**MEMORANDUM** Agenda Item No. 8(P)(1)(M)

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

**DATE:** October 4, 2011

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

**SUBJECT:** Resolution declaring the acquisition of the designated property known as Parcel 14 for improvements to SW 137 Avenue from the Homestead Extension of Florida's Turnpike (SR 821) to SR-5 (US 1)

The accompanying resolution was prepared by the Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro and Co-Sponsor Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/up

# Memorandum

MIAMI-DADE COUNTY

**Date:** October 4, 2011

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

**From:** Carlos A. Gimenez
Mayor

**Subject:** Resolution Declaring the Acquisition of the Designated Property Known as Parcel 14 for Right-of-Way Needed for the PTP Project Entitled Improvements to SW 137 Avenue from the Homestead Extension of Florida's Turnpike to US 1

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**RECOMMENDATION**

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution which does the following:

- Declares the acquisition of Parcel 14 required for the road widening, beautification, and right-of-way improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike (SR 821) to SR-5 (US 1) to be a public necessity; and
- Authorizes the County Mayor or 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 parcel in fee simple, either by negotiation, donation, purchase at values established by appraisals together with reasonable attorneys' fees and costs pursuant to Chapters 73.091 and 73.092, Florida Statutes, or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County.

This resolution is for the acquisition of Parcel 14 and is part of a group of parcels needed by the Public Works Department (PWD) for programmed improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike (SR 821) to SR-5 (US 1). It is anticipated that the proposed project will consist of 17 parcels which are all simultaneously being presented for BCC approval on this agenda. Pursuant to Florida Statue Section 127.02, each parcel must be approved by separate resolution.

**SCOPE**

The impact of this project is countywide; however, it is located within Commission Districts 8 and 9.

**FISCAL IMPACT/FUNDING SOURCE**

Funding for the right-of-way acquisition, design and construction of this project is from Charter County Transportation Surtax bond proceeds. This item will be presented to the Citizens' Independent Transportation Trust for review prior to final consideration by the BCC. Funding is programmed within the adopted FY 2010-11 Capital Budget and the index code for this project is CPEPTP408137. The funding source for the right-of-way acquisition is subject to change; however, additional funds needed require BCC approval.

The total cost of the project (inclusive of construction, design and right-of-way acquisition of all parcels) is estimated at $9,941,366. The anticipated ongoing annual maintenance and operational costs will be approximately $17,536.89 and $9,955.37, respectively.

The initial acquisition cost has been budgeted and no additional fiscal impacts are expected; however, the ultimate acquisition cost in the event of litigation would be subject to a future ruling by the Court.

**TRACK RECORD/MONITOR**

The Public Works Department is the entity overseeing this project and the responsible person for monitoring this acquisition project is Mr. Francisco Fernandez, Chief, Real Estate Officer, Right-of-Way Division.

**BACKGROUND**

The PWD has programmed the construction of SW 137 Avenue as part of the People's Transportation Plan Project Entitled *Improvements to SW 137 Avenue from the Homestead Extension of Florida's Turnpike to US 1*. The proposed project includes roadway expansion, beautification and improvements. Such improvements consist of reconstructing the existing roadway to include a raised landscaped median, bicycle facilities, sidewalks, curb and gutters, continuous storm drainage system, signalization, pavement markings and signage, and roadway lighting.

The area to be acquired by Miami-Dade County is necessary for the proposed roadway improvements, and is legally described in "Exhibit A" and illustrated on the parcel location map in "Exhibit B" both attached herewith.

County Manager/Deputy Mayor

# MEMORANDUM

(Revised)

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

**DATE:** October 4, 2011

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

**SUBJECT:** Agenda Item No. 8(P)(1)(M)

**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. 8(P)(1)(M)
10-4-11

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 14 FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) ENTITLED IMPROVEMENTS TO SW 137 AVENUE FROM THE HOMESTEAD EXTENSION OF FLORIDA'S TURNPIKE (SR 821) TO SR-5 (US 1), TO BE A PUBLIC NECESSITY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE COUNTY ATTORNEY TO TAKE ANY AND ALL APPROPRIATE ACTIONS TO ACCOMPLISH ACQUISITION OF THE SUBJECT PROPERTY IN FEE SIMPLE, BY DONATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO CHAPTERS 79.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

**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 in fee simple of the property known as Parcel 14 as legally described in "Exhibit A" and shown on the project location map in "Exhibit B" attached hereto and made a part hereof, for the public purpose of improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike (SR 821) to SR-5 (US 1), to be required and necessary to accomplish such improvements; and authorizes the use of Charter County Transportation Surtax Funds; 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 through eminent domain proceedings,

**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. This Board finds and declares that the acquisition of the subject parcel, as legally described in "Exhibit A" attached hereto and incorporated herein by reference, is needed for the public purpose of improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike (SR 821) to SR-5 (US 1).

Section 3. This Board authorizes and directs the County Mayor or County Mayor's designee and County Attorney to employ appraisers, review appraisers and expert witnesses, to obtain required environmental audits and to take any action to acquire the subject parcel, as legally described in "Exhibit A" in fee simple, including any businesses thereon, either by donation, purchase at values established by appraisals together with reasonable attorneys' fees and costs pursuant to Chapters 73.091 and 73.092, Florida Statutes, or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County and authorizes the use of Charter County Transportation Surtax Funds.

Section 4. Pursuant to Resolution No. R-974-09, this Board directs the County Mayor or County Mayor's designee to record the instruments of conveyance 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 4th day of October, 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.

Debra Herman

# LEGAL DESCRIPTION
(FEE SIMPLE)

All that part of the SE 1/4, NE 1/4, NE 1/4 of Section 27, Township 56 South, Range 39 East, in Miami-Dade County, Florida, more particularly described as follows:

The West 65 feet of the East 105 feet of the South 15 feet of the SE 1/4, NE 1/4, NE 1/4 of Section 27, Township 56 South, Range 39 East;

And

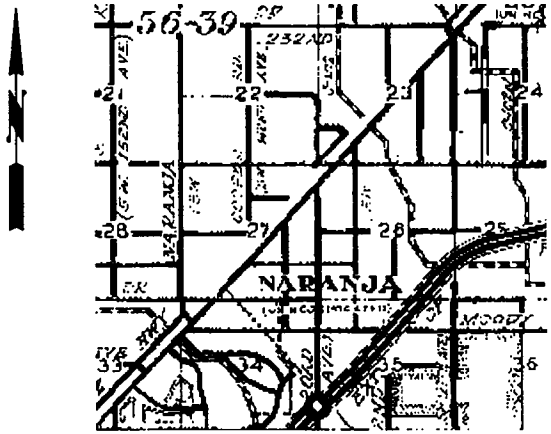
All that part which lies within the external area formed by a 25 foot radius curve concave to the Northwest, tangent to the West line of the East 40 feet and tangent to the North line of the South 15 feet of the SE 1/4, NE 1/4, NE 1/4 of Section 27, Township 56 South, Range 39 East.

**EXHIBIT "A"**

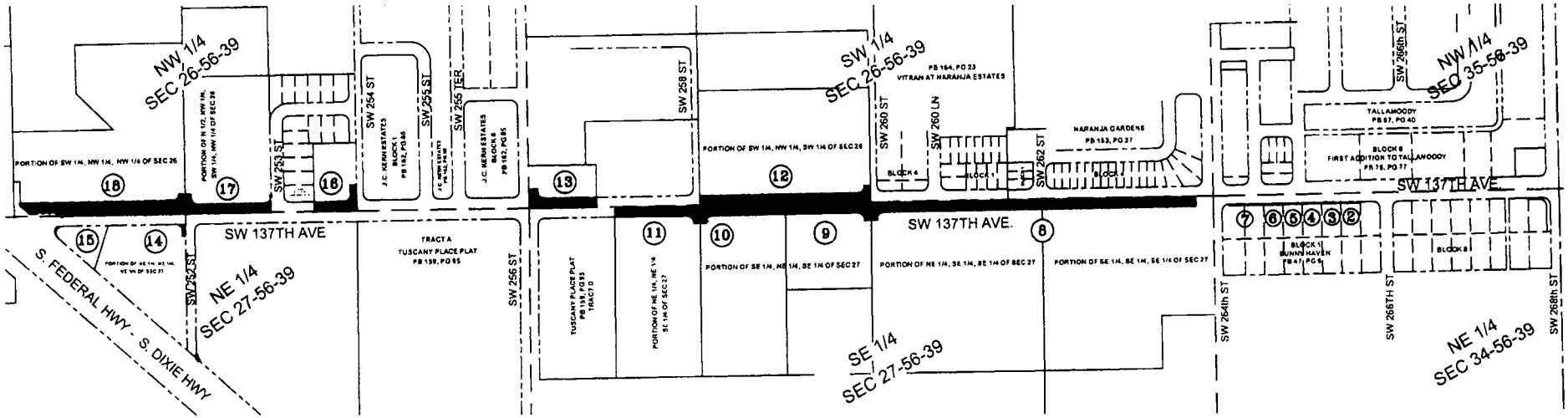


PARCEL 14
SW 137th Ave.
Project No. 20040344

SEC 26, 27 & 34
TWP 56 S
RGE 39 E




LOCATION MAP
NOT TO SCALE




0 150 300 600 1200

SCALE 1" = 600'

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 137 Avenue
## From US-1 to HEFT
Project No. 20040344

MIAMI-DADE

SCALE 1" = 600'
PREPARED BY: L.E.
DATED: 06-01-11

AGENDA ITEM 7C

# Memorandum

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

**From:** Charles Scurr, Executive Director

**Date:** September 13, 2011

**Re:** RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS (BCC), DECLARE THE ACQUISITION OF THE 17 DESIGNATED PROPERTIES KNOWN AS PARCELS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,12, 13, 14, 15, 16, 17, AND 18 FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) ENTITLED IMPROVEMENTS TO SW 137 AVENUE FROM THE HOMESTEAD EXTENSION OF FLORIDA'S TURNPIKE (SR 821) TO SR-5 (US 1), TO BE A PUBLIC NECESSITY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE COUNTY ATTORNEY TO TAKE ANY AND ALL APPROPRIATE ACTIONS TO ACCOMPLISH ACQUISITION OF THE SUBJECT PROPERTIES IN FEE SIMPLE, BY DONATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO CHAPTERS 79.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS **(PWD)**

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On September 13, 2011, the CITT voted (7-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 11-062. The vote was as follows:

Hon. Linda Zilber, Chairperson – Absent
Paul J. Schwiep, Esq., 1st Vice Chairperson – Aye
Hon. Anna E. Ward, Ph.D., 2nd Vice Chairperson – Aye

Christopher Benjamin, Esq. – Absent
David Concepcion – Absent
Glenn J. Downing, CFP® – Aye
Alfred J. Holzman – Absent
Hon. James A. Reeder – Aye

Harold Braynon, Jr. – Absent
Joseph Curbelo – Absent
Peter L. Forrest – Aye
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye

cc: Alina Hudak, Deputy Mayor/County Manager
Bruce Libhaber, Assistant County Attorney
Alexander Bokor, Assistant County Attorney