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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 8(L)(1)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	April 21, 2015
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution declaring the acquisition of the designated property known as Parcel 14 for the People's Transportation Plan Project Number 20040344 entitled improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike to US-1, to be a public necessity Resolution No. R-311-15

The accompanying resolution was prepared by Public Works & Waste Management Department and placed on the agenda at the request of Prime Sponsor Transit and Mobility Services Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: April 21, 2015

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Declaring the Increase in Square Footage of the Designated Property Known as Parcel 14 for Right-of-Way Needed for the People's Transportation Plan Project Entitled Improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike to US-1 to be a Public Necessity, Authorizing the Use of Charter County Transportation Surtax Funds, and Rescinding Resolution No. R-605-14

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution which:

- Rescinds Resolution No. R-605-14, adopted on July 1, 2014, authorizing the acquisition of Parcel 14 needed for the People's Transportation Plan Project Entitled Improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike (SR 821) to SR-5 (US-1); and
- Approves the attached resolution authorizing the acquisition of said parcel, by negotiation, 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 attorneys' fees, expert fees, business damages, and costs pursuant to Sections 73.091 and 73.092 of the Florida Statutes or eminent domain court proceedings, including a declaration of taking as necessary for and on behalf of Miami-Dade County; and replaces the existing legal description, with the current legal description which increases the square footage of Parcel 14 by 1,219 square feet, from the original 1,111 square feet to 2,330 square feet, as a result of this Project being subjected to value engineering and right-of-way verification. Bond proceeds from the Charter County Transportation Surtax bond will be used to fund this Project, and, therefore, approval by the Board and the Citizen's Independent Transportation Trust (CITT) is required.

This resolution is for the acquisition of Parcel 14, which is one of the final parcels needed by Public Works and Waste Management (PWWM) for programmed improvements to the Project. This parcel is being presented for Board approval on this agenda as per Florida Statute Section 127.02, which requires that there be a separate resolution for each individual property.

Said resolution is placed for Committee review pursuant to Miami-Dade County Code Section 29-124(f). This item may only be considered by the Board if the CITT has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the filing with the Clerk of the Board of this item. If the CITT has not forwarded a recommendation and 45 days have not elapsed since the filing of this item, I will request a withdrawal of this item.

Scope
The impact of this project is countywide; however, it is located within Commissioner Dennis C. Moss' District 9 and Commissioner Daniella Levine Cava's District 8.

Fiscal Impact/Funding Source
Funding for the right-of-way acquisition, design, and construction of this Project is from Charter County Transportation Surtax bond proceeds, and may be supplemented by other eligible funding sources. Funding is programmed within the adopted FY 2014-2015 Capital Budget and the index code is CPEPTP708137. The initial acquisition costs have been budgeted and no additional fiscal impacts are expected; however, in the event of litigation, the ultimate acquisition costs would be subject to a future ruling by the Court.

The total cost of the Project, inclusive of construction, design, and the right-of-way acquisition of all parcels, is estimated at $9,095,616.00.

Track Record/Monitor
PWWM is the entity overseeing the Project and the person responsible for monitoring this acquisition is Francisco Fernandez, Chief Real Estate Officer of the Roadway Engineering and Right-of-Way Division.

Background
This Project was subjected to value engineering and right-of-way verification. These efforts resulted in the determination that additional right-of-way would be needed to accommodate the design of the roadway. This resolution replaces the existing legal description with the current legal description and authorizes an increase in square footage of Parcel 14 for right-of-way needed by PWWM for roadway expansion. The area to be acquired is legally described in Exhibit "A" and illustrated on the parcel location map in Exhibit "B," attached hereto. The proposed project includes roadway expansion, beautification, and improvements consisting of reconstructing the existing roadway to include raised landscaped medians; bicycle facilities; sidewalks; curb and gutters; a continuous storm drainage system; signalization; pavement markings and signage; and roadway lighting. These improvements will increase vehicular capacity, improve traffic mobility, ensure ADA compliance, and provide multiple modes of transportation.

Alina T. Hudak
Deputy Mayor

MEMORANDUM
(Revised)

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

DATE: April 21, 2015

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)
4-21-15

RESOLUTION NO. R-311-15

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 14 FOR THE PEOPLE'S TRANSPORTATION PLAN PROJECT NUMBER 20040344 ENTITLED IMPROVEMENTS TO SW 137 AVENUE FROM THE HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE TO US-1, TO BE A PUBLIC NECESSITY; 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 PURCHASE AT APPRAISED VALUE OR TAX ASSESSED VALUE, WHICHEVER IS THE HIGHER OF THE TWO TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDINGS AS NECESSARY; RESCINDING RESOLUTION NO. R-605-14; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

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 14 in fee simple 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 right-of-way improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike to US-1, to be required or 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:

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 Parcel 14, as legally described in "Exhibit A" and shown on project location map in "Exhibit B" all attached hereto and incorporated herein by reference, is needed for the public purpose of improvements to SW 137 Avenue from the Homestead Extension of the Florida Turnpike to US-1.

Section 3. This Board authorizes and directs the County Mayor or County Mayor's designee and County Attorney to employ appraisers, review appraisers and expert witnesses, to obtain required environmental audits and to take any action to acquire the subject parcel, as legally described in "Exhibit A" in fee simple, including any businesses thereon, either by negotiation, 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 attorneys' fees, expert fees, business damages 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 authorizes the use of Charter County Transportation Surtax Funds.

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 conveyance accepted herein in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and

directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

Section 5. This Resolution shall supersede Resolution No. R-605-14, which is hereby rescinded and replaced herewith.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of April, 2015. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

LEGAL DESCRIPTION
(FEE SIMPLE)

All that part of the SE 1/4, NE 1/4, NE 1/4 of Section 27, Township 56 South, Range 39 East, in Miami-Dade County, Florida, more particularly described as follows:

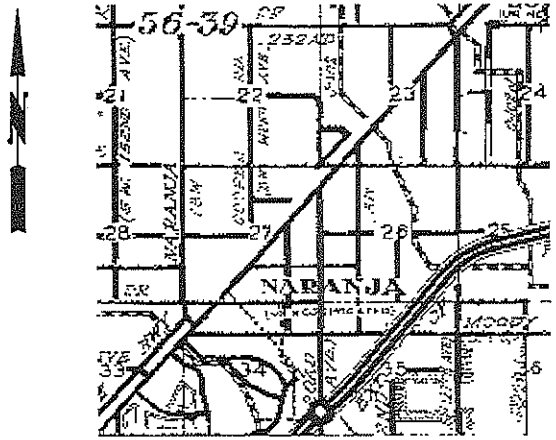
Commencing at the Southeast corner of the SE 1/4, NE 1/4, NE 1/4 of Section 27, also the centerline intersection of SW 137th Ave and SW 252nd Street, thence S 89°22' 41" W, with the South line said Section 27, a distance of 35.00 feet to a point on the West right of way of SW 137th Ave., the **POINT OF BEGINNING.**

Thence S 89°22' 41" W, continuing with said South line, for 51.00 feet; thence N 00°53' 44" W, parallel to the East line of said Section 27, and centerline of SW 137th Ave, for 15.00 feet; thence N 89°22' 41" E, parallel to the South line of said Section 27, for 20.88 feet to a point of curvature concave to the northwest, thence with the arc of said curve to the left, with a deflection angle of 90°16' 25" with a radius of 25 feet, and an arc distance of 39.39 feet to a point of tangency, said point being 40 feet, as measured perpendicular to the aforementioned SW 137th Ave centerline; thence N 00°53' 44" W, parallel to said centerline, for 261.54 feet; thence S 72°18'22" E, for 5.27 feet to a point on the aforementioned West right of way line of SW 137th Ave.; thence S 00°53' 44" E, with said West right of way line, for 300.00 feet to the **POINT OF BEGINNING.**

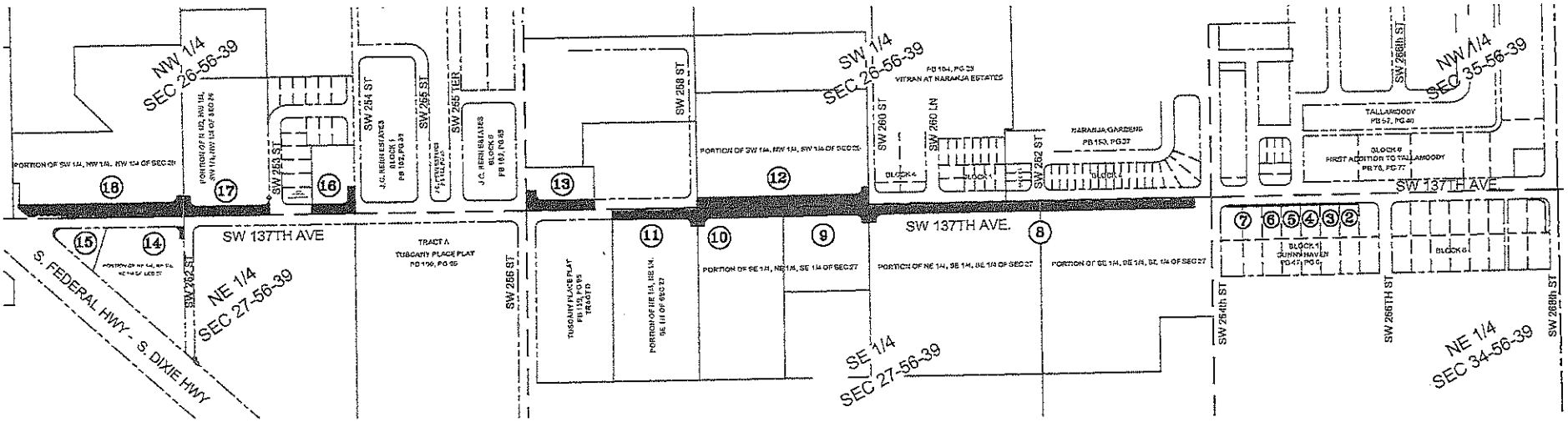
EXHIBIT "A"
1 of 1

PARCEL 14
Project No. 2004-0344
SW 137th Ave., SW 252nd St

SEC 26, 27 & 34
TWP 56 S
RGE 39 E



LOCATION MAP
NOT TO SCALE



0 150 300 600 1200

SCALE 1" = 600'

R/W TO BE ACQUIRED BY THE COUNTY

EXHIBIT "B"

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

SW 137 Avenue
From US-1 to HEFT
Project No. 20040344

MIAMI-DADE

SCALE 1" = 600'
PREPARED BY: L.E.
DATED: 06-01-11

Memorandum

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

From: Charles Scurr, Executive Director

Date: February 10, 2015

Re: **CITT AGENDA ITEM 5A:**
RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 14 FOR THE PEOPLE'S TRANSPORTATION PLAN PROJECT NUMBER 20040344 ENTITLED IMPROVEMENTS TO SW 137 AVENUE FROM THE HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE TO US-1, TO BE A PUBLIC NECESSITY; 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 PURCHASE AT APPRAISED VALUE OR TAX ASSESSED VALUES, WHICHEVER IS THE HIGHER OF THE TWO TOGETHER WITH REASONABLE ATTORNEYS' FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDINGS AS NECESSARY; RESCINDING RESOLUTION NO. R-605-14; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS **(PWWM – BCC Legislative File No. 150429)**

On February 10, 2015, 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. 15-006. The vote was as follows:

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

Joseph Curbelo – Aye
Alfred J. Holzman – Aye
Jonathan Martinez – Absent
Miles E. Moss, P.E. – Absent
Marilyn Smith – Aye
Peter L. Forrest – Absent
Prakash Kumar – Aye
Alicia Menardy, Esq. – Aye
Hon. James A. Reeder – Aye
Hon. Linda Zilber – Aye

cc: Alina Hudak, Deputy Mayor/Director Public Works & Waste Management Department
Bruce Libhaber, Assistant County Attorney