

MEMORANDUM

Agenda Item No. 8(L)(1)

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

DATE: November 5, 2014

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

SUBJECT: Resolution accepting conveyance
of a perpetual easement for the
construction and operation of a
public walkway, seawall and
linear park along the Miami
River for public purposes in
Section 38, Township 54 South,
Range 41 East

The accompanying resolution was prepared by the Public Works & Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: November 5, 2014

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

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Accepting Conveyance of a perpetual easement for the construction and operation of a public walkway, seawall and linear park along the Miami River for public purposes in Section 38, Township 54 South, Range 41 East

Recommendation

It is recommended that the Board of County Commission approves the attached resolution for acceptance of a perpetual easement for a public walkway, seawall, and linear park within the Miami River Greenway Project for public purposes.

Scope

The property being conveyed is located within Commissioner Bruno Barreiro's Commission District 5.

Fiscal Impact/Funding Source

There will be no County funding required for the acquisition of this perpetual easement. The grantor of the easement, Neo Vertika Condominium Association, Inc., will remain responsible for maintenance of the seawall located within the easement area at no cost to the County. The County will be responsible for the ongoing maintenance of the overall public walkway and linear park of which this easement will be a piece. The fiscal impact as a result of the acceptance of this property is estimated to be \$2,941.72, for maintenance and \$485.33, for operation annually. The Miami River Greenway Project is funded through the Building Better Communities General Obligation Bond Program (BBC-GOB Program) and the total allocation for this project including design and construction is \$7,500,000. The maintenance and operation cost estimate for the entire Miami River Greenway Project will be approximately \$27,922.00, for maintenance and \$15,943.23, for operation. The maintenance and operation costs will be funded by various County Departments.

Track Record/Monitor

The Public Works and Waste Management Department (PWWM) is the entity overseeing this project and the person responsible for monitoring these acquisitions is Mr. Wayne Sutton, Section Head, Right-of-Way Engineering of the Roadway Engineering/Right-of-Way Division.

Background

On November 2, 2004, voters approved the Building Better Communities General Obligation Bond and associated capital improvement projects throughout the County. The list of projects includes Project No. 126 – "Miami River Greenway" (Project). The Project consists of the construction of six (6) separate parcels in compliance with the Miami River Greenways Action Plan and the City of Miami's Miami 21 Code. The Miami River Greenways Action Plan was developed by the Miami River Commission and the Trust for Public Land as a series of pedestrian and bicycle paths linking parks and neighborhoods along both sides of the Miami River.

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
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Once completed, the Greenway will include the development of a pedestrian and bicycle shared-use riverwalk, the construction of seawalls, and the installation of landscaping and lighting along the river. Through joint efforts from the County, the City of Miami, and multiple real estate developers, several links in the Greenway system have been constructed or are in the process leading to construction.

Currently, construction for four (4) of the six (6) parcels is complete (Parcels 1, 2, 3, and 6), with construction for the remaining two (2) parcels (Parcels 4 and 5) scheduled to commence in October 2014. This easement is necessary to complete construction of Parcel 5.



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)(1)

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)(1)
11-5-14

RESOLUTION NO. _____

RESOLUTION ACCEPTING CONVEYANCE OF A PERPETUAL EASEMENT FOR THE CONSTRUCTION AND OPERATION OF A PUBLIC WALKWAY, SEAWALL AND LINEAR PARK ALONG THE MIAMI RIVER FOR PUBLIC PURPOSES IN SECTION 38, TOWNSHIP 54 SOUTH, RANGE 41 EAST; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO COMPLETE ALL ACTS NECESSARY TO EFFECTUATE THE CONVEYANCE OF THE EASEMENT; AND DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO RECORD IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY THE EASEMENT AS REQUIRED BY RESOLUTION NO. R-974-09

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

WHEREAS, Neo Vertika Condominium Association, Inc., a not for profit corporation, is the owner in fee simple of the land located at 690 SW 1 Court, Miami, Florida, more particularly described in Exhibit 1 attached hereto (the "Property"); and

WHEREAS, Resolution No. R-687-11 directed the Mayor or the Mayor's designee to negotiate with Neo Vertika Condominium Association, Inc., in order to procure dedications of portions of the Property in connection with the Miami River Greenways Project to construct a seawall and a continuous linear pedestrian walkway; and

WHEREAS, as a result of such negotiations, Neo Vertika Condominium Association, Inc., agreed to grant, at no cost, a nonexclusive perpetual easement to the County, attached as Exhibit 2 (the "Easement") for public ingress, egress, access to and public enjoyment of the riverfront and for construction, operation, maintenance of a public walkway, seawall and linear park and for all purposes incidental thereto,

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

Section 1. That the foregoing recitals are adopted as though fully set forth herein.

Section 2. That the conveyance of the Easement to the County in substantially the form attached hereto as Exhibit 2 is approved and accepted and the Mayor or the Mayor's designee is authorized to complete all acts necessary to effectuate the conveyance of the Easement.

Section 3. That pursuant to Resolution No. R-974-09, this Board (a) directs the County Mayor or County Mayor's designee to record the instrument of conveyance accepted herein in the Public Records of Miami-Dade County and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of recordation of said instrument; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy of the instrument 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:

Rebeca Sosa, Chairwoman

Lynda Bell, Vice Chair

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Jean Monestime

Sen. Javier D. Souto

Juan C. Zapata

Esteban L. Bovo, Jr.

Audrey M. Edmonson

Barbara J. Jordan

Dennis C. Moss

Xavier L. Suarez

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

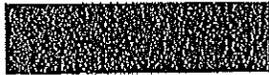
HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

JEB

Jason E. Bloch



Beginning at the Northeast corner of Lot 3, Block 39 South, according to the Plat thereof recorded in Plat Book "B", Page 41 of the Public Records of Miami-Dade County, Florida; thence run due East a distance of 50 feet more or less to the East boundary line Avenue "F"; thence run due North along the Eastern boundary line of said Avenue "F" produced to the Miami River; thence run in a westerly direction along the Southern boundary line of said Miami River to the point due North of the point of beginning; thence run due South to the point of beginning, together with all riparian rights thereunto belonging or in anywise appertaining.



EXHIBIT "1"

Return to:
Right of Way Engineering Section
Miami-Dade County
Public Works & Waste Mgmt. Dept.
111 N.W. 1st Street
Miami, FL 33128-1970
Instrument prepared by: W.T. Sutton

Miami-Dade County Public Works Dept.
111 N.W. 1st Street
Miami, FL 33128-1970
Folio No.
User Department: Public Works & Waste Mgmt.

Sec. 38-54-41
Miami River Greenway

EASEMENT TO MIAMI-DADE COUNTY
PUBLIC WALKWAY, SEAWALL AND LINEAR PARK

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

THIS INDENTURE, Made this 14 day of April, A.D. 2014, by and between NEO VERTIKA CONDOMINIUM ASSOCIATION, INC., a not-for-profit corporation under the laws of the State of Florida, and having its office and principal place of business at 690 S.W. 1st Court, Miami, Florida 33130, "GRANTOR", and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, and its successors in interest, whose Post Office address is 111 N.W. 1st Street, Miami, Florida 33128-1970, "GRANTEE",

WITNESSETH:

That GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, and for other and further good and valuable considerations, does hereby grant, bargain and sell to GRANTEE, and to GRANTEE's successors and assigns in interest, a nonexclusive, perpetual easement for public ingress, egress, access to and public enjoyment of the riverfront and for construction, operation, maintenance of a public walkway, seawall and linear park and for all purposes incidental thereto, upon the following described land, situate, lying and being in Miami-Dade County, State of Florida, to-wit:

(See Exhibit "A", attached hereto and made a part hereof.)

This Easement is expressly granted for public use and GRANTEE shall have no right to reserve use

EXHIBIT "2"

of the Easement or any rights or interests associated therewith for the exclusive use of any private party. The right to a reasonably unobstructed view of the riverfront is expressly reserved unto GRANTOR. GRANTOR agrees to assume responsibility for maintenance of the contemplated seawall upon completion of its construction by GRANTEE. It is expressly provided that if and when the public purposes of this Easement, as set forth hereina, shall be lawfully and permanently discontinued, GRANTEE shall promptly file a Release of Easement in the Public Records of Miami-Dade County, Florida and that upon such filing by GRANTEE this Easement shall be deemed extinguished.

GRANTOR represents and warrants that it has full right to grant this Easement and will defend the title to said easement against the lawful claims of all persons whomsoever, claiming by, through or under it.

IN WITNESS WHEREOF, GRANTOR has caused these presents to be executed in its name, and its Corporate Seal to be hereunto affixed, by its proper officers who attest that that they are duly and fully authorized by said GRANTOR to execute on its behalf, the day and year first above written.

*Signed, Sealed, Attested
and delivered in our presence:
(2 witnesses for each signature
or for all).*

Danae Montero
Witness

Danae Montero
Printed Name

Vahana
Witness

Vahanesa de la Cruz
Printed Name

Danae Montero
Witness

Danae Montero
Printed Name

Vahana
Witness

Vahanesa de la Cruz

NEO VERTIKA CONDOMINIUM
ASSOCIATION, INC.

Darrylo Lipsky
By: Darrylo Lipsky, President

Michelle Greenberg
By: Michelle Greenberg, Secretary

CORP SEAL



EXHIBIT "A"

Legal Description
(Easement)

That portion of the common area of Neo Vertika Condominium according to the Declaration of Condominium recorded in Official Records Book 24605 at Page 3349 of the Public Records of Miami-Dade County, Florida, lying within Section 38, Township 54 South, Range 41 East in Miami-Dade County, Florida according to the plat of KNOWLTON'S MAP OF MIAMI, recorded in Plat Book "B" at Page 41 of said Public Records, being more particularly described as follows:

Commence at the Northeast corner of Lot 3, Block 39 South, said corner also being the Southeast corner of Tract A of AMENDED PLAT OF BLOCK 39 SOUTH according to the plat thereof recorded in Plat Book 42, Page 6 of said Public Records of Miami-Dade County; thence run $N02^{\circ}14'41''W$, along the East line of said Tract A, for a distance of 73.71 feet to a point lying 15.94 feet South of the Miami River and the **POINT OF BEGINNING** of the herein described easement; thence continue $N02^{\circ}14'41''W$, along said East line of Tract A, for a distance of 15.94 to a point of Intersection with the wet face of the existing seawall being also the Southern boundary line of the Miami River; thence along said Southern boundary line of the Miami River for the following three courses; (1) run $N85^{\circ}59'17''E$, along the wet face of said existing seawall, for a distance of 0.51 feet to a point; (2) thence run $S16^{\circ}22'20''W$, along the wet face of said existing seawall, for a distance of 2.77 feet to a corner of the seawall and the Southerly Mean High Water Line; (3) thence run Easterly along the Southerly Mean High Water line of the Miami River, for a distance of 49 feet, more or less, to its point of Intersection with the West right-of-way line of Metrorail (formerly F.E.C. Railroad right-of-way); thence run $S02^{\circ}14'41''E$, along said West right-of-way line of Metrorail, for a distance of 21 feet, more or less, to a point of cusp with a circular curve which is tangent to said Metrorail right-of-way and concave to the Southwest; said point of cusp lying 68.74 feet, $N02^{\circ}14'41''W$ from the point where the Easterly extension of the North line of said Lot 3, Block 39 intersects said West right-of-way line of Metrorail; thence, reversing direction, run Northwesterly and Westerly, along said circular curve to the left, having a radius of 5.00 feet, through a central angle of $89^{\circ}54'21''$, for an arc distance of 7.85 feet to a point of tangency; thence run $S87^{\circ}50'58''W$ for a distance of 45.01 feet to a point of intersection with the East line of said Tract A and the **POINT OF BEGINNING**, containing 742 square-feet or 0.017 acres more or less.

Together with all riparian rights appurtenant to the purposes of this easement.

Subject to an electric utility easement as reserved in that Special Warranty Deed recorded in Official Record Book 24278-2811 of said Public Records.

Public Works and Waste Management Department

Perpetual Easement

From: Alejandro Martinez-Esteve, RA, LEED AP

Routing	Initial / Date Returned	Initial / Date Approved	Comments
1. Wayne Sutton, PLS., Head RW Engineering Section		WSS by WRS 8/26/14	
2. Leandro Oña, P.E., Chief, Road Design/RW Division		LO 8/26/14	
3. Gaspar Miranda, P.E., Assistant Director		GM 8-29-2014	
4. Antonio Cotarelo, P.E., County Engineer		AC 9/15/14	See comments on Memo and Resolution
5. Alina T. Hudak, Deputy Mayor/Interim Director	Alina showed sign	A. Shule 9/22/14	

Subject: Conveyance of a Perpetual Easement granted to MDC for the Miami River Greenway Project PWWM No. 20070718

J.S. sent to Christina/Paulette on 9/22 for October Committee Cycle.

*AC OK!
9/25/14*

RECEIVED

SEP 03 2014
CONSTRUCTION DIVISION