Memorandum

MIAMI-DADE COUNTY

Date: June 2, 2009

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

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 1 for Right-of-Way Needed for the People's Transportation Plan (PTP) Project Known as Roadway Expansion and Improvements to NW 37 Avenue, from NW North River Drive to NW 79 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 1 for right-of-way needed for roadway expansion and improvements along NW 37 Avenue, from NW North River Drive to NW 79 Street, to be a public necessity and authorizing the County Mayor or 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, purchase, or by eminent domain proceedings, including a declaration of taking as necessary for and on behalf of Miami-Dade County.

Scope

The property to be acquired is located within County Commission District 2 and traverses the City of Hialeah and the City of Miami. However, this project is beneficial Countywide.

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 2.

Track Record/Monitor

Not Applicable

Background

This resolution is for the acquisition of Parcel 1 of twenty-six (26) separate parcels needed by the Public Works Department (PWD) for programmed improvements along NW 37 Avenue, between NW North River Drive and NW 79 Avenue. This project consists of the reconstruction and widening of an existing two (2) lane undivided roadway to a three (3) lane roadway including parking lanes, sidewalks, curb & gutters, a new storm drainage system, signalization, pavement markings & signing and roadway lighting. The area to be acquired by PWD for the roadway improvements is legally described in Exhibit "A" and illustrated in the parcel location map contained in Exhibit "B," both exhibits are attached and made a part hereof. These improvements will increase vehicular capacity, improve traffic mobility and provide multiple modes of transportation.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: June 2, 2009

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

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

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)(C)
6-2-09

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL ONE (1) NEEDED FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED ROADWAY EXPANSION AND IMPROVEMENTS TO NW 37 AVENUE FROM NW NORTH RIVER DRIVE TO NW 79 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 1 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 roadway expansion and improvements to NW 37 Avenue from NW North River Drive to NW 79 Street to be required and necessary to accomplish such construction; 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 adopts those matters set forth in the foregoing recitals and authorizes and directs the County Mayor or 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 improvements to NW 37 Avenue from NW North River Drive to NW 79 Street, by donation, 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 2nd day of June, 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.

NW 37 AVENUE
(FEE SIMPLE)

Parcel No.1: That portion of the SW 1/4 of the SW 1/4 of the SW 1/4, less the East 435.5 feet and less the North 349.68 feet, and less the South 35 feet and the West 35 feet, in Section 21, Township 53 South, Range 41 East, in Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the SW 1/4 of said Section 21; thence run N02°09'23"W along the West line of the SW 1/4 of said Section 21, for a distance of 50.17 feet; thence run N87°50'37"E along a line perpendicular to the previous described line, for a distance of 35.00 feet to the **POINT OF BEGINNING**; thence run S43°05'24"E, for a distance of 20.01 feet, to the intersection with the North line of the South 35.00 feet thereof; thence run N87°47'07"E along said North line, for a distance of 11.92 feet to the point of curvature of a circular curve concave to the Northeast; thence run Northwesterly, along said circular curve concave to the Northeast, having a radius of 25.00 feet, through a central angle of 90°03'30", for an arc distance of 39.30 feet to the point of tangency; thence run S02°09'23"E, along said East line of the West 35.00 feet, for a distance of 9.90 to the **POINT OF BEGINNING**. Containing 35 square feet, more or less.

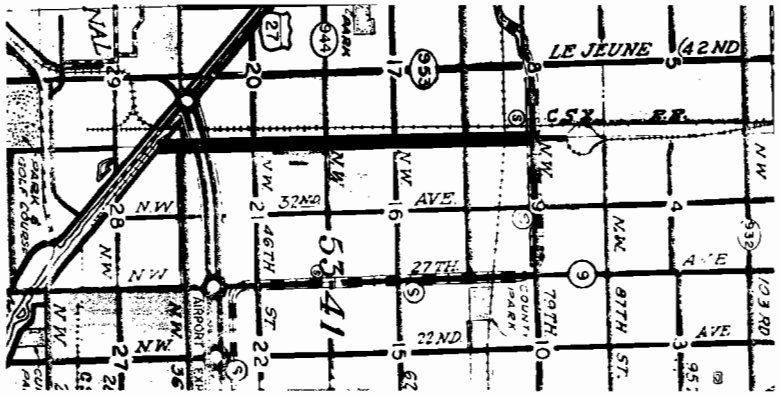
Approved as description
Date 3/25/09
C.D.S.

EXHIBIT "A"

SEC 8, 9, 16, 17, 20, 21, 28 & 29

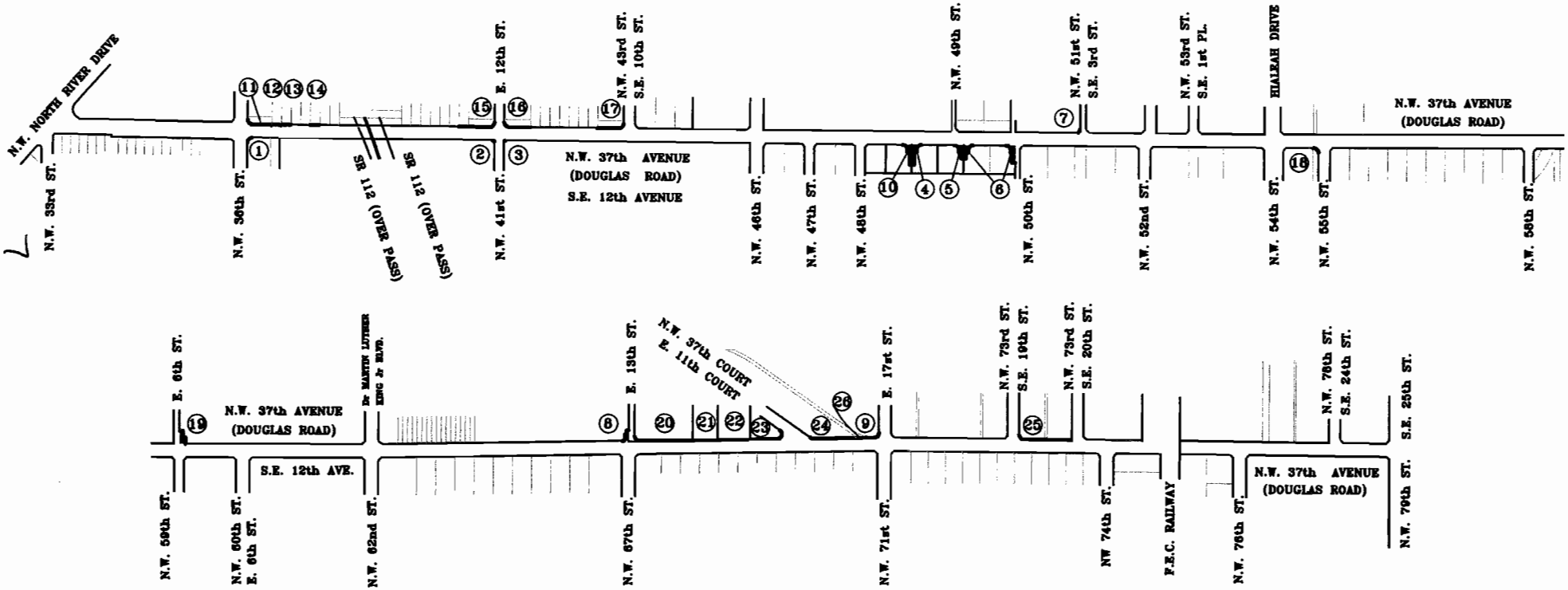
TWP 53 S

RGE 41 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

NW 37 Avenue

From NW North River Drive to NW 79 Street

SCALE 1" = 800'
PROJECT: 20040330
PREPARED BY: L.E.
DATED: 03-04-09

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

Legislative Notes

Agenda Items:	**8(P)1(C)**
File Number:	**091196**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**May 18, 2009**
Commission District:	**2**
Type of Item:	Acquisition of Designated Properties (Project 606190)

Summary

This resolution declares the acquisition of Parcel (1) for right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to N.W. 37 Avenue, from N.W. North River Drive to N.W. 79 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 (BCC) requested Major Roadway and Neighborhood Improvements.

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

Background and Relevant Information

According to Public Works Department (PWD) staff, the Roadway Improvements will alleviate traffic congestion, make needed drainage improvements and improve the traffic flow. On November 13, 2006, PWD held a public meeting at Melrose Elementary School to inform the affected constituents and solicit their input. PWD is in the process of implementing a Public Involvement Plan (PIP) for this with the residents and businesses. As part of the PIP, PWD will contact all property owners within the project limits, and provide them with a fact sheet outlining all the information related to the construction of the project.

Budgetary Impact

According to PWD staff, neither the City of Miami nor the City of Hialeah will be contributing any funds.

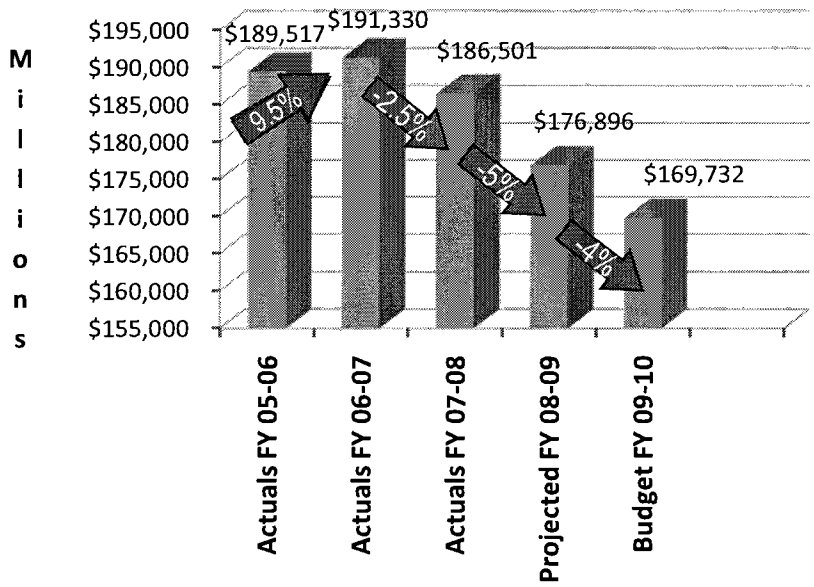
PTP Pro Forma Outlook

According to the Five-Year Financial Outlook , Volume 1, FY 2008-09 Adopted Budget, several items in the People's Transportation Plan (PTP) continue to be adjusted to reflect more accurate construction and future operating cost estimates as well as any amendments to the PTP approved by the Citizens' Independent Transportation Trust and the BCC. The rate of growth in sales surtax is slowing relative to forecasts made in FY 2005-06 and FY 2006-07.

The PTP will fund $397 million in major roadway improvements and neighborhood improvements administered by PWD, over the next five years. PWD has spent $110.899 million construction or erecting these improvements through September 2008. PWD also anticipates spending $47.491 million in PTP funding in minor neighborhood improvement projects that include pavement markings, road widening projects, resurfacing, guardrails, sidewalks, drainage, and street lights.

The chart below shows that from FY 2005-06 through projected FY 2009-10 the Surtax will dip 10.4%.

Transit System Surtax Projections



Source: Revenue Estimating Conference dated March 30, 2009

Comments

According to the County Attorney's Office, legislative items 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