Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(1)(C)

10-02-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-1100-07

RESOLUTION AUTHORIZING THE MAYOR OR DESIGNEE TO ACCEPT A COUNTEROFFER IN THE AMOUNT OF $6,500.00 FROM FERMIN AMARO AND MARISELA AMARO, FOR THE ACQUISITION OF A PORTION OF THE PROPERTY LOCATED AT 12691 SW 104 STREET AS PART OF THE IMPROVEMENTS TO SW 127 AVENUE, BETWEEN SW 120 STREET AND SW 88 STREET (NORTH KENDALL DRIVE)

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby accepts the counteroffer contained in the Contract for Sale and Purchase in the amount of $6,500.00, from Fermin Amaro and Marisela Amaro as seller, and Miami-Dade County as buyer; and authorizes the Mayor or his designee to acquire said land in fee simple title. The property being acquired is Parcel No. 4A, more specifically described in Exhibit "A" and shown on the Location Map in Exhibit "B", and the property owners counteroffer in Exhibit "C" attached hereto and made a part hereof.

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: October 2, 2007

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(P)(1)(C)

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

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

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of October, 2007. This resolution shall become effective as follows: (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

Project Name: SW 127th Avenue – from SW 120 St. to SW 88 St. (Kendall Drive)
Project No: 20040351
Parcel #: 4A
Portion of Folio No: 30-5901-000-0070 & 0120

CONTRACT FOR SALE AND PURCHASE FOR ROADWAY PROJECTS

This **Contract for Sale and Purchase** is entered into as of the _____ day of _____ 2007, by and between **MIAMI-DADE COUNTY,** a political subdivision of the State of Florida, and its 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 **Fermin Amaro and Marisela Amaro,** hereinafter referred to as "Seller(s)", whose post office address is 12691 S.W. 104 Street, Miami, Florida 33186-3605.

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

1. REALTY. Seller agrees to sell to Buyer, and its successors in interest, for road right-of-way improvements to S.W. 127th Avenue, between S.W. 120 Street and S.W. 88th Street (Kendall Drive), that certain real property comprising approximately 163 sq. ft. and more specifically described in **Exhibit "A" attached hereto,** 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, and all right, title and interest of Seller 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 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 **$6,500.00 (Sixty-Five Hundred Dollars)** to be paid at closing by Miami-Dade County check.

3. INTEREST CONVEYED. Seller is the record owner of the fee simple title to the subject Property and agrees to convey good, marketable and insurable title of Parcel 4A by Special 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.

Exhibit "C"

Memorandum

MIAMI-DADE COUNTY

Date:	October 2, 2007
To:	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners
From:	George M. Burgess County Manager
Subject:	Resolution Authorizing to Accept a Counteroffer from Fermin Amaro and Marisela Amaro, for the Acquisition of a Portion of the Property Located at 12691 SW 104 Street, for the Acquisition of the Properties Located along SW 127 Avenue, Between SW 120 Street and SW 88 Street (North Kendall Drive)

Agenda Item No. 8(P)(1)(C)

Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution to accept a counteroffer to acquire a portion of the property located at 12691 SW 104 Street, in Miami-Dade County. The proposed improvement consists of the construction of a five-lane roadway with left turn lanes, sidewalks, curb and gutters, traffic signalization and signage, pavement markings, storm drainage system and street lighting.

Scope

This project is within Commission District 8 and 10 and also borders Commission District 9 at SW 120 Street.

Fiscal Impact/Funding Source

All funding (100%) of the right-of-way acquisition and of the construction of this project is provided by the Charter County Transit System Surtax Funds (People's Transportation Plan - PTP). The widening of 127 Avenue from SW 120 Street to SW 88 Street is included among the Board Requested Major Roadway Improvement Projects in Exhibit 1 of the PTP Ordinance.

Track Record/Monitor

Not Applicable.

Background

The Public Works Department (PWD) has programmed the construction of SW 127 Avenue, from SW 120 Street to SW 88 Street. The proposed improvement consists of the construction of a five-lane roadway with left turn lanes, sidewalks, curb and gutters, traffic signalization and signage, pavement markings, storm drainage system and street lighting. The area to be acquired by Miami-Dade County for the proposed street improvements is legally described in Exhibit "A" and illustrated on the parcel location map in Exhibit "B", both attached herewith.

The BCC previously approved Resolution No. R-54-07 on January 25, 2007, declaring the acquisition of land for right-of-way needed for improvements to SW 127 Avenue, from SW 120 Street to SW 88 Street (North Kendall Drive; State Road No. 94), to be a public necessity; and authorizing to employ appraisers and expert witnesses, obtain environmental audits and acquire

the right-of-way by dedication, at values established by the appraisals or by eminent domain proceedings, including a declaration of taking as necessary.

The subject property was appraised for the County on November 16, 2006, which established the total value of $3,500.00. Thereafter, an offer was extended to the owner (Fermin Amaro and Marisela Amaro) at appraised value. The property owners voiced concern about having to relocate the fence on their property and having to also possibly move and relocate a portion of their irrigation system. The owners made a counteroffer to the County in the amount of $6,500.00.

It is recommended that the subject property be approved for the purchase in the amount of $6,500.00 as stated in the attached Sales Contract shown as Exhibit "C". The discrepancy in value between the County's appraisal and the seller's estimate of value is in part due to the owner's claim that the irrigation system would have to be relocated because of the County's acquisition. Additionally, the cost associated with the preparation and filing of a lawsuit, the hiring of expert witnesses, updating the appraisal and taking depositions will exceed the $3,000.00 difference. This acquisition is an integral part of the overall project and will allow the County to continue on schedule for the construction of this project.

Assistant County Manager

5. TITLE INSURANCE. Buyer may, within fifteen (15) business days of the effective–date of this Contract, obtain a marketable title insurance commitment 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 the Property in the Seller's name. In addition, the policy shall insure title to the Property for the period between closing and recording of the special warranty deed. In connection herewith, Seller agrees 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. If the title search shows title to the Property to be unmarketable and uninsurable as provided herein, the Seller shall have sixty (60) days from receipt of written notice from Buyer to cure the designated defects. If Seller is unable, after reasonable diligence, to make the title good, marketable and insurable and acceptable to Buyer, then this Contract shall be rendered null and void and both Buyer and Seller shall be released of all obligations hereunder, except that Buyer may waive any defects and proceed with closing at Buyer's option, or Seller and Buyer may elect to have Buyer file an eminent domain action for the sole purpose of obtaining clear title to the property, and Seller agrees that the full compensation for such taking shall be the purchase price designated in paragraph 2 hereof and nothing more whatsoever: and Seller further agrees 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). The Seller hereby authorizes 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 Seller shall, at Seller's sole cost and expense and prior to closing, promptly and diligently commence and complete all assessments, cleanups and monitoring of such contamination on the Property necessary to obtain full compliance with all applicable federal, state and local laws, ordinances, rules and regulations and any other applicable governmental restriction.

7. SURVEY. No later than 30 days prior to the closing date Buyer may obtain at Buyer's sole cost and expense, a current certified survey of the Property prepared by a professional land surveyor licensed by the State of Florida. The survey shall be certified to Buyer and the title insurer and the date of certification shall be within 90 days before the date of closing, unless this 90 day time period is waived by Buyer and by the title insurer for purposes of deleting the standard exceptions for survey matters and easements or claims of easements not shown by the public records from the owner's title policy. If the survey shows any encroachment on the Property or that any improvements on the Property encroach on the land of others, the same shall be regarded as a title defect.

8. TENANCIES.

_____ A. Seller warrants and represents that no person is living on or occupying the Property, that there is no tenant 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. The following name(s), address(es) and telephone number(s) are the lessee(s) of the Property known to the Seller(s), and Seller(s) agree(s) to provide Buyer with copies of all lease documents affecting said lessee(s). (Attach additional sheets as necessary)

_____

_____

_____

_____

_____

_____

_____

_____

9. LIENS. Certified municipal and county liens, if any, shall be paid in full at or before closing by the Seller. 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.

10. PERSONAL PROPERTY. All landscaping, commercial sign or other improvement defined as personal property shall be removed or relocated from the property by the Seller, at his expense.

8

11. CLOSING. The closing of this transaction shall be completed within 180 days of the execution of this contract unless otherwise extended, as mutually agreed upon by both Buyer and Seller or as otherwise provided herein. The precise date, time and place of closing shall be set by Buyer.

12. TIME. Buyer and Seller mutually agree to fully and timely execute such papers as deemed necessary by Buyer's and Seller' 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 or Buyer.

13. BROKER FEES. Seller warrants 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.

14. EXPENSES. This property is being purchased under the threat of condemnation; therefore, Buyer shall be responsible for recording fees on the Special Warranty Deed as well as payment of Florida Documentary Stamp Tax and Miami-Dade County Surtax on the Special Warranty Deed, if any.

14A. If a settlement is reached between the condemning authority and a property or business owner prior to a lawsuit being filed, the property or business owner who settles compensation claims in lieu of condemnation shall be entitled to recover costs in the same manner as provided in s. 73.091 and attorney's fees in the same manner as provided in s. 73.092, more specifically as follows: (a) Attorney's fees for pre negotiations under this section regarding the amount of compensation to be paid for the land, severance damages, and improvements must be calculated in the same manner as provided in s. 73.092 (1) unless the parties otherwise agree.

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

16. POSSESSION. Seller shall deliver possession of the Property to the Buyer at closing.

17. DEFAULT. If Seller defaults under this Contract, Buyer may waive the default and proceed with closing or seek specific performance. If Buyer defaults under this Contract, Seller 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, the prevailing party shall be entitled to recover reasonable attorney's fees and costs from the other party upon final court judgment, including appellate proceedings.

19. DISCLOSURE. Seller warrants that there are no facts known to Seller which materially affect the value of the Property which have not been disclosed by Seller 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 agrees 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 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 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. The effectiveness of this Contract is when both parties have fully executed this document.

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

as to Buyer:

Dennis P. Hynes
Miami-Dade County
Public Works Department, Right of Way Division
111 N.W. 1 Street, Ste 1610
Miami, FL 33128-1970

as to Seller(s):

Fermin Amaro and Marisela Amaro
12691 S.W. 104 Street
Miami, Florida 33186

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

ATTEST:

BUYER:
MIAMI-DADE COUNTY

By: _____
Clerk

By: _____
County Manager

DATE: _____

Approved as to form
and legal sufficiency.

_____
Assistant County Attorney

The foregoing conveyance was obtained pursuant to Resolution No. R-54-07 of the Board of County Commissioners of Miami-Dade County, Florida, passed and adopted on the 25th day of January, A.D. 2007.

Signed, Sealed, Attested
(2 witnesses for each signature
and Delivered in our presence
or for all)

_____
Witness

_____
Witness Printed Name

11

_____
Fermin Amaro

_____
Witness

_____
Witness Printed Name

_____
Witness

_____
Witness Printed Name

_____
Marisela Amaro

_____
Witness

_____
Witness Printed Name

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY, that on this _____ day of _____ 2007, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared **Fermin Amaro and Marisela Amaro,** personally known to me, or proven, by producing the following identification: _____to be the persons who executed the foregoing instrument freely and voluntary for the purposes therein expressed.

WITNESS my hand and official Seal in the County and State aforesaid, on this _____ day of _____, 2007.

_____
Notary Signature

NOTARY SEAL / STAMP

_____
Print Name
Notary Public, State of_____

My Commission Expires:_____

Commission/Serial No. _____

Project Name: SW 127th Avenue – from SW 120 St. to SW 88 St. (Kendall Drive)
Project No: 20040351
Parcel #: 4A
Portion of Folio No: 30-5901-000-0070 & 0120

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF _____

Before me, the undersigned authority, personally appeared, _____**,Title**_____ ("Affiant(s)") this _____ day of _____, 2007, 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) **Fermin Amaro and Marisela Amaro,** whose address is 12691 S.W. 104 Street, Miami, Florida 33186-3605, is the record owner 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 Statues) holding 5% or more of the beneficial interest in the disclosing entity: (If more space is needed, attach separate sheet)

Name	Address	Interest %

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

FURTHER AFFIANTS SAYETH NOT. **AFFIANT(S):**

_____

By:

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY, that on this _____ day of _____ 2007, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared **Fermin Amaro and Marisela Amaro,** personally known to me, or proven, by producing the following identification: _____to be the persons who executed the foregoing instrument freely and voluntary for the purposes therein expressed.

WITNESS my hand and official Seal in the County and State aforesaid, on this _____ day of _____, 2007.

_____

Notary Signature

NOTARY SEAL / STAMP

_____

Print Name

Notary Public, State of_____

My Commission Expires:_____

Commission/Serial No. _____