

MEMORANDUM

Agenda Item No. 8(N)(9)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution declaring the acquisition of the designated property known as Parcel 1 for improvements to the intersections of Old Cutler Road, with SW 136 Street and SW 67 Avenue, 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, together with reasonable attorney's fees and costs pursuant to sections 73.091 and 73.092, Florida Statutes, or by eminent domain court proceeding including declarations of taking, as necessary; and authorizing the County Mayor to make an additional incentive offer to purchase Parcel 1 in a total amount not to exceed 15 percent over the appraised value

Resolution No. R-309-21

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: April 20, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor *Daniella Levine Cava*

Subject: Resolution Declaring the Acquisition of the Designated Property Known as Parcel 1 to be a Public Necessity Needed for the Project Entitled Intersection Improvements Along Old Cutler Road at SW 136 Street and at SW 67 Avenue

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution declaring the acquisition of Parcel 1 to be a public necessity for new roundabouts with sidewalks, curb and gutters, a storm drainage system, irrigation, pavement markings and signage, and roadway lighting along Old Cutler Road at the intersection with SW 136 Street and at the intersection with SW 67 Avenue. The resolution authorizes 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. The resolution authorizes the administration to make an additional incentive offer for a total amount not to exceed fifteen percent over the appraised value, together with business damages and reasonable attorney fees and costs, pursuant to Sections 73.091 and 73.092 Florida Statutes, or by eminent domain court proceedings, including a declaration of taking as necessary for and on behalf of Miami-Dade County.

SCOPE

This project is located within District 7 represented by Commissioner Raquel A. Regalado; and District 8 which is represented by Commissioner Danielle Cohen Higgins; however, the impact is Countywide.

FISCAL IMPACT/FUNDING SOURCE

Funding for the construction and right-of-way acquisition of all parcels is estimated at \$4,565,754.00. Funding for these improvements will be from Road Impact Fee District 5 (RIF) programmed within the FY 2020-21 Adopted Budget and Multi-year Capital Plan. Once the project is built out, annual maintenance and operational cost of approximately \$6,951.05 are anticipated and will be funded through the General Fund.

TRACK RECORD/MONITOR

The Department of Transportation and Public Works (DTPW) is the entity overseeing this item and the person responsible is Mr. Alejandro Barrios, Manager, Stormwater Engineering and Right-of-Way Division.

BACKGROUND

The project consists of the design of new roundabouts with sidewalks, curb and gutters, a storm drainage system, irrigation, pavement markings and signage, and roadway lighting along Old Cutler Road at the intersection with SW 67 Avenue, at the intersection with SW 136 Street, at the intersection with SW 152 Street and at the intersection with SW 184 Street. The objective of the project is to provide safety and operational improvements to help traffic flow smoothly at the subject intersections. The proposed improvements will not detract from the historical features of the road and will enhance safety for area residents and other users.

The area to be acquired by DTPW for the street improvements is legally described in Exhibit "A" and illustrated in the parcel location map set forth in Exhibit "B", both of which are attached to the resolution. The project will provide safety and operational improvements to help traffic flow smoothly at the subject intersections.

In order to reduce project time, cost, and to avoid the expense of litigation, it is recommended that the administration be granted authorization to issue an incentive offer added to the initial offer to purchase Parcel 1. The total amount of the initial offer plus the incentive offer shall be no more than fifteen percent over the appraised value of Parcel 1.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: April 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(9)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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)(9)
4-20-21

RESOLUTION NO. _____ R-309-21

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 1 FOR IMPROVEMENTS TO THE INTERSECTIONS OF OLD CUTLER ROAD, WITH SW 136 STREET AND SW 67 AVENUE, 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, TOGETHER WITH REASONABLE ATTORNEY'S FEES AND COSTS PURSUANT TO SECTIONS 73.091 AND 73.092, FLORIDA STATUTES, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO MAKE AN ADDITIONAL INCENTIVE OFFER TO PURCHASE PARCEL 1 IN A TOTAL AMOUNT NOT TO EXCEED 15 PERCENT OVER THE APPRAISED VALUE

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 1 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 constructing improvements to the intersection of Old Cutler Road along SW 136 Street and SW 67 Avenue, 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 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 recital.

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 constructing improvements to the intersections at Old Cutler Road with SW 136 Street and SW 67 Avenue in order to promote and assure safe travel on Old Cutler Road.

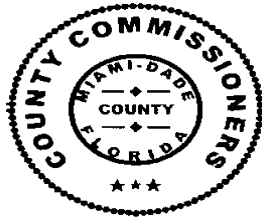
Section 3. This Board authorizes and directs the County Mayor or County Mayor’s designee and County Attorney to employ appraisers, expert witnesses, obtain environmental audits, and to take any and all appropriate actions to acquire the subject parcel, as legally described in Exhibit “A” in fee simple, including business damages and any businesses thereon, either by negotiations, donation, right-of-way designation, purchase at value 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. In order to potentially reduce project time and to avoid the expense of litigation, the County Mayor or County Mayor’s designee is further authorized to issue an incentive offer to purchase Parcel 1, in a total amount not to exceed fifteen percent over the appraised value of Parcel 1.

Section 4. Pursuant to Resolution 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 thirty (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 was offered by Commissioner **Rebeca Sosa** ,
 who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins**
 and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 2021. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to read "LEM", is written over a horizontal line.

Lauren E. Morse
Debra Herman

LEGAL DESCRIPTION (FEE SIMPLE)

That portion of the N 1/2 of the NE 1/4 of the NE 1/4 of the NE 1/4 of Section 23, Township 55 Range 40 East, Miami-Dade County, Florida; more particularly described as follows:

COMMENCE at the NE corner of said Section 23, Township 55 Range 40 East, thence run S 2°08'52" E along the East line of the NE 1/4 of said Section 23 for a distance of 75.33 feet; thence run S 87°50'00" W for a distance of 40.00 feet to **POINT OF BEGINNING** of the herein described parcel of land; thence run S 2°08'52" E, along a line parallel with and 40.00 feet West of the East line of said Section 23 being also the West right-of-way line of SW 67 Avenue as dedicated by Right of Way Deed to Miami-Dade County recorded in Official Record Book 13292 at page 2173 of the Public Records of Miami-Dade County, Florida, for a distance of 25.81 feet to a point of cusp with a circular curve concave to the Southwest; thence run Northerly and Northwesterly along said circular curve, having a radius of 50.00 feet and a central angle of 92°22'12" for an arc distance of 80.61 feet to a point of cusp intersecting with the Southerly right of way line of Old Cutler Road from which the radial line bears N 4°31'04" W being also a non-tangent circular curve as dedicated by said Official Record Book 13292 at page 2173; thence run Easterly, along the arc of said non-tangent circular curve concave to the South, having a radius of 1382.69 feet and a central angle of 1°05'57" for an arc distance of 26.53 feet to a point of Compound Curvature with a circular curve concave to the Southwest; thence run Easterly and Southeasterly, along the arc of said circular curve, having a radius of 25.00 feet and a central angle of 91°16'15" for an arc distance of 39.82 feet to the **POINT OF BEGINNING**.

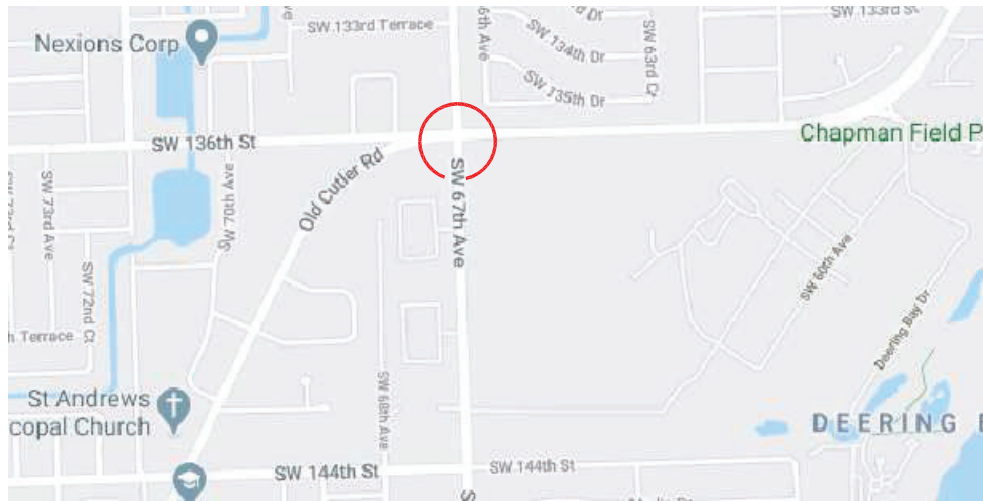
EXHIBIT "A"

PARCEL 1
Project No. 20200118
1 of 1

SEC 23&24

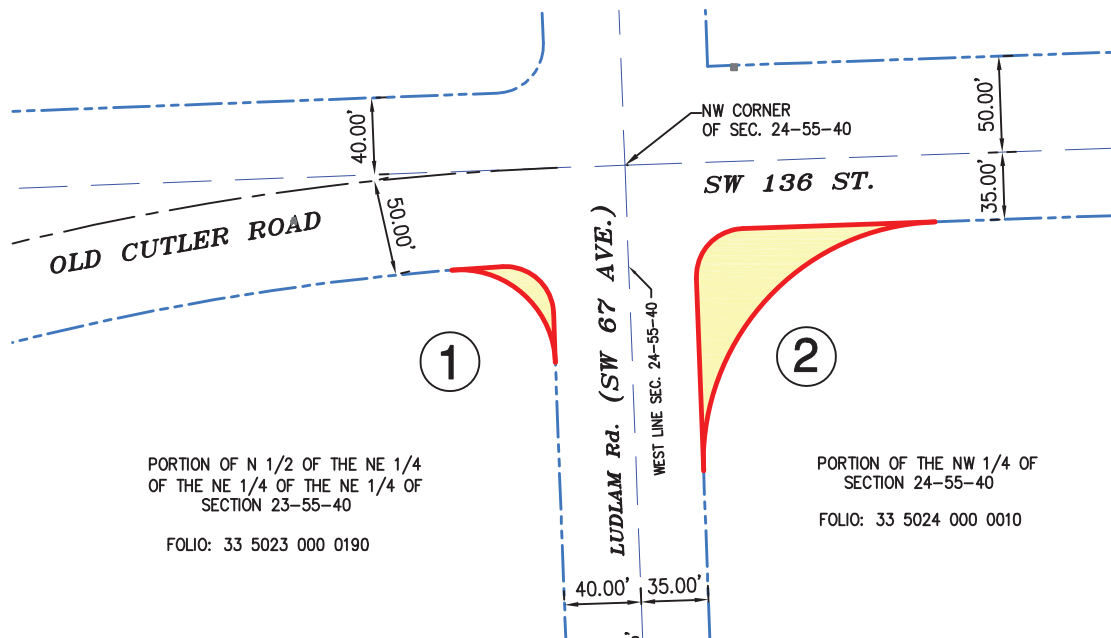
TWP 55 S

RGE 40 E



LOCATION MAP

NOT TO SCALE



PARCEL AREA

EXHIBIT "B"

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

OLD CUTLER Rd & SW 67 AVE.



SCALE: 1"=400'
PREPARED BY: L.E.
PROJECT: 20200118
DATED: 6-25-20