

MEMORANDUM

Agenda Item No. 8(N)(2)

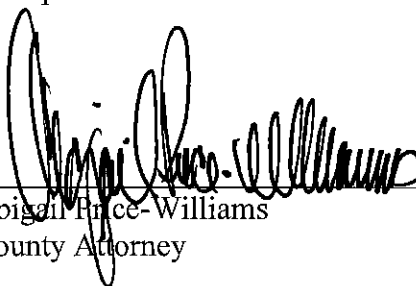
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: April 10, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution authorizing the County Mayor to accept an offer to sell property at the negotiated purchase amount of \$257,423.75 for the acquisition of revised Parcel 144, for right of way needed for the project entitled Improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street; authorizing the County Mayor to execute the contract for sale and to purchase and to perform all acts necessary to effectuate the purchase of the property; authorizing the use of Charter County Transportation Surtax Funds for such purchase; and rescinding Resolution No. R-1010-16

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/smm

Memorandum



Date: April 10, 2018

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the name in the "From" field.

Subject: Resolution Authorizing the County Mayor or the County Mayor's Designee to Accept an Offer to Sell Property at the Negotiated Settlement Amount of \$257,423.75 and Authorizing the Acquisition of Property Known as Revised Parcel 144, for the Project Entitled Improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street, and Authorizing the Use of Charter County Transportation Surtax Funds for Such Purposes

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) authorize the Miami-Dade County (County) Mayor or the County Mayor's designee to accept an offer to sell property at the negotiated purchase price of \$257,423.75 to acquire the property known as Revised Parcel 144 which is needed as part of the People's Transportation Plan Project entitled Improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 (Project), under the terms and conditions set forth in the Contract for Sale and Purchase which is attached hereto as Exhibit "C."

This resolution will be placed for Committee review pursuant to the County Code Section 29-124(f). This item may only be considered by the Board if the Citizens' Independent Transportation Trust (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 District 8, which is represented by Commissioner Daniella Levine Cava.

FISCAL IMPACT/FUNDING SOURCE

Funding for the right-of-way acquisition, design, and construction of this Project are provided by Charter County Transportation Surtax Fund proceeds, and may be supplemented by other eligible funding sources. Funding is programmed within the adopted FY 2017-18 Right-of-Way Acquisition for Construction Projects Countywide (P2000000537) Site 76078 in Commission District 8. This project was specifically listed in the PTP as one of the Board requested improvement projects for Commission District 8

TRACK RECORD/MONITOR

Department of Transportation and Public Works is the entity overseeing this item and the person responsible is Francisco Fernandez, Chief Real Estate Officer, Roadway Engineering and Right-of Way Division.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the County Code related to identifying delegation of Board authority, there are no additional authorities beyond those specified in the Resolution.

BACKGROUND

This Project originally required the acquisition of 46 separate parcels. However, in an effort to minimize costs and impact to the properties, while maintaining the integrity of the Project and adhering to the objectives set by the Board, the Project was value engineered and redesigned, resulting in the elimination of several parcels and reduction in the footprint of others. Parcel 144 is one of the properties which was the subject of a modification and redesign, resulting in a reduction in the parcel's footprint. Notwithstanding the modification, the Project continues to consist of roadway expansion, beautification, and improvements for a new two-lane road with sidewalks, curb and gutter, a continuous storm drainage system, signalization, pavement markings and signage, a center turn lane, street lighting, bicycle facilities, a bridge crossing over one canal, and a culvert for a canal. The revised area to be acquired by DTPW for the Project is legally described in Exhibit "A" and illustrated in the parcel location map attached as Exhibit "B".

The estimated appraised value of the redesigned parcel inclusive of attorney fees and costs and a 15% incentive was \$218,794. The property owner's estimate with expert fees and costs and \$15,000 of attorney fees was \$287,228. Based upon these two estimates, as well as in an effort to avoid additional expert fees, attorneys' fees and costs, DTPW counteroffered at a negotiated settlement of \$257,423.75, which the property owner accepted.

The \$257,423.75 settlement amount is recommended as being in the best interest of the County, and avoids the payment of attorneys' fees, expert fees, and costs associated with trial. Additionally, the County would save the time, resources, and expenses associated with eminent domain proceedings, which would otherwise be required. It is therefore requested that the attached Contract for Sale and Purchase in the amount of \$257,423.75 be approved, and that the County Mayor or County Mayor's designee perform all acts necessary to effectuate the purchase of the property.



Alina Khudak
Deputy Mayor

"EXHIBIT C"

Project Name: SW 137 Ave. from US 1 (SR 5) to SW 200th St.
Project No: 20070343, Parcel 144
A Portion of Folio No.: 30-6910-000-0010

CONTRACT FOR SALE AND PURCHASE


This **Contract for Sale and Purchase** is entered into as of the 24 day of January 2018, by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, and successors in interest, hereinafter referred to as "Buyer", whose Post Office Address is 111 N.W. 1st Street, Suite 1610, Miami, Florida 33128-1970, and: **Julio A Viyella and JC Real Estate Holdings, LTD**, referred to as "Seller(s)" whose Post Office Address is 17425 SW 172 Street, Miami Fl. 33187.

WITNESSETH, that for and in consideration of the mutual covenants contained herein, the Buyer and Seller(s) agree as follows:

1. REALTY. Seller(s) agree to sell to Buyer, and its successors in interest, for road improvements to SW 137 Avenue from US 1 (SR 5) to SW 200th Street in Miami, Florida, that certain real property comprising **38,263 square feet** of land described in **Exhibit "A", and shown in Exhibit "B"**, together with all tenements, hereditaments, privileges, servitudes, rights-of-reverter, riparian rights and other rights appurtenant to said real property, all fill and top soil thereon, all oil, gas and mineral rights possessed by Seller(s), and all right, title and interest of Seller(s) in and to any and all streets, roads, highways, easements, drainage rights, or rights-of-way, appurtenant to the real property, and all right, title and interest of Seller(s) in and to any and all covenants, restrictions, and agreements benefiting the real property (All of the foregoing being referred to as the "Property").

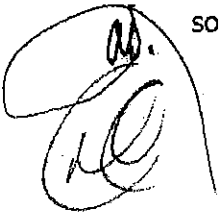
2. PURCHASE PRICE. Buyer agrees to pay Seller for the property referenced in Exhibit "A", the sum of \$257,423.75 (Two-hundred Fifty-seven Thousand Four Hundred Twenty-three Dollars and Seventy-five Cents) inclusive of land, improvements, and all fees and costs.

3. INTEREST CONVEYED. Seller is the recorded owner of the fee simple title to the subject Property, and agrees to convey good, marketable and insurable title by Warranty Deed.

 **4. AD VALOREM TAXES.** Buyer a political subdivision of the State of Florida, is exempt from payment of ad valorem taxes. Therefore, it shall be Seller(s) responsibility to comply with Section 196.295, Florida Statutes by placing the appropriate amount of pro rata taxes to the day of closing and any delinquent taxes, if any, in escrow with the Miami-Dade County Tax Collector.

5. TITLE INSURANCE. Buyer may, within fifteen (15) business days of the effective-date of this Contract, obtain a marketable title insurance commitment for the property described in Exhibit "A" and Buyer may at Buyer's expense obtain an owner's marketable title insurance policy (ALTA Form "B") from a title insurance company licensed by the State of Florida in the amount of the purchase price. Said policy shall show a good, marketable and insurable title to such Property in the Seller(s) name. In addition, the policy shall insure title to such Property for the period between closing and recording of the warranty deed. In connection herewith, Seller(s) agree(s) to provide all affidavits and other documents as required by the title insurer. Buyer shall have ten (10) business days from receipt of title documents to inspect said title documents and report defects, if any, in writing to the Seller(s). If the title search shows title to the Property to be unmarketable and uninsurable as provided herein, the Seller(s) shall have sixty (60) days from receipt of written notice from Buyer to cure the designated defects. If Seller(s) is/are unable, after reasonable diligence, to make the title good, marketable and insurable and acceptable to Buyer, except that Buyer may waive any defects and proceed with closing at Buyer's option, Buyer may elect to file an eminent domain action for the sole purpose of obtaining clear title to the property, and Seller(s) agree(s) that the full compensation for such taking shall be the purchase price designated in paragraph 2 hereof and nothing more whatsoever: and Seller(s) further agree(s) to cooperate fully with Buyer in the eminent domain suit, filing whatever papers, documents or pleadings to accomplish the vesting of title in the Buyer for said purchase price.

6. ENVIRONMENTAL CONDITIONS. Buyer shall, at its own cost and expense and at least 30 days prior to the date of closing, obtain a "Letter of Current Enforcement Status and Recommendations for a Right-of-Way Improvement Project" of the Property from the Miami-Dade County Department of Environmental Resources Management (DERM). If major environmental problems are found on the subject property, the Buyer may elect not to go through with the purchase and this contract will become null and void. The Seller(s) hereby authorize(s) Buyer to conduct any test required or recommended by DERM to determine the existence and extent, if any, of contamination which shall mean hazardous or toxic substance, material or waste of any kind or nature, any pollutant, petroleum, petroleum product or petroleum by-product, as defined or regulated by environmental laws, on the Property in violation of any laws, ordinances, rules or restrictions of any governmental authority having jurisdiction. If the "Letter of Current Enforcement Status and Recommendations for a Right-of-Way Improvement Project" or subsequent testing confirms any contamination on the Property, the Buyer may elect not to close and this contract shall be rendered null and void and both Buyer and Seller(s) shall be released of all obligations; or to negotiate a mutually acceptable solution, including an adjustment in the purchase price if necessary.



7. RIGHTS OF POSSESSION.

X A. Seller(s) warrant(s) and represent(s) that no person is living on or occupying the Property, that there is no tenant, person, entity, or permit in possession of the Property and that there are no leases or other agreements and understandings affecting possession, use or occupancy of the Property. _____

_____. B. If "A" is not checked off identify all such persons, entities, tenants, and licenses. _____

8. LIENS. Certified municipal and county liens, if any, shall be paid in full at or before closing by the Seller(s). If a pending lien has been filed against the subject Property which has not been certified as of the date of closing, and the work and improvements for which the lien was filed have been completed prior to the closing, despite the fact that the pending lien has not been certified, such lien shall be paid by the Seller(s).

9. CLOSING. The closing of this transaction shall be completed within 180 days from the date the contract is fully executed unless otherwise extended, as mutually agreed upon by both Buyer and Seller(s) or as otherwise provided herein. The precise date, time and place of closing shall be set by the Buyer.

10. TIME. Buyer and Seller(s) mutually agree to fully and timely execute such papers as deemed necessary by Buyer's and Seller's attorneys to complete the conveyance in accordance with the terms of this contract. Time is of the essence of this Contract. All obligations are subject to Acts of God or Nature or any other occurrence, which is beyond the control of Seller(s) or Buyer.

11. BROKER FEES. Seller(s) warrant(s) that no persons, firms, corporations or other entities are entitled to a real estate fee or commission claimed due pursuant to this transaction or subsequent closing.

12. ATTORNEYS FEES, EXPERT FEES, & COSTS. Seller(s) warrant(s) that there are no attorney fees, expert fees and or costs due pursuant to this transaction or subsequent closing other than those described in paragraph 2.

13. EXPENSES. This property is being purchased under the threat of condemnation; therefore, Buyer shall be responsible for recording fees on the Warranty Deed and any other recordable instruments necessary to assure good and marketable title.

14. SALE IN LIEU OF CONDEMNATION. This is a sale in lieu of eminent domain condemnation litigation.

15. LOSS. All risk of loss to the Property shall be borne by Seller(s) until transfer of title.

 **16. POSSESSION.** Seller(s) shall deliver possession of the Property to the Buyer at

Parcel 149 - SW 137 Avenue

closing.

17. DEFAULT. If Seller(s) default(s) under this Contract, Buyer may waive the default and proceed with closing or seek specific performance. If Buyer defaults under this Contract, Seller(s) may waive the default and proceed with closing, or seek specific performance.

18. LITIGATION. In the event of any litigation arising out of this Contract, each individual party shall be responsible for their own attorney's fees and costs.

19. DISCLOSURE. Seller(s) warrant that there are no facts known to Seller(s), which materially affect the value of the Property which has not been disclosed by Seller(s) to Buyer or which are not readily observable to Buyer.

20. SUCCESSORS IN INTEREST. This Contract shall be binding on the heirs, successors and assigns of the respective parties hereto.

21. RIGHT TO ENTER PROPERTY. Seller(s) agree(s) that Buyer and its agents shall, upon reasonable notice, have the right to enter the Property for all lawful purposes in connection with this transaction provided the Buyer shall indemnify and hold Seller(s) harmless for damage or injury caused by Buyer and its agents within and to the extent of all limitations of Section 768.28, Florida Statutes.

22. RECORDING. This Contract or notice thereof may be recorded by Buyer in the minutes of the Clerk of the Board of County Commissioners, Miami-Dade County, Florida, but shall not be recorded in the official public records of the Clerk of the Court of Miami-Dade County, Florida.

23. ASSIGNMENT. Neither this Contract nor any interest therein shall be assigned by Buyer or Seller(s) without the express written consent of each other, which consent shall not be unreasonably withheld.

24. ENTIRE AGREEMENT. This Contract contains the entire agreement between the parties hereto as it pertains to the subject matter contained herein and shall supersede and take precedence over any and all prior and contemporaneous agreements and understandings between the parties hereto.

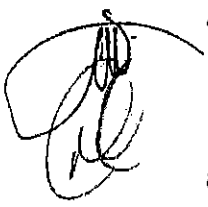
25. EFFECTIVENESS.

☒ A. The purchase price of this contract does not exceed the market value established by the appraiser(s) employed by the County. A 15% incentive approved by the Board of County Commissioners and the Effective Date of this Contract is the date the County Mayor or the County Mayor's designee signs this contract.

☐ B. If, the purchase price of this contract exceeds the market value established by the appraiser(s) employed by the County, the effectiveness of this Contract is contingent upon a public hearing approval pursuant to Section 33-303 of the Code of Miami-Dade County, if required, and approval by the Florida Department of

Transportation or the Federal Transit Agency, if required. Further, it shall be understood that since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this project, no approval of this contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: 1) The County Commission approves this contract, and such approval becomes final (either by expiration of 10 days after such award without veto by the Mayor, or 2) if vetoed, shall become effective only upon an override by the Board of County Commissioners by two-thirds (2/3) vote of the Commission's membership. The date of such approval of the Contract by Buyer as set forth above is the Effective Date of this Contract. Buyer agrees to promptly deliver the Seller an executed Contract within ten (10) days of the Effective Date.

26. NOTICE. All communications regarding this transaction shall be directed to:

 as to Buyer: Steven C. Imas, Real Estate Officer
Miami-Dade County
111 N.W. 1 Street, Ste. 1610
Miami, FL 33128

as to Seller(s): Julio A Viyella and JC Real Estate Holdings, LTD
17425 SW 172 Street
Miami, FL 33187

IN WITNESS WHEREOF, the Buyer and Seller(s) have duly executed this Contract as of the day and year above written.

ATTEST:

By: _____
Clerk

Approved as to form
and legal sufficiency.

Assistant County Attorney

**BUYER:
MIAMI-DADE COUNTY**

By: _____
County Mayor or the County
Mayor's designee

Date: _____

The foregoing contract is being executed pursuant to Resolution No.: _____ of the Board of County Commissioners of Miami-Dade County, Florida, passed and adopted on the _____

Signed, Sealed, Attested and delivered
in our presence:

Seller(s): Julio A. Viyella

Signed, sealed and delivered:

By: 

Julio A. Viyella

700 Baltimore Way Land Gables
Address if different

Date: Jan 24, 2018.

Signed, Sealed, Attested and delivered
in our presence:

Seller(s): JC Real Estate Holdings, LTD

Signed, sealed and delivered:

JC Real Estate Holdings, LTD

By: N & L Management Inc.,
General Partner

By: 

DVP Nibaldo Capote

Address if different

Date: 1/24/18

Project Name: SW 137 Ave. from US 1 (SR 5) to SW 200th St.
Project No: 20070343, Parcel 144
A Portion of Folio No.: 30-6910-000-0010

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

STATE OF FLORIDA

COUNTY OF MIAMI DADE

Before me, the undersigned authority, personally appeared, Nibaldo J. Capote, DVP for N & L Management Inc., General Partner for JC Real Estate Holdings, LTD ("Affiant(s)") this 24 day of JANUARY, 2018, who, first being duly sworn, as required by law, subject to the penalties prescribed for perjury, deposes and says:

1) Affiant(s) have read the contents of this Affidavit, have actual knowledge of the facts contained herein, and state that the facts contained herein are true, correct, and complete.

2) JC Real Estate Holdings, LTD, whose Post Office Address is 17425 SW 172 Street, Miami, FL 33187, is the record owner(s) of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter called the "Property"). As required by Section 286.23, Florida Statutes, the following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes) holding 5% or more of the beneficial interest in the disclosing entity: (If more space is needed, attach separate sheet)

<u>Name</u>	<u>Address</u>	<u>Interest %</u>
<u>NIBALDO J. CAPOTE</u>	<u>3905 LARRY WAY, MIAMI FL 33133</u>	<u>20%</u>
<u>ADRIANA CAPOTE</u>	<u>4545 N. MICHIGAN AVE MIAMI 33140</u>	<u>20%</u>
<u>CARLOS CAPOTE</u>	<u>1221 N. VINEYARD WAY MIAMI FL 33139</u>	<u>20%</u>
<u>SLADYS KENTANE</u>	<u>908 PARK AVE, ELIZABETH NJ 07208</u>	<u>20%</u>
<u>KEVIN CAPOTE</u>	<u>13091 GARDEN CREEK LAKE</u>	<u>20%</u>
	<u>NORTHPORT AL 35473</u>	

This affidavit is given in compliance with the provisions of Sections 286.23, Florida Statutes.

FURTHER AFFIANT SAYETH NOT.

AFFIANT(S):

JC Real Estate Holdings, LTD

By: N & L Management Inc.,
General Partner

By: [Signature]
Nibaldo Capote, DVP for
N & L Management Inc.

Address if different

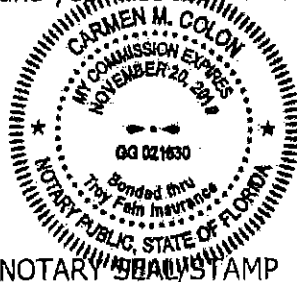
Date: 1/24/18

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY, that on this 24 day of January, A.D. 2018, before me, an officer duly authorized to administer oaths and take acknowledgments personally appeared Nibaldo J. Capote, DVP for N & L Management Inc., General Partner for JC Real Estate Holdings, LTD, personally known to me, or proven, by producing the following identification: personally known, to be the persons who executed the foregoing instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.



NOTARY SEAL/STAMP

[Signature]
Notary Signature

Carmen Colon
Printed Notary Name

Notary Public, State of Florida

My commission expires: Nov. 20, 2019

Commission/Serial No. 00 021630

LEGAL DESCRIPTION
(FEE SIMPLE)

A PORTION OF THE NE 1/4, OF THE NE 1/4 OF SECTION 10, TOWNSHIP 56 SOUTH, RANGE 39 EAST, LYING IN MIAMI-DADE COUNTY FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NE CORNER OF SECTION 10, TOWNSHIP 56 SOUTH, RANGE 39 EAST; THENCE S 01°09'43" E ALONG THE EAST LINE OF SECTION 10, FOR 450.01 FEET TO THE POINT OF BEGINNING; THENCE S 01°09' 43" E. CONTINUING ALONG SAID EAST LINE OF SECTION 10, FOR 880.48 FEET TO A POINT ON THE SOUTH LINE OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 10;

THENCE S 89°07' 11" W, ALONG SAID SOUTH LINE, FOR 55.00 FEET TO A POINT; THENCE N 00°09' 44" W, FOR 240.74 FEET TO A POINT OF A NON TANGENT CIRCULAR CURVE CONCAVE TO THE EAST, THE RADIUS OF WHICH BEARS N 89° 06' 07" E; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 6,514.80 FEET AND A CENTRAL ANGLE OF 3° 33' 05", FOR AN ARC DISTANCE OF 403.80 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 6,485.13 FEET AND A CENTRAL ANGLE OF 2° 05' 21", FOR AN ARC DISTANCE OF 236.46 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 450 OF THE EAST 330 OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 10; THENCE N 89°11'30" E, ALONG SIDE SOUTH LINE, FOR 25.00 FEET TO THE POINT OF BEGINNING.

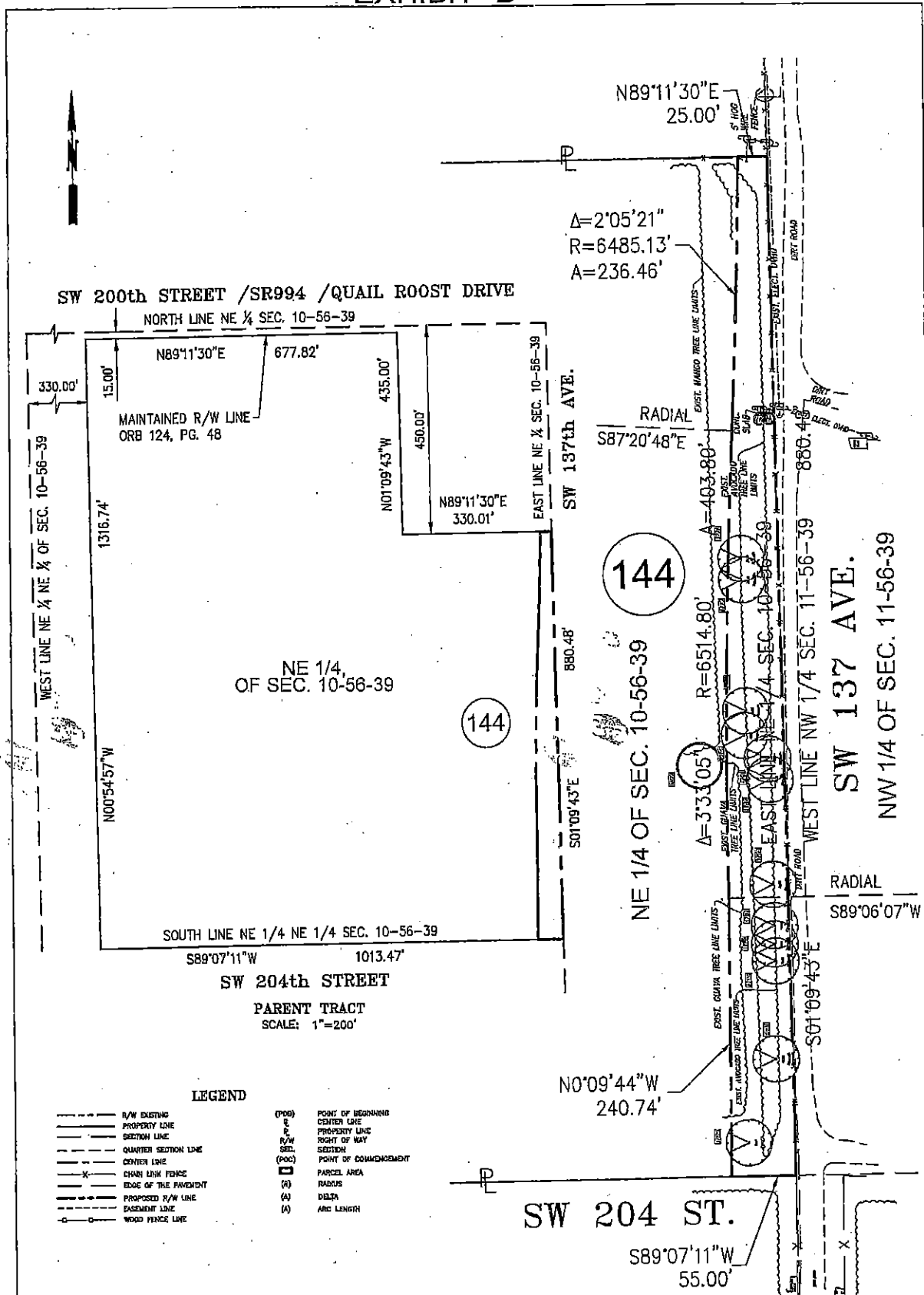


EXHIBIT "A"

PARCEL 144 Mod20170901
Project No. 20040343
1 of 1

Parcel 144 - Sky Line Avenue


EXHIBIT "B"



Area of Parent Tract = 1,186,559 square-feet = 27.240 acres
 Area of Parcel = 38,283 square-feet = 0.878 acres

Folio No: 30-8910-000-0010
 Section: 10-56-39

THIS IS NOT A SURVEY

<div>PARCEL SKETCH</div>	<div>SW 137 AVE</div> <div>PARCEL NO. 144</div>	<div><div>MIAMI-DADE</div><div></div></div>	<div>MIAMI-DADE COUNTY PUBLIC WORKS AND WASTE MANAGEMENT DEPARTMENT RIGHT OF WAY DIVISION ENGINEERING SECTION</div>
		<div>SCALE: 1" = 80' DATE: 02-18-15</div>	
		<div>CHECKED BY: J. TIRADO</div>	
		<div>DRAWN BY: L. ESPINOSA</div>	
		<div>PROJECT 20040343</div>	<div>SHEET: 1 OF 1</div>

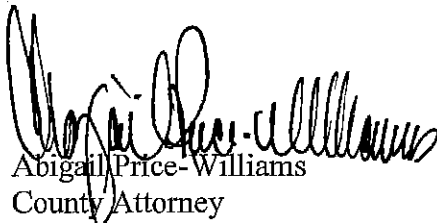


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: April 10, 2018

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(N)(2)

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)(2)
4-10-18

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ACCEPT AN OFFER TO SELL PROPERTY AT THE NEGOTIATED PURCHASE AMOUNT OF \$257,423.75 FOR THE ACQUISITION OF REVISED PARCEL 144, FOR RIGHT OF WAY NEEDED FOR THE PROJECT ENTITLED IMPROVEMENTS TO SW 137 AVENUE, FROM US-1 (SR 5) TO SW 200 STREET; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT FOR SALE AND TO PURCHASE AND TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE THE PURCHASE OF THE PROPERTY; AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURCHASE; AND RESCINDING RESOLUTION NO. R-1010-16

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 144 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 improvements to SW 137 Avenue, from US-1 (SR 5) to SW 200 Street, 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 revised 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 137 Avenue, from US-1 (SR 5) to SW 200 Street and rescinds previously adopted Resolution No. R-1010-16 dated November 1, 2016, which authorized the acquisition of the property prior to revision of the legal description.

Section 3. This Board authorizes the County Mayor or County Mayor’s designee to execute the Contract for Sale and Purchase attached as Exhibit “C” and to perform all acts necessary to carry out the terms of the Contract and to effectuate the purchase of the property in order to acquire the property, and authorizes the use of Charter County Transportation Surtax Funds in connection with such purchase.

Section 4. Pursuant to Resolution R-974-09, this Board directs the County Mayor or County Mayor’s designee to record all instruments of conveyance in connection with such purchase 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 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:

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


The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of April, 2018. 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.



Lauren E. Morse

LEGAL DESCRIPTION
(FEE SIMPLE)

A PORTION OF THE NE 1/4, OF THE NE 1/4 OF SECTION 10, TOWNSHIP 56 SOUTH, RANGE 39 EAST, LYING IN MIAMI-DADE COUNTY FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NE CORNER OF SECTION 10, TOWNSHIP 56 SOUTH, RANGE 39 EAST; THENCE S 01°09'43" E ALONG THE EAST LINE OF SECTION 10, FOR 450.01 FEET TO THE POINT OF BEGINNING; THENCE S 01°09' 43" E CONTINUING ALONG SAID EAST LINE OF SECTION 10, FOR 880.48 FEET TO A POINT ON THE SOUTH LINE OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 10;

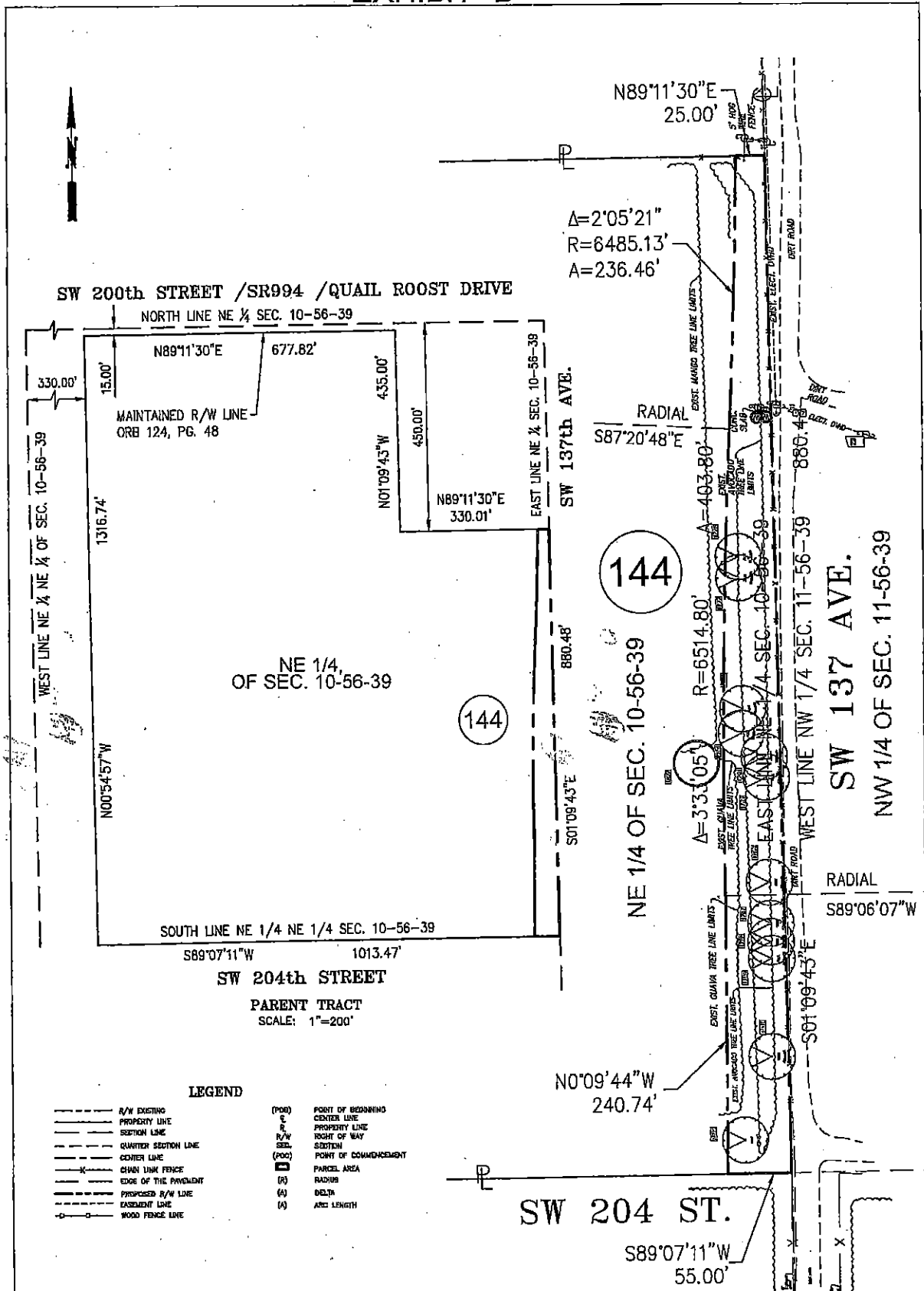
THENCE S 89°07' 11" W, ALONG SAID SOUTH LINE, FOR 55.00 FEET TO A POINT; THENCE N 00°09' 44" W, FOR 240.74 FEET TO A POINT OF A NON TANGENT CIRCULAR CURVE CONCAVE TO THE EAST, THE RADIUS OF WHICH BEARS N 89° 06' 07" E; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 6,514.80 FEET AND A CENTRAL ANGLE OF 3° 33' 05", FOR AN ARC DISTANCE OF 403.80 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 6,485.13 FEET AND A CENTRAL ANGLE OF 2° 05' 21", FOR AN ARC DISTANCE OF 236.46 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 450 OF THE EAST 330 OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 10; THENCE N 89°11'30" E, ALONG SIDE SOUTH LINE, FOR 25.00 FEET TO THE POINT OF BEGINNING.



EXHIBIT "A"

PARCEL 144 Mod20170901
Project No. 20040343
1 of 1

EXHIBIT "B"



Area of Parent Tract = 1,186,569 square-feet = 27.240 acres
 Area of Parcel = 38,203 square-feet = 0.878 acres

Folio No: 30-8910-000-0010
 Section: 10-56-39

THIS IS NOT A SURVEY

<div> <div>MIAMI-DADE</div> <div>PARCEL SKETCH</div> </div>	<div> <div>MIAMI-DADE</div> <div>SW 137 AVE</div> <div>PARCEL NO. 144</div> </div>	<div> <div>MIAMI-DADE COUNTY PUBLIC WORKS AND WASTE MANAGEMENT DEPARTMENT RIGHT OF WAY DIVISION ENGINEERING SECTION</div> <div> <div>SCALE: 1" = 80'</div> <div>DATE: 02-18-15</div> </div> <div> <div>CHECKED BY: J. TIRADO</div> <div>DRAWN BY: L. ESPINOSA</div> </div> <div> <div>PROJECT 20040343</div> <div>SHEET: 1 OF 1</div> </div> </div>

"EXHIBIT C"

Project Name: SW 137 Ave. from US 1 (SR 5) to SW 200th St.
Project No: 20070343, Parcel 144
A Portion of Folio No.: 30-6910-000-0010

CONTRACT FOR SALE AND PURCHASE


This **Contract for Sale and Purchase** is entered into as of the 24 day of January 2018, by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, and successors in interest, hereinafter referred to as "Buyer", whose Post Office Address is 111 N.W. 1st Street, Suite 1610, Miami, Florida 33128-1970, and: **Julio A Viyella and JC Real Estate Holdings, LTD**, referred to as "Seller(s)" whose Post Office Address is 17425 SW 172 Street, Miami Fl. 33187.

WITNESSETH, that for and in consideration of the mutual covenants contained herein, the Buyer and Seller(s) agree as follows:

1. REALTY. Seller(s) agree to sell to Buyer, and its successors in interest, for road improvements to SW 137 Avenue from US 1 (SR 5) to SW 200th Street in Miami, Florida, that certain real property comprising **38,263 square feet** of land described in **Exhibit "A", and shown in Exhibit "B"**, together with all tenements, hereditaments, privileges, servitudes, rights-of-reverter, riparian rights and other rights appurtenant to said real property, all fill and top soil thereon, all oil, gas and mineral rights possessed by Seller(s), and all right, title and interest of Seller(s) in and to any and all streets, roads, highways, easements, drainage rights, or rights-of-way, appurtenant to the real property, and all right, title and interest of Seller(s) in and to any and all covenants, restrictions, and agreements benefiting the real property (All of the foregoing being referred to as the "Property").

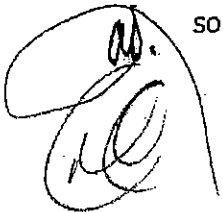
2. PURCHASE PRICE. Buyer agrees to pay Seller for the property referenced in Exhibit "A", the sum of \$257,423.75 (Two-hundred Fifty-seven Thousand Four Hundred Twenty-three Dollars and Seventy-five Cents) inclusive of land, improvements, and all fees and costs.

3. INTEREST CONVEYED. Seller is the recorded owner of the fee simple title to the subject Property, and agrees to convey good, marketable and insurable title by Warranty Deed.

 **4. AD VALOREM TAXES.** Buyer a political subdivision of the State of Florida, is exempt from payment of ad valorem taxes. Therefore, it shall be Seller(s) responsibility to comply with Section 196.295, Florida Statutes by placing the appropriate amount of pro rata taxes to the day of closing and any delinquent taxes, if any, in escrow with the Miami-Dade County Tax Collector.

5. TITLE INSURANCE. Buyer may, within fifteen (15) business days of the effective-date of this Contract, obtain a marketable title insurance commitment for the property described in Exhibit "A" and Buyer may at Buyer's expense obtain an owner's marketable title insurance policy (ALTA Form "B") from a title insurance company licensed by the State of Florida in the amount of the purchase price. Said policy shall show a good, marketable and insurable title to such Property in the Seller(s) name. In addition, the policy shall insure title to such Property for the period between closing and recording of the warranty deed. In connection herewith, Seller(s) agree(s) to provide all affidavits and other documents as required by the title insurer. Buyer shall have ten (10) business days from receipt of title documents to inspect said title documents and report defects, if any, in writing to the Seller(s). If the title search shows title to the Property to be unmarketable and uninsurable as provided herein, the Seller(s) shall have sixty (60) days from receipt of written notice from Buyer to cure the designated defects. If Seller(s) is/are unable, after reasonable diligence, to make the title good, marketable and insurable and acceptable to Buyer, except that Buyer may waive any defects and proceed with closing at Buyer's option, Buyer may elect to file an eminent domain action for the sole purpose of obtaining clear title to the property, and Seller(s) agree(s) that the full compensation for such taking shall be the purchase price designated in paragraph 2 hereof and nothing more whatsoever; and Seller(s) further agree(s) to cooperate fully with Buyer in the eminent domain suit, filing whatever papers, documents or pleadings to accomplish the vesting of title in the Buyer for said purchase price.

6. ENVIRONMENTAL CONDITIONS. Buyer shall, at its own cost and expense and at least 30 days prior to the date of closing, obtain a "Letter of Current Enforcement Status and Recommendations for a Right-of-Way Improvement Project" of the Property from the Miami-Dade County Department of Environmental Resources Management (DERM). If major environmental problems are found on the subject property, the Buyer may elect not to go through with the purchase and this contract will become null and void. The Seller(s) hereby authorize(s) Buyer to conduct any test required or recommended by DERM to determine the existence and extent, if any, of contamination which shall mean hazardous or toxic substance, material or waste of any kind or nature, any pollutant, petroleum, petroleum product or petroleum by-product, as defined or regulated by environmental laws, on the Property in violation of any laws, ordinances, rules or restrictions of any governmental authority having jurisdiction. If the "Letter of Current Enforcement Status and Recommendations for a Right-of-Way Improvement Project" or subsequent testing confirms any contamination on the Property, the Buyer may elect not to close and this contract shall be rendered null and void and both Buyer and Seller(s) shall be released of all obligations; or to negotiate a mutually acceptable solution, including an adjustment in the purchase price if necessary.



7. RIGHTS OF POSSESSION.

☒ A. Seller(s) warrant(s) and represent(s) that no person is living on or occupying the Property, that there is no tenant, person, entity, or permit in possession of the Property and that there are no leases or other agreements and understandings affecting possession, use or occupancy of the Property. _____

____ B. If "A" is not checked off identify all such persons, entities, tenants, and licenses. _____

8. LIENS. Certified municipal and county liens, if any, shall be paid in full at or before closing by the Seller(s). If a pending lien has been filed against the subject Property which has not been certified as of the date of closing, and the work and improvements for which the lien was filed have been completed prior to the closing, despite the fact that the pending lien has not been certified, such lien shall be paid by the Seller(s).

9. CLOSING. The closing of this transaction shall be completed within 180 days from the date the contract is fully executed unless otherwise extended, as mutually agreed upon by both Buyer and Seller(s) or as otherwise provided herein. The precise date, time and place of closing shall be set by the Buyer.

10. TIME. Buyer and Seller(s) mutually agree to fully and timely execute such papers as deemed necessary by Buyer's and Seller's attorneys to complete the conveyance in accordance with the terms of this contract. Time is of the essence of this Contract. All obligations are subject to Acts of God or Nature or any other occurrence, which is beyond the control of Seller(s) or Buyer.

11. BROKER FEES. Seller(s) warrant(s) that no persons, firms, corporations or other entities are entitled to a real estate fee or commission claimed due pursuant to this transaction or subsequent closing.

12. ATTORNEYS FEES, EXPERT FEES, & COSTS. Seller(s) warrant(s) that there are no attorney fees, expert fees and or costs due pursuant to this transaction or subsequent closing other than those described in paragraph 2.

13. EXPENSES. This property is being purchased under the threat of condemnation; therefore, Buyer shall be responsible for recording fees on the Warranty Deed and any other recordable instruments necessary to assure good and marketable title.

14. SALE IN LIEU OF CONDEMNATION. This is a sale in lieu of eminent domain condemnation litigation.

15. LOSS. All risk of loss to the Property shall be borne by Seller(s) until transfer of title.

16. POSSESSION. Seller(s) shall deliver possession of the Property to the Buyer at

Parcel 144 - SW 137 Avenue

closing.

17. DEFAULT. If Seller(s) default(s) under this Contract, Buyer may waive the default and proceed with closing or seek specific performance. If Buyer defaults under this Contract, Seller(s) may waive the default and proceed with closing, or seek specific performance.

18. LITIGATION. In the event of any litigation arising out of this Contract, each individual party shall be responsible for their own attorney's fees and costs.

19. DISCLOSURE. Seller(s) warrant that there are no facts known to Seller(s), which materially affect the value of the Property which has not been disclosed by Seller(s) to Buyer or which are not readily observable to Buyer.

20. SUCCESSORS IN INTEREST. This Contract shall be binding on the heirs, successors and assigns of the respective parties hereto.

21. RIGHT TO ENTER PROPERTY. Seller(s) agree(s) that Buyer and its agents shall, upon reasonable notice, have the right to enter the Property for all lawful purposes in connection with this transaction provided the Buyer shall indemnify and hold Seller(s) harmless for damage or injury caused by Buyer and its agents within and to the extent of all limitations of Section 768.28, Florida Statutes.

22. RECORDING. This Contract or notice thereof may be recorded by Buyer in the minutes of the Clerk of the Board of County Commissioners, Miami-Dade County, Florida, but shall not be recorded in the official public records of the Clerk of the Court of Miami-Dade County, Florida.

23. ASSIGNMENT. Neither this Contract nor any interest therein shall be assigned by Buyer or Seller(s) without the express written consent of each other, which consent shall not be unreasonably withheld.

24. ENTIRE AGREEMENT. This Contract contains the entire agreement between the parties hereto as it pertains to the subject matter contained herein and shall supersede and take precedence over any and all prior and contemporaneous agreements and understandings between the parties hereto.

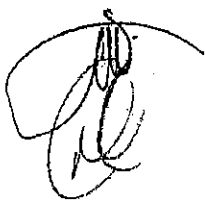
25. EFFECTIVENESS.

☒ A. The purchase price of this contract does not exceed the market value established by the appraiser(s) employed by the County. A 15% incentive approved by the Board of County Commissioners and the Effective Date of this Contract is the date the County Mayor or the County Mayor's designee signs this contract.

☐ B. If, the purchase price of this contract exceeds the market value established by the appraiser(s) employed by the County, the effectiveness of this Contract is contingent upon a public hearing approval pursuant to Section 33-303 of the Code of Miami-Dade County, if required, and approval by the Florida Department of

Transportation or the Federal Transit Agency, if required. Further, it shall be understood that since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this project, no approval of this contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: 1) The County Commission approves this contract, and such approval becomes final (either by expiration of 10 days after such award without veto by the Mayor, or 2) if vetoed, shall become effective only upon an override by the Board of County Commissioners by two-thirds (2/3) vote of the Commission's membership. The date of such approval of the Contract by Buyer as set forth above is the Effective Date of this Contract. Buyer agrees to promptly deliver the Seller an executed Contract within ten (10) days of the Effective Date.

26. NOTICE. All communications regarding this transaction shall be directed to:

 as to Buyer: Steven C. Imas, Real Estate Officer
Miami-Dade County
111 N.W. 1 Street, Ste. 1610
Miami, FL 33128

as to Seller(s): Julio A Viyella and JC Real Estate Holdings, LTD
17425 SW 172 Street
Miami, FL 33187

IN WITNESS WHEREOF, the Buyer and Seller(s) have duly executed this Contract as of the day and year above written.

ATTEST:

By: _____
Clerk

Approved as to form
and legal sufficiency.

Assistant County Attorney

**BUYER:
MIAMI-DADE COUNTY**

By: _____
County Mayor or the County
Mayor's designee

Date: _____

The foregoing contract is being executed pursuant to Resolution No.: _____, of the Board of County Commissioners of Miami-Dade County, Florida, passed and adopted on the _____.

Signed, Sealed, Attested and delivered
in our presence:

Seller(s): Julio A. Viyella

Signed, sealed and delivered:

By: 

Julio A. Viyella

700 Biddleman Way Coral Gables
Address if different

Date: Jan 24, 2018.

Signed, Sealed, Attested and delivered
in our presence:

Seller(s): JC Real Estate Holdings, LTD

Signed, sealed and delivered:

JC Real Estate Holdings, LTD

By: N & L Management Inc.,
General Partner

By: 

DVP Nibaldo Capote

Address if different

Date: 1/24/18

Project Name: SW 137 Ave. from US 1 (SR 5) to SW 200th St.
Project No: 20070343, Parcel 144
A Portion of Folio No.: 30-6910-000-0010

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

STATE OF FLORIDA

COUNTY OF MIAMI DADE

Before me, the undersigned authority, personally appeared, Nibaldo J. Capote, DVP for N & L Management Inc., General Partner for JC Real Estate Holdings, LTD ("Affiant(s)") this 24 day of JANUARY, 2018, who, first being duly sworn, as required by law, subject to the penalties prescribed for perjury, deposes and says:

1) Affiant(s) have read the contents of this Affidavit, have actual knowledge of the facts contained herein, and state that the facts contained herein are true, correct, and complete.

2) JC Real Estate Holdings, LTD, whose Post Office Address is 17425 SW 172 Street, Miami, FL 33187, is the record owner(s) of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter called the "Property"). As required by Section 286.23, Florida Statutes, the following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes) holding 5% or more of the beneficial interest in the disclosing entity: (If more space is needed, attach separate sheet)

<u>Name</u>	<u>Address</u>	<u>Interest %</u>
<u>NIBALDO J. CAPOTE</u>	<u>3905 LARRY WAY, MIAMI FL 33133</u>	<u>20%</u>
<u>ANDREA CAPOTE</u>	<u>4545 N. MICHIGAN AVE MIAMI 33140</u>	<u>20%</u>
<u>CHARLOS CAPOTE</u>	<u>1221 N. VAN METREAN WAY MIAMI FL 33139</u>	<u>20%</u>
<u>SLADYS AGUIAR</u>	<u>908 PARK AVE, ELIZABETH NJ 07208</u>	<u>20%</u>
<u>PEDRO CAPOTE</u>	<u>13091 GARDEN CREEK LANE</u>	<u>20%</u>
	<u>NORTHPORT AL 35413</u>	

This affidavit is given in compliance with the provisions of Sections 286.23, Florida Statutes.

FURTHER AFFIANT SAYETH NOT.

AFFIANT(S):

JC Real Estate Holdings, LTD

By: N & L Management Inc.,
General Partner

By: [Signature]
Nibaldo Capote, DVP for
N & L Management Inc.

Address if different

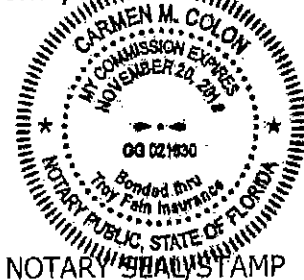
Date: 1/24/18

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY, that on this 24 day of January, A.D. 2018, before me, an officer duly authorized to administer oaths and take acknowledgments personally appeared Nibaldo J. Capote, DVP for N & L Management Inc., General Partner for JC Real Estate Holdings, LTD, personally known to me, or proven, by producing the following identification: personally known, to be the persons who executed the foregoing instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.



NOTARY SEAL/STAMP

[Signature]
Notary Signature

Carmen Colon
Printed Notary Name

Notary Public, State of Florida

My commission expires: Nov. 20, 2019


Commission/Serial No. 99 021630



Memorandum



To: Honorable Chairman Esteban Bovo, Jr.
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: March 15, 2018

Re: CITT AGENDA ITEM 5C:

RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) AUTHORIZE THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO ACCEPT AN OFFER TO SELL PROPERTY AT THE NEGOTIATED SETTLEMENT AMOUNT OF **\$257,423.75** AND AUTHORIZING THE ACQUISITION OF PROPERTY KNOWN AS REVISED PARCEL 144, FOR THE PROJECT ENTITLED IMPROVEMENTS TO SW 137 AVENUE, FROM US-1 (SR 5) TO SW 200 STREET, AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES (DTPW – BCC Legislative File No. 180307)

On March 15, 2018, the CITT voted (9-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 18-009. The vote was as follows:

Glenn J. Downing, CFP®, Chairperson – Aye
Joseph Curbelo, 1st Vice Chairperson – Absent
Alfred Holzman, 2nd Vice Chairperson – Aye

Oscar Braynon – Aye
Hon. Anna E. Lightfoot-Ward, Ph.D. – Aye
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye
Hon. Linda Zilber – Absent

Prakash Kumar – Aye
Jonathan Martinez – Aye
Paul J. Schwiep, Esq. – Absent
L. Elijah Stiers, Esq. – Aye

cc: Alina Hudak, Deputy Mayor
Bruce Libhaber, Assistant County Attorney