# MEMORANDUM

Agenda Item No. 8(N)(28)

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

**DATE:** November 1, 2016

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

**SUBJECT:** Resolution declaring the acquisition of the designated property known as Parcel 161 for improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street, to be a public necessity; and authorizing the County Mayor and the County Attorney to take any and all appropriate actions to accomplish acquisition of the subject property in fee simple, by negotiation, donation, right-of-way designation, purchase at values established by appraisals or tax assessed values whichever is the higher of the two, and authorizing the County Mayor to make an additional incentive offer to purchase Parcel 161 prior to the filing of an eminent domain action in a total amount not to exceed 15 percent over the appraised value, together with reasonable attorney fees and costs pursuant to sections 73.091 and 73.092, Florida Statues, or by eminent domain court proceeding including declarations of taking, as necessary; and authorizing the use of Charter County Transportation Surtax funds for such purposes

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.

Abigail Price-Williams
County Attorney

APW/smm

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# Memorandum

MIAMI-DADE COUNTY

**Date:** November 1, 2016

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

**From:** Carlos A. Gimenez
Mayor

**Subject:** Resolution Declaring the Acquisition of the Designated Property Known as Parcel 161 for Right-of-Way Needed for the Project Entitled Improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street to be a Public Necessity, and Authorizing the Use of Charter County Transportation Surtax Bond Fund Proceeds for Such Purposes

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**RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) approve the attached Resolution declaring the acquisition of Parcel 161, required for road widening improvements to SW 137 Avenue from US-1 (SR 5) to SW 200 Street (Project), to be a public necessity; and authorizing the County Mayor or the County Mayor's Designee and the County Attorney to employ appraisers, expert witnesses, obtain 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 higher of the two, together with business damages and reasonable attorney fees 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 authorizing the County Mayor or the County Mayor's designee to make an additional incentive offer to purchase Parcel 161 for a total amount not to exceed 15 percent over the appraised value.

**SCOPE**

The impact of this Project is Countywide; however, it is located within Commissioner Daniella Levine Cava's District 8.

**FISCAL IMPACT/FUNDING SOURCE**

Funding for the right-of-way, design, and construction of this Project are provided by the Charter County Transportation Surtax Bond Fund proceeds, and may be supplemented by other eligible funding sources. Funding is programmed within the adopted FY 2015-16 Right-of-Way Acquisition for Construction Projects Countywide (P2000000537) Site 76078 in Commission District 8.

**TRACK RECORD/MONITOR**

The Department of Transportation and Public Works (DTPW) is the entity overseeing this item and the person responsible is Mr. Francisco Fernandez, Chief Real Estate Officer, DTPW, Roadway Engineering and Right-of Way Division.

**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 additional authorities beyond those specified in the Resolution.

**BACKGROUND**

This Project originally required the acquisition of 46 separate parcels. However, in an effort to minimize costs while maintaining the integrity of the Project, and adhering to the objectives set by the Board, the Project was value engineered and redesigned. The proposed Project consists of roadway expansion, beautification, and improvements for a new two-lane road with sidewalks, curb and gutter, a continuous storm drainage system, signalization, pavement markings and signage, a center turn lane, street lighting, bicycle facilities, a bridge crossing over one canal, and a culvert for a canal.

The area to be acquired by DTPW for the Project is legally described in Exhibit "A" and illustrated in the parcel location map attached as Exhibit "B". This Project will improve traffic mobility and will provide an additional north-south evacuation route. It is recommended that in order to reduce time and costs, and to avoid the expense of litigation, administration be granted authorization to issue an incentive offer added to the initial offer to purchase Parcel 161 prior to the filing of an eminent domain action. The total amount of the incentive and initial offers shall be no more than 15 percent over the appraised value of Parcel 161.

Alina T. Hudak
Deputy Mayor

# MEMORANDUM

(Revised)

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

**DATE:** November 1, 2016

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

**SUBJECT:** Agenda Item No. 8(N)(28)

**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**

_____ **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. 8(N)(28)
11-1-16

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 161 FOR IMPROVEMENTS TO SW 137 AVENUE, FROM US-1 (SR 5) TO SW 200 STREET, 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, DONATION, RIGHT-OF-WAY DESIGNATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS OR TAX ASSESSED VALUES WHICHEVER IS THE HIGHER OF THE TWO, AND AUTHORIZING THE COUNTY MAYOR OR THE MAYOR'S DESIGNEE TO MAKE AN ADDITIONAL INCENTIVE OFFER TO PURCHASE PARCEL 161 PRIOR TO THE FILING OF AN EMINENT DOMAIN ACTION IN A TOTAL AMOUNT NOT TO EXCEED 15 PERCENT OVER THE APPRAISED VALUE, TOGETHER WITH REASONABLE ATTORNEY FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUES, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX BOND FUND PROCEEDS FOR SUCH PURPOSES

**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 161 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 roadway expansion and improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street, to be required and necessary to accomplish such improvements; and

**WHEREAS**, Miami-Dade County is authorized under the Constitution and Laws of Florida, including Chapters 73, 74, 125, 127 and 341, Florida Statues, 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" attached hereto and incorporated herein by reference, is needed for the public purpose of improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street.

Section 3. This Board authorizes and directs the County Mayor or County Mayor's designee and County Attorney to employ appraisers, expert witnesses, obtain environmental audits, and to take any and all appropriate actions to acquire the subject parcel, as legally described in Exhibit A" in fee simple, including any businesses thereon, either by negotiations, 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 attorney fees, expert fees and cost 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 Bond Fund proceeds for such purchase. In order to potentially reduce project time and to avoid the expense of litigation, the County Mayor or the County Mayor's designee is further authorized to issue an incentive offer to purchase Parcel 161, prior to the filing of litigation, in a total amount not to exceed 15 percent over the appraised value of Parcel 161.

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 conveyances accepted herein in the Public Records of Miami-Dade County, Florida; and provide a recorded copy of the instrument to the Clerk of the Board within 30 days of execution of said instrument; and (b) direct the Clerk of the Board to attach and permanently store a recorded copy of said instruments 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:

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 | |

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of November, 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.

Debra Herman

# LEGAL DESCRIPTION
(FEE SIMPLE)

THE WEST 30.00 FEET OF THE EAST 55 .00 FEET, AND THE SOUTH 40.00 FEET OF THE WEST 55.12 FEET OF THE EAST 80.12 FEET, LYING WITHIN THE SE 1/4 OF THE SE 1/4 OF SECTION 22, TOWNSHIP 56 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA, LESS THE NORTH 95 FEET THEREOF.

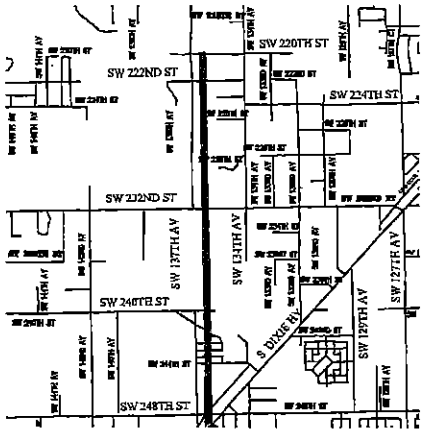
**TOGETHER WITH:**

THE EXTERNAL AREA FORMED BY THE ARC OF A 25.00 FEET RADIUS CIRCULAR CURVE CONCAVE TO THE NORTHWEST, SAID CURVE IS TANGENT TO THE WEST LINE OF THE EAST 55.00 FEET AND THE NORTH LINE OF THE SOUTH 40.00 FEET OF SAID SECTION 22, TOWNSHIP 56 SOUTH, RANGE 39 EAST.

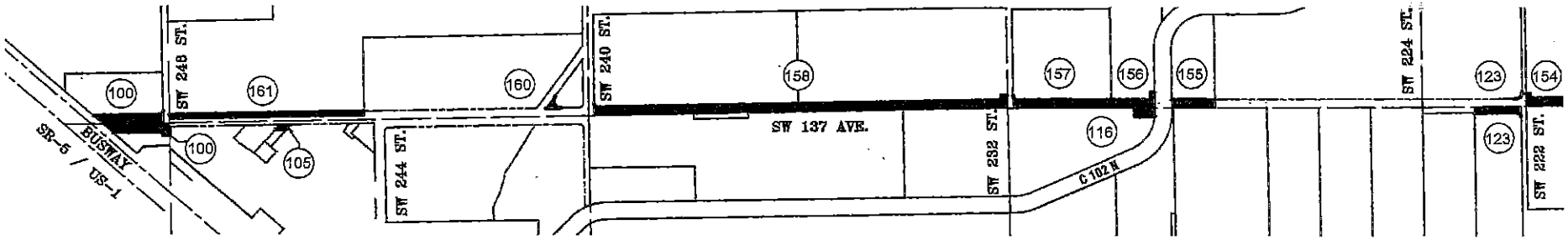
**EXHIBIT "A"**

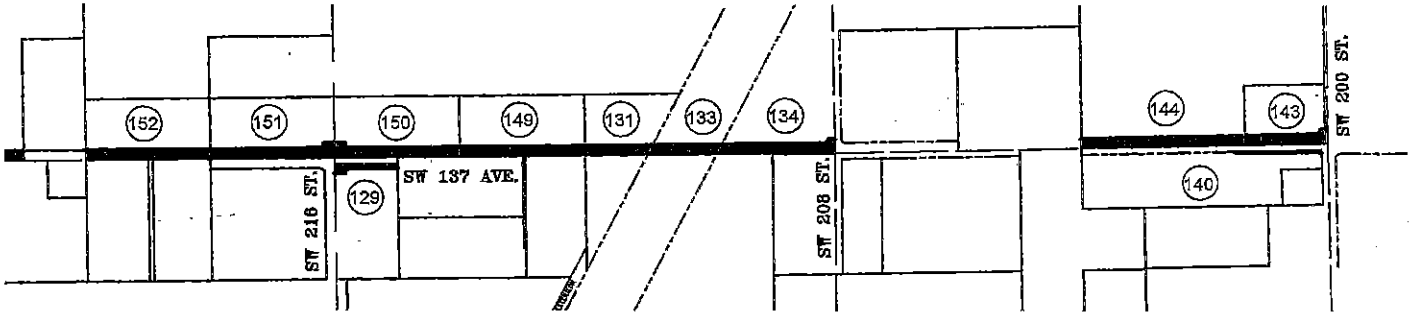
PARCEL 161
Project No. 20040343
1 of 1

SEC 10, 11, 14
15, 22 & 23
TWP 56 S
RGE 39 E




LOCATION MAP
NOT TO SCALE




0 250 500 1000 2000

SCALE 1" = 1000'

R/W TO BE ACQUIRED AFTER RE-DESIGN

# EXHIBIT "B"

MIAMI-DADE COUNTY DEPARTMENT
OF TRANSPORTATION AND PUBLIC WORKS
RIGHT OF WAY DIVISION
ENGINEERING SECTION

## SW 137 Avenue
## From US-1 to SW 220 ST.

Project No. 20040343

MIAMI-DADE

SCALE 1"=1000'
PREPARED BY: L.E.
DATED: 08-29-16

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**Memorandum**

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

**From:** Charles Scurr, Executive Director

**Date:** October 13, 2016

**Re:** **CITT AGENDA ITEM 5A:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC), DECLARE THE ACQUISITION OF TWENTY-TWO (22) DESIGNATED PROPERTIES FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED IMPROVEMENTS TO SW 137 AVENUE, FROM US-1 (SR 5) TO SW 200 STREET, 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, DONATION, RIGHT-OF-WAY DESIGNATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS OR TAX ASSESSED VALUES WHICHEVER IS THE HIGHER OF THE TWO, AND AUTHORIZING THE COUNTY MAYOR OR THE MAYOR'S DESIGNEE TO MAKE AN ADDITIONAL INCENTIVE OFFER TO PURCHASE PARCEL 100 PRIOR TO THE FILING OF AN EMINENT DOMAIN ACTION IN A TOTAL AMOUNT NOT TO EXCEED 15 PERCENT OVER THE APPRAISED VALUE, TOGETHER WITH REASONABLE ATTORNEY FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUES, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES **(DTPW - BCC Legislative File No. SEE ATTACHED LIST)**

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On October 13, 2016, the CITT voted (11-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 16-049. The vote was as follows:

Hon. Anna E. Lightfoot-Ward, Ph.D, Chairperson – Aye
Glenn J. Downing, CFP®, 1st Vice Chairperson – Aye
Joseph Curbelo, 2nd Vice Chairperson – Aye

Alfred Holzman – Aye
Peter L. Forrest – Aye
Prakash Kumar – Aye
Alicia Menardy, Esq – Aye
Paul J. Schwiep, Esq. – Absent
L. Elijah Stiers, Esq. – Aye
Oscar Braynon – Aye
Ricardo E. Gonzalez – Absent
Jonathan Martinez – Absent
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye
Hon. Linda Zilber – Absent

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

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| Parcels | BCC File Number |
|---|---|
| 100 | 162092 |
| 105 | 162094 |
| 116 | 162101 |
| 123 | 162107 |
| 129 | 162108 |
| 131 | 162109 |
| 133 | 162110 |
| 134 | 162111 |
| 140 | 162112 |
| 143 | 162113 |
| 144 | 162114 |
| 149 | 162115 |
| 150 | 162116 |
| 151 | 162091 |
| 152 | 162093 |
| 154 | 162096 |
| 155 | 162119 |
| 156 | 162120 |
| 157 | 162121 |
| 158 | 162122 |
| 160 | 162124 |
| 161 | 162125 |