

Date: June 2, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 8(P)(1)(Y)

From: George M. Burgess
County Manager

Resolution No. R-711-09

Subject: Resolution Authorizing the Acquisition of the Designated Property Known as Parcel 23 for Right-of-Way Needed for the People's Transportation Plan (PTP) Project Known as Roadway Expansion and Improvements to NW 37 Avenue, from NW North River Drive to NW 79 Street, to be a Public Necessity

Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution declaring the acquisition of Parcel 23 for right-of-way needed for roadway expansion and improvements along NW 37 Avenue, from NW North River Drive to NW 79 Street, to be a public necessity and authorizing the County Mayor or 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 property in fee simple by donation, purchase, or by eminent domain proceedings, including a declaration of taking as necessary for and on behalf of Miami-Dade County.

Scope

The property to be acquired is located within County Commission District 2 and traverses the City of Hialeah and the City of Miami. However, this project is beneficial Countywide.

Fiscal Impact/Funding Source

Funding for the right-of-way acquisition and construction of this project will be provided by the Charter County Transit Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County. This project was specifically listed in the People's Transportation Plan (PTP) as one of the Board requested improvement projects for Commission District 2.

Track Record/Monitor

Not Applicable

Background

This resolution is for the acquisition of Parcel 23 of twenty-six (26) separate parcels needed by the Public Works Department (PWD) for programmed improvements along NW 37 Avenue, between NW North River Drive and NW 79 Avenue. This project consists of the reconstruction and widening of an existing two (2) lane undivided roadway to a three (3) lane roadway including parking lanes, sidewalks, curb & gutters, a new storm drainage system, signalization, pavement markings & signing and roadway lighting. The area to be acquired by PWD for the roadway improvements is legally described in Exhibit "A" and illustrated in the parcel location map contained in Exhibit "B," both exhibits are attached and made a part hereof. These improvements will increase vehicular capacity, improve traffic mobility and provide multiple modes of transportation.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 2, 2009

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

SUBJECT: Agenda Item No. 8(P)(1)(Y)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(1)(Y)
6-2-09

RESOLUTION NO. R-711-09

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL TWENTY-THREE (23) NEEDED FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED ROADWAY EXPANSION AND IMPROVEMENTS TO NW 37 AVENUE FROM NW NORTH RIVER DRIVE TO NW 79 STREET TO BE A PUBLIC NECESSITY

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 23 in fee simple as legally described in Exhibit "A" and illustrated 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 NW 37 Avenue from NW North River Drive to NW 79 Street to be required and 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 this Board adopts those matters set forth in the foregoing recitals and authorizes and directs the County Mayor or County Mayor's designee and the County Attorney to employ appraisers, review appraisers and expert witnesses, to obtain required environmental audits and to take any and all appropriate actions to

acquire the subject property in fee simple, as legally described in Exhibit "A" attached hereto and incorporated herein by reference, necessary and required for improvements to NW 37 Avenue from NW North River Drive to NW 79 Street, by donation, purchase, or by eminent domain proceedings, including a declaration of taking, as necessary.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Barbara J. Jordan	aye	Joe A. Martinez	absent
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

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The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of June, 2009. This resolution shall become effective as follows: (1) 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, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission reaffirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS



HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "T. Goldstein", written over a horizontal line.

Thomas Goldstein

NW 37 AVENUE
(FEE SIMPLE)

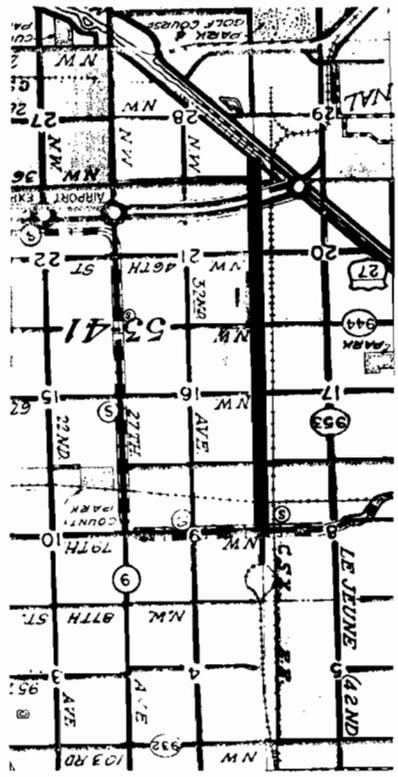
Parcel No.23: The East 5.00 feet of Block 2, KNIGHT'S PARK, according to the plat thereof recorded in Plat Book 34 at Page 18 of the Public Records of Miami-Dade County, Florida, which lies within the parcel of land described in Exhibit A-Parcel D of a Warranty Deed conveyed to Richard Kronenberg, as Trustee under the provision of a certain Trust Agreement dated December 20, 1990, and recorded in Official Records Book 14842 at Page 947 of the Public Records of Miami-Dade County, Florida.

AND

All that part of Block 2, KNIGHT'S PARK, according to the plat thereof recorded in Plat Book 34 at Page 18 of the Public Records of Miami-Dade County, Florida, which lies within the external area formed by a 25 foot radius arc, concave to the Southwest, tangent to the West line of the East 5.00 feet of said Block2, and tangent to the Southeasterly right of way line of the E 11th Court Right-of-Way as quit claimed to the City of Hialeah by Quit Claim Deed dated January 3, 1957, and recorded in Official Records Book 192 at Page 311 of the Public Records of Miami-Dade County, Florida, accepted by City of Hialeah Ordinance No. 1022 passed and adopted on March 26, 1957, and recorded in Official Records Book 192 at Page 309 of the Public Records of Miami-Dade County, Florida.

Approved as described
3/25/09
C.R.S.

EXHIBIT "A"



LOCATION MAP
NOT TO SCALE

SEC 8, 9, 16, 17, 20, 21, 28 & 29

TWP 53 S

RGE 41 E

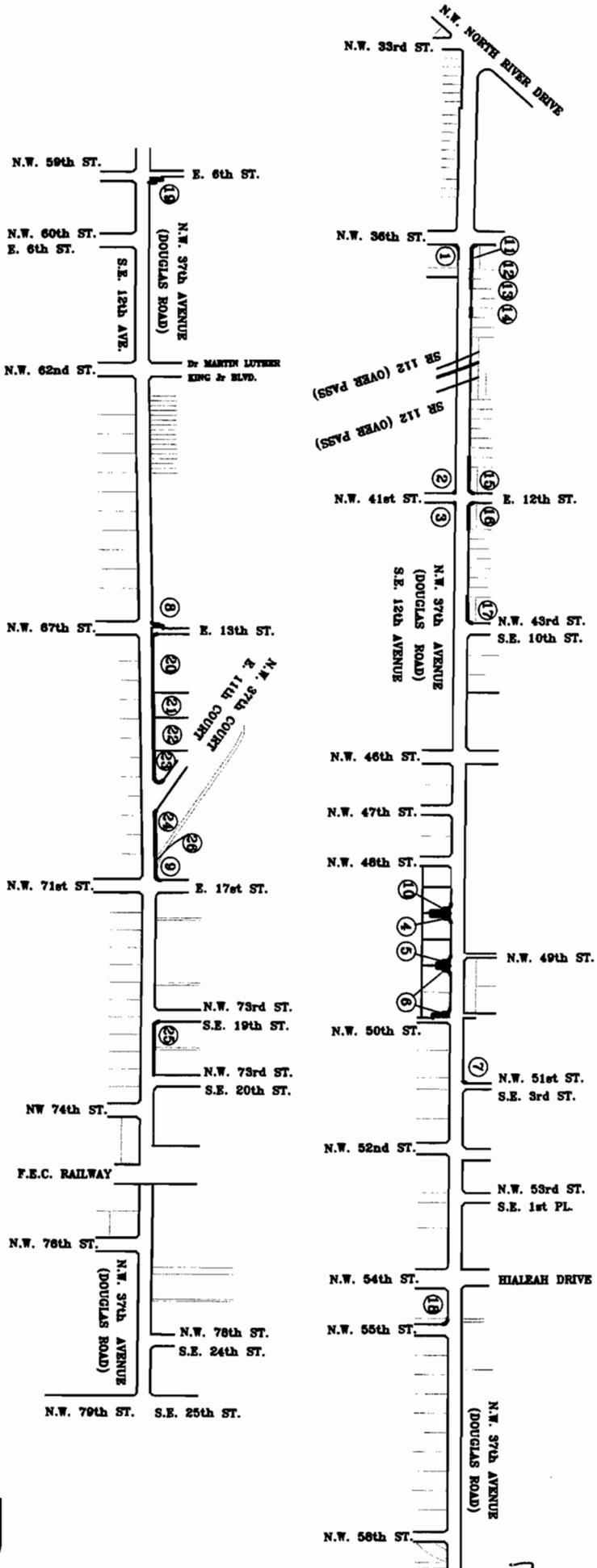


EXHIBIT "B"

MIAMI-DADE COUNTY PUBLIC WORKS DEPT.
RIGHT OF WAY DIVISION
RIGHT OF WAY ENGINEERING SECTION



R/W TO BE ACQUIRED BY THE COUNTY

NW 37 Avenue

From NW North River Drive to NW 79 Street



SCALE 1" = 800'
PROJECT: 20040330
PREPARED BY: L.E.
DATED: 03-04-09

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Items: 8(P)1(Y)
File Number: 091206
**Committee(s)
of Reference:** Board of County Commissioners
Date of Analysis: May 18, 2009
Commission District: 2
Type of Item: Acquisition of Designated Properties (Project 606190)

Summary

This resolution declares the acquisition of Parcel (23) for right-of-way needed for the People's Transportation Plan (PTP) project entitled Roadway Improvements to N.W. 37 Avenue, from N.W. North River Drive to N.W. 79 Street, to be a public necessity and authorizing the County Mayor, his 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 property in fee simple by donation, dedication, purchase, or by eminent domain proceedings, including a declaration of taking as necessary.

This project is included in Exhibit 1 of the PTP Ordinance under the Board of County Commissioners (BCC) requested Major Roadway and Neighborhood Improvements.

The anticipated start and completion dates for construction are June 2011 and June 2013 respectively.

Background and Relevant Information

According to Public Works Department (PWD) staff, the Roadway Improvements will alleviate traffic congestion, make needed drainage improvements and improve the traffic flow. On November 13, 2006, PWD held a public meeting at Melrose Elementary School to inform the affected constituents and solicit their input. PWD is in the process of implementing a Public Involvement Plan (PIP) for this with the residents and businesses. As part of the PIP, PWD will contact all property owners within the project limits, and provide them with a fact sheet outlining all the information related to the construction of the project.

Budgetary Impact

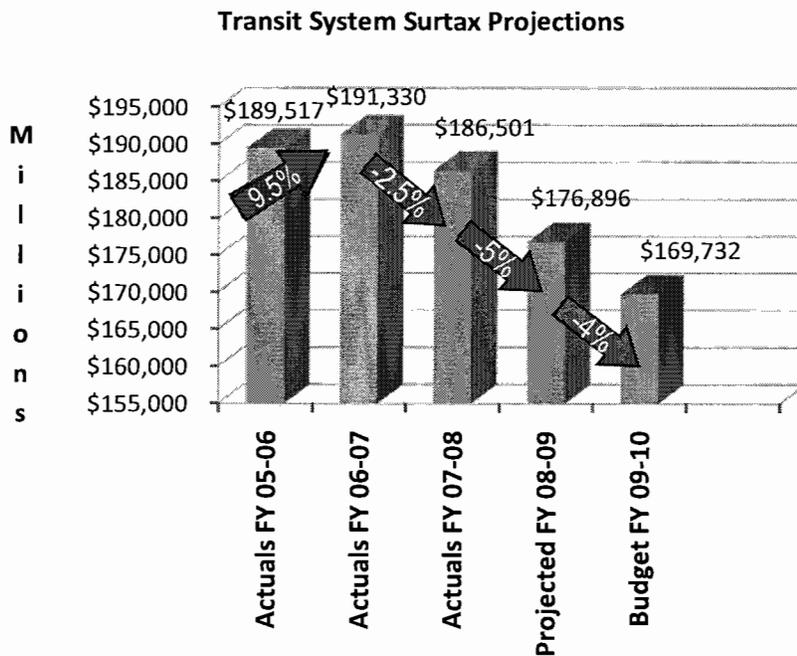
According to PWD staff, neither the City of Miami nor the City of Hialeah will be contributing any funds.

PTP Pro Forma Outlook

According to the Five-Year Financial Outlook , Volume 1, FY 2008-09 Adopted Budget, several items in the People’s Transportation Plan (PTP) continue to be adjusted to reflect more accurate construction and future operating cost estimates as well as any amendments to the PTP approved by the Citizens’ Independent Transportation Trust and the BCC. The rate of growth in sales surtax is slowing relative to forecasts made in FY 2005-06 and FY 2006-07.

The PTP will fund \$397 million in major roadway improvements and neighborhood improvements administered by PWD, over the next five years. PWD has spent \$110.899 million construction or erecting these improvements through September 2008. PWD also anticipates spending \$47.491 million in PTP funding in minor neighborhood improvement projects that include pavement markings, road widening projects, resurfacing, guardrails, sidewalks, drainage, and street lights.

The chart below shows that from FY 2005-06 through projected FY 2009-10 the Surtax will dip 10.4%.



Source: Revenue Estimating Conference dated March 30, 2009

Comments

According to the County Attorney’s Office, legislative items acquiring parcels must be introduced to the Board of County Commissioners as separate resolutions, pursuant to F.S. 127.02.

Section 127.02 requires that a “Board of County Commissioners adopt a resolution in order to acquire a property through the use of eminent domain.” Eminent domain may be described as the fundamental power of the government to take private property for a public use without the owner's consent. The power of eminent domain is absolute, except as limited by the Federal and State Constitutions, and all private property is subject to the power of the government to take private property by eminent domain.

The 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 property by eminent domain.

Prepared by: Michael Amador-Gil