Memorandum

MIAMI-DADE COUNTY

Date: August 23, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: Modifications to Conveyance of Real Estate Interest to the Florida Department of Transportation to Accommodate Construction of the Port of Miami Tunnel Project

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When the Port of Miami Tunnel (POMT) Project (the Project) entered into the design and construction phase, the Concessionaire and the Florida Department of Transportation (FDOT) identified necessary adjustments to previously conveyed temporary and permanent easements. The modification of the tunnel alignment combined the two tunnel portals on Dodge Island into a single portal. This modification, known as the Dodge Island Alternative Alignment, resulted in a more efficient final design and construction of the Project, reduced construction impacts to Port Miami users, and improved the circulation of access roadways at Port Miami in the final condition. The proposed easement adjustments also resulted in a net benefit to the County as the plans called for a reduction in required easement acreage.

Under Resolution No. R-440-10, approved by the Board on April 20, 2010, the Mayor was authorized to execute the temporary and perpetual easements necessary or appropriate to accomplish the realignment in the approximate locations noted in the resolution for, and on behalf of Miami-Dade County, upon approval of the County Attorney's Office, and upon fulfillment of the conditions precedent in the resolution. Conditions precedent are as follows: (a) the determination by the Mayor or his designee that the conveyance is reasonably necessary or appropriate to accommodate the construction of the project and in the best interest of the County or otherwise required under the terms of the Master Agreement; (b) the determination by the Mayor or his designee that the conveyance will not increase the County's contribution or liability under the Master Agreement; (c) the necessary surveys and legal descriptions required to give effect and record the temporary and perpetual easements have been completed and delivered and approved by the County; and (d) the determination by the Mayor or his designee, after consultation with the County Attorney's Office, that any and all documents necessary or appropriate to extinguish or modify the real estate interests originally conveyed in the Master Agreement which are no longer necessary for construction of the project following the realignment have been executed. The specific adjustments are described in the attached memorandum from Seaport Director, Bill Johnson. Resolution No. R-440-10 also required that any conveyances made under the resolution be reported to the Board.

Pursuant to Resolution No. R-440-10, I hereby affirm that I have made the determination that: (a) these conveyances were necessary and appropriate to accommodate the construction of the project and in the best interest of the County; (b) will not increase the County's contribution or liability under the Master Agreement; (c) the necessary surveys and legal descriptions required to give effect and record the temporary and perpetual easements have been completed and delivered and approved by the County; and (d) that any and all documents necessary or appropriate to extinguish or modify the real estate interests originally conveyed in the Master Agreement which are no longer necessary for construction of the project following the realignment have been executed and that the Release of Easement for Parcel 806 has been recorded by the County.

While no additional conveyances are anticipated at this time, any such actions will be reported to the Board accordingly. Please do not hesitate to contact me or Bill Johnson, Seaport Director, should you have any questions.

Attachment

c: Robert A. Cuevas, County Attorney
Jack Osterholt, Deputy Mayor
Bill Johnson, Seaport Director
Charles Anderson, Commission Auditor

Memorandum

MIAMI-DADE COUNTY

Date: August 14, 2012

To: Honorable Carlos A. Gimenez
Mayor

From: Bill Johnson
Director, Seaport Department

Subject: Modifications to Conveyance of Real Estate Interest to the Florida Department of Transportation to Accommodate Construction of the Port of Miami Tunnel Project

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In July 2007, the Board of County Commissioners (Board) approved the Master Agreement for the Port of Miami Tunnel (POMT) Project (the Project). Under the Master Agreement, the County conveyed temporary easements and certain perpetual easements for the construction and operation of the Project. The County also committed to provide additional temporary and perpetual easements needed to accommodate the final design of the Project.

Under Resolution No. R-440-10, approved by the Board on April 20, 2010, the Mayor was authorized to execute the temporary and perpetual easements necessary or appropriate to accomplish the realignment in the approximate locations noted in the resolution for, and on behalf of Miami-Dade County, upon approval of the County Attorney's Office, and upon fulfillment of the conditions precedent in the resolution. Conditions precedent are as follows: (a) the determination by the Mayor or his designee that the conveyance is reasonably necessary or appropriate to accommodate the construction of the project and in the best interest of the County or otherwise required under the terms of the Master Agreement; (b) the determination by the Mayor or his designee that the conveyance will not increase the County's contribution or liability under the Master Agreement; (c) the necessary surveys and legal descriptions required to give effect and record the temporary and perpetual easements have been completed and delivered and approved by the County; and (d) the determination by the Mayor or his designee, after consultation with the County Attorney's Office, that any and all documents necessary or appropriate to extinguish or modify the real estate interests originally conveyed in the Master Agreement which are no longer necessary for construction of the project following the realignment have been executed.

On September 9, 2010, the Florida Department of Transportation (FDOT) officially requested a revision of the Miami-Dade County conveyed permanent easements for the Project due to a modification in project alignment. Pursuant to the parcels included in the Master Agreement, the following perpetual easements will require modifications: Parcels 802, 803, 804, and 805. Further to these revisions, FDOT will no longer require Parcel 806 for the development of the POMT Project. Therefore, FDOT has executed a Release of Easement for Parcel 806 (refer to Attachment 6 herein). The recorded permanent easement for this parcel is to be extinguished, reverting back to the County. A modification to the temporary construction easements Parcels 703, 704, and 705 is not sought at this time.

The Seaport Department has performed an extensive analysis of this request and a review of all available contract documents, and provides the following assessment. The proposed alignment modifications and associated revisions of easements are: (a) necessary to accommodate the construction of the POMT Project in the best interest of the County and as required by the terms of the Master Agreement; (b) the conveyance will in no way increase the contribution or liability of the County, but will realize a savings to the Project

subject to the terms of the Master Agreement between the County and FDOT; (c) the necessary surveys and legal descriptions required to record the affected easements have been completed, delivered and approved by the County; and (d) after consultation with the County Attorney's Office, FDOT has executed a Release of Easement for Parcel 806 in order to release the perpetual easement and the County's obligation to provide the easement per the terms of the Master Agreement. Per the terms of and in accordance with Resolution R-440-10, once the Release of Easement for Parcel 806 is recorded by the County and the Mayor concurs with the Seaport Department Director's assessment regarding satisfaction of the conditions precedent set forth is such resolution, the Mayor may execute the easement modifications.

The following documents are enclosed herein:

Attachment 1: Resolution No. R-440-10
Attachment 2: Recorded Easements in the Public Record (6/12/2008)
Attachment 3: Supplemental Agreement No. 003 to the Concession Agreement
Attachment 4: FDOT Letter RE: Port of Miami Tunnel Project Easements, dated September 9, 2010
Attachment 5: Instruments approved for Legal Sufficiency
Attachment 6: FDOT Release of Easement for Parcel 806