

# MEMORANDUM

Agenda Item No. 13(A)(1)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** February 2, 2016

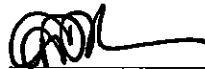
**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution authorizing certain settlement in the amount of \$36,731.90 in County Eminent Domain proceedings by County Attorney in connection with the acquisition of land referred to as Parcel 9 for the right-of-way needed for improvements along NW 37 Avenue from NW North River Drive to NW 79 Street and authorizing the use of Charter County Transportation Surtax Funds

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

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Abigail Price-Williams  
County Attorney



APW/cp

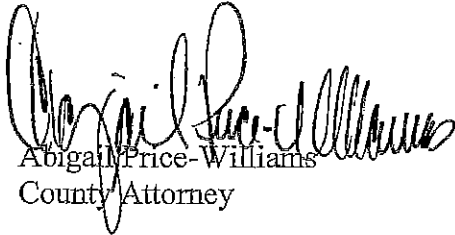


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** February 2, 2016

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 13(A)(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

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- Statement of social equity 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. 13(A)(1)  
2-2-16

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

RESOLUTION AUTHORIZING CERTAIN SETTLEMENT IN THE AMOUNT OF \$36,731.90 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF LAND REFERRED TO AS PARCEL 9 FOR THE RIGHT-OF-WAY NEEDED FOR IMPROVEMENTS ALONG NW 37 AVENUE FROM NW NORTH RIVER DRIVE TO NW 79 STREET AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

**WHEREAS**, this Board by Resolution No. R-697-09, dated June 2, 2009 previously declared the acquisition of land for the right-of-way needed for the road widening and right-of-way improvements to NW 37<sup>th</sup> Avenue from NW North River Drive to NW 79<sup>th</sup> Street in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefor by eminent domain proceedings; and

**WHEREAS**, the owner of Parcel 9, as set forth in the attached land acquisition summary sheet, has offered to settle for the figures specified therein; and

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**WHEREAS**, this project is being funded by the use of Charter County Transportation Surtax Funds, and this settlement thus must be submitted for the review and recommendation of the Citizens' Independent Transportation Trust; and

**WHEREAS**, the County Attorney hereby recommends the settlement amounts as set forth in the attached land acquisition summary sheet,

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

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

**Section 2.** This Board authorizes the County Attorney to compromise and settle on behalf of the County claims against the County in eminent domain proceedings for Parcel 9 on the terms and in the amount specified in the attached land acquisition summary sheet, and authorizes the use of Charter County Transportation Surtax Funds.

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:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

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The Chairperson thereupon declared the resolution duly passed and adopted this 2<sup>nd</sup> day of February, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.



Lauren E. Morse

**LAND ACQUISITION SUMMARY SHEET**

**PROJECT LOCATION:** Roadway expansion and right-of way improvements to NW 37<sup>th</sup> Avenue from NW North River Drive to NW 79<sup>th</sup> Street in Miami-Dade County, Florida

**PARCEL NUMBER AND PROPERTY ACQUIRED:** Parcel No. 9 – see attached sketch (land plus improvements)

**OWNERSHIP INTEREST:** Joseph Fishbein Co., Inc.

**COUNTY’S APPRAISAL AND DAMAGES:** \$20,000.00 (fee simple land and improvements)  
James L. Riley ASA

**OWNER’S APPRAISAL:** \$30,000.00 (fee simple land and improvements)  
Grant Austin MAI

**ATTORNEYS’ FEES AND COSTS** See Comments

**SETTLEMENT AMOUNT:** The settlement amount is \$36,731.90.  
(See Comments below – includes attorneys’ fees experts’ fees and costs)

**EXPOSURE TO COUNTY:** \$10,000.00  
(Difference between owner’s appraisal and County’s appraisal)

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**COMMENTS:** A proposed settlement was reached in the amount stated above. In order for the County to obtain clear title to this parcel, eminent domain proceedings had to be instituted. The settlement amount of \$36,731.90 represents full compensation for this parcel, and includes \$27,300.00 for the property acquired, and \$9,431.90 for the owner’s statutory attorneys’ fees and costs and expert fees incurred by the owner. Staff has confirmed that this project is listed in Exhibit 1 of the PTP Ordinance under Major Roadway and Neighborhood Improvement Projects. The landowner is represented by the law firm of Harris Harris Bauerle Ziegler Lopez.





Memorandum



**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Charles Scurr, Executive Director *Charles Scurr*

**Date:** January 14, 2016

**Re:** **CITT AGENDA ITEM 5A:**  
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST  
RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) AUTHORIZE  
CERTAIN SETTLEMENT IN THE AMOUNT OF **\$36,731.90** IN COUNTY EMINENT  
DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE  
ACQUISITION OF LAND REFERRED TO AS PARCEL 9 FOR THE RIGHT-OF-WAY  
NEEDED FOR IMPROVEMENTS ALONG NW 37 AVENUE FROM NW NORTH RIVER  
DRIVE TO NW 79 STREET AND AUTHORIZING THE USE OF CHARTER COUNTY  
TRANSPORTATION SURTAX FUNDS (**PWWM – BCC Legislative File No. 160134**)

On January 14, 2016, 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. 16-001. The vote was as follows:

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

Joseph Curbelo – Absent  
Alfred J. Holzman – Aye  
Jonathan Martinez – Absent  
Miles E. Moss, P.E. – Aye  
Marilyn Smith – Aye

Peter L. Forrest – Aye  
Prakash Kumar – Aye  
Alicia Menardy, Esq. – Absent  
Hon. James A. Reeder – Absent  
Hon. Linda Zilber – Absent

cc: Alina Hudak, Deputy Mayor  
Bruce Libhaber, Assistant County Attorney