

Appendix H

Real Estate Report



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**Tamiami Trail Modifications: Next Steps
Everglades National Park**

REAL ESTATE PLAN

APPENDIX H

October 14, 2010

10/2010 lhz

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TABLE OF CONTENTS

1. STATEMENT OF PURPOSE	1
2. AUTHORIZATION.....	1
3. PROJECT DESCRIPTION	1
4. PUBLICLY OWNED LAND	2
A. FEDERAL.....	2
B. NON-FEDERAL.....	2
5. ESTATES.....	2
A. STANDARD ESTATES	2
6. NAVIGATION SERVITUDE	3
7. PROJECT MAP.....	4
8. INDUCED FLOODING	4
9. REAL ESTATE BASELINE COST ESTIMATE	4
10. RELOCATION ASSISTANCE BENEFITS	4
11. MINERALS	5
12. REAL ESTATE MILESTONES	5
13. RELOCATIONS OF ROADS, BRIDGES, UTILITIES, TOWNS AND CEMETERIES.....	5
A. ROADS.....	5
B. BRIDGES	5
C. UTILITIES	5
D. TOWNS OR CEMETERIES	5
14. PRESENCE OF CONTAMINANTS (HAZARDOUS, TOXIC AND RADIOACTIVE WASTES).....	5
15. ATTITUDE OF LANDOWNERS	6
16. M-CACES.....	6

PLATES

1. PROJECT LOCATION

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1. STATEMENT OF PURPOSE

a. This Real Estate Plan is tentative in nature for planning purposes only and both the final real property acquisition lines and the real estate cost estimates provided are subject to change even after approval of this special report.

2. AUTHORIZATION

H.R. 1105: Omnibus Appropriations Act of 2009 (P.L. 111-008, dated March 11, 2009) that directs the Secretary of the Interior, acting through the National Park Service (NPS) “to immediately evaluate the feasibility of additional bridge length, beyond that to be constructed pursuant to the Modified Water Deliveries to Everglades National Park Project (16 U.S.C. § 410r-S), including a continuous bridge, or additional bridges or some combination thereof, for the Tamiami Trail (U.S. Highway 41) to restore more natural water flow to Everglades National Park and Florida Bay and for the purpose of restoring habitat within the Park and the ecological connectivity between the Park and the Water Conservation Areas.”

3. PROJECT DESCRIPTION

Under the Modified Waters Deliveries to Everglades National Park Project, authorized by the Everglades National Park Protection and Expansion Act of 1989, water deliveries to the ENP will be improved as a step to restore natural hydrologic conditions and increased flows to the ENP. Water from Water Conservation Area 3B will enter the L-29 Canal, pass under Tamiami Trail and enter the ENP. This current study investigates bridge and road modifications that would be subsequent to and in addition to the Modified Water Deliveries project.

The study area is located in the west central portion of Miami-Dade County, Florida. The areas subject to direct impacts from the project are on either side of U.S. Highway 41, Tamiami Trail. The Tamiami Trail, the L-29 Canal and the L-29 Levee on the north side of the canal form the southern boundary of Water Conservation Area (WCA) 3B. The south side of the Tamiami Trail is bounded primarily by ENP.

The limits of the project begin at S-334 slightly more than one mile west of the intersection of Krome Avenue (State Road 997) and the Tamiami Trail and extend westward along the highway approximately 10.7 miles to Water Control Structure S-333. The L-29 Canal (Tamiami Canal) runs along the north side of the Tamiami Trail through this area. The project limits are bounded at each end by water control structures, S-333 on the west and S-334 on the east.

Alternative 6E contains approximately a 5.4 miles of bridges as well elevating and widening the remaining 10.7 miles of roadway to withstand a design high water of 9.7 feet NGVD 29. This includes a 2.6 mile bridge between Osceola and Airboat Association, a 0.4 mile bridge between Airboat Association and Gator Park, and a 1.73 mile bridge between Gator Park and the western side of the 1 mile Modified Water Deliveries Tamiami Trail Bridge, and a 0.65 mile bridge between the eastern end of the 1 mile Modified Water Deliveries Tamiami Trail Bridge and the eastern edge of the project area at S-334. This alternative includes down ramps at Everglades Safari and Coopertown.

There are five privately owned parcels located along the trail that are authorized for acquisition by Department of Interior (DOI) as part of Everglades National Park Protection and Expansion Act of 1989. The DOI, thru the National Park Service, is evaluating through a General Management Plan, the appropriate use and disposition of these parcels. Specifically, Section 103. (d) of the Everglades National Park Protection and Expansion Act of 1989 authorizes DOI to “negotiate and enter into concession contracts with the owners of commercial airboat and tour facilities in existence on or before January 1, 1989..”. DOI and the landowners may enter into such agreements. The general management plan is addressing this issue.

Current owners of these parcels are identified as: Salem Communications (fka Radio One), Coopertown, Gator Park, Everglades Safari and Lincoln Financial (fka Jefferson Pilot Communication Site).

The Airboat Association of Florida is the owner of a piece of land that lies within the area determined to possibly be affected by the project. A flowage easement will be necessary for project purposes. This particular parcel was specifically excluded from the boundary of the Everglades National Park map at or about the time Public Law 101-229 was enacted.

4. PUBLICLY OWNED LAND

A. FEDERAL

The Department of Interior, National Park Service, Everglades National Park owns lands south of Tamiami Trail.

B. NON-FEDERAL

Lands immediately north of the project are owned in fee or controlled by South Florida Water Management District.

Florida Department of Transportation owns or controls lands within the existing roadway.

5. ESTATES

Fee Simple is considered the appropriate real estate requirement for all properties except the Airboat Association of Florida. This property will require a flowage easement. The other estates are included to account for an interest required for roadway modifications, disposal areas, and potential staging or construction areas.

A. STANDARD ESTATES

FEE

The fee simple title to (the land described in Schedule A) (Tracts Nos. ____, ____ and ____), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

PERPETUAL FLOWAGE EASEMENT

The perpetual and assignable right, power, privilege and easement permanently to overflow, flood and submerge Tract No. 500E (and to maintain mosquito control) in connection with the operation and maintenance of the federal and state project(s) as authorized, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the representative of the United States or its non-federal local sponsor in charge of the project, may be detrimental to the project, together with all right, title and interest in and to the timber, structures and improvements situate on the land excepting (none); provided that no structures for human habitation shall be constructed or maintained on the land below ____ feet NGVD, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States or its non-federal local sponsor in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across (*The land described in Schedule A*) (*Tracts Nos. _____, _____ and _____*), for a period not to exceed ____ months, beginning with date possession of the land is granted to the United States, its representatives, agents and contractors as a work area, including the right to move, store and remove equipment and supplies and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of _____ Project, together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

PERPETUAL ROAD ACCESS EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across the land described in Schedule A (and known as Tract _____) for the location, construction, operation, maintenance, alteration, replacement of a road and appurtenances thereto; together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines

TEMPORARY ACCESS ROAD EASEMENT

A temporary and assignable easement and right-of-way in, on, over and across the land described in Schedule A (Tract _____) for a period not to exceed _____ months, beginning with date possession of the land is granted to the United States, its representatives, agents and contractors for the location, construction, operation, maintenance, alteration, replacement of a road and appurtenances thereto; together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

6. NAVIGATION SERVITUDE

During the preparation of the 1992 General Design Memorandum and Environmental Impact Statement for the Modified Water Deliveries to Everglades National Park, the title to the lands within the Water Conservation Areas (lands north of Tamiami Trail), the title to lands within the L-29 levee and borrow canal, title to the lands underlying Tamiami Trail were investigated. Title to all these lands were derived from the patents issued by the United States of America to the State of Florida pursuant to the Swamp and Overflowed Lands Act of 1850 (codified in Title 43 U.S.C. 981 et seq.). Section 983 of Title 43 put a duty on the Secretary of Interior to make accurate lists and plats of all such lands (*Swamp and Overflowed Lands*), to transmit the lists and plats to the governor of the State and then at the request of the governor to issue patents to the state to convey the land in fee to the state. Under Florida law, Swamp and Overflowed lands were not considered sovereign lands and could be sold to private parties. Most of the lands south of Lake Okeechobee fit into the lands designated by the United States as Swamp and Overflowed lands conveyed to the State and then sold by the state to private developers or private parties.

It was determined that the Secretary of Interior had designated all the lands as Swamp and Overflowed lands.

No land in the project area is subject to the navigation servitude.

7. PROJECT MAP

Refer to Appendix ___ for proposed project map.

8. INDUCED FLOODING

It has been determined that project implementation will cause an increase in duration in the water elevations on lands south of Tamiami Trail, located in the Everglades National Park Expansion Area, being acquired by the National Park Service and on lands owned by the Airboat Association of Florida.

During preconstruction engineering and design of the project, lands subjected to induced flooding will be analyzed to determine if structural solutions consistent with restoration would be more cost effective than real estate acquisition. Flood proofing such as modifications to site and structure elevations will be utilized whenever feasible to limit the possibility of impacts. Further analyses will be conducted to determine where structural solutions can be implemented. Relocation assistance will be provided to affected residents and businesses in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646).

9. REAL ESTATE BASELINE COST ESTIMATE

Real Estate costs are administrative and acquisition costs associated with the relocation of the portion of Tamiami Trail. Costs shown are worse case scenario costs. The actual costs may vary drastically.

Lands and Damages	\$16,255,000
Acquisition/Administrative Costs	
Federal	\$ 285,620
Public Law 91-646 Payments	\$ 1,507,000
Contingencies (40%)	\$ 7,219,048
Total Estimates Real Estate Costs (Rounded)	\$25,300,000

Note: A 40% contingency has been added to account for unknowns at the time of writing this appendix. A further discussion of those potential issues will be provided when available.

10. RELOCATION ASSISTANCE BENEFITS

There are five privately owned parcels located along the trail that are authorized for acquisition by Department of Interior (DOI) as part of Everglades National Park Protection and Expansion Act of 1989. The DOI, thru the National Park Service, is evaluating through a General Management Plan, the appropriate use and disposition of these parcels. Specifically, Section 103. (d) of the Everglades National Park Protection and Expansion Act of 1989 authorizes DOI to "negotiate and enter into concession contracts with the owners of commercial airboat and tour facilities in existence on or before January 1, 1989..". DOI and the landowners may enter into such agreements. The general management plan is addressing this issue. Current owners of these parcels are identified as: Salem Communications (fka Radio One), Coopertown, Gator Park, Everglades Safari and Lincoln Financial (fka Jefferson Pilot Communication Site).

The Airboat Association of Florida is the owner of a piece of land that lies within the area determined to possibly be affected by the project. A perpetual flowage easement will be necessary for project purposes. This particular parcel was specifically excluded from the

boundary of the Everglades National Park map at or about the time Public Law 101-229 was enacted.

11. MINERALS

No known minerals exist in the project area.

12. REAL ESTATE MILESTONES

All lands required for construction, operation and maintenance of the project are schedule to be purchased by _____ to meet the current construction schedule. Contract advertisement is currently scheduled for _____.

13. RELOCATIONS OF ROADS, BRIDGES, UTILITIES, TOWNS AND CEMETERIES

A. ROADS

U.S. Highway 41 (Tamiami Trail) will be raised for approximately 10 miles and three additional bridges constructed between Structures S-334 on the east and S-333 on the west. The purpose is to provide increased conveyance of water from WCA 3B and the L-29 Canal to Northeast Shark River Slough. An Attorneys Opinion of Compensability was prepared and a determination was made that FDOT has compensable interest in the road. Based on evidence submitted by the Florida Department of Transportation and independent investigation, the Florida Department of Transportation owns fee title to portions of this area, road easements to portions of the area and prescriptive rights to other portions of the area. The National Park Service is acquiring sufficient interests or owns the underlying fee to those portions not owned in fee by the Florida Department of Transportation. While the Tamiami Trail Modifications: Next Steps is only a study and is not yet authorized for construction, it is anticipated that it will be authorized as a federal acquisition and construction program, and the responsibility for securing the Highway Easement Deed (HED) and Relocation Contract would be on the Federal government.

B. BRIDGES

No bridges to be relocated.

C. UTILITIES

There are a number of utility companies that have their facilities located in the State owned right of way for U.S. Highway 41 (SR90, Tamiami Trail). These consist of electric, telephone and fiber optic cables.

The work on the Tamiami Trail will involve raising the roadbed and the construction of bridges. The work will impact all the utility facilities in the highway right of way necessitating their relocation.

The Florida Department of Transportation has issued permits to the various utilities to allow placement of their facilities within the right-of-way. The issue becomes whether under local law this gives the utilities a property right.

D. TOWNS OR CEMETERIES

No towns or cemeteries will be relocated as a result of this project.

14. PRESENCE OF CONTAMINANTS (HAZARDOUS, TOXIC AND RADIOACTIVE WASTES)

A preliminary assessment for hazardous, toxic and radioactive waste (HTRW) was performed by the Jacksonville District. Preliminary assessment indicated that in general, no evidence of HTRW exists within the project area.

15. ATTITUDE OF LANDOWNERS

The lands impacted by this project are owned by the South Florida Water Management District, Florida Department of Transportation and Everglades National Park who strongly support the project. Other landowners in the area support the project but are concerned about the impacts to their property. There are also some landowners in the area who oppose the project.

16. M-CACES

REAL ESTATE CHART OF ACCOUNTS

ESTIMATED PROJECT REAL ESTATE COSTS

PROJECT: Tamiami Trail #2 (DOI)

DATE: 1/14/2010

01	LANDS AND DAMAGES		
01AA	PROJECT PLANNING	\$50,000	
01B--	ACQUISITIONS (6)		
01B40	BY GOVT	\$30,000	
01C--	CONDEMNATIONS (3)		
01C40	BY GOVT	\$66,000	
01E--	APPRAISALS (6)		
01E50	BY GOVT	\$60,000	
01F--	PL 91-646 ASSISTANCE (6)		
01F40	BY GOVT	\$76,620	
01G--	TEMPORARY PERMITS/LICENCES/RIGHTS-OF-ENTRY		
01G40	BY GOVT	\$3,000	
01R--	REAL ESTATE PAYMENTS		
01R1	LAND PAYMENTS (6)		
01R1B	BY GOVT	\$16,255,000	
01R2	PL 91-646 ASSISTANCE PAYMENTS		
01R2B	BY GOVT (6)	\$ 1,507,000	
	TOTAL REAL ESTATE COST EXCLUDING CONTINGENCY		\$18,047,620
	REAL ESTATE CONTINGENCY (40%) COST	\$7,219,048	
	TOTAL PROJECT REAL ESTATE COST (Rounded)		\$25,300,000