

**MEMORANDUM**

Agenda Item No. 5(J)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

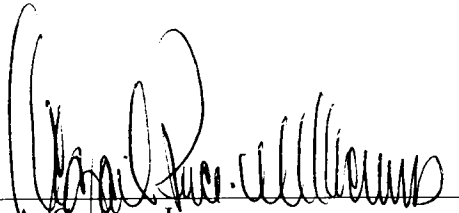
**DATE:** July 7, 2011

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

**SUBJECT:** Resolution granting petition to close  
NW 37 Avenue, from NW North  
River Drive to 170 feet South of the  
centerline of NW 36 Street (Road  
Closing Petition No. P-874)

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The accompanying resolution was prepared by Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

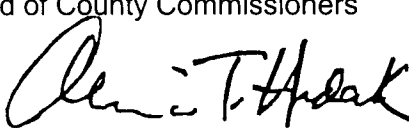
RAC/cp

# Memorandum



**Date:** July 7, 2011

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Alina T. Hudak  
County Manager 

**Subject:** Road Closing Petition P-874  
Section: 28 & 29-53-41  
NW 37 Avenue, from NW North River Drive to 170 Feet South of the Centerline of  
NW 36 Street  
Commission District: 2

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## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (BCC) set a public hearing to close the subject right-of-way (NW 37 Avenue from NW North River Drive to 170 feet south of the centerline of NW 36 Street). The Miami-Dade County Public Works Department (PWD) further recommends closing the subject right-of-way because it will not negatively impact traffic flow in the area. This portion of NW 37 Avenue dead ends at NW North River Drive and existing traffic will be shifted to NW 36 Avenue.

This recommendation for closure is contingent upon Florida Gaming Centers, Inc. (FGC) d/b/a Miami Jai-Alai maintaining emergency vehicle access along the portion of NW 37 Avenue to be closed.

## **SCOPE**

This road closing is located within the boundaries of Commission District 2.

## **FISCAL IMPACT/FUNDING SOURCE**

The Property Appraiser's Office has assessed the adjacent property to this right-of-way at \$13.85 per square foot. Therefore, the estimated value of the right-of-way being closed is approximately \$988,613. If this right-of-way is closed and vacated, the land will be placed on the tax roll, generating an estimated \$20,224 per year in additional property taxes. Since the subject road closing is initiated by the PWD, there is no associated processing fee for this road closing.

## **DELEGATED AUTHORITY**

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the Resolution.

## **TRACK MONITOR**

Not Applicable.

## **BACKGROUND**

This request to close NW 37 Avenue from NW North River Drive to 170 feet south of the centerline of NW 36 Street is presented pursuant to the Eminent Domain Settlement Agreement between Miami-Dade County and FGC (Settlement Agreement) as approved by the BCC on December 16, 2008 through Resolution R-1440-08 (see attached) and Section 136.09(1), Florida Statutes.

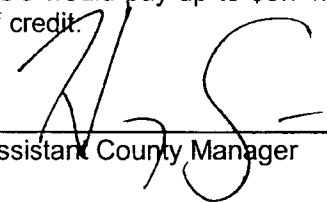
The Settlement Agreement is the result of extensive negotiations between the County and FGC, as it was necessary for the County to acquire a portion of FGC's property for the MIC/Earlinton Heights Metrorail Connection. FGC was unwilling to sell their property and in an effort to avoid condemnation agreed instead to exchange their property for a parcel of land known as the Aviation

Aviation Parcel pursuant to the Settlement Agreement. FGC also agreed to pay any difference in market value between the two parcels. In addition to the property exchange, the terms of the Settlement Agreement include that the County would petition the BCC for the closure of NW 37 Avenue and if the road closure is approved, FGC will dedicate the eastern 20 feet of the Aviation Parcel after the exchange for improvements along NW 36 Avenue. The market value of the Aviation parcel further increases, after the road closure, by an additional \$2,870,062. Should the BCC deny the road closure, the County will convey to FGC a perpetual air rights easement over, above and along the length and width of NW 37 Avenue adjacent to the Miami Jai-Alai and FGC will not need to dedicate the eastern 20 feet of the Aviation Parcel.

Prior to the submission of the road closing petition to PWD, the applicant is required by the zoning code to apply for a public hearing in order to change the required zoned right-of-way from 80 feet to zero feet. The hearing was held by the Planning and Zoning Department, and no opposition was voiced by the public. As part of the road closing review process, this application was circulated among various departments, including Miami-Dade Fire Rescue and Miami-Dade Police Department and none expressed any concerns with this road closing, since service to Jai-Alai is provided by the City of Miami (City). PWD also forwarded this information to the City and the City's Police and Fire Departments initially voiced concerns. However, the City's concerns were abated after they were informed provisions had been made to ensure the level of service on the abutting road system would not be compromised and emergency vehicle access would be maintained.

Should the BCC approve the closing of NW 37 Avenue, traffic would be re-routed to NW 36 Avenue and FGC will provide up to \$5.7 million of funding toward the construction improvements. The initial improvements would consist of traffic signalization, street lighting and some possible minor road widening to safely accommodate the traffic from NW 37 Avenue. Since this work needs to be completed prior to the closure of NW 37 Avenue, FGC will pay the County the initial sum of \$570,000 upon approval of the road closure, followed by payment for the remaining costs associated with the improvements at the time PWD awards the construction contract.

Final configuration to three lanes, installation of sidewalks, curb and gutters and any other necessary enhancements will be completed according to the Settlement Agreement. FGC will also incur the costs of acquiring any additional right-of-way beyond their own dedication of the eastern 20 feet of the Aviation Parcel if required to accomplish the work. According to said Agreement, FGC would pay up to \$5.7 million associated with the cost of improvements and obtaining a letter of credit.

  
\_\_\_\_\_  
Assistant County Manager



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** July 7, 2010

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

**SUBJECT:** Agenda Item No. 5(J)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

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

Agenda Item No. 5(J)  
7-7-11

RESOLUTION NO. \_\_\_\_\_

RESOLUTION GRANTING PETITION TO CLOSE NW 37 AVENUE, FROM NW NORTH RIVER DRIVE TO 170 FEET SOUTH OF THE CENTERLINE OF NW 36 STREET (ROAD CLOSING PETITION NO. P-874)

**WHEREAS**, the County Commission held a public hearing to consider a petition to close NW 37 Avenue, from NW North River Drive to 170 feet South of the centerline of NW 36 Street (the "Road"), as outlined in the accompanying petition and memorandum, a copy of which is incorporated herein by reference; and

**WHEREAS**, Miami-Dade County (the "County") entered into an eminent domain settlement agreement ("Settlement Agreement") with Florida Gaming Centers, Inc., ("FGC"), d/b/a Miami Jai-Alai, which was approved on December 16, 2008 by Resolution R-1440-08, which Settlement Agreement contained provisions regarding a number of future contingencies; and

**WHEREAS**, the Settlement Agreement entitled FGC to acquire by exchange an additional 8.7 acre parcel of County-owned property currently controlled by Miami-Dade Aviation Department ("Aviation Parcel"), which acquisition is currently scheduled to close in June of 2011; and

**WHEREAS**, the Settlement Agreement additionally requires the Board to consider closing the Road; and

**WHEREAS**, if the Road is closed, the Public Works Director deems necessary the expansion of NW 36<sup>th</sup> Avenue between NW North River Drive and NW 36<sup>th</sup> Street ("NW 36<sup>th</sup> Avenue"), as provided in the Settlement Agreement; and

**WHEREAS**, pursuant to the Settlement Agreement, the expansion of NW 36<sup>th</sup> Avenue, will be completed in two phases and paid for by FGC; and

**WHEREAS**, closing the Road is conditioned upon several additional conditions precedent being met by FGC,

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

Section 1. This Board ratifies and adopts these matters set forth in the foregoing recitals.

Section 2. The Road is hereby vacated, abandoned and closed, all rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed, subject to the completion of all of the conditions listed in Section 3 below. If any of the conditions precedent listed in Section 3 is not met, as determined in the sole discretion of the Public Works Director, then this resolution shall be null and void.

Section 3. Prior to the effectiveness of Section 2 above, the following conditions must occur: (a) FGC, its successors or assigns, must provide a permanent easement over, across, and under the Road for utility and drainage easements, including but not limited to access for maintenance and improvement of the same, (b) FGC, its successors or assigns, must provide a permanent easement over and across the Road for ingress and egress of emergency vehicles; (c) FGC, its successors or assigns, must complete the acquisition of the Aviation Parcel; (d) FGC must be in compliance with all of the terms of the Settlement Agreement, including but not limited to its payment obligations on all payments to satisfy any County or third-party financing on the Aviation Parcel in accordance with the agreed upon mortgage and promissory note terms; (e) FGC must pay for the Phase I improvements to NW 36 Avenue, in accordance with any

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requirements imposed by the Public Works Director; (f) the County must complete the Phase I improvements to NW 36 Avenue; and, (g) FGC must dedicate the eastern 20 feet of the Aviation Parcel for road purposes to the County following its acquisition of that parcel.

Section 4. If all of the conditions described in Section 3 above are completed, it is found that closing of the Road will serve a public purpose and benefit the public without violating private property rights, and the procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 5. The Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County.

Section 6. The Office of the Property Appraiser is hereby directed to place the area encompassed by the Road on the tax rolls under the ownership of FGC upon notification by the Public Works Director that the conditions precedent stated in Section 3 above have been met.

Section 7. Pursuant to Resolution No. R-974-09, this Board directs the County Mayor or County Mayor's designee to record any instruments of conveyance for the easements accepted herein in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with 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:

- |                                     |                      |
|-------------------------------------|----------------------|
| Joe A. Martinez, Chairman           |                      |
| Audrey M. Edmonson, Vice Chairwoman |                      |
| Bruno A. Barreiro                   | Lynda Bell           |
| Esteban L. Bovo, Jr.                | Jose "Pepe" Diaz     |
| Sally A. Heyman                     | Barbara J. Jordan    |
| Jean Monestime                      | Dennis C. Moss       |
| Rebeca Sosa                         | Sen. Javier D. Souto |
| Xavier L. Suarez                    |                      |

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of July, 2011. 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.



Jorge Martinez-Esteve



**OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA**

Agenda Item No. 13(A)(1)

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

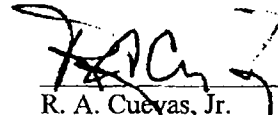
**DATE:** December 16, 2008

**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  
**Resolution No. R-1440-08**

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

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/jls

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# 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 Agenda Item No. 13(A)(1)  
Veto \_\_\_\_\_ 12-16-08  
Override \_\_\_\_\_

RESOLUTION NO. R-1440-08

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,

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**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 **Rebeca Sosa** who moved its adoption. The motion was seconded by Commissioner **Joe A. Martinez** 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>absent</b>	Sally A. Heyman	<b>aye</b>
Joe A. Martinez	<b>aye</b>	Dennis C. Moss	<b>absent</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>aye</b>		

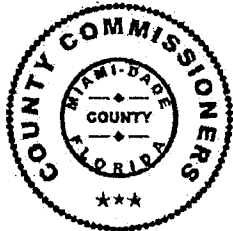
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The Chairperson thereupon declared the resolution duly passed and adopted this 16<sup>th</sup> day of December, 2008. This resolution shall become effective as follows: (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and 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: Kay Sullivan  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency

Thomas Goldstein

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**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])

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**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. 34<sup>th</sup> Street and/or a portion of N.W. 37 Avenue. If N.W. 37<sup>th</sup> Avenue is not closed, then Florida Gaming Centers, Inc., would be granted a perpetual aerial easement over N.W. 37<sup>th</sup> Avenue. The premium in value added to the exchange property is based on the closure of N.W. 37<sup>th</sup> Avenue or the granting of the perpetual air rights easement over N.W. 37<sup>th</sup> 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**

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## 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 34<sup>th</sup> 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 37<sup>th</sup> Avenue with its future development. The Settlement Agreement provides Miami Jai Alai with an aerial easement over NW 37<sup>th</sup> 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 37<sup>th</sup> Avenue to use the closed right of way as an open plaza entryway to its new facilities. If the Board votes to close NW 37<sup>th</sup> Avenue, the Aviation Parcel would then have an enhanced market value of \$16,742,145.00.

If the Board closes NW 37<sup>th</sup> Avenue, the County will determine, with Board approval, whether to expand NW 36<sup>th</sup> Avenue; and if it is determined that NW 36<sup>th</sup> 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 37<sup>th</sup> 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 37<sup>th</sup> 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.

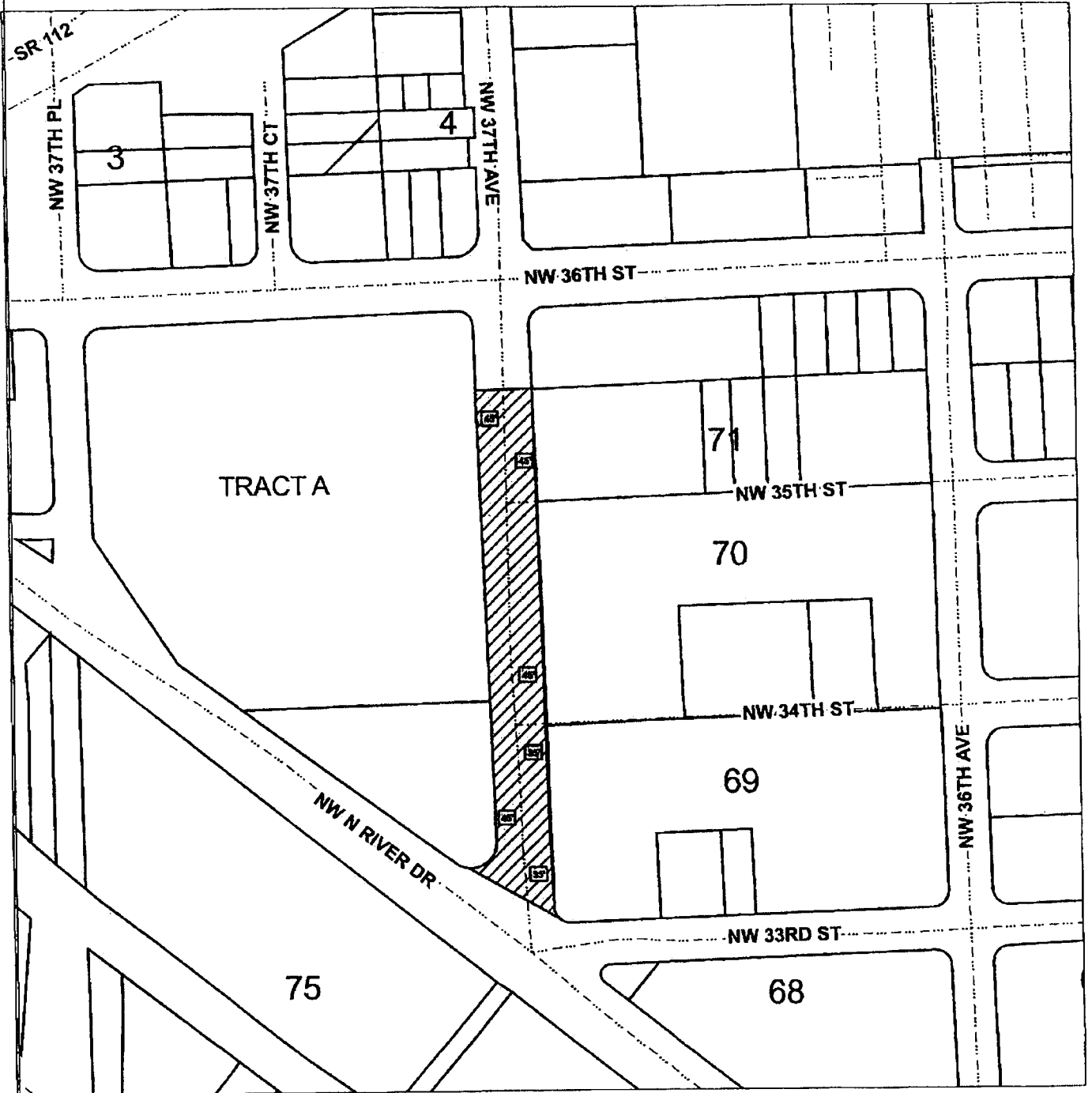


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# Location Map



SECTION 29-28 TOWNSHIP 53S RANGE 41 E



Municipality: MIAMI AND UNINCORPORATED MIAMI-DADE  
Commission District: Dornin D. Rolle, 2  
Miami-Dade County Mayor Carlos Alvarez

**Legend**

- Road Closing
- MDC.PROP

## P-874



PUBLIC WORKS DEPARTMENT  
RIGHT-OF-WAY

Date: September 24, 2009  
Prepared By: Yuzmin Moreno

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