

MEMORANDUM

Agenda Item No. 10(A)(10)

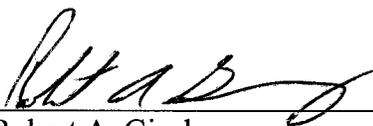
TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: April 13, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Resolution authorizing
conveyance of fee simple
title of air rights over First
Street Metromover Station

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Bruno A. Barreiro.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: April 13, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 10(A)(10)

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. 10(A)(10)
4-13-04

RESOLUTION NO. _____

RESOLUTION AUTHORIZING CONVEYANCE OF FEE
SIMPLE TITLE OF AIR RIGHTS OVER FIRST STREET
METROMOVER STATION; AND AUTHORIZING THE
MAYOR TO EXECUTE COUNTY DEED

WHEREAS, this Board on July 13, 1999, by Resolution No. R-776-99, authorized the sale and conveyance by competitive bid of County owned land and easements appurtenant at N.E. 2nd Street and 2nd Avenue, in Miami, Miami-Dade County, Florida, including a First Street Metromover Station Airspace Easement; and

WHEREAS, pursuant to Request for Bids and Bid Specifications Bid No. MDTA 101, the County solicited bids for the sale of certain "First Street Metromover Station Land," including an air rights easement over "Parcel 3" noted in said specifications; and

WHEREAS, it was the intention of the county, in selling such lands and easements, to encourage development of the lands set forth in the specifications in order to generate increased ridership of the Metromover and other means of mass transit, while protecting the Metromover system and its riders during any construction and/or building operation on the property, and the goal was not to limit the size of any buildings constructed on such lands; and

WHEREAS, Parcel 3 of such lands constituted an air rights easement of 7,630 square feet that connected two other parcels and was located at a plane over the First Street Metromover Station; and

WHEREAS, said lands, including the air rights easement for Parcel 3, were transferred to Rafael Kapustin, Trustee, by County Deed dated March 31, 2000 and recorded in Official Records Book 19051 at Page 1872 of the Public Records of Miami-Dade County, Florida, and that certain Grant of Easements Appurtenant dated March 31, 2000 and recorded in Official Records Book 19051 at Page 1857 of the Public Records of Miami-Dade County, Florida; and

WHEREAS, while the easement granted for said Parcel 3 was exclusive and in perpetuity, said easement for Parcel 3 is not an adequate property interest to allow the owner the ability to effectively develop not only Parcel 3, but the other properties which were the subject of the Deed and Grant of Easements Appurtenant,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA that:

Section 1. This Board approves execution of a County Deed in substantially the form attached hereto in order to convey fee simple title to Parcel 3 and to thereby release the restrictions previously set out on said Parcel 3 as an air rights easement in the Grant of Easements Appurtenant.

Section 2. The Mayor is hereby authorized to execute said County Deed for and in behalf of Miami-Dade County.

The foregoing resolution was sponsored by Commissioner Bruno A. Barreiro and was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson
Katy Sorenson, Vice-Chairperson

Bruno A. Barreiro
Betty T. Ferguson
Joe A. Martinez
Dennis C. Moss
Natacha Seijas
Sen. Javier D. Souto

Jose "Pepe" Diaz
Sally A. Heyman
Jimmy L. Morales
Dorin D. Rolle
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 13th day of April, 2004. 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: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. 

Thomas Goldstein

Return to:

Frank Talleda, Manager
Joint Development Leasing
111 N.W. 1st Street, Suite 910
Miami, FL 33128-1970

Instrument prepared by:

Thomas Goldstein
Assistant County Attorney
Suite 2810
111 N.W. 1st Street
Miami, FL 33128-1993

File No. _____

COUNTY DEED

THIS DEED, Made this _____ day of _____, 2004, A.D. by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 N.W. 1 Street, Suite 2810, Miami, Florida 33128-1963, and RAFAEL KAPUSTIN, TRUSTEE, party of the second part, whose address is 25 S.E. 2nd Avenue #750, Miami, Florida 33131:

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said party of the second part, and its heirs, assigns, and successors in interest forever, hereinafter "Owner" the following described land, known as Parcel 3, situate, lying and being in Miami-Dade County, Florida, to-wit:

SEE EXHIBIT 'A' ATTACHED HERETO

This County Deed hereby releases said Parcel 3 from the restrictions imposed as an Air Rights Easement in the Grant of Easements Appurtenant recorded in Official Records Book 19051

at Page 1857 of the Public Records of Miami-Dade County, Florida, and hereafter shall no longer be included in said Grant of Easement Appurtenant.

To protect the safety of public transit users, Owner shall protect the safety of the Metromover System on the portions of Lots 7, 8, 9, 10, 13 and 14, Block 103N, Map of Miami, Miami-Dade County, Plat Book B, Page 41, hereinafter "Metromover" not conveyed herein and avoid any activities which may interfere or disrupt transit operations and maintenance.

Prior to all construction of any of the property conveyed herein, Owner shall submit to Miami-Dade County for review and approval, complete construction plans for any construction, alterations, maintenance, modifications or improvement to be made on the property. These plans shall also show how the Metromover will be protected during the planned construction activities. These plans shall meet the requirements of the City of Miami, County Building Codes, State of Florida Department of Transportation (FDOT), and other applicable laws and regulations. No construction shall commence on the property without the prior written consent of the County Manager. Detail Construction Plans showing the measures to be taken by the Owner to ensure the Metromover protection shall be prepared and submitted to County for its approval prior to starting any construction on the property conveyed hereon. County shall have the right to inspect all construction to ensure the safety of the Metromover system.

No activity shall be conducted in the property conveyed herein that will have a seismic influence on the transit operations in the Metromover property.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be

executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the

day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

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

By: _____
Deputy Clerk

By: _____
Mayor

The foregoing was authorized and approved by Resolution No. _____ of the
Board of County Commissioners of Miami-Dade County, Florida on the ___ day of _____,
2004.

Approved for Legal Sufficiency _____