Agenda Item No. 13(A)(1)

TO:	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners	**DATE:**	December 16, 2008
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution authorizing settlement in County eminent domain proceedings for land owned by Florida Gaming Centers, Inc., needed for the Miami Intermodal Center (MIC)/Earlington Heights Extension of the Metrorail

The accompanying resolution was placed on the agenda by the County Attorney.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

MEMORANDUM

(Revised)

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

DATE: December 16, 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)

12-16-08

RESOLUTION NO. _____

RESOLUTION AUTHORIZING SETTLEMENT IN COUNTY EMINENT DOMAIN PROCEEDINGS FOR LAND OWNED BY FLORIDA GAMING CENTERS, INC., D/B/A MIAMI JAI ALAI, INC., NEEDED FOR THE MIAMI INTERMODAL CENTER (MIC)/EARLINGTON HEIGHTS EXTENSION OF THE METRORAIL AND VALUED AT $1,014.300; AND IN EXCHANGE, AUTHORIZING THE COUNTY MAYOR TO CONVEY TO THE OWNER, COUNTY LAND VALUED IN THE AMOUNT OF $13,967,063 TO $16,742,145 WITH THE OWNER PAYING THE DIFFERENCE IN VALUE TO THE COUNTY

WHEREAS, this Board by Resolution No. R-825-06 dated July 6, 2006, previously declared the acquisition of land needed for the construction of the Miami Intermodal Center (MIC)/Earlington Heights Connector, a 2.4 mile corridor linking the MIC to the Earlington Heights Metrorail Station located at State Road (SR) 112 and NW 22 Avenue in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefor by eminent domain proceedings; and

WHEREAS, Florida Gaming Centers, Inc., d/b/a Miami Jai Alai, Inc., the owner of the parcel of land set forth in the land acquisition summary sheet attached hereto as Exhibit A to this resolution has offered to settle in exchange for County land not needed for County purposes located across from the Jai Alai property with Florida Gaming Centers, Inc., its successors or assigns, paying the difference in value to the County, and

WHEREAS, the County Attorney hereby recommends this settlement in the amounts and terms 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:

Section 1. 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 parcel and for the terms and amounts specified in the attached Land Acquisition Summary Sheet.

Section 2. The County Mayor and the County Manager are hereby authorized to execute the Settlement Agreement including the conveyance to Florida Gaming Centers, Inc., d/b/a Miami Jai Alai, Inc., of the County land valued in the amount of $13,967,063 to $16,742.145 with the owner paying the difference in value to the County in accordance with the terms specified in the Land Acquisition Summary Sheet attached to this resolution.

The foregoing resolution 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:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of December, 2008. This resolution shall become effective as follows: (1) 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, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

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

LAND ACQUISITION SUMMARY SHEET

PROJECT LOCATION:	Miami Intermodal Center (MIC)/Earlington Heights Connector, a 2.4 mile corridor linking the MIC to the Earlington Heights Metrorail Station located at State Road (SR) 112 and NW 22 Avenue in Miami-Dade County, Florida
APPRAISERS:	James L. Riley, A.S.A. (Parcels 155 and 155 TCE Lee H. Waronker, M.A.I. (Exchange Property [Aviation Parcel])
PARCEL NUMBERS:	155 and 155 TCE
OWNERSHIP INTEREST:	Florida Gaming Centers, Inc., d/b/a Miami Jai Alai, Inc.
PARCEL AREA ACQUIRED:	Fee – 21,435 square feet (0.492 Acres) Temporary Construction Easement - 16,005 square feet (0.367 Acres) for a period of four years-
COUNTY'S INITIAL ESTIMATE OF VALUE AND INITIAL OFFER:	$ 803,300.00 - Fee $ 211,000.00 - Temporary Construction Easement $ 1,014,300.00 - By James L. Riley, A.S.A.
COUNTY'S INITIAL ESTIMATE OF VALUE OF EXCHANGE PROPERTY:	$11,000,000.00 – By Lee H. Waronker, M.A.I.
SETTLEMENT AMOUNT AND REMARKS	Florida Gaming Centers, Inc., accepts the County's appraised value of $1,014,300.00 for the Metrorail parcel, which amount will be credited against the amount to be paid by Florida Gaming Centers, Inc., to the County for the exchange property. Florida Gaming Centers, Inc., also accepts the County's valuation of the exchange property at between $13,967,063 and $16,742,145 depending on the occurrence of a number of contingencies contained in the Settlement Agreement. The final figure depends on whether the Board in its sole discretion, determines to close a remnant portion of N.W. 34th Street and/or a portion of N.W. 37 Avenue. If N.W. 37th Avenue is not closed, then Florida Gaming Centers, Inc., would be granted a perpetual aerial easement over N.W. 37th Avenue. The premium in value added to the exchange property is based on the closure of N.W. 37th Avenue or the granting of the perpetual air rights easement over N.W. 37th Avenue. In addition to the above, the County will pay $171,045.00 for easements required for relocation of Florida Power & Light's facilities. See attached explanation of the Settlement Agreement.

EXHIBIT A

MIAMI JAI ALAI SETTLEMENT AGREEMENT

The County needs to acquire land (parcel 155) and a temporary construction easement (155TCE) from the northwest corner of the Miami Jai Alai property for construction of the extension of Metrorail to the MIC (Miami Intermodal Center).

The County's appraiser estimated the fair market value of parcels 155 and 155TCE at $1,014,300.00. Miami Jai Alai desires to acquire property owned by the County (the Aviation Land) located immediately east of the Jai Alai property, in exchange for parcels 155 and 155TCE. The County's appraiser estimated the fair market value of the 10.982 acre Aviation Land at $11,000,000.00. Florida Gaming Centers, Inc. d/b/a Miami Jai Alai, Inc., as part of the exchange has agreed to pay the County the difference between the market value of parcels 155 and 155TCE and the market value of the Aviation Land and the closure of or air rights easement over N.W. 37 Avenue (the "Aviation Parcel") to the Aviation Department amortized over 15 years at 7.25% interest. There is a remnant portion of NW 34th Street that bifurcated the Aviation Land. On December 2, 2008, the Board passed a resolution (R-1209-08) closing this remnant right of way, which results in no deduction from the market value of the Aviation Parcel.

Miami Jai Alai plans to use the Aviation Parcel in conjunction with its future development plans. In furtherance of those plans, Miami Jai Alai desires to span NW 37th Avenue with its future development. The Settlement Agreement provides Miami Jai Alai with an aerial easement over NW 37th Avenue which results in an enhancement in market value of the Aviation Parcel to $13,872,063.00. However, Miami Jai Alai has requested closure of NW 37th Avenue to use the closed right of way as an open plaza entryway to its new facilities. If the Board votes to close NW 37th Avenue, the Aviation Parcel would then have an enhanced market value of $16,742,145.00.

If the Board closes NW 37th Avenue, the County will determine, with Board approval, whether to expand NW 36th Avenue; and if it is determined that NW 36th Avenue will be expanded, then Florida Gaming Centers, Inc. will dedicate the east twenty (20) feet of the Aviation Parcel to the County and provide up to $5,700,000.00 toward the construction of the road. If, however, NW 37th Avenue is not closed, then Florida Gaming Centers, Inc. will dedicate the west ten (10) feet of the Aviation Land for the expansion of NW 37th Avenue.

The Initial Closing on 2.283 acres of the Aviation Land, which Miami Jai Alai now leases, will take place within thirty (30) days of the entry of a Final Judgment in the condemnation suit. At the initial closing, the County will pay Florida Gaming Centers $171,045.00 for easements required by Florida Power & Light for relocation of its facilities. The remaining 8.7 acres will be held in escrow and conveyed within 60 days after being released by the Army Corps of Engineers, which was using it for the Miami River dredging project, and shown to be free and clear of environmental contamination, or by July 1, 2010, whichever date is later or Florida Gaming Centers, Inc., may elect to close at an earlier date than July 1, 2010.