

MEMORANDUM

Agenda Item No. 5(F)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 6, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution granting petition to
close NW 15 Avenue from NW
113 Terrace to NW 114 Street
(Vacation of Right-of-Way
Petition No. P-1006) filed by Ms.
Mariam Benitez Monsibaez and
waiving the signature
requirements of Resolution No.
7606 as to adjacent property
owners

Resolution No. R-733-23

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


Geri Bonzon-Keenan
County Attorney

GBK/ks

Memorandum



Date: September 6, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Vacation of Right-of-Way Petition P-1006
Section: 35-52-41
NW 15 Avenue from NW 113 Terrace to NW 114 Street
Commission District: 2

Executive Summary

The purpose of this item is for the Board of County Commissioners (Board) to grant a petition filed by Ms. Mariam Benitez Monsibaez to vacate the subject portion of County right-of-way. The owners of three of the four properties abutting on the subject right-of-way wish to close the portion of NW 15 Avenue between NW 113 Terrace and NW 114 Street so that the underlying land becomes incorporated into the abutting properties. The petitioner states that this action will aid in reducing the ongoing alleged illegal dumping at this location since it would allow the abutting property owners to control access to the subject land. The \$20,356.38 fee for this vacation of right-of-way petition has been paid.

Recommendation

It is recommended that the Board grant vacation of right-of-way petition P-1006, attached to this Memorandum as Exhibit 2, following a public hearing. The Miami-Dade County (County) Departments of Regulatory and Economic Resources, Transportation and Public Works (DTPW), Water and Sewer (WASD), and Fire Rescue have no objection to this portion of right-of-way being vacated. This request conforms with County regulations governing the procedures for the vacation of County right-of-way as set forth in Resolution No. 7606. Location maps are attached as Exhibit 1. The subject portion of right-of-way consists of unimproved land with encroachments.

Scope

The subject vacation of right-of-way petition is located within District 2, which is represented by Commissioner Marleine Bastien.

Fiscal Impact/Funding Source

The Property Appraiser's Office has assessed the properties adjacent to the subject right-of-way at an average rate of \$16.52 per square foot. Therefore, the estimated value of the subject land is approximately \$183,964. If the subject right-of-way is closed and vacated, the land will be placed on the tax roll, generating an estimated \$3,135 per year in additional property taxes. The fee for this vacation of right-of-way petition is \$20,356.38.

Track Record/Monitor

DTPW is the entity overseeing this project and the person responsible for monitoring it is Maria D. Molina, P.E., Chief, Right-of-Way Division.

Attachments: Exhibit 1 – Location Maps, Exhibit 2 – Vacation of Right-of-Way Petition P-1006, Exhibit "A" – Sketch & Legal Description, Exhibit "B" – Survey, Exhibit "C" – Certified Mail

Delegated Authority

There is no delegation of authority associated with this item.

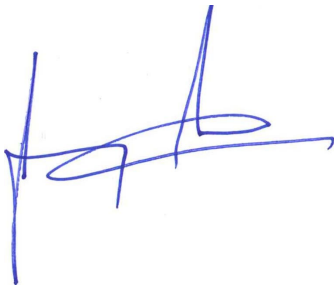
Background

The owners of three of the four properties abutting on the subject right-of-way wish to close the portion of NW 15 Avenue between NW 113 Terrace and NW 114 Street so that the underlying land becomes incorporated into the abutting properties. The petitioner states that this action will aid in reducing the ongoing alleged illegal dumping at this location since it would allow the abutting property owners to control access to the subject land.

The property owner who did not sign this petition was notified of it by certified mail, a copy of which is attached as Exhibit "C". No objection or other reply was received from that owner in response to the certified mail that was sent.

The subject portion of right-of-way has never been improved nor maintained by the County. It includes areas of grass and bare earth. The property abutting the south side of the petitioner's property is encroaching upon the subject right-of-way with various structures and a concrete driveway. Access to the subject right-of-way from NW 113 Terrace is obstructed by encroaching fences and a metal gate. Access from NW 114 Street to the northern portion of the subject right-of-way abutting the petitioner's property and the property lying to the west is free of obstructions.

The subject right-of-way was dedicated to the County in 1947 by the plat of FIRST ADDITION TO AVOCADO ESTATES, recorded in Plat Book 47, at Page 41, of the Public Records of Miami-Dade County, Florida. All the properties abutting on the subject right-of-way are zoned RU-1 (Single-Family Residential District, 7,500 square feet net).



Jimmy Morales
Chief Operations Officer

Location & Aerial Map

SECTION 35 TOWNSHIP 52 S RANGE 41 E

EXHIBIT "1"



This is not a survey

P- 1006

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Marlene Bastien 2

Legend



P-1006 Road Closing

MIAMI-DADE COUNTY
Department of Transportation and Public Works
Right-of-Way Division
111 NW 1st Street, Suite 1610,
Miami, Florida 33128
PH (305) 375-2714 FAX (305) 375-2825

Date: 3-3-2023
Prepared by : ym

MDC004

Location & Aerial Map

SECTION 35 TOWNSHIP 52 S RANGE 41 E

EXHIBIT "1"



This is not a survey

P- 1006

Municipality: UNINCORPORATED MIAMI-DADE
Commission District Marleine Bastien 2

Legend



P-1006 Road Closing

MIAMI-DADE COUNTY
Department of Transportation and Public Works
Right-of-Way Division
111 NW 1st Street, Suite 1610,
Miami, Florida 33128
PH (305) 375-2714 FAX (305) 375-2825

Date: 3-3-2023
Prepared by -ym

MDC005

EXHIBIT 2

PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 – 336.12 Florida Statutes, hereby petitions the Board of County Commissioners to vacate, abandon, discontinue and close an existing public street, alleyway, road, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

LEGAL DESCRIPTION: The complete and accurate legal description of the road, right-of-way sought to be closed is as follows:

See Exhibit "A" attached.

2. PUBLIC INTEREST IN ROAD: The title or interest of the county and the Public in and to the above described road, right-of-way was acquired and is evidenced in the following manner (state whether public interest was acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

The subject land was dedicated for right-of-way to Miami-Dade County by the plat of FIRST ADDITION TO AVOCADO ESTATES, recorded in Plat Book 47, at Page 41, of the Public Records of Miami-Dade County, Florida.

3. ATTACH SURVEY SKETCH: Attached hereto is a survey accurately showing and describing the above described right-of-way and its location and relation to surrounding property, and showing all encroachments and utility easements.

See attached **Exhibit "B"**.

4. ABUTTING PROPERTY OWNERS: the following constitutes a complete and accurate schedule of all owners of property abutting upon the above described right-of-way.

See copy of certified mail (attached as **Exhibit "C"**) sent to the property owner who did not sign this petition.

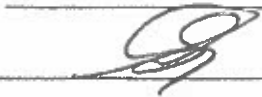
PRINT NAME	FOLIO NO.	ADDRESS
<u>Troy & Mary Batton</u>	<u>30-2135-024-0190</u>	<u>1500 NW 114 Street</u>
<u>Alain Toro Padron & Mariam Benitez Monsibaez</u>	<u>30-2135-024-0320</u>	<u>1490 NW 114 Street</u>
<u>Silvio Salgado</u>	<u>30-2135-024-0330</u>	<u>1495 NW 113 Terrace</u>
<u>Laura Gale Murray</u>	<u>30-2135-024-0275</u>	<u>1501 NW 113 Terrace</u>

5. ACCESS TO OTHER PROPERTY: The undersigned certify that in the event this petition is granted no other property owners will be prevented from access to and from their property and no other property owners in the vicinity will be adversely affected.

6. **GROUND FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST:** The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):

The requested right of way that is proposed to be closed has never been used for any right of way purpose nor has it ever been improved for public access. Avoid ongoing illegal dumping (car parts, trash, trees from other houses, overgrown grass, which we are responsible for being the property next to it.

7. **Signatures of all abutting property owners:** Respectfully submitted,

SIGNATURE	ADDRESS
_____	1500 NW 114 th ST
_____ 	1495 NW 113 terrace
_____ 	1501 NW 113 terrace
_____	_____
_____	_____

Attorney for Petitioner

Address: _____
Signature of Attorney not required)

STATE OF FLORIDA

)

) SS

MIAMI-DADE COUNTY

)

BEFORE ME, the undersigned authority, personally appeared by means of ☐ physical or ☐ online notarization Maniam Bautez, who first by me duly sworn, deposes and says that he/she is one of the petitioners named in and who signed the foregoing petition; that he/she is duly authorized to make this verification for and on behalf of all petitioners; that he/she has read the foregoing petition and that the statements therein contained are true.

Maniam Bautez
(Signature of Petitioner)

Sworn and subscribed to before me this

25th Day of January, 2023.

[Signature]
Notary Public, State of Florida at Large

My Commission Expires: 12/19/2023

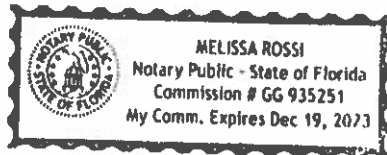
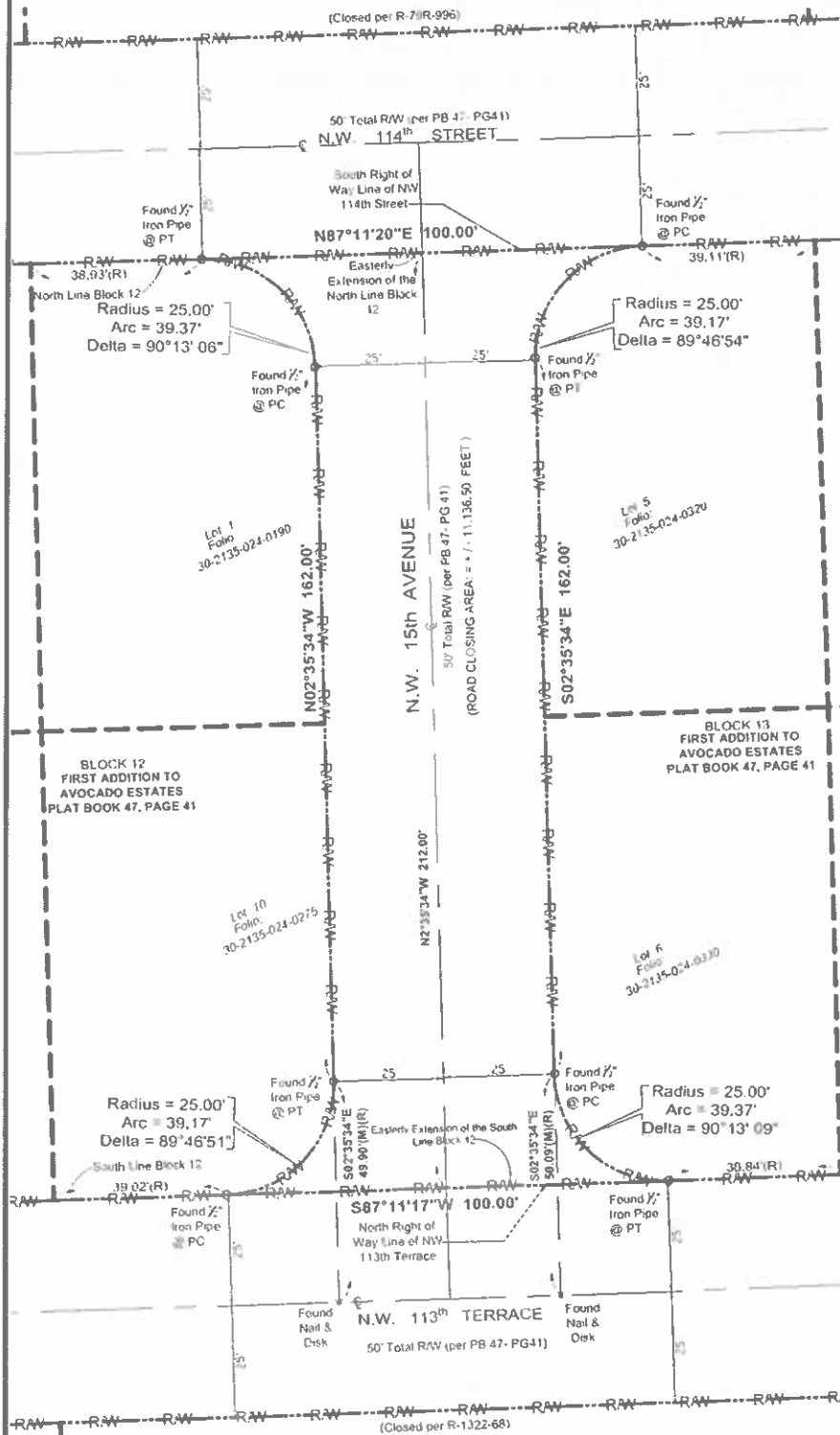


EXHIBIT "A"

Sketch To Accompany a Legal Description



0 20 40
SCALE: 1" = 40'

LEGAL DESCRIPTION OF PORTION OF RIGHT OF WAY TO BE CLOSED

A portion of the public right of way of NW 15th Avenue, lying between Blocks 12 and 13, of the plat of **FIRST ADDITION TO AVOCADO ESTATES**, as recorded in PLat Book 47, Page 41 of the Public Records of Miami-Dade County, Florida, said portion being limited at the North by the south right of way line of NW 114th Street, being also the easterly extension of the north line of said Block 12, and limited at the South by the north right of way line of NW 113th Terrace, being also the easterly extension of the south line of said Block 12, as shown on said plat of **FIRST ADDITION TO AVOCADO ESTATES**. Said lands containing 11, 136.50 square feet, more or less.

LEGEND:

R/W: RIGHT OF WAY LINE
C: DENOTES CENTERLINE
PB: DENOTES PLAT BOOK NUMBER
PG: DENOTES PLAT BOOK PAGE NUMBER

NOTES:

1. This is not a Boundary Survey
2. Geometry of the underlying parcel is based on the HILL CREST, according to the map thereof, as recorded in Plat Book 1, Page 178 of the Public Records of Miami-Dade County, Florida
3. This sketch and the copies thereof are not valid without the signature and raised seal of a Florida licensed Land Surveyor and Mapper.

Prepared by:

Odalys C Bello
c=US, o=Bello and Bello
Land Surveying Corp.
dnQualifier=A01410D00000
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cn=Odalys C Bello
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Odalys C. Bello
Professional Surveyor & Mapper No. 6169
State of Florida
Completion Date: 03/16/2023

BELLO & BELLO LAND SURVEYING

12230 SW 131 AVENUE • SUITE 201 • MIAMI FL 33186
Phone: 305.251.9606 • Fax: 305.251.6057 • LB#7262
e-mail: info@belloland.com • www.bellolandsurveying.com
Project No. 22284 Sketch & Legal



Sheet 1 of 1

MDC011

EXHIBIT "B"

A portion of the public right of way of NY 115th Avenue, lying between Blocks 12 and 13, of the Plat of FIRST ADDITION TO AYOCCO ESTATES, is located in Pl. at Block 47, Page 41 of the Public Records of Miami-Dade County, Florida, said portion being marked in the North by the south right of way line of NW 114th Street, and bounded at the South by the north right of way line of NY 115th Terrace, as shown on said plat of FIRST ADDITION TO AYOCCO ESTATES.



A portion of the public right of way of NW 37th Avenue, lying between Blocks 12 and 13 is shown on the Plat of FIRST ADDITION TO AVOCADO ESTATES, as recorded in Plat Book 4, Page 41 of the Public Records of Miami-Dade County, Florida, said portion being bounded by the South right of way of NW 114th Street, being also the westerly extension of the north line of said Block 12, and limited at the South by the north right of way of NW 131st Avenue, being also the easterly extension of the south line of said Block 12, as shown on said Plat of FIRST ADDITION TO AVOCADO ESTATES. Said blocks conforming 11 1/2 acre square in area or less.

Not valid without the attached Survey Map

- [illegible]

That this Survey conforms to the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mapmakers in applicable provisions of Chapter 5A-17, Florida Administrative Code pursuant to Section 472.027, Florida Statutes. This Survey is accurate and correct to the best of my knowledge and belief.

ca. US, on Belbo and Belbo
and Surveying Corp.
do. ca. 1914-1915
0182616708550000933
ca. 1914-1915
2017.01.14.14.22.24-44.00

Cynthia C. Bullock-Monga
 Professional Surveyor and Mapper L.S. 169, State of Florida
 Field Work Date 02/10/2023
 Survey Completed 03/16/2023



LEGEND & ABBREVIATIONS

1. DATE ON FILE (DATE)

2. LOCATION OF FILE (LOCATION)

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Additions and deletions to this Survey Map are prohibited. This Survey Map and Report are not valid without the signature and original raised seal or without the authenticated electronic signature and seal of the undersigning Florida licensed Surveyor and Mapper.

BELLO & BELLO LAND SURVEYING
12230 SW 131 AVE. SUITE 204 • MIAMI FL 33186
Phone 305.251.9303 • Fax 305.251.6057 • LB#7262
e-mail info@belloland.com • www.bellolandsurveying.com

EXHIBIT "C"

Mariam & Alain Toro

1490 NW 114th ST

Miami FL, 33167

Troy L Batton
1500 NW 114 St
Miami FL, 33167-3643

January 24th, 2023

Troy & Mary Batton

Property Owner

1500 NW 114th street

Miami FL, 33167

Re: Courtesy Notice of Road Closure Petition

Dear Mr. Batton,

Please see attached documents encompassed within this certified mail package. The purpose of this letter is to provide you with a courtesy notice that I Mariam Benitez and my husband Alain Toro as petitioners intend to submit the enclosed **ROAD CLOSING PETITION** for the right of way (NW 15 Avenue) that abuts a portion of your property as well as other neighbors that have signed as well. The requested right of way that is proposed to be closed has never been used for any right of way purpose nor has it ever been improved for public access, and I think we can both agree on that since I've seeing you myself taking care of your side, even though is not your responsibility, yet they still hold us reliable for maintaining it. I, myself received a violation for not clearing unauthorized dumping, overgrown grass by strangers on my side. Which is why I've taken the opportunity that the county offered to road close it and extend it to my property. Please not I will be responsible for all the application fees because I am the one that is interested and I am the one that has initiated the process. Primary access to your property will not be affected on any way or even on the side. This petition will be reviewed by several Miami Dade county departments to ensure the proposal meets all applicable requirements.

We would love the opportunity to discuss with your or your son and address any questions you may have. I can be reached at 786-262-5183. Thank you for your time.

Sincerely,

Mariam & Alain Toro



January 30, 2023

Dear Mariam Benitez:

The following is in response to your request for proof of delivery on your item with the tracking number:
9402 1111 0807 0464 9155 55.

Item Details

Status: Delivered, Left with Individual
Status Date / Time: January 27, 2023, 10:25 am
Location: MIAMI, FL 33167
Postal Product: First-Class Package Service
Extra Services: Signature Confirmation™
Recipient Name: TROY L BALTON
Actual Recipient Name: T BALTON

Note: Actual Recipient Name may vary if the intended recipient is not available at the time of delivery.

Shipment Details

Weight: 1.0oz

Recipient Signature

Signature of Recipient:

Address of Recipient:

1500 NW 114TH ST MIAMI, FL
33167

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

MDC017



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 6, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(F)

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. 5(F)
9-6-23

RESOLUTION NO. _____ R-733-23

RESOLUTION GRANTING PETITION TO CLOSE NW 15 AVENUE FROM NW 113 TERRACE TO NW 114 STREET (VACATION OF RIGHT-OF-WAY PETITION NO. P-1006) FILED BY MS. MARIAM BENITEZ MONSIBAEZ AND WAIVING THE SIGNATURE REQUIREMENTS OF RESOLUTION NO. 7606 AS TO ADJACENT PROPERTY OWNERS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, Vacation of Right-of-Way Petition No. P-1006 was signed by the owners of three of the four properties abutting on the right-of-way sought to be closed and notice was sent by certified mail to the owner of the other property abutting on the right-of-way sought to be closed; and

WHEREAS, a public hearing was held in compliance with Resolution No. 7606,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are approved and incorporated by reference.

Section 2. Resolution No. 7606 is waived to the extent that it requires the signatures of all adjacent property owners on the petition to close a road.

Section 3. Vacation of Right-of-Way Petition No. P-1006 is hereby granted and the alley, avenue, street, highway, or other place used for travel as described in the petition attached as Exhibit 2 to the Mayor's Memorandum is hereby vacated, abandoned, and closed.

Section 4. All rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed.

Section 5. It is found that the action will serve a public purpose and benefit the public without violating private property rights.

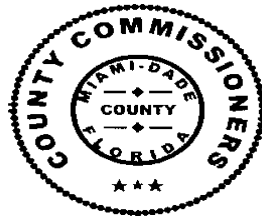
Section 6. The procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 7. Pursuant to Resolution No. 7606, the Clerk is hereby directed to publish notice of the adoption of this resolution one time within 30 days hereafter in a newspaper of general circulation of Miami-Dade County and the County Mayor or County Mayor's designee shall record the proof of publication of the notice of public hearing of this resolution as adopted and the proof of publication of the notice of the adoption of this hearing in the public records of Miami-Dade County.

The foregoing resolution was offered by Commissioner **Marleine Bastien** , who moved its adoption. The motion was seconded by Commissioner **Sen. Rene Garcia** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	absent		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	absent	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	absent	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of September, 2023. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "Annery Pulgar Alfonso", written over a horizontal line.

Annery Pulgar Alfonso