

Meeting Date
January 24, 2017



AGENDA	
Section	Consent
Item No.	<i>II, A, 6.</i>

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Contract for Sale and Purchase & Addendum for the acquisition of property located at 5040 Sutton Avenue from FAD Realty, LLC (Owner) as part of the proposed Hollywood Boulevard Widening Project - District 3. (Fiscal Impact: \$121,000.00)
DEPT/OFFICE:	Public Works Department / Land Acquisition Section

Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chairman to execute the Contract for Sale and Purchase for property located at 5040 Sutton Avenue.

Summary Explanation & Background:

The subject property is located in Section 06, Township 28 South, Range 37 East.

Hollywood Boulevard is currently a non-divided, two-lane road connecting New Haven Avenue with Palm Bay Road. The Hollywood Boulevard Widening Project will include widening the road to 4 lanes, along with major intersection, sidewalk, and drainage improvements.

On November 1, 2005, the Board of County Commissioners allocated partial funding for this project for early right-of-way acquisition as a part of the Local Option Gas Tax bond resolution. As such, staff has watched for opportunities to purchase needed land from willing sellers, as in this case. As a Capital Improvement Project, the Hollywood Boulevard Widening Project has been authorized by the Board of County Commissioners for offers and negotiations only. At this time, staff is authorized to obtain documents necessary to move forward with acquisitions, but will negotiate with willing sellers only.

This parcel, located at 5040 Sutton Avenue, is needed for additional right-of-way for the project to proceed. The County has already purchased a number of properties along this segment and staff is continuing to acquire additional needed parcels as they become available to the limit of allocated funds availability. An appraisal has been completed by William Benson Appraisal, Inc. at \$121,000.00. An offer was made at the County's appraisal amount of \$121,000.00 and the Owner accepted that offer.

Land Acquisition Policies and Procedures require approval and acceptance by the Board of County Commissioners for all Deeds and Easements conveyed to the County. Staff recommends approval of the Contract as presented.

Fiscal Impact: FY 2016/2017: \$121,000.00 Fund Account: Constitutional Gas Tax (CGT) 1170/265400/5610000
FY 2017/2018: No Impact

Clerk to the Board Instructions: Notify Department at 690-6847 when the Board approval memo and original executed Contract for Sale and Purchase is ready for pick-up

Exhibits Attached: Original Contract for Sale and Purchase, Location Map, Property Fact Sheet

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
	Assistant County Manager	 John Denninghoff / 57202



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

January 25, 2017

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item II.A.6., Contract for Sale and Purchase and Addendum with FAD Realty, LLC, for Acquisition of Property Located at 5040 Sutton Avenue as Part of the Proposed Hollywood Boulevard Widening Project

The Board of County Commissioners, in regular session on January 24, 2017, executed and approved the Contract for Sale and Purchase and Addendum with FAD Realty, LLC, for the acquisition of property located at 5040 Sutton Avenue, as part of proposed Hollywood Boulevard Widening Project. Enclosed is the executed Contract for Sale and Purchase for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Contracts Administration
Asset Management
Finance
Budget

CONTRACT FOR SALE AND PURCHASE

Seller: FAD Realty, LLC, 1503 Westervelt Avenue, North Baldwin, NY 11510

Buyer: Board of County Commissioners, Brevard County, Florida
2725 Judge Fran Jamieson Way, Viera, Florida 32940

Legal description of property being transferred: See attached Exhibit "A"

The transfer shall be made pursuant to the following terms and conditions and the Standards for Real Estate Transactions, on the reverse side of this contract.

Purchase price: \$121,000.00 (ONE HUNDRED TWENTY ONE THOUSAND DOLLARS AND 00 CENTS)

Deposit: \$100 to be transferred to an escrow account established and held by the Brevard County Clerk, such deposit to be applied to the purchase price.

Time for acceptance of offer; effective date; facsimile: If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before January 24, 2017, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn.

Title evidence: At least 15 days before closing date, Seller shall, at Seller's expense, deliver to Buyer or Buyer's attorney or Buyer shall at Buyer's expense obtain a title search and/or title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of title insurance.

Closing Date: This transaction shall be closed and the deed and other closing papers delivered on March 21, 2017, unless modified by other provisions of this Contract.

Warranties: The following warranties are made and shall survive closing. a. SELLER warrants that there are no parties in occupancy other than Seller. b. SELLER warrants there is no hazardous waste or other environmental contamination located in or upon the property being acquired by the County. Seller shall indemnify and defend Buyer from any and all claims or expenses resulting from hazardous waste or environmental contamination located in or upon the property provided such waste or contamination was not placed on the property by the Buyer. c. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for purposes. d. SELLER hereby represents and warrants to COUNTY that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby.

Inspections: The BUYER shall have 60 days after the Brevard County Board of County Commissioners executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, developability, access, drainage and subsurface conditions. In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to BUYER are detected, SELLER shall 1) take all steps necessary to remove BUYER'S objections prior to the expiration of the 60 day inspection period, if possible or 2) if acceptable to BUYER, SELLER shall allow an additional 90 days to provide adequate time to conduct a Phase II assessment meeting ASTM standards.

Condemnation: This property is not being acquired under threat of condemnation. If so, this agreement, includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with §196.295, Fla. Stat.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by §286.23, Fla. Stat.

Special Clauses: See attached addendum NOT APPLICABLE

BOARD OF COUNTY COMMISSIONERS BREVARD COUNTY, FLORIDA Curt Smith, CHAIRMAN

FAD Realty, LLC (Seller) Fredys T. Taveras, Sole Member Date 12/19/16

As approved by the Board 1/24/17 Date: 1/24/17

STANDARDS FOR REAL ESTATE TRANSACTIONS

A. EVIDENCE OF TITLE: A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligation under this Contract.

B. SURVEY: Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

C. INGRESS AND EGRESS: Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.

D. LIENS: Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.

E. TIME PERIOD: Time is of the essence in this Contract.

F. DOCUMENTS FOR CLOSING: Seller shall furnish the deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish closing statement.

G. EXPENSES: Documentary stamps on the deed, if required, and recording of corrective instruments shall be paid by Seller. Buyer will pay for the cost of recording the deed.

H. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.

I. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

J. PROCEEDS OF SALE; CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. Proceeds of the sale shall be held in escrow by Seller's attorney or by another mutually acceptable escrow agent for a period of not more than 5 days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, F.S. (1993), as amended.

K. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach. In the event of any litigation arising out of this contract, each party shall bear its own attorney's fees and costs. The parties hereby agree to waive trial by jury.

L. CONVEYANCE: Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

M. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

N. WARRANTY: Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed.

Reviewed for legal form and content:

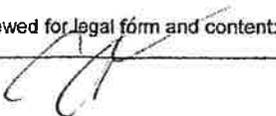
 (Deputy) County Attorney

EXHIBIT "A"

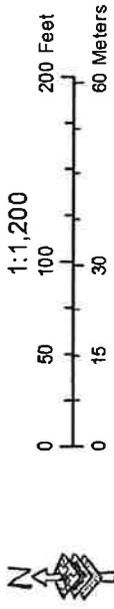
LOT 1, BLOCK G, CANNOVA PARK SECTION "A", ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE(S) 143, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

28-37-06-75-0000G.0-0001.00

Location Map 5040 Sutton Avenue



Location Map:
 5040 Sutton Avenue
 28-37-06-75-0000G.0-0001.00



PROPERTY FACT SHEET
PROJECT: HOLLYWOOD BOULEVARD WIDENING

OWNER:	FAD Realty, LLC
PARCEL LOCATION:	5040 Sutton Avenue, W. Melbourne, Florida
PARCEL SIZE:	.21 Acre (per appraisal)
ACQUISITION AREA:	.21 Acre – whole acquisition
ZONING/LANDUSE:	R1-A, Residential, City of West Melbourne / Residential
IMPROVEMENTS:	3 BR, 1.5 BA house, screen room
TOPOGRAPHY:	Level with road grade, no wetlands indicated
FLOOD ZONE:	X (outside 500-year flood)
TAX PARCEL ID#:	28-37-06-75-0000G.0-0001.00
MARKET VALUE:	\$69,000.00 (2016 Assessment Property Appraiser's Records)
PUBLIC UTILITIES:	All utilities
PROPERTY TRANSACTION: (Clerk of the Court Records)	Purchase date: 09/20/13 Sale amount: \$60,000.00
APPRAISAL DATE:	December 05, 2016
Appraisal Amount:	\$121,000.00
Contract Amount:	\$121,000.00
Additional Contract Costs:	N/A
Total Settlement Expense:	\$121,000.00 plus closing costs, Survey, and Phase I Environmental Study

Deborah Thomas

From: Cruz, Debbie <Debbie.Cruz@brevardfl.gov>
Sent: Tuesday, January 24, 2017 4:08 PM
To: Deborah Thomas
Cc: Tammy Rowe
Subject: RE: January 24, 2017 Agenda Items

Hi Deborah – Dan will be there between 2pm & 3pm on Friday (tomorrow is Wednesday). We really appreciate your help. Thank you, Debbie

From: Deborah Thomas [<mailto:deborah.thomas@brevardclerk.us>]
Sent: Tuesday, January 24, 2017 3:44 PM
To: Cruz, Debbie
Cc: Tammy Rowe
Subject: RE: January 24, 2017 Agenda Items

Hi Debbie:

That will be fine.

What time tomorrow do you think Dan will be by please?

Thanks.

Deborah Thomas
Administrative Assistant
Clerk to the Board
(321)637-2001 ext. 49433
Deborah.thomas@brevardclerk.us



From: Cruz, Debbie [<mailto:Debbie.Cruz@brevardfl.gov>]
Sent: Tuesday, January 24, 2017 3:31 PM
To: Deborah Thomas
Cc: Jones, Daniel; Tammy Rowe
Subject: January 24, 2017 Agenda Items

Good afternoon Deborah,

Dan Jones, Public Works, Land Acquisition Supervisor, would like to pick up the executed documents for the below-mentioned agenda items. If it is possible, he would like to pick them up on Friday. If not on Friday, please let me know when they will be available for pick up.

II.A.5. Contract for Sale and Purchase with William Lowell Wilson, Re: Acquisition of a Portion of Property (Parcel 104) Located at 7655 Babcock Street SE, Palm Bay, as Part of the Babcock Street, Wyoming Drive and Valkaria Road Intersection Improvement Project (District 3) (Fiscal Impact: \$12,125.00)

II.A.6. Contract for Sale and Purchase and Addendum with FAD Realty, LLC, Re: Acquisition of Property Located at 5040 Sutton Avenue as Part of the Proposed Hollywood Boulevard Widening Project (District 3) (Fiscal Impact: \$121,000.00)

Thank you for your assistance.

Sincerely,

Debbie Cruz
Special Projects Coordinator I
Brevard County Public Works Department
Land Acquisition Section
2725 Judge Fran Jamieson Way, A204
Viera, FL 32940
321-690-6847

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

Under Florida law, all correspondence sent to the Clerk's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

BOARD OF COUNTY COMMISSIONERS

AGENDA: CONTRACT FOR SALE AND PURCHASE & ADDENDUM FOR THE ACQUISITION OF 5040 SUTTON AVENUE FROM FAD REALTY, LLC (OWNER) AS PART OF THE PROPOSED HOLLYWOOD BOULEVARD WIDENING PROJECT – DISTRICT 3

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION /

AGENCY CONTACT: DAN JONES, LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor		_____	01/04/17
COUNTY ATTORNEY Eden Bentley Deputy County Attorney	<u>See attached</u>	_____	1/9/17
PUBLIC WORKS John Denninghoff, Director		_____	1/9/17

AGENDA DUE DATE: January 10, 2017 for the January 24, 2017 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.

BOARD OF COUNTY COMMISSIONERS

AGENDA: CONTRACT FOR SALE AND PURCHASE & ADDENDUM FOR THE ACQUISITION OF 5040 SUTTON AVENUE FROM FAD REALTY, LLC (OWNER) AS PART OF THE PROPOSED HOLLYWOOD BOULEVARD WIDENING PROJECT – DISTRICT 3

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION /

AGENCY CONTACT: DAN JONES, LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>APJ</u>	_____	<u>04/04/17</u>
COUNTY ATTORNEY Eden Bentley Deputy County Attorney	<u>EB</u>	_____	<u>1/9/17</u>
PUBLIC WORKS John Denninghoff, Director	_____	_____	_____

AGENDA DUE DATE: January 10, 2017 for the January 24, 2017 Board meeting

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THANK YOU.