Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2009

Agenda Item No. 8(P)(1)(A)

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Authorizing the Acquisition of the Designated Property Known as Parcel 16 for Right-of-Way Needed for the People's Transportation Plan (PTP) Project Entitled Roadway Improvements to SW 157 Avenue, from SW 152 Street to SW 184 Street, to be a Public Necessity

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Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution declaring the acquisition of Parcel 16 for right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to SW 157 Avenue, from SW 152 Street to SW 184 Street, to be a public necessity and authorizing the County Mayor, the County Mayor's designee and the County Attorney to employ appraisers, expert witnesses, obtain required environmental audits, and to take any and all appropriate actions to acquire the subject property in fee simple by donation, dedication, purchase, or by eminent domain proceedings, including a declaration of taking as necessary for and on behalf of Miami-Dade County.

Proceeds from the Charter County Transit System Sales Surtax (the surtax) will be used to fund this project, therefore, approval by the Board of County Commissioners (BCC) and Citizens' Independent Transportation Trust (CITT) is required.

Scope

The impact of this project will be Countywide; however, the property to be acquired is located within Commission District 9.

Fiscal Impact/Funding Source

Funding for the right-of-way acquisition and construction of this project will be provided by the Charter County Transit Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County. This project was specifically listed in the People's Transportation Plan (PTP) as one of the Board requested improvement projects for Commission District 9.

Track Record/Monitor

Not Applicable

Background

This resolution is for the acquisition of Parcel 16 of fifteen (15) separate parcels needed by the Public Works Department (PWD) for programmed improvements along SW 157 Avenue, between SW 152 Street and SW 184 Street. This project consists of widening the existing roadway from a two (2) lane undivided roadway to a four (4) lane roadway with a raised median, sidewalks, curb and gutter, continuous storm drainage system, landscaping, signalization, pavement markings & signing, and roadway lighting. The area to be acquired by PWD for the street improvements is legally described in Exhibit "A" and illustrated in the parcel location map in Exhibit "B," attached. These improvements will increase vehicular capacity, improve traffic mobility, provide ADA compliance.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 5, 2009

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

SUBJECT: Agenda Item No. 8(P)(1)(A)

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 Mayor'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. 8(P)(1)(A)
5-5-09

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL SIXTEEN (16) FOR RIGHT-OF-WAY NEEDED FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED ROADWAY IMPROVEMENTS TO SW 157 AVENUE FROM SW 152 STREET TO SW 184 STREET TO BE A PUBLIC NECESSITY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, this Board finds and declares the acquisition of Parcel 16 in fee simple as legally described in Exhibit "A" and illustrated on the project location map in Exhibit "B" attached hereto and made a part hereof, for the public purpose of right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to SW 157 Avenue from SW 152 Street (Coral Reef Drive) to SW 184 Street (Eureka Drive) to be required and necessary to accomplish such improvements; and

WHEREAS, Miami-Dade County is authorized under the Constitution and Laws of Florida, including Chapters 73, 74, 125, 127 and 341, Florida Statutes, and Sections 1.01 (A) (1), (2) and (21), of the Home Rule Charter of Miami-Dade County, to acquire said property by eminent domain proceedings,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies and adopts those matters set forth in the foregoing recitals and authorizes and directs the County Mayor or the County Mayor's designee and the County Attorney to employ appraisers, review

appraisers and expert witnesses, to obtain required environmental audits and to take any and all appropriate actions to acquire the subject property in fee simple, as legally described in Exhibit "A" attached hereto and incorporated herein by reference, necessary and required for right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to SW 157 Avenue from SW 152 Street (Coral Reef Drive) to SW 184 Street (Eureka Drive), by donation, dedication, purchase, or by eminent domain proceedings, including a declaration of taking, as necessary.

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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2009. 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

Miami-Dade County
Public Works Dept.

SW 157 AVENUE
(FEE SIMPLE)

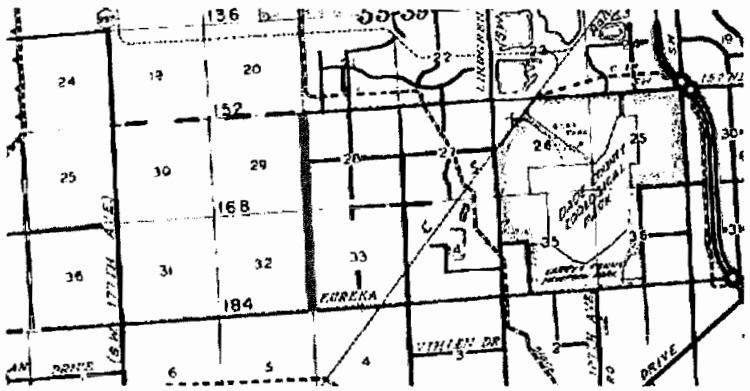
Parcel No. 16:

The West 5 feet of the East 40 feet less the North 6 feet of the NE 1/4 of the NE 1/4 of Section 29, Township 55 South, Range 39 East, lying and being in Miami-Dade County, Florida; and the West 40.02 feet of the East 75.02 feet of the North 6 feet of the NE 1/4 of said Section 29, and the area bounded by the South line of the North 6 feet thereof, and bounded by the West line of the East 40 feet thereof, and bounded by a 32 foot radius arc concave to the Southwest, said arc being tangent to both of the last described lines.

Approved as description
Date 3/24/09
C.D.S.

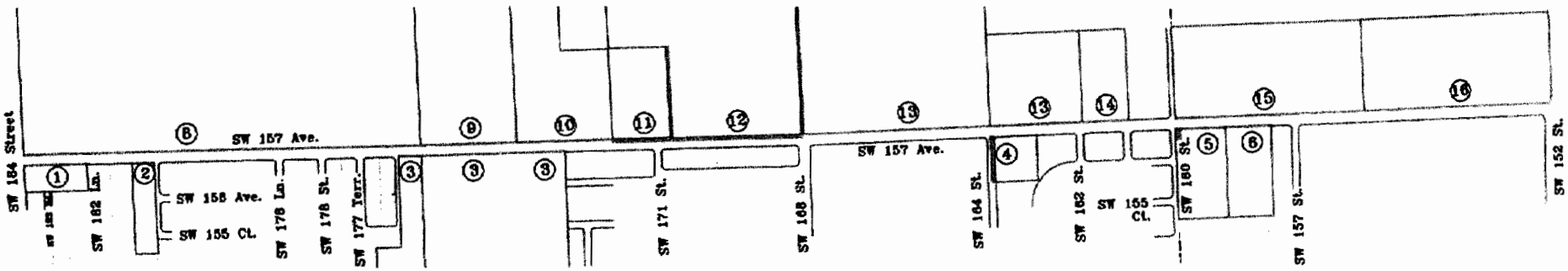
EXHIBIT "A"

SEC 28,29, 32 & 33
TWP 55 S
RGE 39 E



LOCATION MAP

NOT TO SCALE



R/W TO BE ACQUIRED BY THE COUNTY

EXHIBIT "B"

MIAMI-DADE COUNTY PUBLIC WORKS DEPT.
RIGHT OF WAY DIVISION
RIGHT OF WAY ENGINEERING SECTION

SW 157 Avenue
From SW 184 Street to SW 152 Street

SCALE: 1" = 1100'
PROJECT: 20040372
PREPARED BY: L.E.
DATED: 02-25-09

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda No.:	**8(P)1(A)**
File Number:	**090958**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**April 23, 2009**
Commission District:	**9**
Type of Item:	Acquisition of Designated Properties

Summary

This resolution declares the acquisition of Parcel 16 for right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to S.W. 157 Avenue, from S.W. 152 Street to S.W. 184 Street, to be a public necessity and authorizing the County Mayor, his designee and the County Attorney to employ appraisers, expert witnesses, obtain required environmental audits, and to take any and all appropriate actions to acquire the subject property in fee simple by donation, dedication, purchase, or by eminent domain proceedings, including a declaration of taking as necessary. This project is included in Exhibit 1 of the PTP Ordinance under the Board of County Commissioners requested Major Roadway and Neighborhood Improvements.

Background and Relevant Information

According to Public Works Department (PWD) staff, a public meeting was conducted on November 2, 2006 to notify residents of the project and possible eminent domain proceedings by the County. The residents in the area indicated no objections to the proposed road improvements at the public meeting.

PWD staff mentioned that the S.W. 157 Avenue corridor has become a vital north/south artery in the western section of the County. The corridor extends from S.W. 42 Street to S.W. 112 Street as a 4-lane divided roadway. In addition, PWD currently has 2 projects under construction that will extend S.W. 157 Avenue as a 4-lane divided roadway from S.W. 112 Street and connect to the existing 4-lane section at S.W. 136 Street. Staff stated that when those projects as well as the proposed project are complete, S.W. 157 Avenue will be a continuous 9-mile, 4-lane divided corridor from S.W. 184 Street to S.W. 42 Street.

The anticipated start and completion dates for construction are February 2011 and February 2013 respectively.

Question: Has PWD hosted additional public meetings since 2006?

Budgetary Implications

PWD staff state that costs are dependent on the cooperation and willingness of the property owners to dedicate or sell at the appraised value.

The roadway improvement will be funded by PTP funds.

Public Sector Impact

According to PWD staff, there are large existing residential developments in this area to the East of S.W. 157 Ave. There is also development scheduled at the following 2 development sites: Estates at the Grove, 24-Single Family Homes located at S.W. 157 Avenue from S.W. 159 Street to S.W. 158; and St Venetian Park West, 407-Single Family Homes and future school located at S.W. 157 Avenue to S.W. 152 Avenue from S.W. 176 Terrace to S.W. 173 Street

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Comments

According to the County Attorney's Office, resolutions acquiring parcels must be introduced to the Board of County Commissioners as separate resolutions, pursuant to F.S. 127.02. Section 127.02 requires that a "Board of County Commissioners adopt a resolution in order to acquire **a** property through the use of eminent domain." Eminent domain may be described as the fundamental power of the government to take private property for a public use without the owner's consent. The power of eminent domain is absolute, except as limited by the Federal and State Constitutions, and all private property is subject to the power of the government to take private property by eminent domain.

The County is authorized under the Constitution and Laws of Florida including Chapters 73,74,125, 127 and 341, Florida Statutes, and Sections 1.01(A)(1), (2) and (21) of the Home Rule Charter of Miami-Dade County to acquire property by eminent domain.

Prepared by: Michael Amador-Gil