# MEMORANDUM

Agenda Item No. 8(N)(8)

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

**DATE:** November 1, 2016

**FROM:** Abigail Price-Williams
County Attorney

**SUBJECT:** Resolution declaring the acquisition of the designated property known as Parcel 8 for improvements to SW 264 Street, from SW 147 Avenue to U.S. 1 (SR 5), 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 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 8 prior to the filing of an eminent domain action in a total amount not to exceed fifteen percent over the appraised value

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

Abigail Price-Williams
County Attorney

APW/cp

# Memorandum

MIAMI-DADE COUNTY

**Date:** November 1, 2016

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

**From:** Carlos A. Gimenez
Mayor

**Subject:** Resolution Declaring the Acquisition of the Designated Property Known as Parcel 8 for Right-of-Way Needed for the Project Entitled Improvements to SW 264 Street, from SW 147 Avenue to US 1 (SR 5) to be a Public Necessity

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## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution declaring the acquisition of Parcel 8 required for the road widening, beautification, and right-of-way improvements to SW 264 Street, from SW 147 Avenue to US 1 (SR 5) to be a public necessity; and authorizing 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, and authorizing administration to make an additional incentive offer for a total amount not to exceed 15 percent over the appraised value, together with reasonable attorney fees 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.

## SCOPE

The impact of this project is Countywide; however, it is located within District 8, which is represented by Commissioner Daniella Levine Cava.

## FISCAL IMPACT/FUNDING SOURCE

The total cost of the project (inclusive of construction and right-of-way acquisition of all parcels) is estimated at $2,619,190.69 and is funded by road impact fees programmed within the adopted FY 2015-16 Multiyear Capital Plan (Capital Project No. 2000000062).

## TRACK RECORD/MONITOR

The Department of Transportation and Public Works (DPTW) is the entity overseeing this item and the person responsible is Francisco Fernandez, Chief Real Estate Officer for DTPW's Roadway Engineering and Right-of Way Division.

## DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution.

## BACKGROUND

This acquisition is one (1) of nine (9) separate parcels needed by DTPW for programmed improvements along SW 264 Street, from SW 147 Avenue to US 1 (SR 5). The project consists of widening the existing roadway to a two (2) lane divided roadway with a center turn lane, bike lanes, on-street parking, sidewalks, curb and gutter, a continuous storm drainage system, signalization, pavement markings and signage, and roadway lighting.

The area to be acquired by DTPW for the street improvements is legally described in Exhibit A and illustrated in the parcel location map Exhibit B, both of which are attached to the resolution. These improvements will improve traffic mobility and improve drainage along SW 264 Street from SW 147 Avenue to US 1.

It is recommended that in order to reduce project time and cost, and to avoid the expense of litigation, that administration be granted authorization to issue an incentive offer to purchase Parcel 8, prior to the filing of an eminent domain action, which may be added to the initial offer to purchase such property. The total amount of the incentive offer and the initial offer shall be no more than 15 percent over the appraised value of Parcel 8.

Alina T. Hudak
Deputy Mayor

# MEMORANDUM

**(Revised)**

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

**DATE:** November 1, 2016

**FROM:** Abigail Price-Williams
County Attorney

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

**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 ____, 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(N)(8)
11-1-16

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 8 FOR IMPROVEMENTS TO SW 264 STREET, FROM SW 147 AVENUE TO U.S. 1 (SR 5), 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 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 8 PRIOR TO THE FILING OF AN EMINENT DOMAIN ACTION 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 8 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 improvements to SW 264 Street, from SW 147 Avenue to US 1 (SR 5), 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 recitals.

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 improvements to SW 264 Street, from SW 147 Avenue to US 1 (SR 5).

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 any businesses thereon, either by negotiations, 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 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 the County Mayor's designee is further authorized to issue an incentive offer to purchase Parcel 8 prior to the filing of litigation, in a total amount not to exceed fifteen percent over the appraised value of Parcel 8.

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 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 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 resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

| | |
|---|---|
| Bruno A. Barreiro | Daniella Levine Cava |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Dennis C. Moss | Rebeca Sosa |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of November, 2016. 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:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

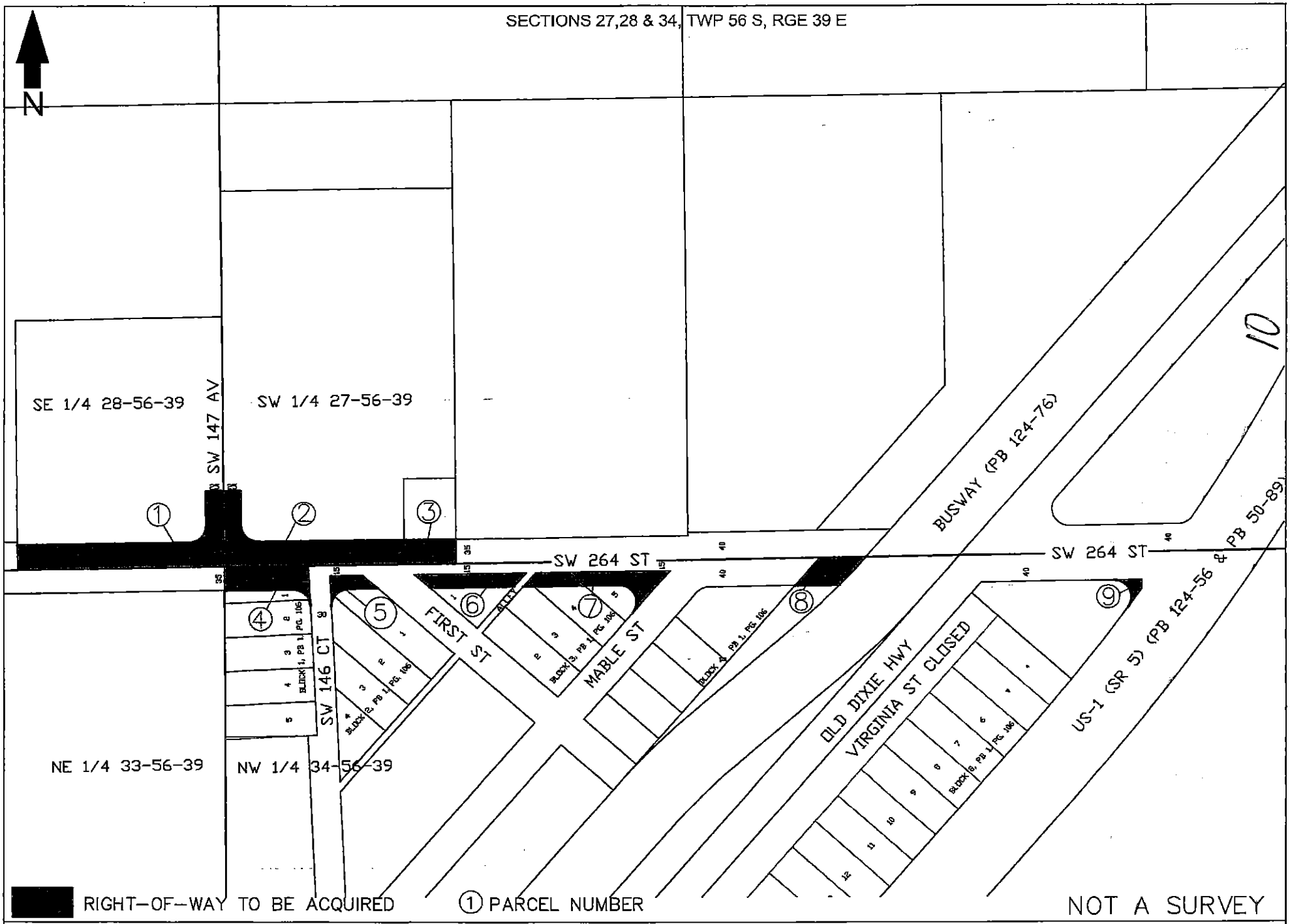
Debra Herman

# LEGAL DESCRIPTION
(FEE SIMPLE)

A portion of the former Florida East Coast Railroad right-of-way as shown on G. W. MOODY'S SUBDIVISION according to the plat thereof as recorded in Plat Book 1, Page 106 of the Public Records of Miami-Dade County, Florida, more particularly described as follows:
The North 40.00 feet of the Northeast 1/4 of the Northwest 1/4 of the Northwest 1/4 of Section 34, Township 56 South, Range 39 East, Miami-Dade County Florida bounded on the East by the Westerly right-of-way line of the Miami-Dade County Busway Corridor as shown on the Florida Department of Transportation Right of Way Map titled F.E.C. RAILROAD ACQUISITION MAP according to the plat thereof as recorded in Plat Book 124, Page 76, Sheet 17 of the Public Records of Miami-Dade County and bounded on the West by the Easterly line of Block 4 and its Northeasterly prolongation of said G. W. MOODY'S SUBDIVISION.

**EXHIBIT "A"**

PARCEL 8
Project No. 20070513
1 of 1




SW 264 STREET
FROM SW 147 AV. TO US-1

# EXHIBIT "B"

NOT TO SCALE