

**RESOLUTION No. 19-252**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE LOCAL FUNDING AGREEMENT BETWEEN THE CITY OF DORAL AND THE FLORIDA TURNPIKE ENTERPRISE, FOR THE CITY'S FUNDING CONTRIBUTION TOWARDS THE CONSTRUCTION OF THE SLIP RAMP OVER DORAL BOULEVARD AT THE NW 41 STREET INTERCHANGE AND FLORIDA'S TURNPIKE; AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE FLORIDA TURNPIKE ENTERPRISE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Public Works Department (PWD) was made aware of a project the Florida Turnpike Enterprise (FTE) had programmed for the widening of the Homestead Extension of the Florida's Turnpike (HEFT); and

**WHEREAS**, the PWD began coordination to request the inclusion of a Slip Ramp over Doral Boulevard that would connect NW 117 Avenue and traffic from NW 25 Street onto the Northbound Turnpike; and

**WHEREAS**, the Florida Department of Transportation (FDOT) advertised and awarded the construction of the project in June of 2019 and construction is to commence in late 2019 on the 6-mile Turnpike widening project; and

**WHEREAS**, the City has funds encumbered for the contribution as shown in the agreement in the amount of \$1,669,675.00; and

**WHEREAS**, staff has coordinated and negotiated the Local Funding Agreement in order to delineate the responsibilities and funding contribution for all parties involved; and

**WHEREAS**, during the negotiations for the Local Funding Agreement, FDOT has agreed to enter into a future Department Funded Agreement where the FDOT will dedicate the Right-of-Way along NW 117 Avenue between NW 25 Street and NW 34 Street to the City of Doral and in return FDOT will reimburse the City in the amount of \$1,000,000 towards the reconstruction of said portion of NW 117 Avenue.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

**Section 2. Approval.** The Local Funding Agreement between the City and Florida's Turnpike Enterprise which includes a contribution towards the construction of the Slip Ramp in an amount of \$1,669,675.00 a copy of which is attached hereto in Exhibit "A", together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

**Section 3. Authorization.** The City Manager is authorized to execute the Local Funding Agreement and expend budgeted funds on behalf of the City.

**Section 4. Implementation.** The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Councilmember Cabral and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Not Present at Time of Vote
Vice Mayor Claudia Mariaca	Yes
Councilwoman Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes

PASSED AND ADOPTED this 8 day of October, 2019.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
LUIS FIGUEREDO, ESQ.  
CITY ATTORNEY

# EXHIBIT “A”

**LOCALLY FUNDED AGREEMENT (Lump Sum)  
BETWEEN  
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF DORAL**

**THIS LOCALLY FUNDED AGREEMENT (“Agreement”)**, is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019 (the “Effective Date”) between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, FLORIDA’S TURNPIKE ENTERPRISE**, an executive agency of the State of Florida (the “DEPARTMENT”), and the **CITY OF DORAL**, a Florida municipal corporation (the “CITY”) (the DEPARTMENT and the CITY may be referred to individually as a “Party” and collectively as the “Parties”).

**RECITALS:**

A. The DEPARTMENT is authorized by Section 334.044(13), Florida Statutes, to coordinate, construct, maintain and operate transportation facilities as part the planning, development, and operation of the State Highway System.

B. The DEPARTMENT is authorized by Section 338.222(2), Florida Statutes, to contract with any local governmental entity as defined in s. 334.03(13) for the design, right-of-way acquisition, or construction of any turnpike project which the Legislature has approved.

C. The DEPARTMENT has legislative authority to enter into this Agreement pursuant to Sections 334.044, 338.2216 and 339.12, Florida Statutes.

D. The CITY can utilize funds available to the CITY to fund projects on the State Highway System pursuant to Section 339.12, Florida Statutes.

E. The DEPARTMENT has funded the construction for the widening of State Road 821 / Homestead Extension of Florida’s Turnpike (“HEFT”) from State Road 836 to south of NW 106th Street (hereinafter referred to as the “PROJECT”) for construction in Fiscal Year 2019. The financial project identification number for the PROJECT is 435543-1-52-01.

F. The CITY desires to have (i) NW 117th Avenue reconfigured to a single lane roadway, accommodating northbound traffic movements only, between NW 34th Street and NW 50th Street, and a single-lane bridge constructed over NW 41st Street (“DORAL RAMP”), and (ii) a slip ramp constructed to accommodate traffic movements from NW 117th Avenue to northbound SR 821 / HEFT (“SLIP RAMP”), to provide connectivity over NW 41st Street, and to facilitate improved access for traffic moving both east and west along NW 25th Street to SR 821 / HEFT.

G. The CITY requested that the DEPARTMENT re-evaluate the plans for the PROJECT to consider the appropriateness and feasibility of the DORAL RAMP and the SLIP RAMP, and, if approved through a re-evaluation of the State Environmental Impact Report (“SEIR”), modify the PROJECT to include the DORAL RAMP and the SLIP RAMP.

H. The DEPARTMENT conducted a re-evaluation of the SEIR, and prepared plans incorporating the DORAL RAMP and the SLIP RAMP into the PROJECT, as authorized by the SEIR re-evaluation. A conceptual rendering of the DORAL RAMP and the SLIP RAMP is attached hereto as Exhibit “A” for illustrative purposes only.

I. Construction of the SLIP RAMP, as approved by the SEIR re-evaluation, is conditioned upon the CITY’S agreement to provide funding for costs of the SLIP RAMP. The required studies, design, and construction, and any and all other activities the DEPARTMENT determines necessary, or agrees upon request of the CITY to perform, to incorporate the proposed SLIP RAMP into the PROJECT are referred to in this Agreement as the “SLIP RAMP IMPROVEMENTS.”

J. The CITY, by Resolution No. \_\_\_\_\_, dated \_\_\_\_\_, and attached hereto as Exhibit “B,” has authorized its \_\_\_\_\_ to execute this Agreement on its behalf.

**AGREEMENT**

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the Parties hereby agree as follows:

1. The Recitals stated above are true and correct and are incorporated in this Agreement.

**General Requirements**

2. The DEPARTMENT will administer and construct the PROJECT in accordance with the contract plans on file with the DEPARTMENT and incorporated herein by reference, subject to any modifications thereto that may be approved by the DEPARTMENT in the normal course of construction. Nothing in this Agreement shall be construed as requiring the DEPARTMENT to perform any activity or service which is outside the scope of the PROJECT as described herein. The DEPARTMENT’s activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The CITY shall not have any jurisdiction or control over the DEPARTMENT’s activities, except as specifically provided in this Agreement.

3. All design, installation, testing, and any other services, opinions, reviews, or comments provided by the DEPARTMENT in connection with the PROJECT and SLIP RAMP IMPROVEMENTS are provided “AS IS, WHERE IS” with no implied or express warranty of any nature, including, but not limited to any implied warranty of merchantability, noninfringement or fitness for a particular purpose. The DEPARTMENT shall have no liability in connection with any errors or defects in any service or deliverable on account of any claim (whether based upon principles of contract, warranty, or otherwise) for any special consequential, incidental, or exemplary damages, including but not limited to revenue or lost profits, and the CITY expressly and irrevocably waives any and all claims against the DEPARTMENT with respect to any service, installation, deliverable, comment, or advice received hereunder.

4. The CITY shall execute all necessary DEPARTMENT agreements to effectuate the completion of the PROJECT and inclusion of the SLIP RAMP IMPROVEMENTS in the PROJECT, including, but not limited to, interchange agreements, right of way agreements, construction agreements, operations agreements, maintenance agreements, permits, and aerial/airspace agreements, each at no cost to the DEPARTMENT.

5. The DEPARTMENT'S Notice to Proceed for construction of the SLIP RAMP IMPROVEMENTS will be issued after the receipt, authorization and encumbrance of funding received from the CITY pursuant to this Agreement.

6. The DEPARTMENT has sole authority to procure design professional services and construction work required for the PROJECT and the SLIP RAMP IMPROVEMENTS.

7. The DEPARTMENT has sole authority to procure the Construction Engineering and Inspection (CE&I) services for the PROJECT and the proposed SLIP RAMP IMPROVEMENTS.

8. The DEPARTMENT's Standard Specifications for Road and Bridge Construction, Florida Design Manual, Design-Build guidelines (if applicable), and Turnpike Design Handbook shall govern the design and construction of the PROJECT and the SLIP RAMP IMPROVEMENTS.

9. The DEPARTMENT shall not be responsible for any costs associated with aesthetic enhancements to structures, roadway elements, or landscaping for the PROJECT or the SLIP RAMP IMPROVEMENTS beyond the standard DEPARTMENT guidelines. Any construction and maintenance costs associated with aesthetic enhancements over and above DEPARTMENT guidelines shall be the responsibility of the requesting party. The DEPARTMENT will request the contractor for the PROJECT and SLIP RAMP IMPROVEMENTS to provide such enhancements only after the requesting party has provided the DEPARTMENT the additional funding needed and after the requesting party has executed a maintenance agreement for such enhancements.

10. The DEPARTMENT will maintain the MSE walls and ramp from the takeoff point on NW 117th Avenue, the new bridge over NW 41st Street and the MSE walls and ramp that connects the bridge to northbound HEFT as shown in Exhibit "C." The CITY will maintain the SLIP RAMP from the gore of the SLIP RAMP to the landing point on NW 117th Avenue as shown in Exhibit "C." The Department and the City agree that all maintenance obligations set forth in this Agreement shall be perpetual and shall survive the expiration or earlier termination of this Agreement, in accordance with the laws of the State of Florida. Nothing in this Agreement shall be construed to convey ownership of any portion of Florida's Turnpike System to the CITY.

11. Except as otherwise stated in this Agreement, this Agreement shall continue in effect and be binding on the CITY and the DEPARTMENT.

### **Financial Provisions**

12. The CITY agrees that it will pay the DEPARTMENT One Million Six-Hundred Sixty-Nine Thousand Six Hundred Seventy-Five Dollars and 00/100 (\$1,669,675.00) (the "CITY DEPOSIT"), within fourteen (14) calendar days of the Effective Date of this Agreement, to be used for the estimated costs of the SLIP RAMP IMPROVEMENTS. The DEPARTMENT may utilize the CITY DEPOSIT for payment of the construction, CEI, and post-design costs of the SLIP RAMP IMPROVEMENTS.

13. If the actual cost of the SLIP RAMP IMPROVEMENTS is less than the funds provided, the excess will be applied to other phases of the PROJECT.

14. The payment of cash funds under this Agreement will be made directly to the DEPARTMENT for deposit. Note: funds can be wired to the DEPARTMENT using the account codes below:

Wells Fargo Bank, N.A.  
Account # 4834783896  
ABA # 121000248  
Chief Financial Officer of Florida  
Re: DOT – K 11-78, Financial Project: 435543-1-52-01

15. The provisions of Section 339.135(6)(a), Florida Statutes, which follow are included in this Agreement:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."

### **Revenue Rights / Access**

16. All toll revenue generated by the SLIP RAMP shall be the sole property of the DEPARTMENT. The CITY shall not establish toll collection facilities on any portion of the new SLIP RAMP.

17. No access to the SLIP RAMP, other than at public access points, subject to the same conditions as public users, shall be had by the CITY, except as authorized by this Agreement or as otherwise authorized in writing by the DEPARTMENT.

**Miscellaneous**

18. Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Parties' respective sovereign immunity protections, or as increasing the limits of liability under Section 768.28, Florida Statutes.

19. The receipt of federal funds by the CITY for use in the planning, design, or construction of the PROJECT or the SLIP RAMP IMPROVEMENTS, or for any other purpose in connection therewith, shall constitute a material alteration of this Agreement and the DEPARTMENT shall have the right at its discretion, to terminate this Agreement, deny any of its approvals hereunder, and in the event the DEPARTMENT has granted any approval hereunder, to withdraw such approval.

20. All formal notices, proposed changes and determinations between the Parties hereto and those required by this Agreement, including, but not limited to, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by certified United States mail, postage prepaid, to the parties at the contact information listed below:

**TO CITY**

City Manager  
City of Doral  
8401 NW 53rd Terrace  
Doral, Florida 33166

With Copy to:

City Attorney  
City of Doral  
8401 NW 53rd Terrace  
Doral, Florida 33166

**TO DEPARTMENT:**

Executive Director  
Florida's Turnpike Enterprise  
Turnpike Headquarters -Bldg. 5315  
P.O. Box 613069  
Ocoee, FL 34761-3069

With Copy to:

Turnpike Chief Counsel  
Turnpike Headquarters -Bldg. 5315  
P.O. Box 613069  
Ocoee, FL 34761-3069

21. This Agreement shall be governed by the laws of the State of Florida in terms of interpretation and performance. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of this Agreement shall lie exclusively in the Circuit Court in and for Leon County, Florida.

22. Neither party may assign, pledge, or transfer any of the rights, duties and obligations provided in this Agreement without the prior written consent of the other party. Nothing herein shall prevent the DEPARTMENT or CITY from delegating their duties hereunder, but such delegation shall not release the DEPARTMENT or CITY from their obligation to perform this Agreement.

23. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein.

24. This instrument, together with the attached exhibits and documents made part hereof by reference, contain the entire agreement of the Parties and no representations or promises have been made except those that are specifically set out in this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter of this Agreement, and any part hereof, are waived, merged herein and superseded hereby.

25. By their signatures below, the Parties hereby acknowledge the receipt, adequacy, and sufficiency of consideration provided in this Agreement and forever waive the right to object to or otherwise challenge the same.

26. The failure of either of the Parties to insist on one or more occasions on the strict performance or compliance with any term or provision of this Agreement shall not be deemed a waiver or relinquished in the future of the enforcement thereof, and it shall continue in full force and effect unless waived or relinquished in writing by the party seeking to enforce the same.

27. No term or provision of this Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.

28. If any section, paragraph, clause or provision of this Agreement is adjudged by a court, agency or authority of competent jurisdiction to be invalid, illegal or otherwise unenforceable, all remaining parts of this Agreement shall remain in full force and effect and the parties shall be bound thereby so long as principle purposes of this Agreement remain enforceable.

29. A modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement.

30. This Agreement shall become effective when all Parties have signed the same. The date this Agreement is signed by the last party to sign it shall be inserted at the opening of this Agreement and shall be the Effective Date of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement for the purposes herein expressed on the dates indicated below.

**CITY OF DORAL**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Executive Director and Chief Executive  
Officer, Florida's Turnpike Enterprise  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Attest:  
\_\_\_\_\_  
\_\_\_\_\_

Attest:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
City Clerk

Executive Secretary  
Title

\_\_\_\_\_  
Date

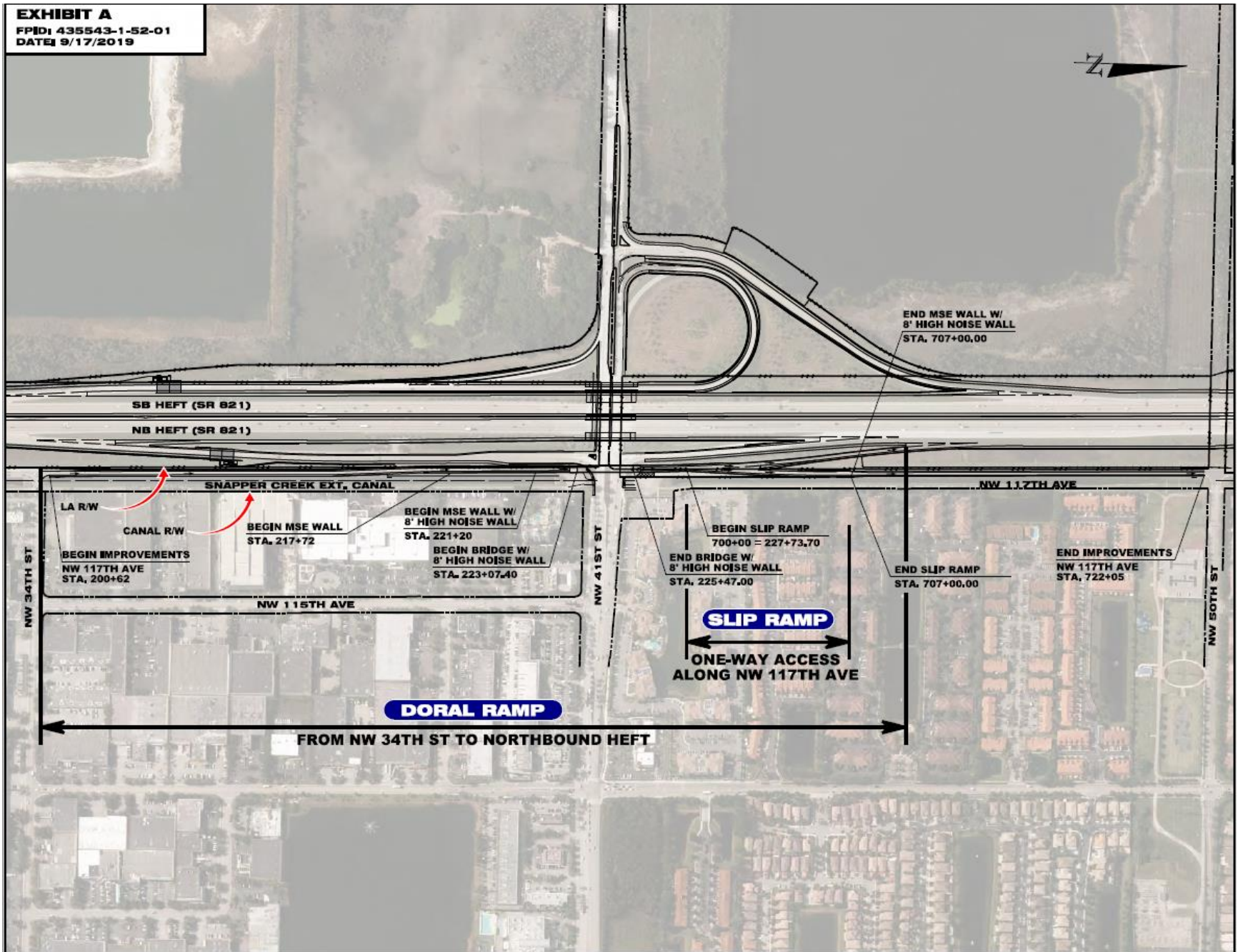
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Date

LEGAL REVIEW:  
\_\_\_\_\_

LEGAL REVIEW:  
\_\_\_\_\_



EXHIBIT "A"



**EXHIBIT "B"  
RESOLUTION**



EXHIBIT "C"

