

Date: October 5, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

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

From: George M. Burgess
County Manager



Resolution No. R-991-10

Subject: Resolution Declaring the Acquisition of the Designated Property Known as Parcel 9 for Right-of-Way Needed for the People's Transportation Plan (PTP) Project Entitled Improvements to SW 264 Street, from US 1 (SR 5) to SW 137 Avenue to be a Public Necessity and Authorizing the Use of Charter County Transportation Surtax Funds

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution declaring the acquisition of Parcel 9 required for the road widening, beautification, and right-of-way improvements to SW 264 Street, from US 1 (SR 5) to SW 137 Avenue 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 required environmental audits, and to take any and all appropriate actions to acquire the subject parcel in fee simple, either by negotiation, purchase at values established by appraisals, donation, or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County. Proceeds from future Charter County Transportation Surtax bond sales will be used to fund this project, and therefore, approval by the BCC and Citizens' Independent Transportation Trust (CITT) is required.

SCOPE

The impact of this project is Countywide and is physically located within Commission District 9.

FISCAL IMPACT/FUNDING SOURCE

The total cost of the project (inclusive of construction and right-of-way acquisition of all parcels) is estimated at \$5,250,000.00 and is funded by proceeds from a future Charter County Transportation Surtax bond sale. Once the project is built out, annual maintenance and operational cost of approximately \$22,903.00 is anticipated and will be funded from the Department's General Fund allocation.

TRACK RECORD/MONITOR

Not Applicable

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.

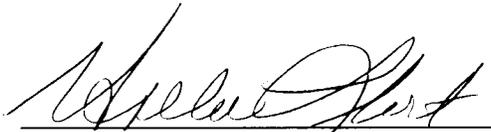
BACKGROUND

This resolution is for the acquisition of Parcel 9 of twelve (12) separate parcels needed by the Public Works Department (PWD) for programmed improvements along SW 264 Street, between US 1 (SR 5) and SW 137 Avenue. This project consists of widening the existing roadway to a 2-lane divided highway with raised landscaped median, bike lanes, on-street parking, sidewalks, curb and gutters, a continuous storm drainage system, signalization, pavement markings and signage and decorative lighting.

Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners
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The area to be acquired by PWD for the street improvements is legally described in Exhibit "A" and illustrated in the parcel location map (Exhibit "B"), both attached. These improvements will improve traffic mobility and improve drainage, as well as beautify SW 264 Street between US1 and SW 137 Avenue. Construction of this project is scheduled to begin in January 2012 and anticipated to be completed by January 2013.

As per Miami-Dade County Tax Collector's Office records, the current owner of Parcel 9 is Carolyn Geffrand.



Assistant County Manager



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: October 5, 2010

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

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

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
- Ordinance creating a new board requires detailed County Manager'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(P)(1)(G)
10-5-10

RESOLUTION NO. R-991-10

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 9 FOR IMPROVEMENTS TO SW 264 STREET, FROM US 1 (SR 5) TO SW 137 AVENUE, TO BE A PUBLIC NECESSITY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE COUNTY ATTORNEY TO TAKE ANY AND ALL APPROPRIATE ACTIONS TO ACCOMPLISH ACQUISITION OF THE SUBJECT PROPERTY IN FEE SIMPLE, BY DONATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

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 9 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 US 1 (SR 5) to SW 137 Avenue, to be required and necessary to accomplish such improvements; and

WHEREAS, Miami-Dade County is authorized under the Constitution and laws of Florida, including Chapters 73, 74, 125, 127 and 341, Florida Statutes, and Sections 1.01 (A) (1), (2) and (21), of the Home Rule charter of Miami-Dade County, to acquire said property by eminent domain proceedings,

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

Section 1. This Board ratifies and adopts these matters set forth in the foregoing 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 US 1 (SR 5) to SW 137 Avenue.

Section 3. This Board authorizes and directs the County Mayor or County Mayor's designee and County Attorney to employ appraisers, review appraisers and expert witnesses, to obtain required environmental audits and to take any action to acquire the subject parcel, as legally described in Exhibit A" in fee simple, either by purchase at values established by appraisals, donation, or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County and authorizes the use of Charter County Transportation Surtax Funds.

Section 4. Pursuant to Resolution R-974-09, this Board directs the County Mayor or County Mayor's designee to record the instruments of conveyances accepted herein in the Public Records of Miami-Dade County, Florida; and provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and (b) 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 **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

	Dennis C. Moss, Chairman	aye	
	Jose "Pepe" Diaz, Vice-Chairman	aye	
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of October, 2010. 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 reaffirms 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

LEGAL DESCRIPTION

The North 5.00 feet of Lot 16, Block 3 of SUNNY HAVEN according to the plat thereof as recorded in Plat Book 47, Page 6 of the Public Records of Miami-Dade County, Florida.

And

The external area formed by a 25.00 foot radius arc, concave to the Southeast, tangent to the South line of the North 5.00 feet of said Lot 16 and tangent to the West line of said Lot 16.

RB

PROJECT NO. 20040350
PARCEL 9
Page 1 of 1

EXHIBIT A

7

SECTIONS 27 & 34, TWP 56 S, RGE 39 E



MIAMI-DADE TRANSIT BUSWAY
BIKE HIGHWAY
US-1 (STATE RD. 5)

SW 142 AV

SE 1/4 27-56-39

PB 33-34

SW 264 ST

PB 167-11

NW 1/4 34-56-39

H&F B R.R. SPUR

NE 1/4 34-56-39

Miami-Dade County School Board

Miami-Dade County

PB 130-37

SW 139 CT

SW 139 AV

SW 138 CT

SW 138 AV

SW 137 AV

PB 163-37

PB 163-37

(16)

(15)

SW 137 CT
PB 47-6-3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 (13)

SW 138 AV
PB 47-6-3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 (12)

SW 138 CT
PB 47-6-3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 (10)

SW 139 AV
PB 47-6-3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 (8)

SW 139 CT
PB 47-6-3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 (7)

(6)

(4)

(2)

(3)

(5)

PROJECT NUMBER 20040350

RIGHT-OF-WAY TO BE ACQUIRED

(1) PARCEL NUMBER

NOT A SURVEY

SW 264 STREET

FROM IIC 1 TO CW 177 AV

EXHIBIT "B"

NOT TO SCALE



Return to: Armando J. Cervera .
 Right-of-Way Division .
 Miami-Dade County Public Works Dept. .
 111 NW 1 Street, Ste 1610 .
 Miami, FL 33128-1970 .

CFN 2011R0616988
 DR Bk 27825 Pgs 2572 - 2574 (3pgs)
 RECORDED 09/14/2011 14:28:27
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

Instrument Prepared by: .
 Armando J. Cervera .
 Miami-Dade County, Public Works Dept. .

Folio No. 30-6934-003-0470 .
 SW 264 Street – US 1 to SW 137 Ave. .
 Parcel No. 9 (Section 34-56-39) .
 User Dept.: PW .

WARRANTY DEED

THIS INDENTURE, made this 14 day of SEPTEMBER, 2011, between **JAMEL RASHAD BROOKS**, (Grantor) whose post office address is 13850 SW 264 Street, Miami, Fl 33032, in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, received from **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, and its successors in interest, (Grantee) whose post office address is 111 N.W. 1st Street, Miami, Florida 33128-1970, the receipt whereof is hereby acknowledged, have granted, bargained, and sold to the said Grantee, and Grantee's successors, and assigns forever, lying and being in Miami-Dade County, Florida, to-wit:

The North 5.00 feet of Lot 16, Block 3 of SUNNY HAVEN according to the plat thereof as recorded in Plat Book 47, Page 6 of the Public Records of Miami-Dade County, Florida,

AND

The external area formed by a 25.00 foot radius arc, concave to the Southeast, tangent to the South line of the North 5.00 feet of said Lot 16 and tangent to the West line of said Lot 16.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

THIS CONVEYANCE includes, without limitation, all timber rights and water rights; all mineral rights and gas rights except those previously reserved, transferred or severed by third parties; all Grantor's right, title and interest in roads, streams, canals, banks, ditches and other water bodies located on the Premises or which may provide access to the Premises; all riparian rights; and all Grantor's right, title and interest in alleys, roads, streets and easements included within the Premises, or which may provide access to the Premises.

SUBJECT TO: Easements, dedications and restrictions of record, if any, but any such interests that may have been terminated are not hereby re-imposed and subject to applicable zoning ordinances, taxes and assessments for the year 2011 and subsequent years.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with the Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

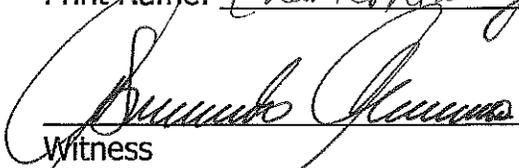
IN WITNESS WHEREOF, the Grantor has hereunto set his hands and seal the day and year first above written.

Signed, sealed and delivered in the presence of:



Witness

Print Name: Charles Murray



Witness

Print Name: Armando J Cervera



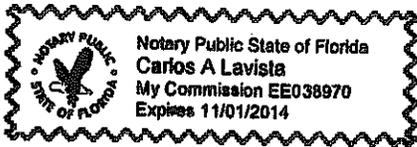
JAMEL RASHAD BROOKS

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

I HEREBY CERTIFY, that on this 14 day of SEPTEMBER, 2011, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared **JAMEL RASHAD BROOKS**, personally known to me, or proven by producing the following identification: DRIVERS LICENSE to be the person 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



Carlos A. Lavista
Notary Signature
Print Name: CARLOS A. LAVISTA
Notary Public, State of FLORIDA
My commission expires: 11/01/2014
Commission/Serial No. EE 038970

THE FOREGOING was approved, pursuant to Resolution No. R-991-10, by the Board of County Commissioners of Miami-Dade County, Florida, on the 5th day of October, 2010, to purchase this property by the County for right-of-way needed for the Roadway Improvements to SW 264 Street Project, from US 1 to SW 137 Avenue.

Project Name: SW 264 Street Improvements

Project No: 20040350

Folio No.: 30-6934-003-0470

CONTRACT FOR SALE AND PURCHASE

This **Contract for Sale and Purchase, in lieu of condemnation proceedings**, is entered into as of the 29 day of June 2011, 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 **Jamel Rashad Brooks** hereinafter referred to as "Sellers" whose Post Office Address is 13850 SW 264 Street, Naranja, Florida 33032.

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

1. REALTY. Sellers agree to sell to Buyer, and its successors in interest, for road right-of-way improvements to S.W. 264th Street, from US 1 (SR 5) to S.W. 137 Avenue, that certain real property comprising **approximately 718 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 Sellers, and all right, title and interest of Sellers 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 Sellers 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 Sellers for the property referenced in Exhibit "A", the sum of **\$1,850.00 (One Thousand Eight Hundred Fifty Dollars)** to be paid at closing by Miami-Dade County or designee by check. This \$1,850.00 consists of the real estate to be acquired in fee simple including the site improvements.

3. INTEREST CONVEYED. Sellers are the recorded owners of the fee simple title to the subject Property, and agree 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 and Buyer may at

N/A 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)

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

9. 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 Sellers or as otherwise provided herein. The precise date, time and place of closing shall be set by the Buyer.

10. TIME. Buyer and Sellers 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 Sellers or Buyer.

11. BROKER FEES. Sellers warrant 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. EXPENSES. This property is being purchased under the threat of condemnation; therefore, Buyer shall be responsible for recording fees on the Warranty Deed.

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

14. POSSESSION. Sellers shall deliver possession of the Property to the Buyer at closing.

15. DEFAULT. If Sellers default under this Contract, Buyer may waive the default and proceed with closing or seek specific performance. If Buyer defaults under this Contract, Sellers may waive the default and proceed with closing, or seek specific performance.

16. LITIGATION. In the event of any litigation arising out of this Contract, the

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.

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

as to Buyer: Armando J. Cervera or Carlos Lavista
Miami-Dade County
Public Works Department
111 N.W. 1 Street, Ste 1610
Miami, FL 33128

as to Seller(s): Jamel Rashad Brooks
13850 SW 264 Street
Naranja, FL 33032

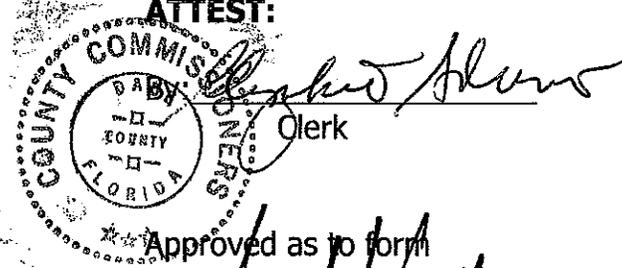
IN WITNESS WHEREOF, the Buyer and Sellers have duly executed this Contract as of the day and year above written.

**BUYER:
MIAMI-DADE COUNTY**

By: [Signature]
County Mayor or the Mayor's
designee

Date: _____

ATTEST:



Clerk

Approved as to form
and legal sufficiency.

[Signature]
Assistant County Attorney

The foregoing conveyance was obtained pursuant to Resolution No. R-991-10 of the Board of County Commissioners of Miami-Dade County, Florida, passed and adopted on the 5th day of October, A.D. 2010.

Project Name: SW 264 Street Improvements

Project No: 20040350

Folio No.: 30-6934-003-0470

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

Before me, the undersigned authority, personally appeared, **Jamel Rashad Brooks**, ("Affiant(s)") this 29 day of June, 2011, 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.

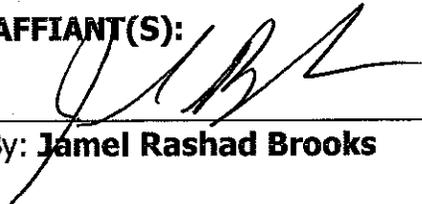
2) **Jamel Rashad Brooks**, whose Post Office Address is 13850 SW 264 Street, Naranja, Florida 33032, is the record owner(s) of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter called the "Property"). As required by Section 286.23, Florida 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>
Jamel Rashad Brooks	13850 SW 264 St	100

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

FURTHER AFFIANTS SAYETH NOT.

AFFIANT(S):


By: **Jamel Rashad Brooks**

LEGAL DESCRIPTION
(Fee Simple)

The North 5.00 feet of Lot 16, Block 3 of SUNNY HAVEN according to the plat thereof as recorded in Plat Book 47, Page 6 of the Public Records of Miami-Dade County, Florida,

AND

The external area formed by a 25.00 foot radius arc, concave to the Southeast, tangent to the South line of the North 5.00 feet of said Lot 16 and tangent to the West line of said Lot 16.

EXHIBIT A

PROJECT NO. 20040350
PARCEL 9
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