# MEMORANDUM

Agenda Item No. 8(L)(8)

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|---|---|---|---|
| **TO:** | Honorable Chairwoman Rebeca Sosa<br>and Members, Board of County Commissioners | **DATE:** | November 5, 2014 |
| **FROM:** | R. A. Cuevas, Jr.<br>County Attorney | **SUBJECT:** | Resolution declaring the acquisition of the designated property known as parcel 59A for the People's Transportation Plan (PTP) Project Number 20040348 entitled improvements on SW 216 Street from the Florida Turnpike to SW 127 Avenue, to be a public necessity and authorizing the use of Charter County Transportation Surtax Funds and rescinding Resolution R-121-14 |

The accompanying resolution was prepared by the Public Works and Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

# Memorandum

MIAMI-DADE COUNTY

**Date:** November 5, 2014

**To:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez
Mayor

**Subject:** Resolution Declaring the Acquisition of the Designated Property Known as Parcel 59A for Right-of-Way Needed for the PTP Project Number 20040348 Entitled Improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue to be a Public Necessity and Authorizing the use of Charter County Transportation Surtax Funds and Rescinding Resolution R-121-14.

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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 59A required for the road widening, beautification, and right-of-way improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue to be a public necessity;
- Authorizes the County Mayor or the County Mayor's designee and the County Attorney to employ appraisers and 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, right-of-way designation, purchase at values established by appraisals or tax assessed values whichever is the higher of the two, together with reasonable attorneys' fees, expert fees, business damages and costs pursuant to Sections 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
- Rescinds Resolution R-121-14 adopted by the BCC on February 4, 2014.

This resolution is for the acquisition of Parcel 59A, which is one of the final parcels needed by Public Works and Waste Management (PWWM) for programmed improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue. This parcel is one of several parcels for acquisition being presented for BCC approval on this agenda. Florida Statute Section 127.02 requires that there be a separate resolution for each individual property.

Said Resolution is placed for Committee review pursuant to Miami-Dade County Code Section 29-124(f). This item may only be considered by the BCC if the CITT has forwarded a recommendation to the BCC prior to the date scheduled for BCC consideration or forty-five (45) days have elapsed since the filing with the Clerk of the Board of this item. If the CITT has not forwarded a recommendation and forty-five (45) days have not elapsed since the filing of this item, I will request a withdrawal of this item.

**Scope**

The impact of this project is countywide; however, it is located within Commissioner Dennis C. Moss' District 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, and may be supplemented by other eligible funding sources. Funding is programmed within the adopted FY2013-2014 Capital Budget and the index code is CPEPTP709216. The initial acquisition costs have been budgeted and no additional fiscal impacts are expected; however, in the event of litigation the ultimate acquisition costs would be subject to a future ruling by the Court.

The total cost of the project (inclusive of construction, design and the right-of-way acquisition of all parcels) is estimated at $14,956,000.00.

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

**Background**
PWWM has programmed the construction of SW 216 Street as part of the People's Transportation Plan Project Entitled Improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue. The proposed project includes roadway expansion, beautification and improvements consisting of reconstructing the existing roadway to include a raised landscaped median, bicycle facilities, sidewalks, curb and gutters, a 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 "Exhibit B-3" attached herewith.

Resolution No. R-121-14, adopted by the BCC on February 4, 2014, authorized the acquisition of the property within the footprint of the subject parcel. However, this Resolution rescinds the previously adopted resolution in order to obtain clear title to potentially disputed areas of ownership. Accordingly, Resolution R-121-14 should be replaced and superseded by adoption of this Resolution.

Alina T. Hudak
Deputy Mayor

# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**DATE:** November 5, 2014

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

**SUBJECT:** Agenda Item No. 8(L)(8)

**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 Mayor'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(L)(8)
11-5-14

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 59A FOR THE PEOPLE'S TRANSPORTATION PLAN PROJECT NUMBER 20040348 ENTITLED IMPROVEMENTS TO SW 216 STREET FROM THE FLORIDA TURNPIKE TO SW 127 AVENUE, TO BE A PUBLIC NECESSITY; 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 NEGOTIATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS OR TAX ASSESSED VALUES, WHICHEVER IS THE HIGHER OF THE TWO TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDING AS NECESSARY; RESCINDING RESOLUTION NO. R-121-14; 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 of Parcel 59Ain fee simple as legally described in Exhibit "A" and shown on the project location map in Exhibit "B-3" attached hereto and made a part hereof, for the public purpose of roadway expansion and right-of-way improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue to be required or 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:

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" and shown on project location map in "Exhibit B-3" all attached hereto and incorporated herein by reference, is needed for the public purpose of improvements to SW 216 Street from the Florida Turnpike to SW 127 Avenue.

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 negotiation, donation, right of way designation, purchase at values established by appraisals or tax assessed value whichever is the higher of the two together with reasonable attorneys' fees, expert fees, business damages and costs pursuant to Sections 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.

Section 5. This Resolution shall supersede Resolution Number R-121-14, which is hereby rescinded and replaced herewith.

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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

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|---|---|
| Bruno A. Barreiro | Esteban L. Bovo, Jr. |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Jean Monestime | Dennis C. Moss |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of November, 2014. 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

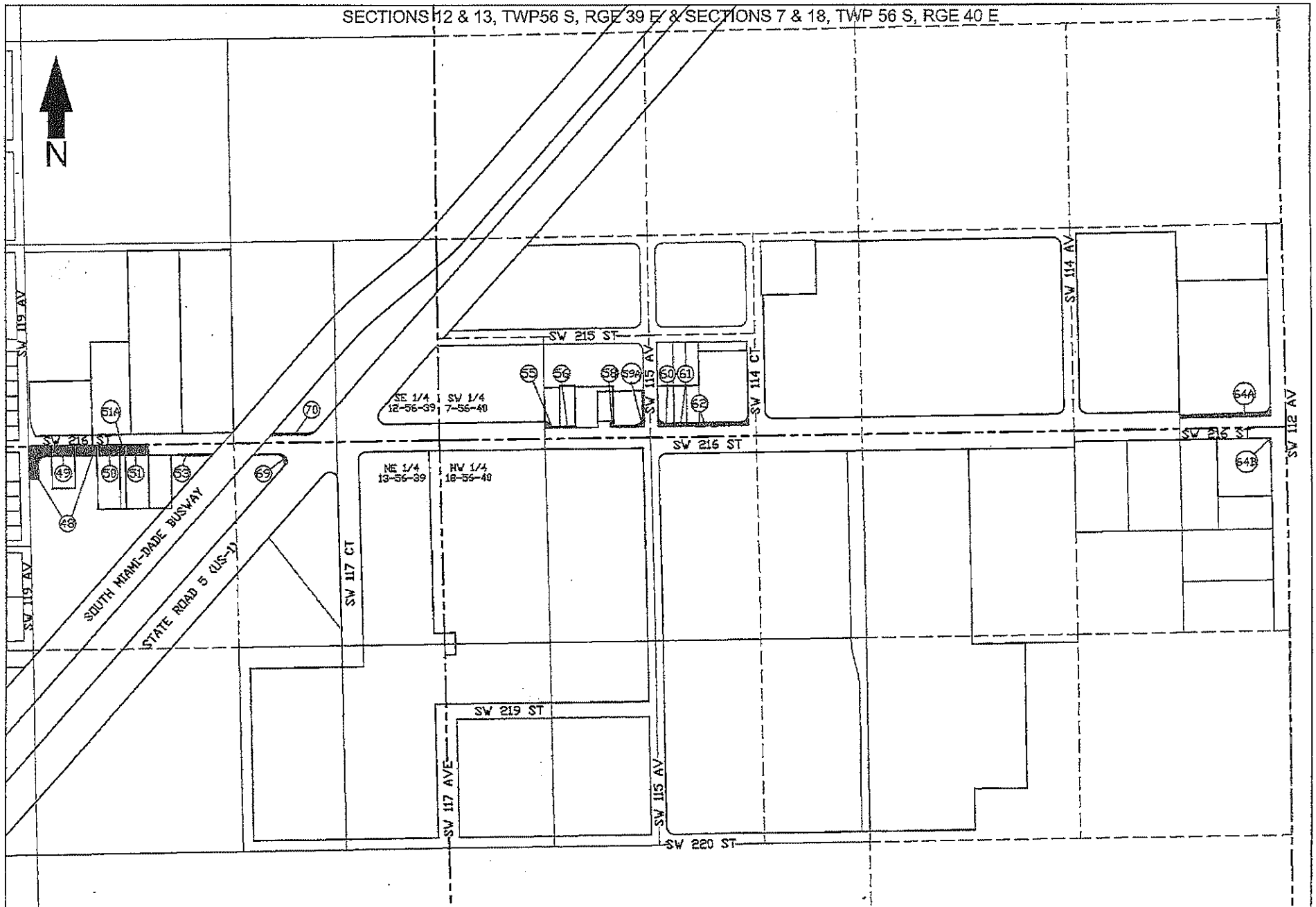
Approved by County Attorney as
to form and legal sufficiency.
Debra Herman

## LEGAL DESCRIPTION
(FEE SIMPLE)

The North 5.00 feet of the South 40.00 feet and the West 5.00 feet of the East 25.00 feet of the following described parcel of land;
The West 100.00 feet of the East 120.00 feet of the South 150.00 feet of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida.
The external area formed by a 25.00 foot radius arc, concave to the Northwest, tangent to the North line of the South 40.00 feet of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 7 and tangent to the West line of the East 25.00 feet of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 7.

**EXHIBIT A**

PROJECT NO. 20040348
PARCEL 59A
Page 1 of 1




PROJECT NUMBER 20040348

RIGHT-OF-WAY TO BE ACQUIRED

(1) PARCEL NUMBER

NOT A SURVEY

SW 216 STREET
FROM SW 127 AVE. TO H.E.F.T.

# EXHIBIT "B-3"

NOT TO SCALE
PHASE 3

**Memorandum**

**To:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**From:** Charles Scurr, Executive Director

**Date:** October 23, 2014

**Re:** **CITT AGENDA ITEM 5A:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC), DECLARE THE ACQUISITION OF 7 PARCELS (P48, P49, P50, P51, P51A, P58, AND P59A) FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT NUMBER 20040348 ENTITLED IMPROVEMENTS ON SW 216 STREET FROM THE FLORIDA TURNPIKE TO SW 127 AVENUE, 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 NEGOTIATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS OR TAX ASSESSED VALUES, WHICHEVER IS THE HIGHER OF THE TWO TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDING AS NECESSARY; RESCINDING RESOLUTION R-112-14; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS **(PWWM – BCC Legislative File No. 142076, 142077, 142078, 142079, 142080, 142081, 142082)**

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On October 23, 2014, the CITT voted (9-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 14-072. The vote was as follows:

Paul J. Schwiep, Esq., Chairperson – Aye
Hon. Anna E. Ward, Ph.D., 1st Vice Chairperson – Aye
Glenn J. Downing, CFP®, 2nd Vice Chairperson – Aye

Joseph Curbelo – Aye
Alfred J. Holzman – Aye
Jonathan Martinez – Aye
Miles E. Moss, P.E. – Absent
Marilyn Smith – Aye
Peter L. Forrest – Aye
Prakash Kumar – Aye
Alicia Menardy, Esq. – Aye
Hon. James A. Reeder – Aye
Hon. Linda Zilber – Aye

cc: Alina Hudak, Deputy Mayor/Director Public Works & Waste Management Department
Bruce Libhaber, Assistant County Attorney