OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 13(A)(1)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: April 3, 2012

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

SUBJECT: Resolution authorizing certain settlement in the amount of $106,410.00 in County eminent domain proceedings by County Attorney

Resolution No. R-323-12

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

R. A. Cuevas, Jr.
County Attorney

RAC/jls

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 3, 2012

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

_____ **Ordinance creating a new board requires detailed County Manager'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)
4-3-12

RESOLUTION NO. R-323-12

RESOLUTION AUTHORIZING CERTAIN SETTLEMENT IN THE AMOUNT OF $106,410.00 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF LAND FOR THE RIGHT-OF-WAY NEEDED FOR IMPROVEMENTS TO SW 27 AVENUE FROM US 1 TO SOUTH BAYSHORE DRIVE AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

WHEREAS, this Board by Resolution No. R-1204-08 dated November 20, 2008 previously declared the acquisition of land for the right-of-way needed for the expansion, beautification, and right-of-way improvements to SW 27th Avenue from US 1 to South Bayshore Drive in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefor by eminent domain proceedings; and

WHEREAS, the business owner of Parcel 27, as set forth in the attached land acquisition summary sheet, has offered to settle for the figure specified therein; and

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, and

Section 2. This Board authorizes the County Attorney to compromise and settle on behalf of the County, claims by the business owner against the County in eminent domain proceedings for Parcel 27 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 **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			**absent**
Audrey M. Edmonson, Vice Chairwoman			**aye**
Bruno A. Barreiro	**aye**	Lynda Bell	**aye**
Esteban L. Bovo, Jr.	**absent**	Jose "Pepe" Diaz	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**absent**
Rebeca Sosa	**aye**	Sen. Javier D. Souto	**aye**
Xavier L. Suarez	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of April, 2012. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

LAND ACQUISITION SUMMARY SHEET

PROJECT LOCATION:	Roadway expansion, beautification, and right-of way improvements to SW 27th Avenue from US 1 to South Bayshore Drive in Miami-Dade County, Florida
PARCEL NUMBER:	Parcel No. 27 (Business damage claims)
OWNERSHIP INTEREST:	Tom Thumb Food Stores, Inc., a Florida Corp. d/b/a E-Z Kwik Business Owner on Parcel 27
COUNTY'S BUSINESS DAMAGES ESTIMATE :	Range of $58,000.00 to $85,000.00 Henry Janus, C.P.A.
OWNER'S BUSINESS DAMAGES CLAIM:	Range of $108,000.00 to $125,000.00 James Robinson, C.P.A.
ATTORNEYS' FEES:	See Comments
SETTLEMENT AMOUNT:	The total settlement amount is $106,410.00. (See Comments below – this amount also includes the business owner's attorneys' fees and expert fees for Parcel 27).
EXPOSURE TO COUNTY:	$40,000.00 (Difference between owner's business damages claim and County's business damages estimate)
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 $106,410.00 represents full compensation for the business owner's claims as to this parcel, and includes $85,000.00 for the damages to the business, $8,910.00 for statutory attorneys' fees of the business owner, and $12,500.00 for statutory expert fees of the business 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 Weiss Serota.

Memorandum

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Charles Scurr, Executive Director

Date: March 21, 2012

Re: **CITT AGENDA ITEM 5J:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS (BCC), APPROVE A CERTAIN SETTLEMENT IN THE AMOUNT OF **$106,410.00** IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF PARCEL 27, FOR RIGHT-OF-WAY NEEDED FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED, ROADWAY EXPANSION AND IMPROVEMENTS TO SW 27 AVENUE, FROM US 1 TO SOUTH BAYSHORE DRIVE; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS **(CAO/PWWM)**

On March 21, 2012, the CITT voted (10-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 12-031. The vote was as follows:

Hon. Linda Zilber, Chairperson – Aye
Paul J. Schwiep, Esq., 1st Vice Chairperson – Aye
Hon. Anna E. Ward, Ph.D., 2nd Vice Chairperson – Aye

Christopher Benjamin, Esq. – Absent
David Concepcion – Absent
Glenn J. Downing, CFP® – Aye
Alfred J. Holzman – Aye
Miles E. Moss, P.E. – Aye
Marilyn Smith – Absent

Harold Braynon, Jr. – Absent
Joseph Curbelo – Aye
Peter L. Forrest – Aye
Prakash Kumar – Aye
Hon. James A. Reeder – Aye

cc: Alina Hudak, Deputy Mayor/County Manager
Bruce Libhaber, Assistant County Attorney
Alexander Bokor, Assistant County Attorney