountains; or other similar building operating equipment and decorations, structures, foundations, concrete, asphalt or fencing (collectively, "Fixtures"). Should FDG direct FDOT to remove any or all of the Fixtures, whether such Fixtures were placed on the Leased Premises by FDOT, Railway, FDG or others prior to or during the Lease term, FDOT shall properly remove such Fixtures prior to termination or expiration of this Lease. The removal of FDOT's Property, the Additional Property and the Fixtures shall be at FDOT's sole cost and expense. FDOT shall repair, at FDOT's expense, any damage to the Leased Premises caused by the removal of any of FDOT's Property, the Additional Property or the Fixtures. If FDOT fails to remove FDOT's Property, the Additional Property or the Fixtures, in addition to the payment requirements set forth in Paragraph 3 hereof, at FDG's option all or part of FDOT's Property, the Additional Property and/or the Fixtures will become the property of FDG and/or at FDG's option, Railway may cause removal of all or part of FDOT's Property, the Additional Property and/or the

Fixtures from the Leased Premises and/or storage thereof. The reasonable cost or expense of removal and/or storage of any of FDOT's Property, Additional Property or Fixtures shall be paid by FDOT to FDG forthwith upon demand for same.

15. FDOT Improvements

FDOT will not erect or cause to be erected any building or other structure, and will not make or allow to be made any alterations in or to the Leased Premises (collectively, the "Alterations") without first obtaining the written consent of FDG, which consent may be granted provide or withheld in FDG's sole discretion. FDG may require FDOT to provide demolition and/or lien and completion bonds in form and amount satisfactory to FDG. All Alterations shall be accomplished in a good and workmanlike manner at FDOT's sole expense, in conformity with all applicable laws by a licensed and bonded contractor approved in advance by FDG, such approval of contractor not to be unreasonably withheld. ALL CONTRACTORS WORKING ON ALTERATIONS SHALL CARRY SUCH INSURANCE COVERAGES AS REQUIRED UNDER ARTICLE 7-13 OF FDOT'S STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION OTHERWISE APPLICABLE FOR SUCH WORK AND SHALL DELIVER A CERTIFICATE OF INSURANCE EVIDENCING SUCH COVERAGES TO FDG PRIOR TO COMMENCING WORK ON THE LEASED PREMISES. Upon completion of any such work, FDOT shall provide FDG with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials. Any Alterations to the Leased Premises made by or installed by either party hereto will remain upon and be surrendered with the Leased Premises and become the property of FDG upon the expiration or earlier termination of this Lease without credit to FDOT; provided, however, FDG, at its option, may require FDOT to remove or repair any Alterations to restore the Leased Premises to the condition existing at the time FDOT took possession, with all costs of removal, repair, restoration, or alterations to be borne by FDOT. This clause will not apply to moveable equipment, furniture, moveable trade fixtures, or other personal property owned by FDOT, which shall be considered FDOT's Property for purposes of Paragraph 14 and shall be removed by FDOT in accordance with Paragraph 14. FDOT will have no authority or power, express or implied, to create or cause any construction lien or mechanics' or materialmen's lien or claim of any kind against the Leased Premises or any portion thereof or any portion of the ROW. FDOT will promptly cause any such liens or claims to be released by payment, bonding or otherwise, but in any event not more than thirty (30) days after request by FDG, and will indemnify FDG and the Railway against losses arising out of any such claim including, without limitation, legal fees and court costs. NOTICE IS HEREBY GIVEN THAT FDG AND THE RAILWAY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO FDOT, OR TO ANYONE HOLDING THE PREMISES THROUGH OR UNDER FDOT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS WILL ATTACH TO OR AFFECT THE INTEREST OF FDG AND/OR THE RAILWAY IN THE PREMISES. FDOT WILL DISCLOSE THE FOREGOING PROVISIONS TO ANY CONTRACTOR ENGAGED BY FDOT PROVIDING LABOR, SERVICES OR MATERIAL TO THE LEASED PREMISES.

FDOT agrees and acknowledges that FDG intends to consult with the Railway to confirm whether or not the Railway objects to any proposed Alterations, and upon the written request of FDG, FDOT shall work directly with the Railway to resolve any issues identified by the Railway with respect to any such proposed Alterations.

16. Assignment

FDOT will not assign this Lease, in whole or in part, or sublease the Leased Premises, in whole or in part, (except Broward County, a political subdivision of the State of Florida), without the prior written consent of FDG, which consent may be granted or withheld in FDG's sole discretion, and in no event will FDOT be released from any obligation or liability under this Lease following any such assignment or sublease. Along with FDOT's request to FDG to assign this Lease or sublease the Leased Premises, FDOT shall provide, along with any other information and documentation that FDG may request, a copy of the proposed assignment or sublease. No assignee or sublessee of the Leased Premises or any portion thereof, may further assign or sublease its interest in the Leased Premises or any portion thereof. ALL REASONABLE LEGAL FEES AND EXPENSES INCURRED BY FDG IN CONNECTION WITH THE REVIEW BY FDG OF FDOT'S REQUESTED ASSIGNMENT OR SUBLEASE PURSUANT TO THIS PARAGRAPH, TOGETHER WITH ANY LEGAL FEES AND DISBURSEMENTS INCURRED IN THE PREPARATION AND/OR REVIEW OF ANY DOCUMENTATION, WILL BE PAID BY FDOT WITHIN THIRTY (30) DAYS OF INVOICE FOR PAYMENT THEREOF, AS ADDITIONAL RENT, BUT IN NO EVENT, PRIOR TO EXECUTION BY FDG OF THE ASSIGNMENT. If the rent due and payable by any assignee or sublessee under any permitted assignment or sublease exceeds the rent payable under this Lease for such space, FDOT will pay to FDG all such excess rent and other excess consideration within ten (10) days following receipt thereof by FDOT.

17. Care Around Tracks

FDOT shall adopt, monitor and enforce reasonable rules and regulations for the conduct of FDOT's employees, patrons, agents and contractors (including employees thereof) or any other persons using the Leased Premises to protect them from injury while on, about or near any track on or adjoining the Leased Premises and/or the ROW.

18. Destruction or Damage to Leased Premises

If the Leased Premises (which shall not include FDOT's Property or property of a third party) are at any time materially damaged or destroyed by fire or other Acts of God preventing all use of the Leased Premises by FDOT for the purposes set forth in this Lease and the extent of such damage or destruction does not in any way result or arise from the acts or failure to act of FDOT, its employees, agents, invitees, visitors, customers, assignees, sublessees, contractors or subcontractors, FDG shall have sixty (60) days from such damage or destruction to determine in its sole discretion and inform FDOT whether FDG will restore the Leased Premises (excluding any Alterations and/or other improvements constructed by FDOT) to substantially the condition that existed immediately prior to the occurrence of the casualty. If FDG determines not to restore the Leased Premises, it will notify FDOT and FDOT's sole remedy shall be to terminate the Lease upon 30 days prior written notice to FDG. If FDG elects to restore the Leased Premises (excluding any Alterations and/or other improvements constructed by FDOT), it will give FDOT its reasonable estimation of the time it will take to restore the Leased Premises. If in FDG's reasonable estimation, the Leased Premises cannot be restored within two hundred forty (240) days of such damage or destruction, then either party may terminate this Lease by written notice to the other party. Subsequent to FDG's

determination to restore the Leased Premises as set forth herein, and until such restoration of the Leased Premises is complete, there shall be an abatement of the rent. If all or part of the Leased Premises may be used by FDOT for the purposes set forth in this Lease during the period of such restoration, there will be no abatement of rent. In addition, if the damage or destruction was caused by or increased in any way by the acts or failure to act of FDOT, its employees, agents, invitees, visitors, customers, assignees, sublessees, contractors or subcontractors, then FDOT shall be solely responsible for promptly returning the Leased Premises to their former condition and there will be no abatement of rent.

19. Default

(a) DEFAULT BY FDOT. The following will be events of default by FDOT under this Lease:

(1) Failure to pay when due any installment of rent or any other payment required pursuant to this Lease;

(2) Failure to obtain and maintain the insurance required under this Lease;

(3) The filing of a petition for bankruptcy or insolvency under any applicable federal or state bankruptcy or insolvency law; an adjudication of bankruptcy or insolvency or an admission by FDOT that it cannot meet its financial obligations as they become due, or the appointment of a receiver or trustee for all or substantially all of the assets of FDOT; the foregoing shall also apply to any guarantor of this Lease (a "Guarantor"), if any;

(4) A transfer in fraud of creditors or an assignment for the benefit of creditors, by FDOT or any Guarantor;

(5) Any act which results in a lien being filed against all or a portion of the Leased Premises or the ROW;

(6) The liquidation, termination or dissolution of FDOT or any Guarantor of this Lease, or, if FDOT or any Guarantor is a natural person, the death of FDOT or such Guarantor; and

(7) Failure to cure any breach or default of any provision of this Lease (excluding any provision dealing with payment of rents or any other payments hereunder and/or any other provisions dealing with the matters contemplated by subsections (1)-(7) above) within 20 days after written notice thereof to FDOT.

(b) REMEDIES FOR DEFAULT BY FDOT. In the event of any default hereunder by FDOT, then without prejudice to any other rights which it has pursuant to this Lease or at law or in equity, FDG shall have the following rights and remedies, which are cumulative and not alternative:

(1) FDG may terminate this Lease by notice to FDOT and retake possession of the Leased Premises for FDG's account. FDOT shall then quit and surrender the Leased

Premises to FDG in accordance with the requirements of this Lease. FDOT's liability under all of the provisions of this Lease shall continue notwithstanding any expiration and surrender, or any re-entry, repossession, or disposition hereunder, including to the extent legally permissible, payment of all rent and other charges until the date this Lease would have expired had such termination not occurred and the surrender of the Leased Premises in accordance with the requirements of Paragraph 14 and all other requirements of this Lease. If FDG so elects, rent may be accelerated and FDOT shall pay FDG damages in the amount of any and all sums that would have been due for the remainder of the Initial Term and/or any Renewal Term.

(2) FDG may enter the Leased Premises as agent of the FDOT to take possession of any property of the FDOT on the Leased Premises, to store such property at the expense and risk of FDOT or to sell or otherwise dispose of such property in such manner as FDG may see fit without notice to FDOT. FDG shall not be liable in any way in connection with its actions pursuant to this section, to the extent that its actions are in accordance with applicable law.

(3) FDG may relet all or any part of the Leased Premises for all or any part of the unexpired portion of the term of this Lease or for any longer period, and may accept any rent then attainable; grant any concessions of rent, and agree, at FDOT's expense, to paint or make any special repairs, alterations, and decorations for any new FDOT as it may deem advisable in its sole and absolute discretion. FDG shall be under no obligation to relet or to attempt to relet the Leased Premises greater than that imposed by applicable law.

(4) FDG may remedy or attempt to remedy any default of the FDOT under this Lease for the account of the FDOT and FDG (and its agents and/or representatives) may enter upon the Leased Premises for such purposes. No notice of FDG's intention to perform such covenants need be given. FDG shall not be liable to FDOT for any loss or damage caused by acts of FDG in remedying or attempting to remedy such default and FDOT shall pay to FDG all expenses incurred by FDG in connection with remedying or attempting to remedy such default. Any expenses incurred by FDG shall accrue interest from the date of payment by FDG until repaid by FDOT at the highest rate permitted by applicable law.

(c) DEFAULT BY FDG.

In the event of any default by FDG of any material term of this Lease, FDOT will give FDG written notice specifying such default with particularity, and FDG shall have a period of thirty (30) days following the date of such notice in which to commence the appropriate cure of such default. If FDG fails to commence and diligently pursue the appropriate cure of such default after such notice or complete same within a reasonable period of time, FDOT may terminate this Lease upon written notice to FDG. Notwithstanding any provision of this Lease, FDG shall not at any time have any personal liability under this Lease, and FDOT's sole remedy with respect thereto shall be termination of the Lease.

(d) COSTS OF DEFAULT.

(1) FDOT shall pay to FDG on demand all costs incurred by FDG, including reasonable attorneys' fees and costs, (whether incurred in preparation for or at trial, on appeal, or in bankruptcy), incurred by FDG in enforcing any of the

obligations of FDOT under this Lease. In addition, upon any default by FDOT, FDOT shall also be liable to FDG for the expenses incurred by FDG in connection with re-entering the Leased Premises, reletting the Leased Premises and putting the Leased Premises into the condition necessary for such reletting (including attorneys' fees and disbursements, marshal's fees, and brokerage fees, in so doing), and any other expenses reasonably incurred by FDG.

- (2) FDG shall pay to FDOT on demand all costs incurred by FDOT, including reasonable attorneys' fees and costs, (whether incurred in preparation for or at trial, on appeal, or in bankruptcy), incurred by FDOT in enforcing any of the obligations of FDG under this Lease.

(e) WAIVER.

No delay or omission by FDG or FDOT in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default.

20. Hold Over

If FDOT remains in possession of the Premises after expiration of the Initial Term, or any Renewal Terms, without Landlord's consent, FDOT shall be a tenant at sufferance as provided in § 83.04, Florida Statutes, and such tenancy shall be subject to the provisions thereof, except that Base Rent during the holdover period shall be one hundred fifty percent (150%) of the final payment of Base Rent in effect during the final month of the Term, for the period FDOT exercises beneficial use of the Leased Premises. Nothing in this paragraph shall be construed as the consent of Landlord to FDOT's possession of the Premises after the expiration of the Term. In addition to and not limiting any other rights or remedies which Landlord may have on account of FDOT holding over without written consent of Landlord, FDOT shall be liable for any and all direct and consequential damages incurred by Landlord on account of such unapproved holding over including claims by tenants entitled to future possession.

21. Condemnation

If all or a portion of the Leased Premises shall be taken by public or quasi-public authority under any power of eminent domain or condemnation, this Lease, at the option of FDG, shall forthwith terminate and the FDOT shall have no claim or interest in or to any award of damages for such taking.

22. Quiet Enjoyment

If FDOT pays the rent and all other charges and fully performs all of its obligations under this Lease, FDOT shall be entitled to peaceful and quiet enjoyment of the Leased Premises for the full term without interruption or interference by FDG or any person claiming through FDG.

23. No Waiver or Modification

NONE OF THE PROVISIONS HEREOF SHALL BE WAIVED OR MODIFIED, EXCEPT BY MUTUAL AGREEMENT, IN WRITING, AND NO ALLEGED VERBAL OR WRITTEN INDUCEMENT PRIOR TO EXECUTION NOR SUBSEQUENT VERBAL WAIVER, OR MODIFICATION, SHALL BE BINDING UNDER ANY CIRCUMSTANCES. THIS LEASE CONSTITUTES THE ENTIRE UNDERSTANDING OF THE PARTIES AND NEITHER THE FAILURE OF FDG TO ENFORCE EACH AND EVERY PROVISION, NOR ANY COURSE OF CONDUCT BY FDG SHALL BE CONSIDERED AS A WAIVER OF THESE PROVISIONS.

24. Successors and Assigns

The provisions hereof shall be binding upon and inure to the benefit of the successor, executors, administrators and permitted assigns of the respective parties.

25. Special Notice Regarding Radon Gas

FDOT is hereby notified that radon gas is a naturally occurring radioactive gas that, when accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over a period of time. Levels of radon that exceed federal and state guidelines have been found in buildings in the State of Florida. FDOT is further notified that additional information regarding radon gas, and the testing for radon gas, may be obtained from the Public Health Units of the various counties.

26. Restrictions

FDOT agrees that no plants, shrubbery, trees or other vegetation that would obstruct the view of motor vehicles or train crews using a crossing at grade, or interfere with the operation of trains, will be placed on the Leased Premises. In addition to the above restriction, no plants, shrubbery, trees or other vegetation having a height of more than two (2) feet will be placed within two hundred and fifty (250) feet of any at grade street crossing, and if such vegetation exceeds two (2) feet in height, FDG or the Railway may trim such vegetation to a two (2) foot height at FDOT's expense. Plants, shrubbery, trees or other vegetation shall be trimmed by FDOT so as to maintain a distance from the centerline of the nearest track of twenty-five (25) feet and if such vegetation is closer than twenty-five (25) feet from the centerline of the nearest track, FDG or the Railway may trim or remove such vegetation so that no vegetation is within twenty-five (25) feet of the centerline of the nearest track at FDOT's expense. This restriction in no way limits the indemnification requirements set forth in this Lease. Also, no plants, shrubbery, trees or other vegetation of a hazardous or noxious nature that might produce injury to any person coming in contact with said plants, shrubbery, trees or other vegetation will be placed upon the Leased Premises, the ROW or any adjacent property by FDOT. The placement of any wells by FDOT on the Leased Property, the ROW or any adjacent property is strictly prohibited.

27. Notices

Any notice, request or communication (a "Notice") to be given or to be served upon any party hereunder, in connection with this Lease, must be in writing and must be given by certified or registered mail and shall be deemed to have been given and received when a





Signed, sealed and delivered

in the presence of:

Sherry Jones  
Witness as to Railway

Sherry W. Kayne  
Witness as to Railway

FLORIDA EAST COAST RAILWAY, L.L.C.  
A Delaware Limited Liability Company

By: [Signature] (SEAL)

Title: PRESIDENT

Date of Execution: MAR 31, 2010

## EXHIBIT A

Bus Stop Sites: Along Railway's west Right-of-Way line, same being the east line of Dixie Highway varying in width from four to six feet at the following locations:

- (1) MP 327 + 1860 (SW 4<sup>th</sup> Street)
- (2) MP 327 + 3300 (SW 7<sup>th</sup> Street)
- (3) MP 327 + 4696 (SW 10<sup>th</sup> Street)
- (4) MP 328 + 1447 (SW 13<sup>th</sup> Place)
- (5) MP 328 + 2257 (SW 14<sup>th</sup> Place)
- (6) MP 328 + 3951 (NE 51<sup>st</sup> Street)
- (7) MP 328 + 4991 (NE 48<sup>th</sup> Street)
- (8) MP 329 + 1641 (NE 44<sup>th</sup> Street)
- (9) MP 329 + 3196 (Flo East Co Plat No. 2)
- (10) MP 329 + 4468 (NE 38<sup>th</sup> Court)
- (11) MP 329 + 5273 (Sample Road)
- (12) MP 330 + 1353 (NE 33<sup>rd</sup> Street)
- (13) MP 330 + 2383 (NE 31<sup>st</sup> Court)
- (14) MP 330 + 3573 (NE 29<sup>th</sup> Street)
- (15) MP 330 + 5073 (NW 25<sup>th</sup> Court)
- (16) MP 331 + 1985 (NW 27<sup>th</sup> Street)
- (17) MP 331 + 3525 (NW 17<sup>th</sup> Court)
- (18) MP 331 + 4665 (NW 16<sup>th</sup> Street)
- (19) MP 332 + 485 (NW 15<sup>th</sup> Street)
- (20) MP 332 + 2620 (NW 10<sup>th</sup> Street)
- (21) MP 332 + 3840 (NW 6<sup>th</sup> Street)
- (22) MP 332 + 4841 (Hammondville Road)

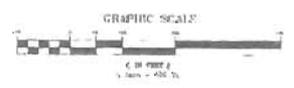
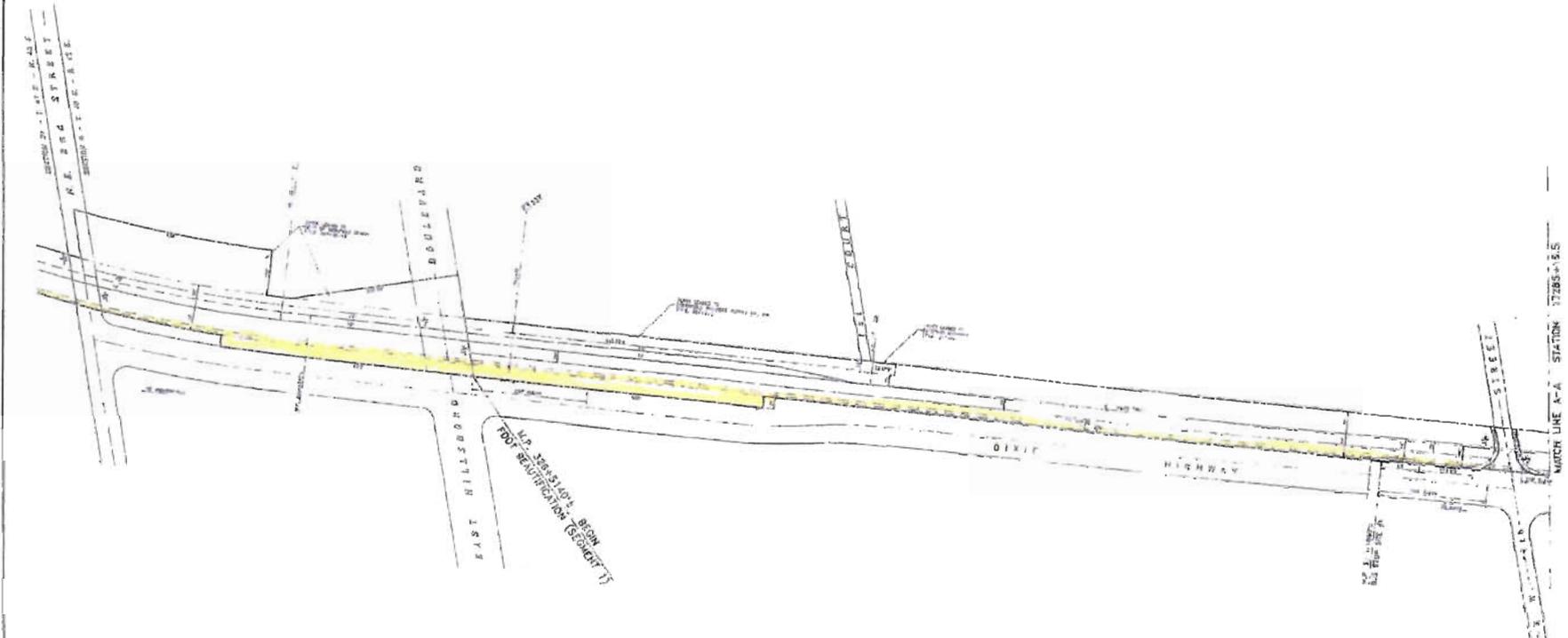
Beautification: That portion of the Florida East Coast Railway's Right-of-Way that lies 25 feet west of the centerline of the westernmost railroad track located on said Railway's Right-of-Way between Jacksonville, Florida, and Miami, Florida, said Right-of-Way being in the City of Pompano Beach, Broward County, Florida, less and except any portions of the Right-of-Way within limits of streets or roadways crossing said Railway's Right-of-Way, all as highlighted on Railway's Drawing No. F-217 (sheets 1 through 6) dated 12/19/94, attached hereto and made a part hereof, and more specifically identified as:

MP 326 + 5140	Begin FDOT Segment 1
MP 331 + 1361	End FDOT Segment 1
MP 331 + 4666	Begin FDOT Segment 2
MP 332 + 5101	End FDOT Segment 2

**EXHIBIT B**

(Railway's Drawing No. F-217 (sheets 1-6))

BROWARD COUNTY, FLORIDA



REVISIONS		
NO.	DATE	BY

**FLORIDA EAST COAST RAILWAY COMPANY**  
 REAL ESTATE & INDUSTRIAL DEVELOPMENT  
 ONE PALMERA STREET, P. O. DRAWER 1049  
 ST. AUGUSTINE, FL 32085-1049

**POMPANO BEACH, FLORIDA**  
 BEAUTIFICATION LEASE WITH  
 THE STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION

DRAWN BY: HAD | INP: J23148224 | SCALE: 1"=100'  
 LDDY: WYBACH | 11/16/2024 | PLS: 337-2-  
 DATE: 12/19/24 | SHEET 1 OF 6 | DWG: 4-102

# BROWARD COUNTY, FLORIDA

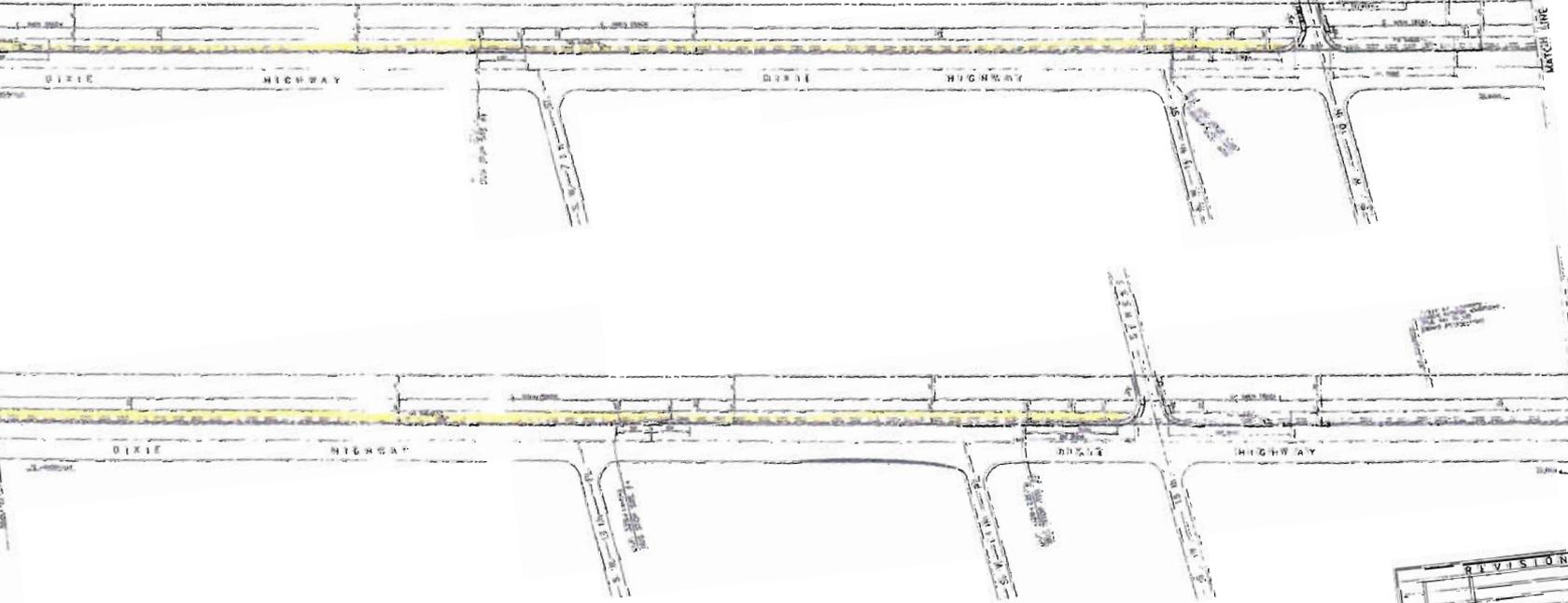


MATCH LINE A-A STATION 17285+16.5

MATCH LINE B-B STATION 17317+35.6

MATCH LINE B-B STATION 17237+35.6

MATCH LINE C-C STATION 17248+35.7



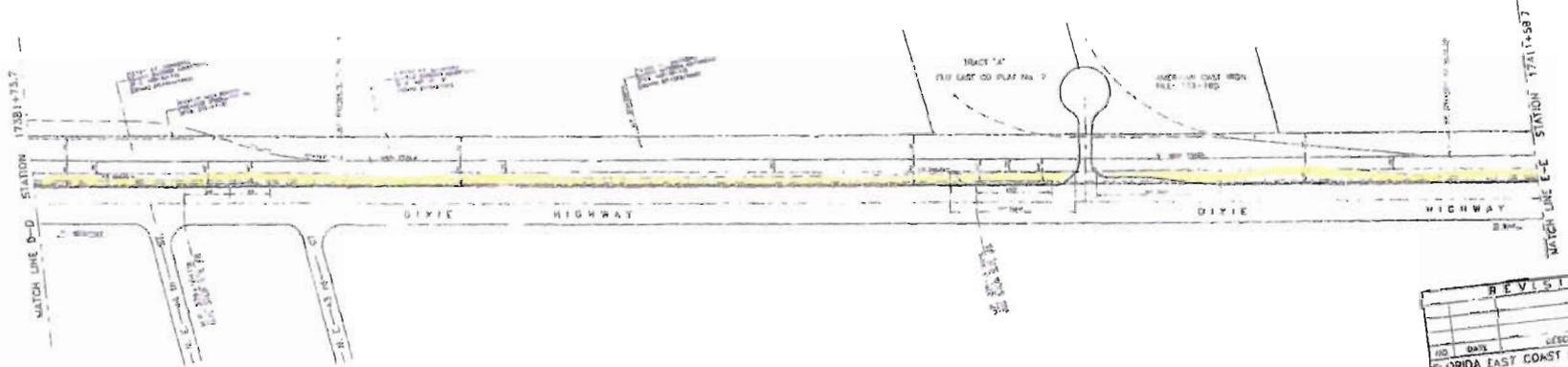
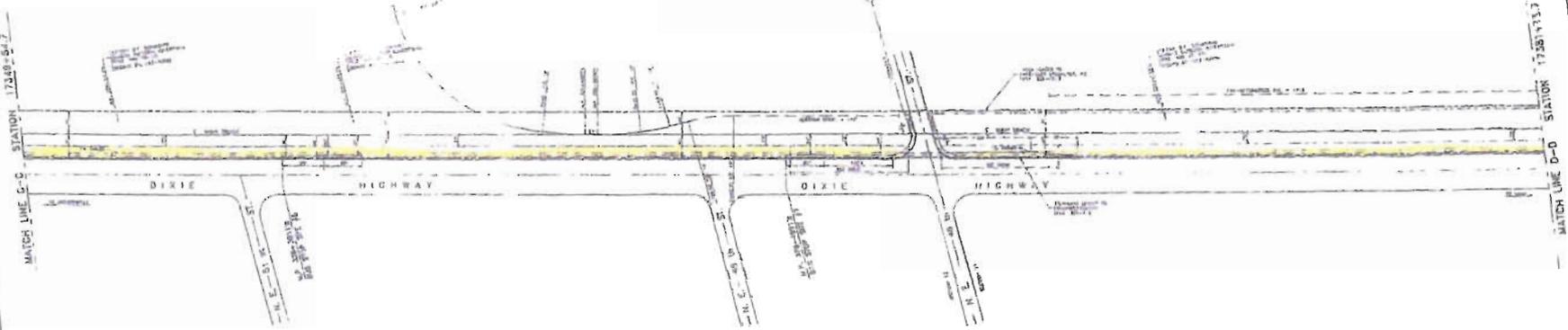
REVISIONS		
NO.	DATE	BY

FLORIDA EAST COAST RAILWAY COMPANY  
 REAL ESTATE & PERSONAL DEVELOPMENT  
 ONE WALKER STREET, P.O. BOXER 1048  
 ST. AUGUSTINE, FL 32085-1048

**POMPANO BEACH, FLORIDA**  
 BEAUTIFICATION LEASE WITH  
 THE STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION

DRAWN BY R.D. LEB. 2/24/03 SCALE: 1"=100'  
 FOOT PROJECT NO. REC70-3923 SHEET 2 OF 4  
 DATE 12/10/01

# BROWARD COUNTY, FLORIDA

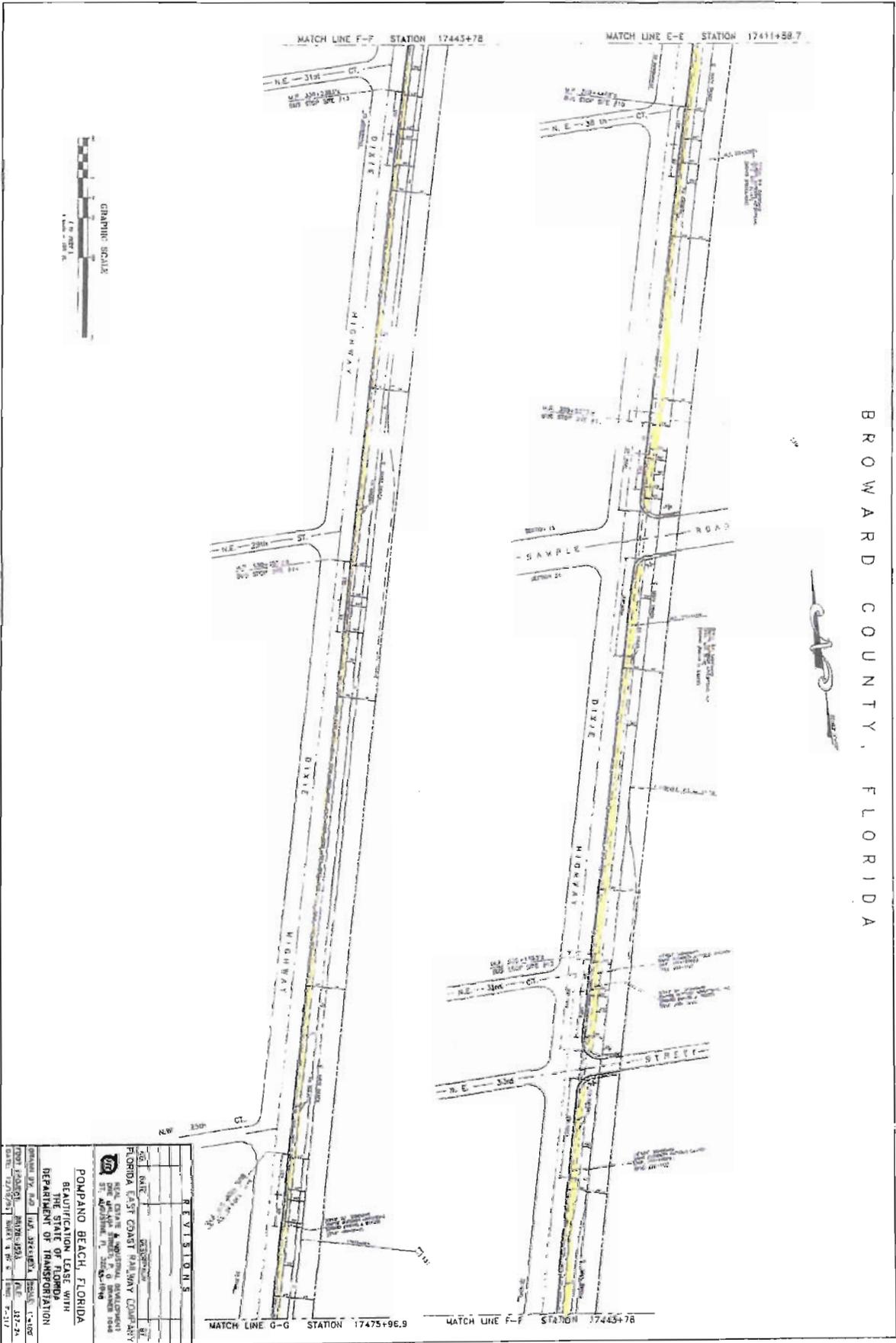


REVISIONS			
NO.	DATE	DESCRIPTION	BY

FLORIDA EAST COAST RAILWAY COMPANY  
 REAL ESTATE & INDUSTRIAL DEVELOPMENT  
 ONE MALAGA STREET, P. O. BOX 1048  
 ST. AUGUSTINE, FL 32085-1048  
**POMPANO BEACH, FLORIDA**  
 BEAUTIFICATION LEASE WITH  
 THE STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION

DRAWN BY: JMB  
 DATE: 12/10/84  
 PROJECT: 88170-2873  
 SHEET: 3 OF 6  
 SCALE: 1"=100'  
 FILE: 227-24  
 DWG: F-317

BROWARD COUNTY, FLORIDA



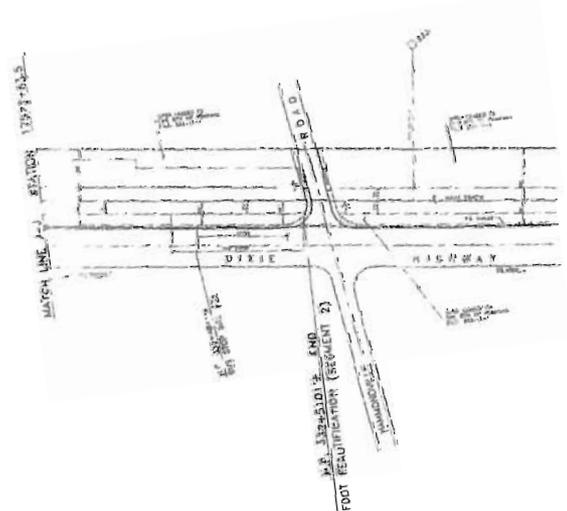
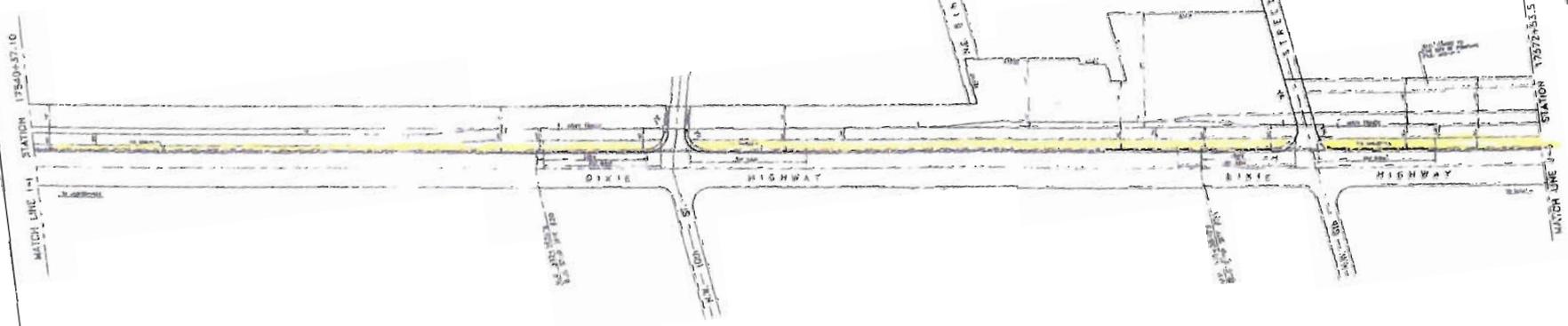
NO.	DATE	REVISIONS

**POMPANO BEACH, FLORIDA**  
 BEAUTIFICATION LEASE WITH  
 THE STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION

PREPARED BY: [Name]  
 CHECKED BY: [Name]  
 DATE: [Date]  
 SCALE: 1"=100'  
 SHEET NO. 2 OF 2  
 PROJECT NO. [Number]



# BROWARD COUNTY, FLORIDA



REVISIONS			
NO.	DATE	DESCRIPTION	BY

IN CHARGE: **FLORIDA EAST COAST RAILWAY COMPANY**  
 DRAWN BY: **ALAN S. SWEET, P. O. DRAWER 1048, ST. AUGUSTINE, FL. 32084-1048**  
**POMPANO BEACH, FLORIDA**  
 BEAUTIFICATION LEASE WITH THE STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION  
 DRAWN BY: **ALAN S. SWEET** SCALE: 1" = 100'  
 FOOT PROJECT: **84125-2522** SHEET: **32-20**  
 DATE: **12/20/84** SHEET # OF: **0** B.G. **7-2017**

# **EXHIBIT E**

## **EXHIBIT F**



*Florida Department of Transportation*

RICK SCOTT  
GOVERNOR

3400 West Commercial Blvd.  
Fort Lauderdale, FL 33309

JIM BOXOLD  
SECRETARY

January 8, 2016

Mr. Robert Bendus, Director and  
State Historic Preservation Officer  
Office of Cultural and Historical Programs  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32301

Subject: **Request for Review**  
Cultural Resource Assessment Survey  
State Road (SR) 811/Dixie Highway and SR 814/Atlantic Boulevard Jurisdictional  
Roadway Transfers  
Broward County, Florida

Attention: Ginny Jones

Dear Ms. Jones:

The FDOT, District 4 is transferring jurisdiction of portions of SR 811/Dixie Highway and SR 814/Atlantic Boulevard to the City of Pompano Beach. The purpose of this cultural resources desktop analysis and reconnaissance survey is to provide cultural resource information to assist in the avoidance of resources listed in, determined eligible for, or considered eligible for listing in the *National Register of Historic Places* (National Register). No other project improvements or activities are associated with this transfer.

The desktop analysis determined that both Areas of Potential Effect (APEs) have a low probability for containing intact archaeological sites. This assessment is based on the absence of previously recorded sites listed in the FMSF, historic imagery, and properties of the soils within each project corridor. The results of the reconnaissance survey confirmed the findings of the desktop analysis. Both project corridors are highly modified and disturbed by modern development. During the field reconnaissance, no archaeological sites were identified and no cultural materials were recovered.

The results of the desktop analysis and reconnaissance survey determined that the previously recorded FEC Railway (8BD4087) is located within both the SR 811/Dixie Highway and SR 814/Atlantic Boulevard roadway transfer. The segment of railway within the SR 811/Dixie Highway transfer is

*Cultural Resources Assessment Survey  
Dixie Highway & Atlantic Boulevard Jurisdictional Transfers  
Broward County*

considered National Register eligible as part of the current study. The segment of the FEC Railway (8BD4087) within the SR 814/Atlantic Boulevard APF has been previously determined National Register eligible by SHPO.

The current project only involves two jurisdictional transfers with no FDOT-sponsored plans for construction or other improvements. If, after acquisition of the property, the City of Pompano Beach plans to improve the road contained within the jurisdictional transfer, then the City will be responsible for coordinating with the FDOT/SHPO and providing a comprehensive evaluation of any cultural resources and potential effects that such an undertaking would have on any such resources.

Should future construction activities uncover any archaeological remains within the project impact area, it is recommended that activity in the immediate area of the remains be stopped while a professional archaeologist can evaluate the remains. In the event that human remains are found during construction or maintenance activities, the provisions of Chapter 872 of the *Florida Statutes* (872.05) will apply.

The District has determined that no historic properties will be affected by the proposed transfers. I respectfully request your concurrence with this determination.

If there are any questions, please feel free to contact me at (954) 777-4324 or Lynn Kelley at (954) 777-4334.

Sincerely,



Ann Broadwell  
Environmental Administrator  
FDOT - District 4

Enclosures  
cc. file

The Florida State Historic Preservation Officer finds the attached Cultural Resources Assessment Report complete and sufficient and concurs with the recommendations and findings provided in this cover letter for SHPO/DHR Project File Number 2016.150.

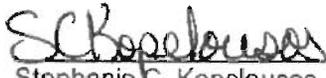
SHPO Comments:


*for*   
**Robert F. Bendus** *Dr Timothy Parsons*  
State Historic Preservation Officer  
Florida Division of Historical Resources

1/25/16  
Date

## **EXHIBIT G**

Approved:

  
Stephanie C. Kopelousos  
Secretary

Effective: January 9, 2008  
Office: Maintenance  
Topic No.: 850-065-001-j

## INSPECTION OF FEDERAL-AID PROJECTS UNDER LOCAL JURISDICTION

### PURPOSE:

To establish a formal process for annual maintenance inspection of any Federal-Aid Projects not on the State Highway System and under local jurisdiction to assure compliance to basic maintenance requirements.

### AUTHORITY:

Title 23, U.S. Code, Section 116; Sections 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)

### SCOPE:

The principal users of this procedure will be Maintenance Engineers/Administrators who will plan, organize, direct, and control maintenance inspection.

### REFERENCES:

The following documents may be used to perform inspection:

Maintenance Rating Program, Procedure No. 850-065-002  
Design Standards, Procedure No. 625-010-003  
Standard Specifications for Road and Bridge Construction  
Maintenance Rating Program Handbook

Copies of these documents may be obtained from Maps and Publications Sales Office, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450, telephone (850) 414-4050. Both procedures may also be found at:

Infonet - <http://infonet/tlofp>

Internet - [www.dot.state.fl.us/proceduraldocuments](http://www.dot.state.fl.us/proceduraldocuments)

## **GENERAL:**

When Federal-Aid funding is involved in a project, the Department must enter into a project maintenance agreement with the Federal Highway Administration (FHWA). When the system on which the project is constructed is under the jurisdiction of a local government, then the local government must enter into a project maintenance agreement with the Department. The District Secretary is responsible for insuring that project maintenance agreements are carried out.

### **1. PROCEDURE**

- 1.1 Projects shall be selected on a random basis from records provided by the District Planning or District Production offices to the District Maintenance Engineer/Administrator. A copy of all maintenance agreements for all Federal-Aid Projects not on the State Highway System and under local jurisdiction will be included. Only routes with expenditures of Federal-Aid Funds completed within the last ten years should be selected.
- 1.2 A minimum of one project in each county shall be inspected during the Department fiscal year for counties having Federal-Aid Projects under local jurisdiction.
- 1.3 The inspection shall include, but not limited to, the maintenance of pavement surface, bridges, slope pavement, sidewalks, drainage structures, shoulders, front slopes and ditches, signs, pavement markings, guardrail, attenuators, utilities and right of way encroachments.
  - 1.3.1 Emphasis should be placed on one of the areas of maintenance, and rotated each year. Any major areas of deficiency shall be identified and reported. The Maintenance Rating Program may be used as a guideline for inspections.
- 1.4 Inspection shall be conducted by Department personnel, together with appropriate county or municipality personnel at a mutually convenient time. However, in the event county or municipality personnel are not available, the inspections should proceed with Department personnel only.
- 1.5 The District maintenance personnel shall analyze the findings and notify the appropriate local jurisdiction of any deficiencies, with copies to the Director, Office of Maintenance, the current FHWA Local District Transportation Engineer and the Division Administrator of the FHWA.

**2. TRAINING**

No training is required by this procedure.

**3. FORMS**

No forms are required by this procedure.