



Office of

Attorney's Matters 05/10/2022

**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraal, Deputy County Attorney
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: The Board of County Commissioners

THROUGH: Richard B. Szpyrka, P.E., Public Works Director

FROM: Susan J. Prado, Assistant County Attorney

DATE: April 21, 2022

SUBJECT: Acquisition of Property for future Right-of-Way for Intersection Improvements—Cherry Lane Estates, Inc. of Vero Beach

Cherry Lane Estates, Inc. of Vero Beach is the owner of the parcel of property at 5825 33rd Street, Vero Beach, FL, Vero Beach, Florida depicted on the aerial photo attached to this memorandum as Exhibit "A." The parcel is an irregular shaped parcel consisting of roughly 6.45 acres located on the southwest corner of the 58th Avenue and 33rd Street intersection. The parcel is zoned RS-3, single family residential up to three units per acre. The site is currently a vacant parcel with some oak trees.

Construction plans call for the County to acquire the following from Cherry Lane Estates, Inc. of Vero Beach:

- A 15 foot strip along the west side of 58th Avenue, plus an additional 25 foot by 25 foot corner clip adjacent to the southwest corner of 58th Avenue and 33rd street. The site area of the proposed right-of-way is approximately 0.226 acres in size.

Please see the sketch and legal descriptions that depict this property interest attached to the Agreement to Purchase and Sell Real Estate, which is attached to this memorandum as Exhibit "B."

The County's appraisal for the proposed acquisition was performed by Armfield & Wagner. The appraisal assigned the proposed acquisition a value of \$14,000. The appraisal did not find any severance damages.

Cherry Lane Estates, Inc. of Vero Beach hired an attorney to represent them. Their attorney negotiated with Susan Prado on the sale of the piece of Right of Way. Staff and Cherry Lane Estates, Inc. of Vero Beach agreed on the terms of the Agreement for Purchase and Sale of Real Estate that is attached to this memorandum as Exhibit "B". The Agreement terms are:

- The County will pay to Cherry Lane Estates, Inc. of Vero Beach \$26,000 for right-of-way.
- Reasonable attorney's fees of \$2,500

The total settlement cost to the County is \$28,500.

By purchasing the Property in advance of filing a lawsuit, staff is attempting to save on expert witness fees incurred by both the County and Cherry Lane Estates, Inc. of Vero Beach. As noted in the past, expert witness fees for both parties often exceed \$100,000 by the time the suit is filed and mediation is held. Pursuant to state statutes, the County is responsible for reasonable expert witness fees for Cherry Lane Estates, Inc. of Vero Beach. The County has incurred significant savings by not having to hire our trial witnesses (appraiser, engineer and land planner) and outside counsel.

Cherry Lane Estates, Inc. of Vero Beach is represented by George Glenn Jr., of the Law Offices of Glenn & Glenn in Vero Beach.

STAFF RECOMMENDATION: Staff recommends the Board approve the Agreement to Purchase and Sell Real Estate for the Cherry Lane Estates, Inc. of Vero Beach property and authorize the Chairman to execute the document on behalf of the Board.

FUNDING: Funding is budgeted and available for this expenditure in Traffic Impact Fees 2020/District I/ROW/ 58th Ave/33rd Street, Account # 10415141-066120-15002

Attachments: Exhibit "A" Aerial Photo
Exhibit "B" Agreement to Purchase and Sell Real Estate with the sketch and legal description of right-of-way from the proposed acquisition.

Copies to: George Glenn Jr., Esq.