# RIGHT OF WAY ACQUISITION MEMORANDUM OF AGREEMENT

This is a Memorandum of Agreement ("MOA") made and entered into this \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida ("DEPARTMENT") and Indian River County, a municipal corporation in the state of Florida ("AGENCY").

#### WITNESSETH:

WHEREAS, the DEPARTMENT is constructing a transportation project for the 82<sup>nd</sup> Avenue project in Indian River County, Florida; County Road (CR) 619 from 26<sup>th</sup> St to 69<sup>th</sup> St, as depicted in the attached Exhibit "A" and associated with FPID 230879-3, and

WHEREAS, the AGENCY will be the owner of specific portions of 82<sup>nd</sup> Avenue within the project limits, the ("AGENCY FACILITY"); and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes, and federal funding provisions, the DEPARTMENT is authorized to undertake projects within the AGENCY's geographical limits; and

WHEREAS, the Project will involve the acquisition of various property interests along the Project corridor; and

WHEREAS, the DEPARTMENT plans to construct the Project and conduct right of way acquisition and related activities, including eminent domain proceedings, on the Project for and on behalf of the AGENCY for the AGENCY FACILITY to prepare the Project for construction; and

WHEREAS, the DEPARTMENT will conduct its right of way acquisition activities in accordance with its right of way procedures and applicable federal acquisition requirements; and

WHEREAS, the parties agree that it is in the best interest of the public to promote a cooperative effort between the DEPARTMENT and the AGENCY for the successful completion of the Project.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, this MOA sets forth and outlines the following agreements between the DEPARTMENT and the AGENCY concerning the performance of acquisition and maintenance activities by the AGENCY and the DEPARTMENT for the portion of the AGENCY's Project:

- 1. The above recitals are true and correct and are incorporated herein by reference.
- Upon completion of its acquisition and construction activities for the Project, the DEPARTMENT will transfer and the AGENCY will accept acquired property rights along the AGENCY FACILITY, including excess property acquired by the DEPARTMENT on behalf of the AGENCY.
- 3. Said conveyance shall include, and the AGENCY fully accepts, a transfer and assignment of all rights and obligations pursuant to any maintenance agreement, utility agreement, subordination, and/or other agreements or matters of record relating to the property to be conveyed and the AGENCY shall assume all responsibilities and liabilities arising from any obligations thereunder which responsibilities, liabilities and obligations as set forth in

the conveyance documents shall run with the land. Nothing in this provision shall be deemed a waiver of the AGENCY's Statutory Sovereign Immunity. This provision shall survive the termination of this MOA.

- 4. The limits of Right of Way Acquisition for AGENCY, as well as a third-party entity, Sebastian River Improvement District, included in this agreement are shown in Attachment A. This exhibit depicts lands to be owned or granted by easement, for both the AGENCY as well as Sebastian River Improvement District.
- 5. Notwithstanding any other provision herein to the contrary, the DEPARTMENT shall not be responsible for any costs or attorney fees arising out of any liabilities or obligations incurred regarding the right of way after the transfer of property.
- 6. Prior to and during construction of the Project by the DEPARTMENT, the AGENCY shall be responsible for the maintenance of all properties acquired for the AGENCY FACILITY by the DEPARTMENT, as depicted in Attachment A, keeping them in a safe condition. This includes responding to and addressing Code Enforcement violations and complaints from the public as well as any required mowing and litter removal during construction.
- 7. To the extent provided by law, the AGENCY shall indemnify, defend and hold harmless the DEPARTMENT and all of its officers, agents and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the AGENCY, its agents or employees during acquisition and other related activities on the Project except that neither the AGENCY, its officers, agents or employees will be liable for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT or any of its officers, agents or employees during the performance of acquisition and other related activities on the Project. Nothing in this provision shall be deemed to be a waiver of the AGENCY's Statutory Sovereign Immunity.
- 8. Any and all notices given or required under this MOA shall be in writing and either handdelivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be directed as follows:

#### As to the DEPARTMENT:

James Hughes, P.E., Project Manager Florida Department of Transportation 3400 West Commercial Boulevard Fort Lauderdale, Florida 33309-3421

Phone: (954) 777-4419

With copy to:

Dan Marwood, Deputy Right of Way Manager - Production Florida Department of Transportation 3400 West Commercial Boulevard Fort Lauderdale, Florida 33309-3421

Phone: (954) 777-4237

As to the AGENCY:

Indian River County Attn: Public Works Director 1800 27<sup>th</sup> Street Vero Beach, FL 32960

With copy to:

Indian River County Attn: Assistant Public Works Director 1800 27<sup>th</sup> Street Vero Beach, FL 32960

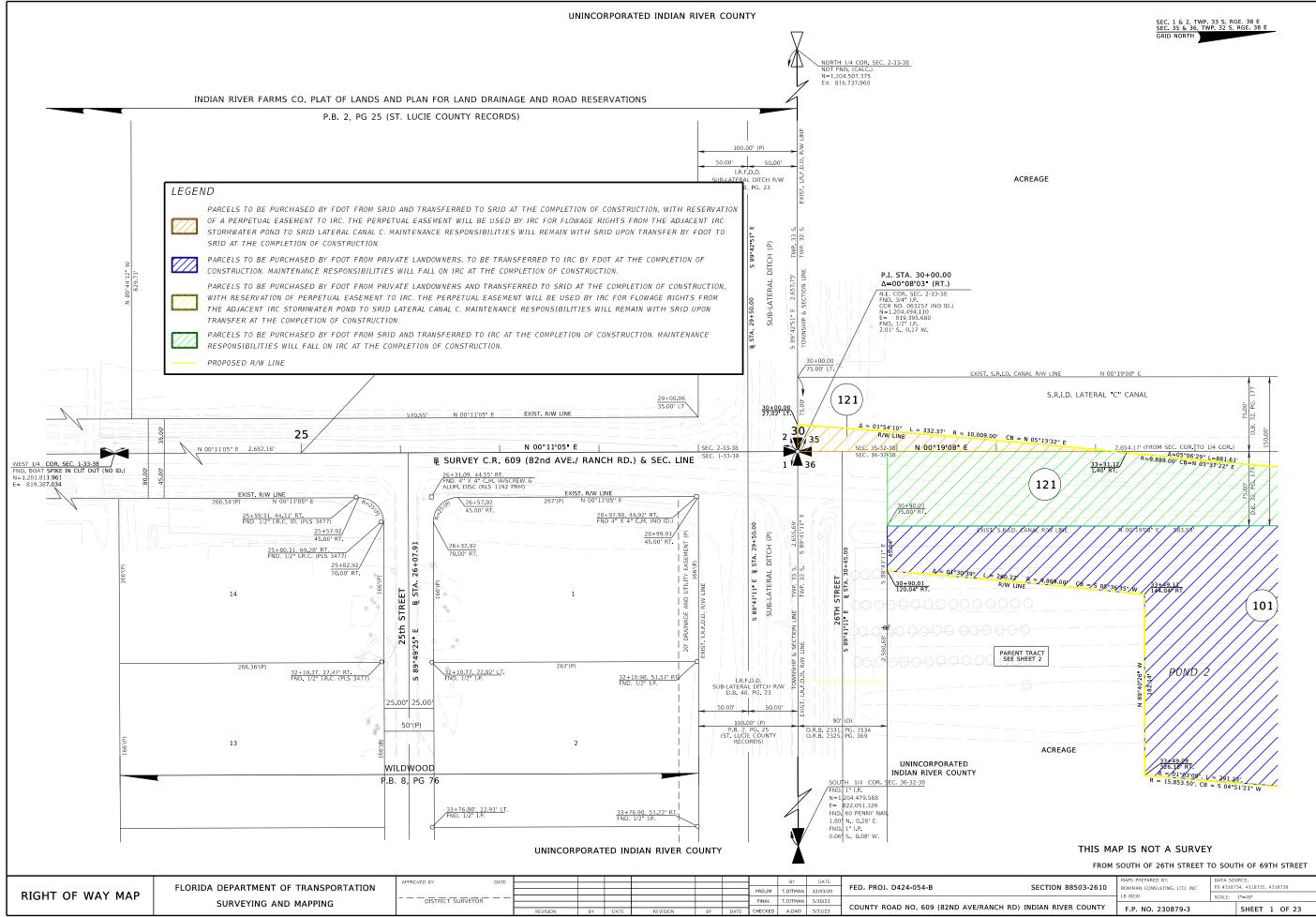
- 9. Multiple copies of this MOA may be fully executed by all parties, each of which shall be deemed to be an original. The date entered above where indicated shall be the date the last party signed this MOA.
- 10. Should any portions of this MOA be deemed unenforceable by law then that sole portion shall be stricken/severed and the remainder of the agreement shall remain intact with its full force and effect.

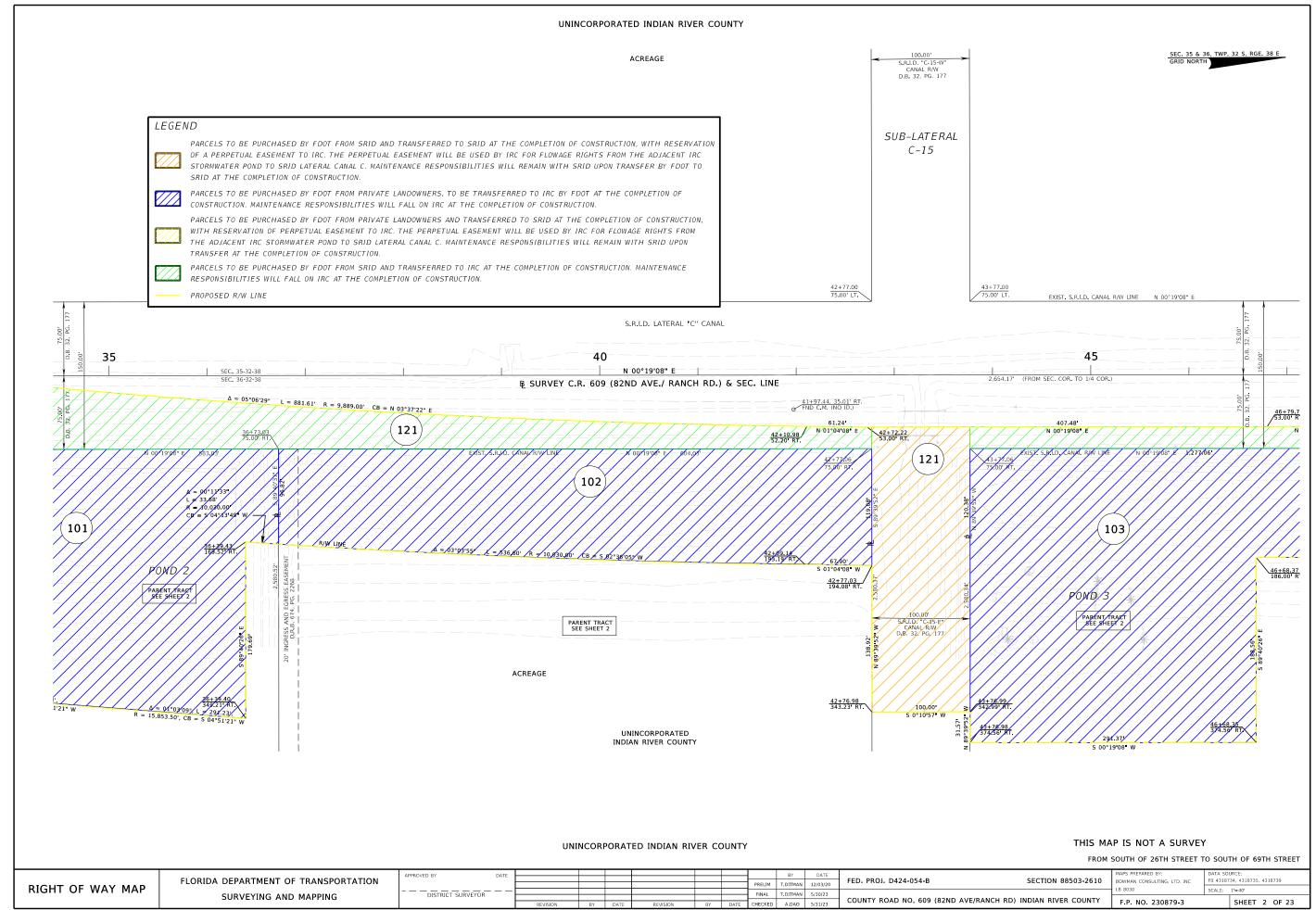
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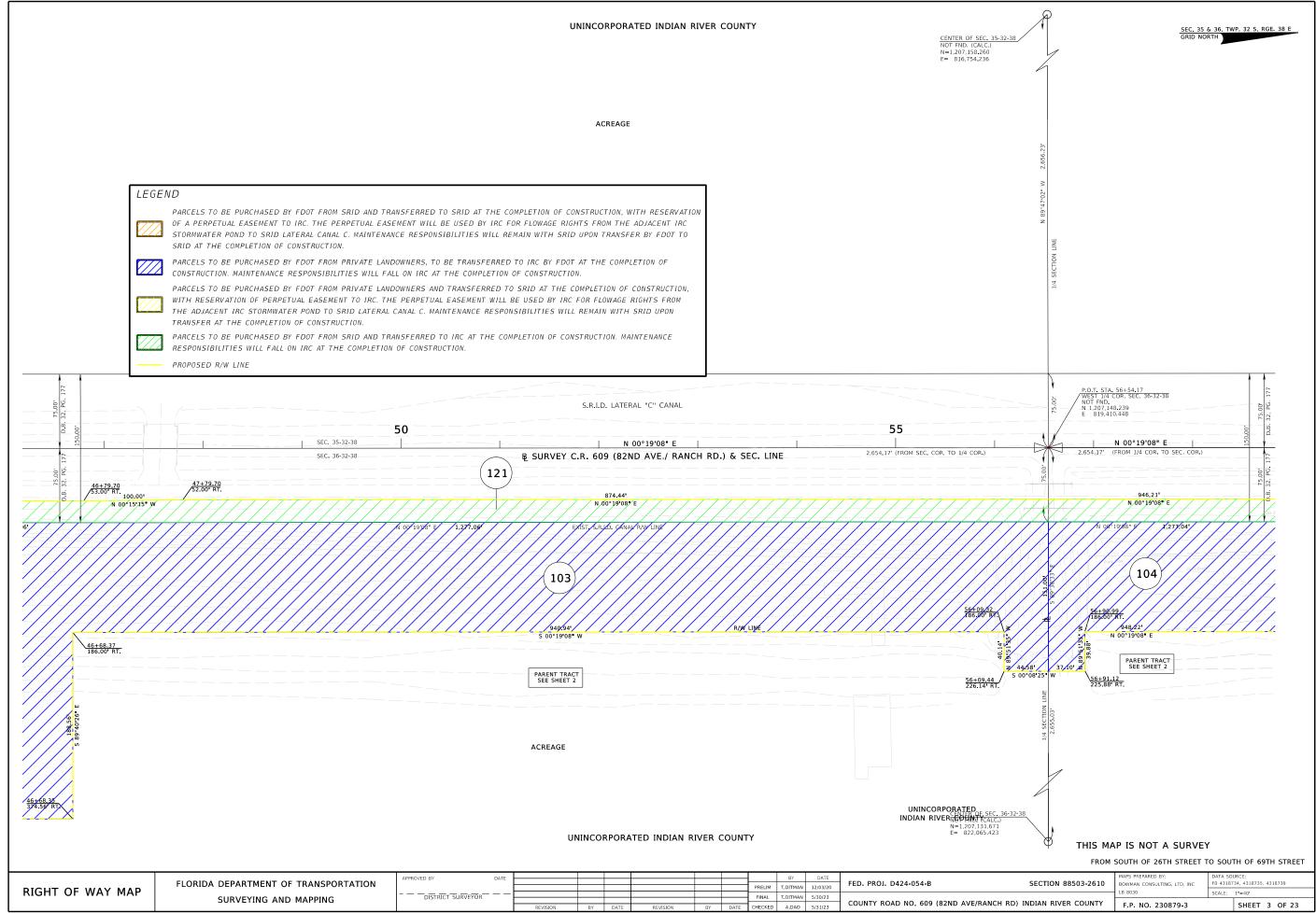
IN WITNESS WHEREOF, the parties hereto have made and caused this Memorandum of Agreement to be authorized and duly executed on behalf of their respective entities.

|  | FOR DEPARTMENT:   |
|--|---|
|  | FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT FOUR           |
|  | By:   |
| Administrative Assistant:  | Print Name: John Krane, PE                                    |
|  | Print Title: Director of Transportation Development           |
| Print Name:  |   |
|  | Legal Approval:   |
|  | District Four Attorney  |
|  | FOR AGENCY:   |
| ATTEST: Ryan L. Butler<br>Clerk of Circuit Court and Comptroller | BOARD OF COUNTY COMMISSIONERS<br>INDIAN RIVER COUNTY, FLOIRDA |
|  |   |
| By:  | By:<br>Joseph E. Flescher<br>Chairman                         |
| APPROVED AS TO FORM<br>AND LEGAL SUFFICIENCY                     |   |
|  |   |
| Jennifer W. Shuler<br>County Attorney                            |   |
| This Memorandum of Understanding has by County Resolution No.    | been duly authorized and approved on                          |

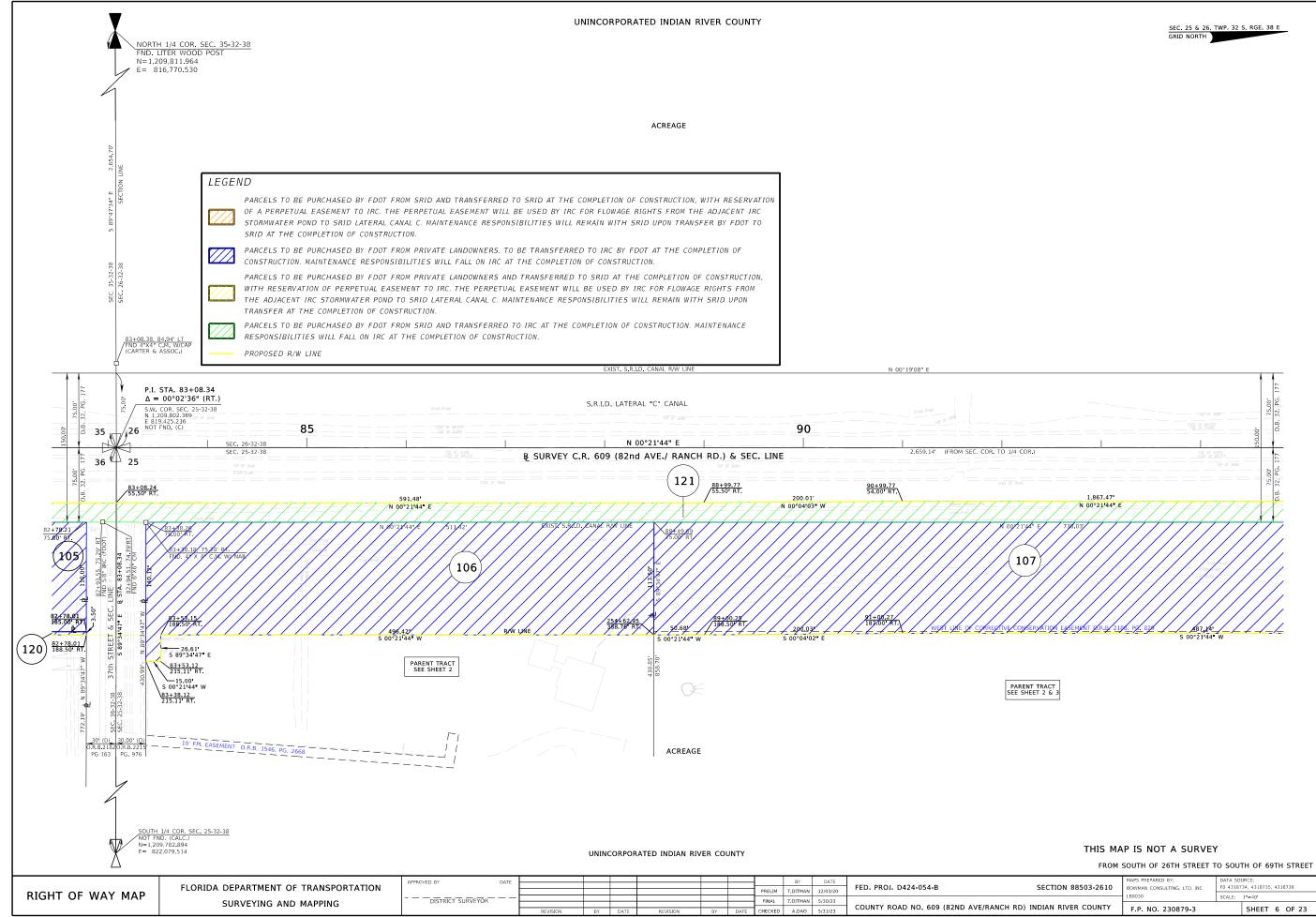
## **ATTACHMENT A**

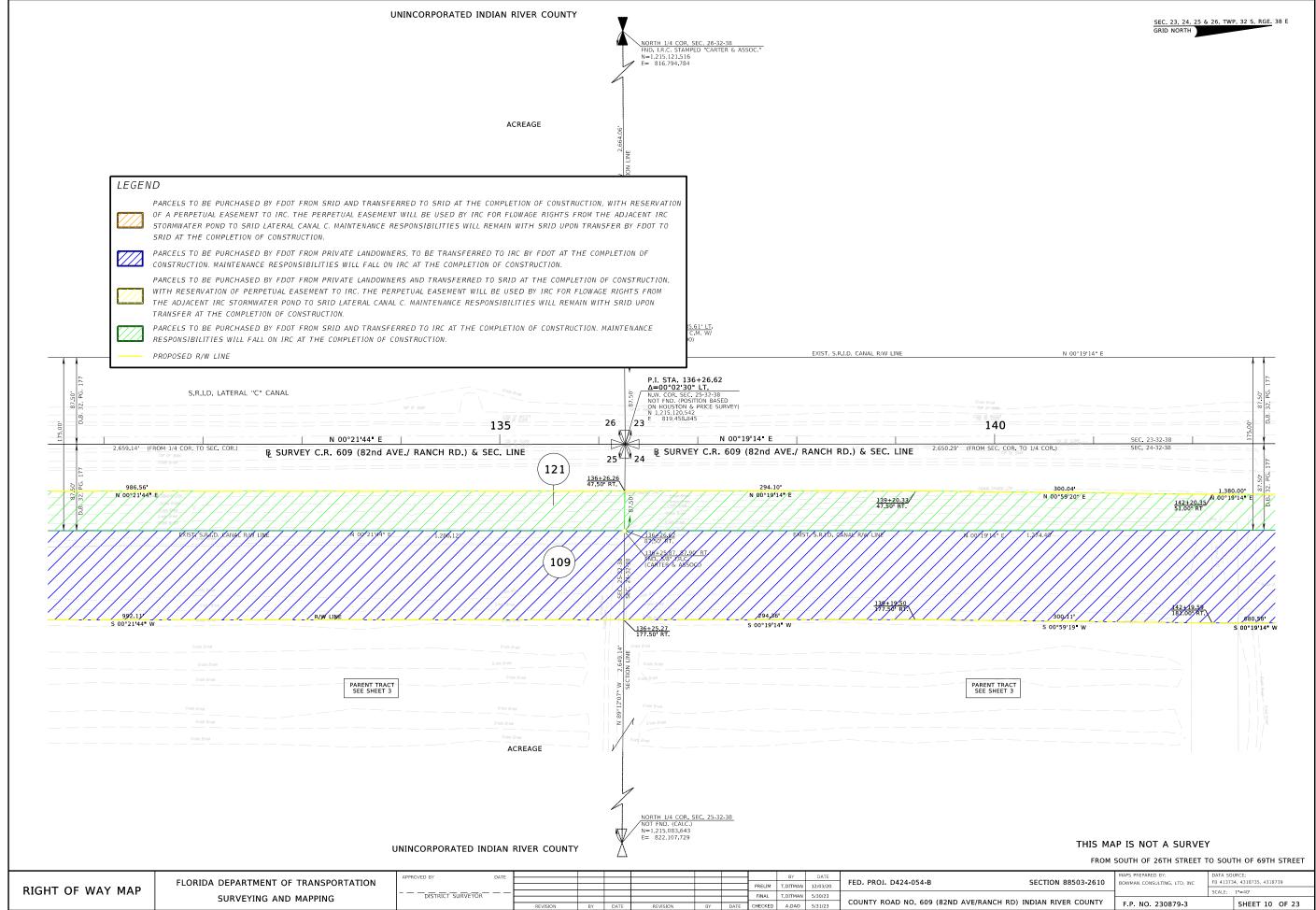


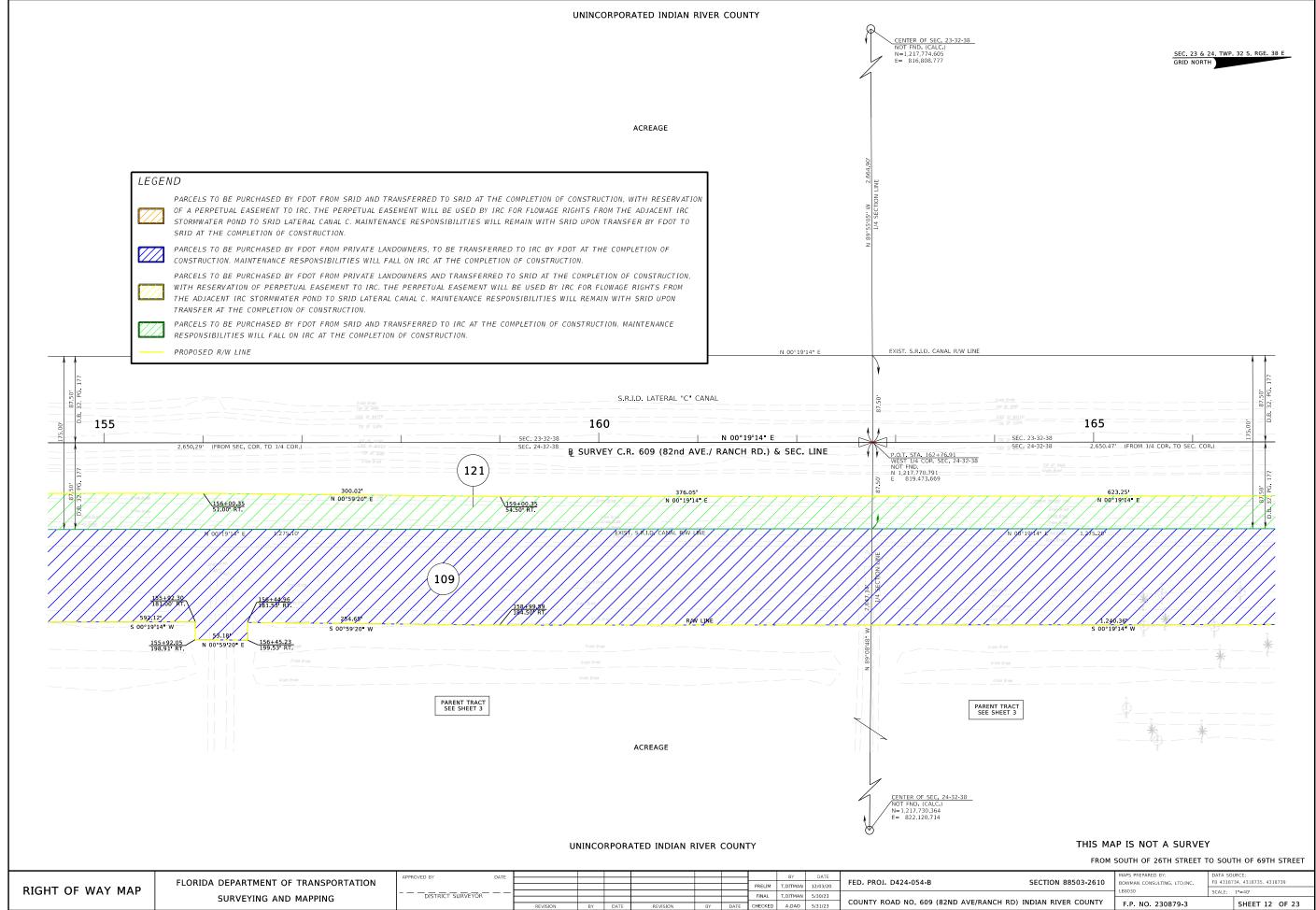


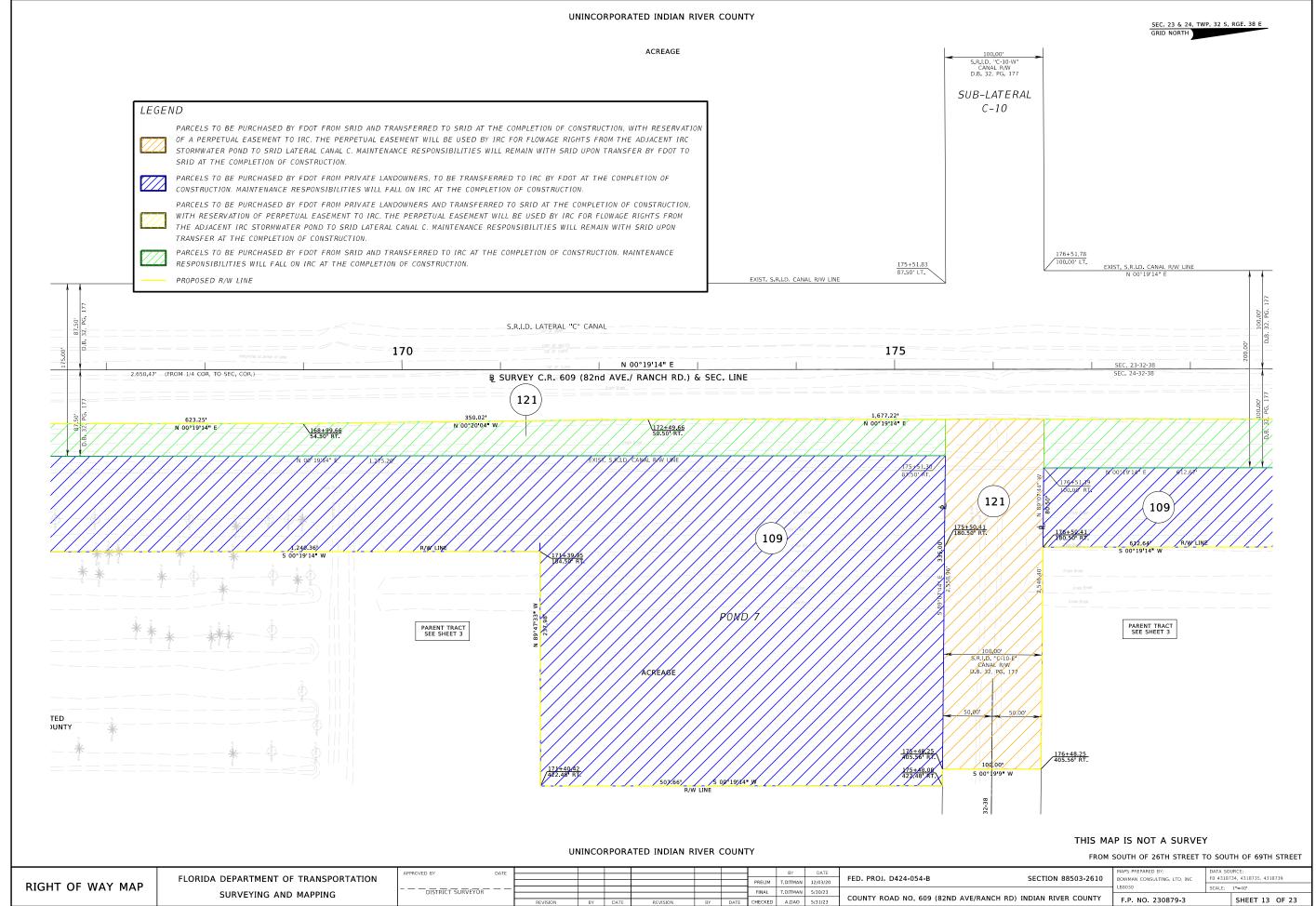


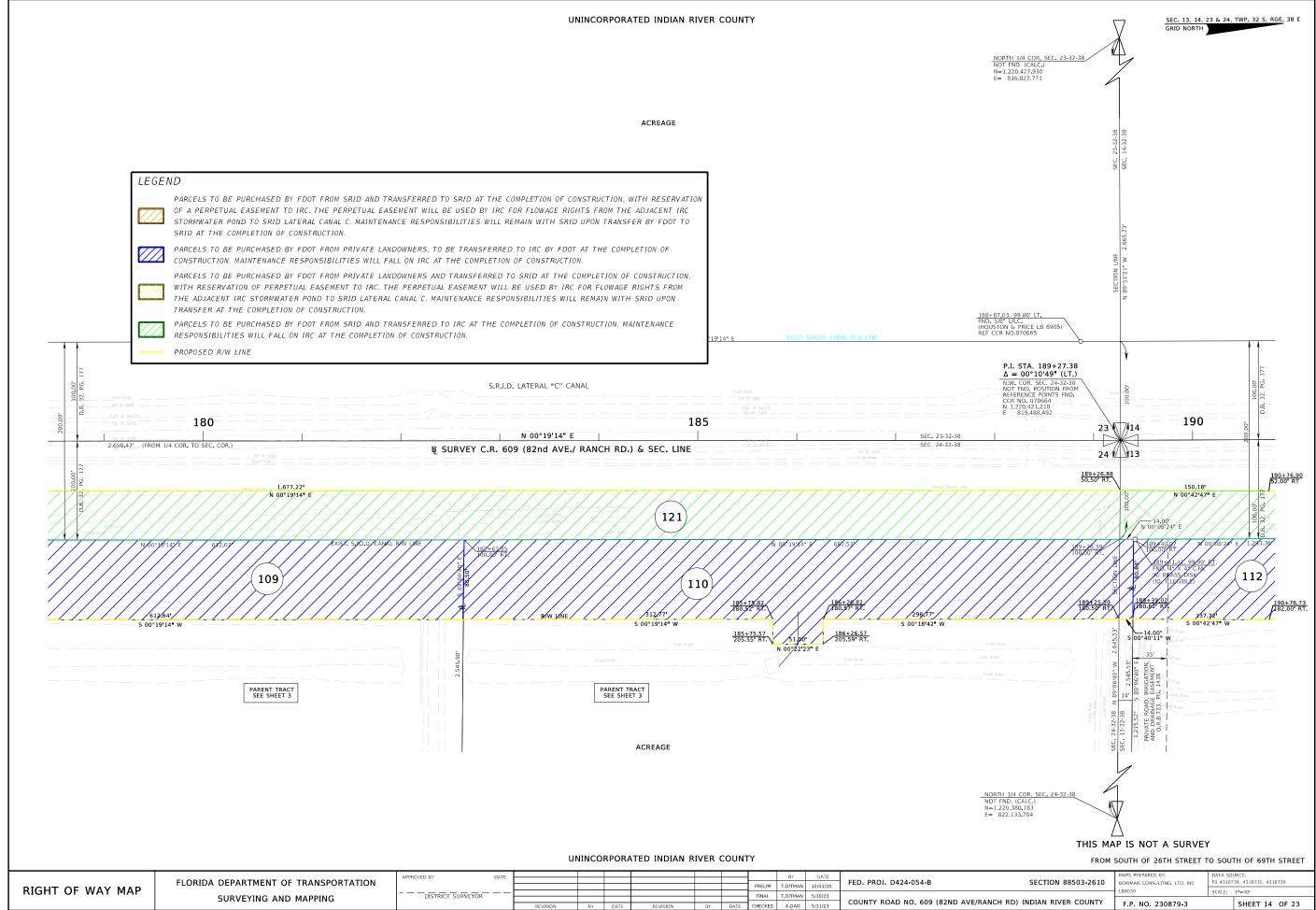
## UNINCORPORATED INDIAN RIVER COUNTY 100.00' S.R.I.D. "C-14-W" CANAL R/W ACREAGE D.B. 32, PG. 177 LEGEND SUB-LATERAL PARCELS TO BE PURCHASED BY FDOT FROM SRID AND TRANSFERRED TO SRID AT THE COMPLETION OF CONSTRUCTION, WITH RESERVATION C-14 OF A PERPETUAL EASEMENT TO IRC. THE PERPETUAL EASEMENT WILL BE USED BY IRC FOR FLOWAGE RIGHTS FROM THE ADJACENT IRC STORMWATER POND TO SRID LATERAL CANAL C. MAINTENANCE RESPONSIBILITIES WILL REMAIN WITH SRID UPON TRANSFER BY FDOT TO SRID AT THE COMPLETION OF CONSTRUCTION. PARCELS TO BE PURCHASED BY FDOT FROM PRIVATE LANDOWNERS, TO BE TRANSFERRED TO IRC BY FDOT AT THE COMPLETION OF CONSTRUCTION. MAINTENANCE RESPONSIBILITIES WILL FALL ON IRC AT THE COMPLETION OF CONSTRUCTION. PARCELS TO BE PURCHASED BY FDOT FROM PRIVATE LANDOWNERS AND TRANSFERRED TO SRID AT THE COMPLETION OF CONSTRUCTION, WITH RESERVATION OF PERPETUAL EASEMENT TO IRC. THE PERPETUAL EASEMENT WILL BE USED BY IRC FOR FLOWAGE RIGHTS FROM THE ADJACENT IRC STORMWATER POND TO SRID LATERAL CANAL C. MAINTENANCE RESPONSIBILITIES WILL REMAIN WITH SRID UPON TRANSFER AT THE COMPLETION OF CONSTRUCTION. PARCELS TO BE PURCHASED BY FDOT FROM SRID AND TRANSFERRED TO IRC AT THE COMPLETION OF CONSTRUCTION. MAINTENANCE RESPONSIBILITIES WILL FALL ON IRC AT THE COMPLETION OF CONSTRUCTION. PROPOSED R/W LINE EXIST, S.R.I.D. CANAL R/W LINE S.R.I.D. LATERAL "C" CANAL 65 70 60 N 00°19'08" E ₽ SURVEY C.R. 609 (82ND AVE./ RANCH RD.) & SEC. LINE 121 66+00.35 52.00 RT 69+00.35 55.50 RT 1.407.89 105 121 120 ACREAGE N 00°23'20" E 69+30.83 344.30' RT. THIS MAP IS NOT A SURVEY UNINCORPORATED INDIAN RIVER COUNTY FROM SOUTH OF 26TH STREET TO SOUTH OF 69TH FLORIDA DEPARTMENT OF TRANSPORTATION FED. PROJ. D424-054-B SECTION 88503-2610 RIGHT OF WAY MAP CALE: 1'=40' DISTRICT SURVEYOR SURVEYING AND MAPPING COUNTY ROAD NO. 609 (82ND AVE/RANCH RD) INDIAN RIVER COUNTY F.P. NO. 230897-3 SHEET 4 OF 23

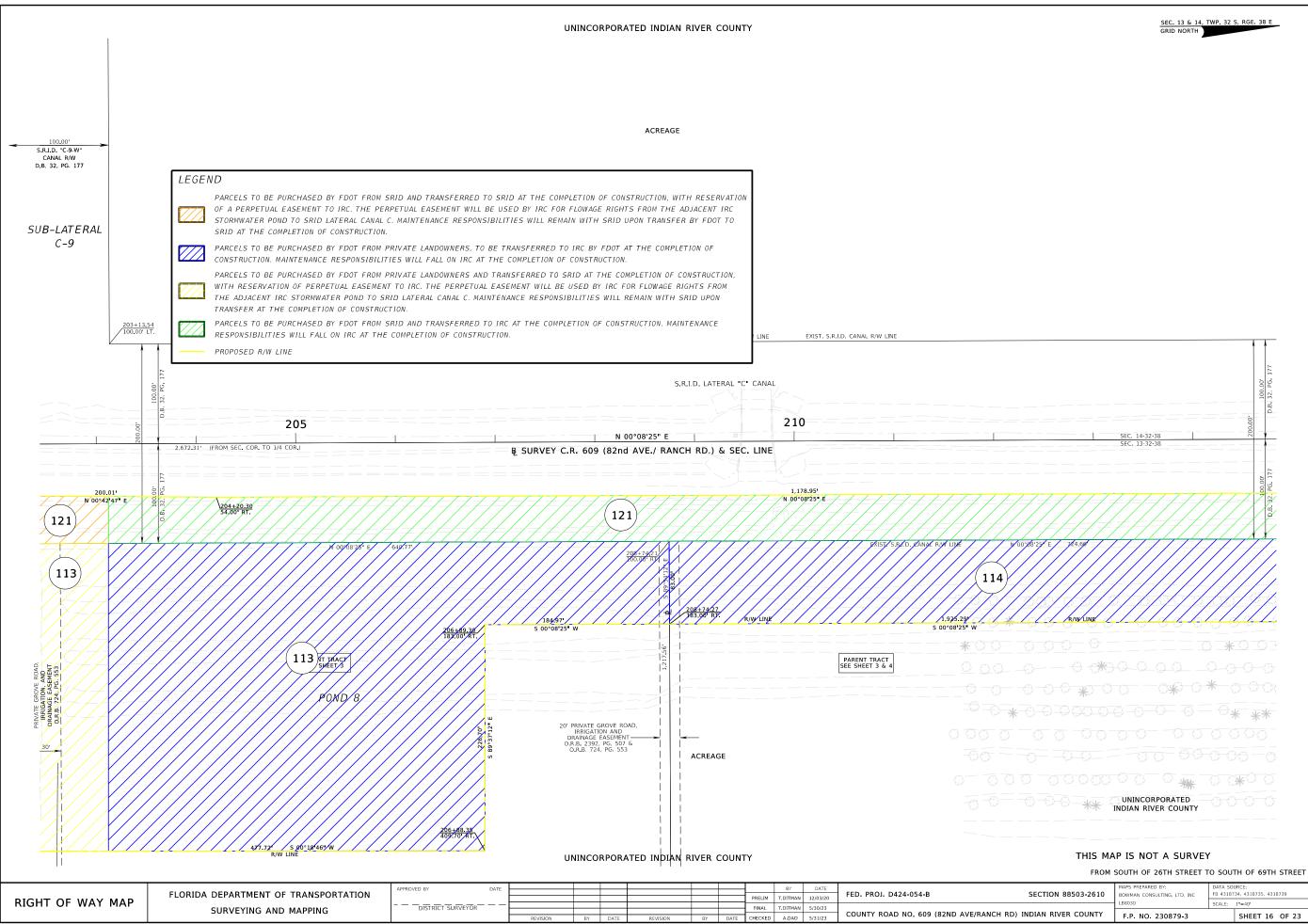


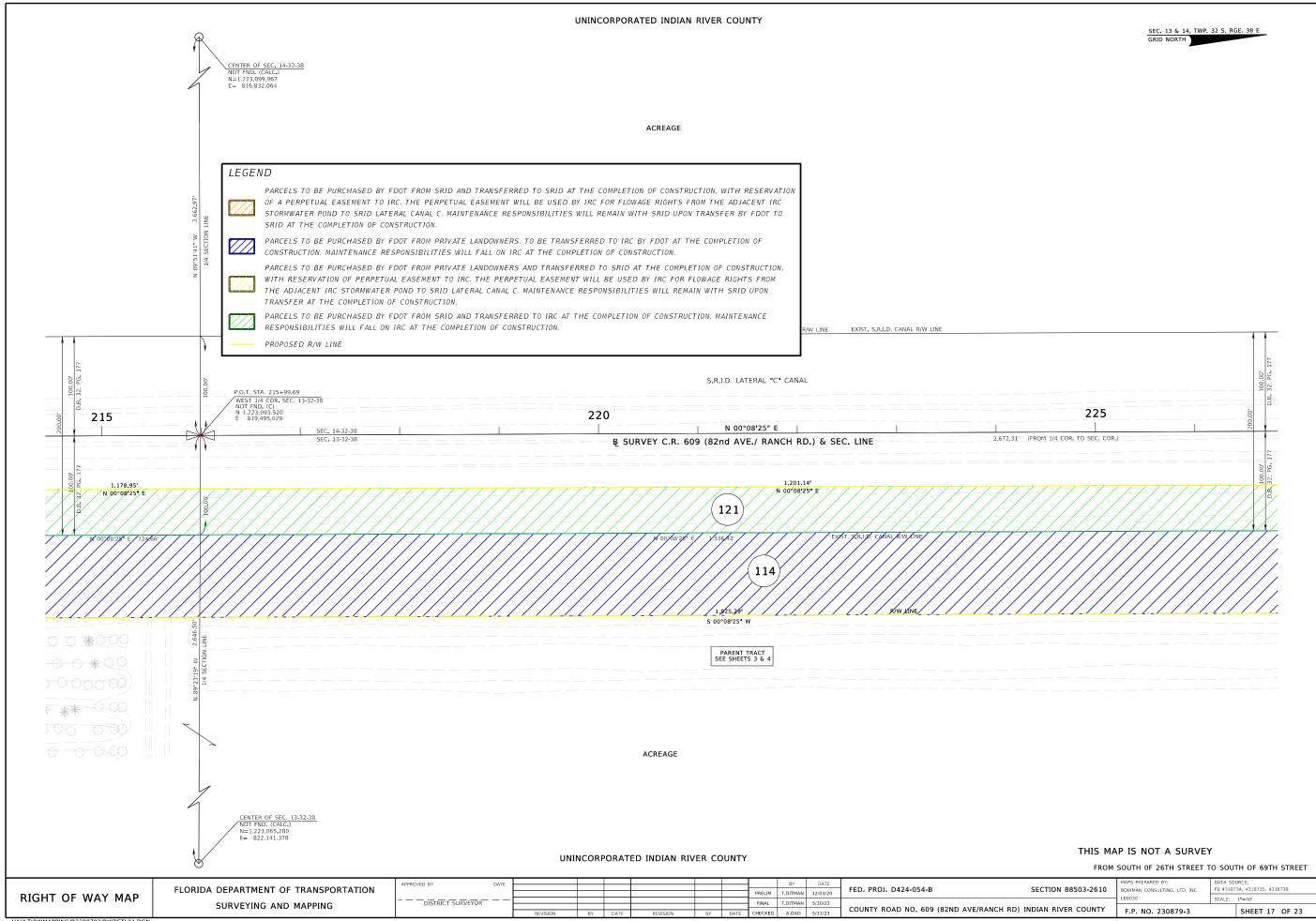


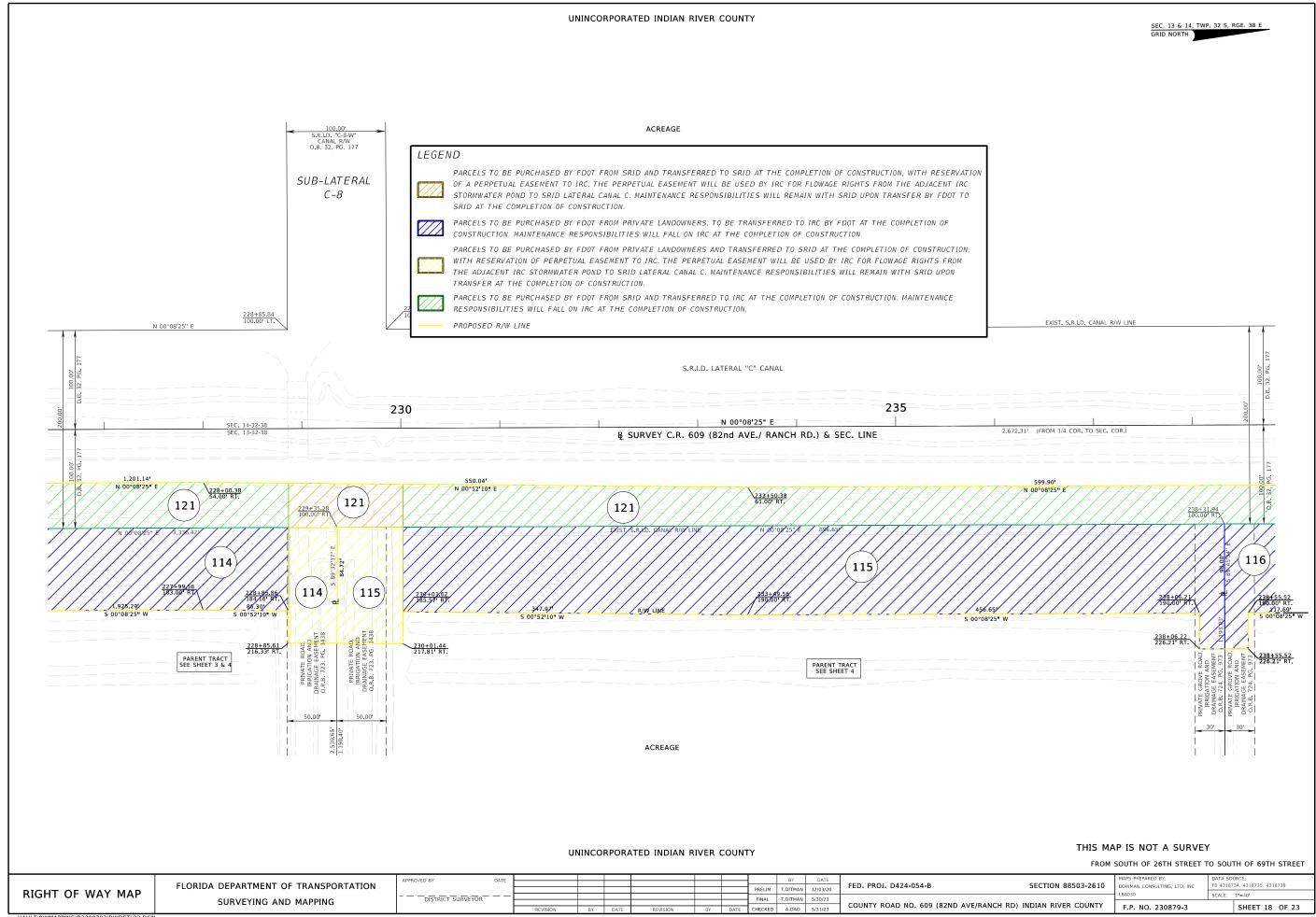


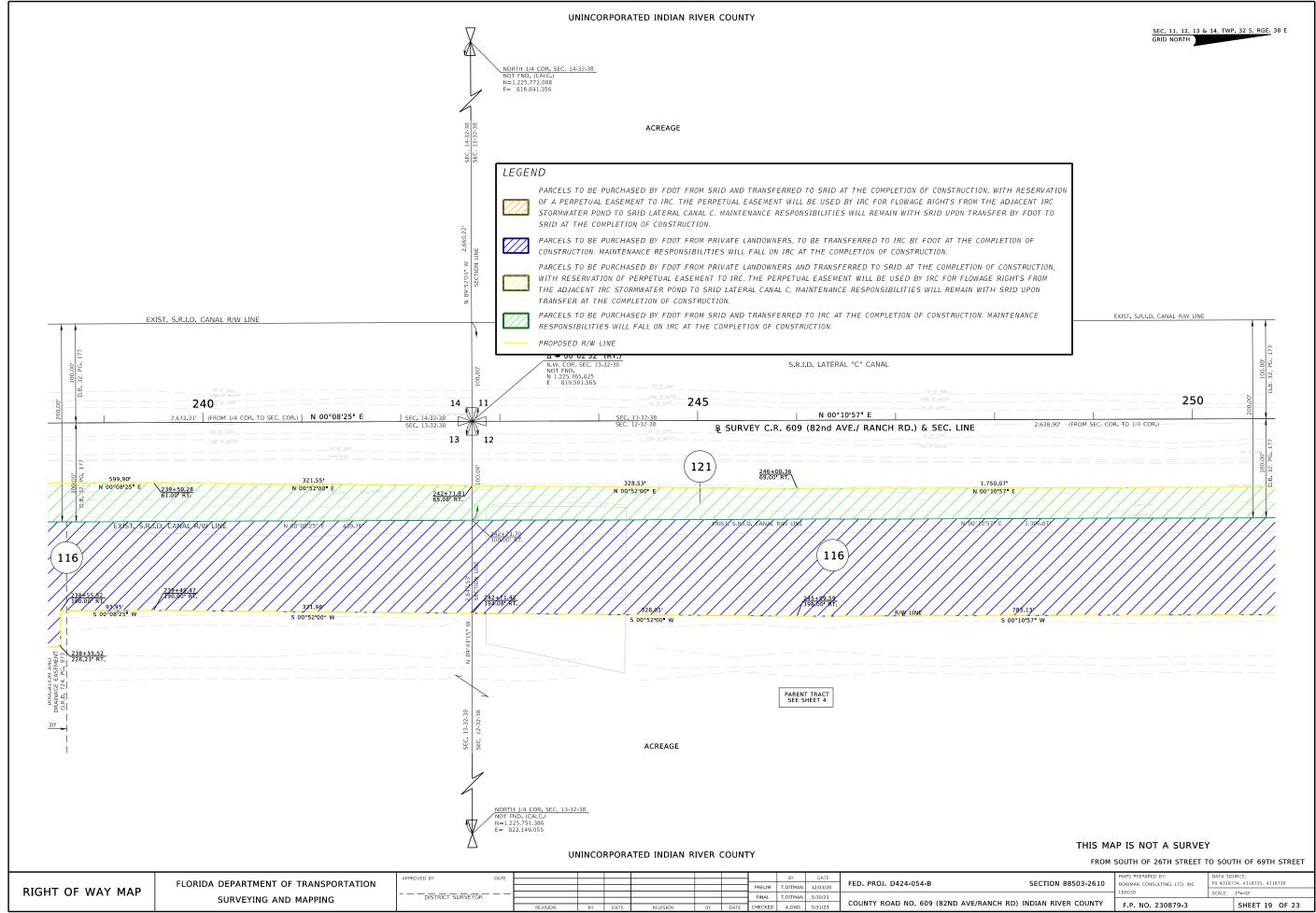


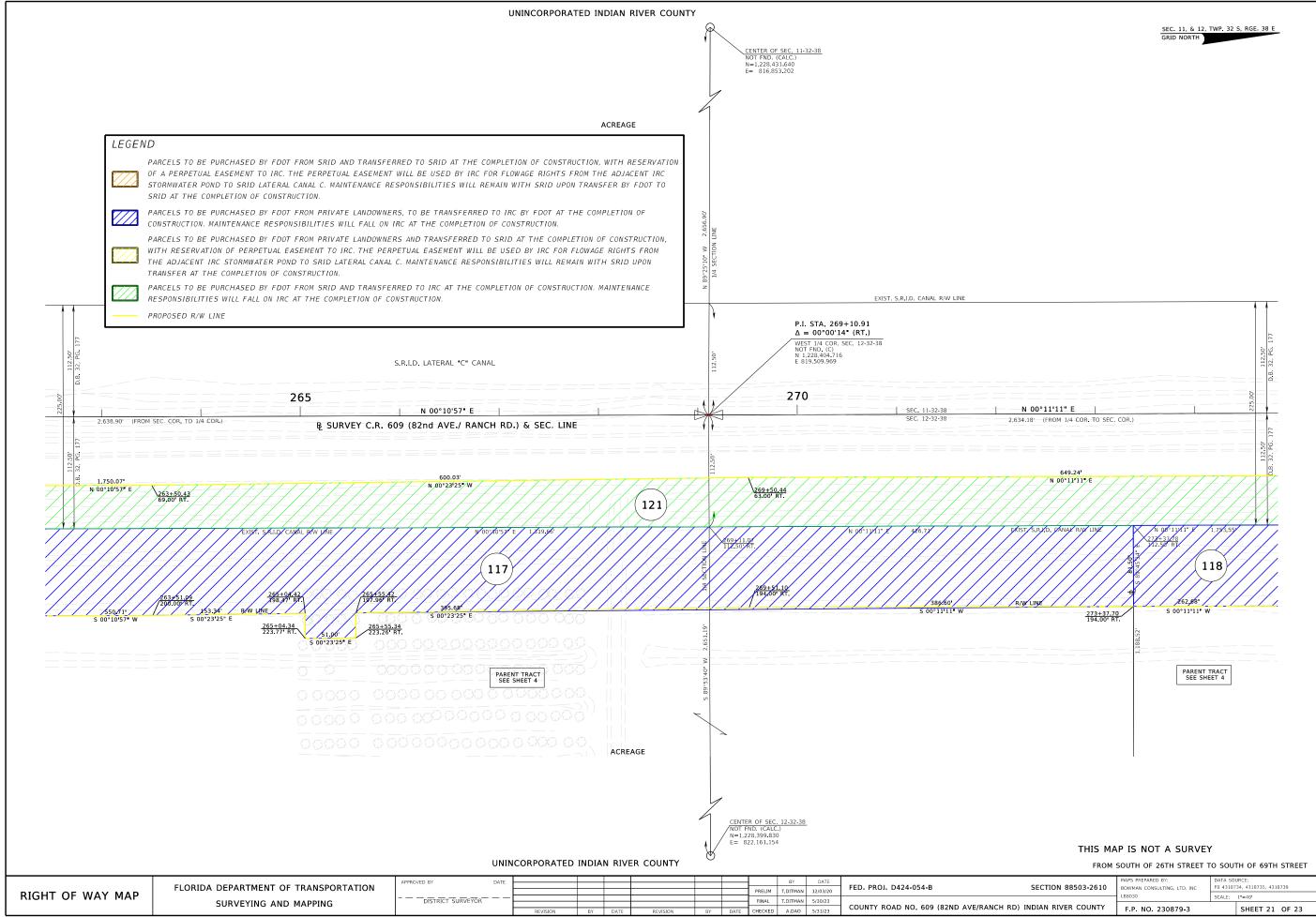












COUNTY ROAD NO. 609 (82ND AVE/RANCH RD) INDIAN RIVER COUNTY

F.P. NO. 230879-3

SHEET 22 OF 23

SURVEYING AND MAPPING

