

# MEMORANDUM

Agenda Item No. 13(A)(1)

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**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**DATE:** December 2, 2008

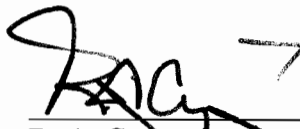
**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution authorizing certain  
settlement in County eminent  
domain proceedings in  
connection of right-a-way  
needed between SW 157<sup>th</sup>  
Avenue and SW 42<sup>nd</sup> Street

**Resolution No. R-1299-08**

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The accompanying resolution was prepared and placed on the agenda at the request of the County Attorney.

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/up



# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

DATE: December 2, 2008

FROM:   
R. A. Cuevas, Jr.  
County Attorney

SUBJECT: Agenda Item No. 13(A)(1)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 13(A)(1)  
12-2-08

RESOLUTION NO. R-1299-08

RESOLUTION AUTHORIZING CERTAIN SETTLEMENT IN THE AMOUNT OF \$304,234.00 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF LAND FOR THE RIGHT-OF-WAY NEEDED FOR THE CONSTRUCTION OF S.W. 42ND STREET (BIRD DRIVE) BETWEEN S.W. 157TH AVENUE AND S.W. 162ND AVENUE IN MIAMI-DADE COUNTY, FLORIDA

**WHEREAS**, this Board by Resolution No. R-1434-03 dated December 16, 2003 previously declared the acquisition of land for the right-of-way needed for construction of S.W. 42nd Street (Bird Drive), between S.W. 157th Avenue and S.W. 162nd Avenue in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefor by eminent domain proceedings; and

**WHEREAS**, the owners of the parcels of land set forth in the attached land acquisition summary sheet have offered to settle for the figure specified therein; and

**WHEREAS**, the County Attorney hereby recommends the settlement amount as set forth in the attached land acquisition summary sheet,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that the County Attorney is hereby authorized to compromise and settle on behalf of the County all claims against the County in eminent domain proceedings for the parcels and for substantially the terms and the amount specified in the attached land acquisition summary sheet.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Carlos A. Gimenez** and upon being put to a vote, the vote was as follows:

	Bruno A. Barreiro, Chairman	<b>aye</b>	
	Barbara J. Jordan, Vice-Chairwoman	<b>aye</b>	
Jose "Pepe" Diaz	<b>absent</b>	Audrey M. Edmonson	<b>aye</b>
Carlos A. Gimenez	<b>aye</b>	Sally A. Heyman	<b>aye</b>
Joe A. Martinez	<b>aye</b>	Dennis C. Moss	<b>aye</b>
Dorin D. Rolle	<b>aye</b>	Natacha Seijas	<b>aye</b>
Katy Sorenson	<b>aye</b>	Rebeca Sosa	<b>aye</b>
Sen. Javier D. Souto	<b>absent</b>		

The Chairperson thereupon declared the resolution duly passed and adopted this 2<sup>nd</sup> day of December, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK



By: **Kay Sullivan**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Jorge Martinez-Esteve

**LAND ACQUISITION SUMMARY SHEET**

**PROJECT LOCATION:** Construction of S.W. 42nd Street between S.W. 157th Avenue and S.W. 162nd Avenue in Miami-Dade County, Florida

**PARCEL NUMBER AND AREA ACQUIRED:** Parcel No.'s 2 and 3 (Fee Simple)  
91,638 square feet.

**OWNERSHIP INTEREST:** Charles Waserstein and Martha Waserstein, his wife (as to Parcel 2) and Restituto Fernandez-Pla, Antonio Pavia and the heirs of Manuel Navas (as to Parcel 3)

**COUNTY'S APPRAISAL:** \$210,400.00  
Mark Quinlivan, MAI

**ATTORNEYS' FEES AND COSTS** See comments

**SETTLEMENT AMOUNT:** The total settlement amount for these parcels is \$304,234.00.  
(See Comments below – this amount also includes attorneys' fees and costs).

**OWNERS' APPRAISAL:** \$378,700.00  
Harold F. Overby, MAI

**EXPOSURE TO COUNTY:** \$168,300.00  
(Difference between Owners' appraisal and County's appraisal)

**COMMENTS:** The settlement amount of \$304,234.00 represents full compensation for the parcels, and includes \$240,000.00 for the parcels acquired, statutory attorney's fees of \$47,949.00, and compensable expert costs of \$16,285.00. The Owners of these parcels are represented by the law firm of Brigham Moore, LLP.