

AGREEMENT TO PURCHASE AND SELL REAL ESTATE

THIS AGREEMENT is entered into as of the ___ day of June, 2021, by and between Indian River County, a political subdivision of the State of Florida, whose address is 1801 27th Street, Vero Beach, FL 32960 ("County"), and Fredrick L. Lipfert, Trustee of the Frederick L. Lipfert and Norma C. Lipfort Trust Agreement dated February 14, 2013, whose address is 2536 1st Street, Vero Beach, FL 32962 ("Lipfert").

WHEREAS, Lipfert owns a 12.25-acre parcel of improved land located at 7905 66th Avenue, Vero Beach, FL 32966 on the west side of 66th Avenue and north of 61st Street as depicted on the aerial photo attached as Exhibit "A"; and

WHEREAS, the parcel is zoned A-1, Agricultural, up to one residential unit per five acres and lies outside of the Urban Services Boundary; and

WHEREAS, County is undertaking a road expansion project consisting of the widening of 66th Avenue north of 49th Street to County Road 510, for which County needs a 1.07 acre parcel of property (Property) at the eastern edge of the parcel to be used as right-of-way; and

WHEREAS, in order to avoid the uncertainty of trial and the costs of litigation, the Parties have agreed to purchase and sell the above parcel of Property to be used for the second phase of the 66th Avenue Improvement Project.

NOW THEREFORE, in consideration of the mutual undertakings herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree, as follows:

Recitals. The above recitals are true and correct and are incorporated herein.

1. Agreement to Purchase and Sell. Lipfert hereby agrees to sell to the County, and the County hereby agrees to purchase from Lipfert, upon the terms and conditions set forth in this Agreement, the 1.07 acre parcel of real property and more specifically described in Exhibit "B" attached and incorporated by reference herein.

2. Purchase Price; Effective Date. The purchase price (the "Purchase Price") for the Property shall be FORTY-FIVE THOUSAND FOUR HUNDRED SEVENTY FIVE dollars (\$45,475.00). The Purchase Price shall be paid on the Closing Date. The Effective Date of this Agreement shall be the date upon which the County shall have approved the execution of this Agreement, by the Indian River County Board of County Commissioners at a formal meeting of such Board.

3. Title to the Property. Lipfert shall convey marketable title to the Property by warranty deed free of claims, liens, easements and encumbrances of record or known to Lipfert; but subject to property taxes for the year of Closing and subject to covenants, restrictions and public utility easements of record provided (a) there exists at Closing no

violation of any of the foregoing; and (b) none of the foregoing prevents County's intended use and development of the Property.

4. County may order an Ownership and Encumbrance Report with respect to the Property. County shall, within thirty (30) days from receipt of the Ownership and Encumbrance Report, deliver written notice to Lipfert of title defects. Title shall be deemed acceptable to County if (a) County fails to deliver notice of defects within the time specified, or (b) County delivers notice and Lipfert cures the defects within thirty (30) days from receipt of notice from County of title defects ("Curative Period"). Lipfert shall use best efforts to cure the defects within the Curative Period and if the title defects are not cured within the Curative Period, County shall have thirty (30) days from the end of the Curative Period to elect, by written notice to Lipfert, to: (i) terminate this Agreement, whereupon it shall be of no further force and effect, or (ii) extend the Curative Period for up to an additional 90 days; or (iii) accept title subject to existing defects and proceed to closing.

5. Representations of Lipfert.

5.1 Lipfert is indefeasibly seized of marketable, fee simple title to the Property, and is the sole owner of and has good right, title and authority to convey and transfer the Property, which is the subject matter of this Agreement, free and clear of all liens and encumbrances, except for the lease held by Amanda Tongay.

5.2 From and after the Effective Date of this Agreement, Lipfert shall take no action which would impair or otherwise affect title to any portion of the Property, and shall record no documents in the Public Records which would affect title to the Property, without the prior written consent of the County.

5.3 There are no existing or pending special assessments affecting the Property, which are or may be assessed by any governmental authority, water or sewer authority, school district, drainage district or any other special taxing district.

6. Default.

6.1 In the event the Lipfert shall fail to perform any of its obligations hereunder, the County shall be entitled to: (i) terminate this Agreement by written notice delivered to the Lipfert at or prior to the Closing Date, and pursue all remedies available hereunder and under applicable law; (ii) obtain specific performance of the terms and conditions hereof; or (iii) waive Lipfert's default and proceed to Closing.

6.2 In the event of a default by the County, the Lipfert shall be entitled, as its sole remedy hereunder, to terminate this Agreement. Lipfert shall have no claim for specific performance, damages or otherwise against the County.

7. Closing.

7.1 The closing of the transaction contemplated herein ("Closing" and "Closing Date") shall take place within 45 days following the Effective Date of this Agreement. The parties agree that the Closing shall be as follows:

(a) Lipfert shall execute and deliver to the County a warranty deed conveying marketable title to the Property, free and clear of all liens and encumbrances and in the condition required by paragraphs 3 and 4 respectively.

(b) Lipfert shall have removed all of its personal property and equipment from the Property and shall deliver possession of the Property to County vacant and in the same or better condition that existed at the Effective Date hereof.

(c) If Lipfert is obligated to discharge any encumbrances at or prior to Closing and fails to do so, County may use a portion of Purchase Price funds to satisfy the encumbrances.

(d) Lipfert shall deliver to the County an affidavit, in form acceptable to the County, certifying that Lipfert is not a non-resident alien or foreign entity, such that Lipfert and such interest holders are not subject to tax under the Foreign Investment and Real Property Tax Act of 1980.

(e) Lipfert and the County shall each deliver to the other such other documents or instruments as may reasonably be required to Close this transaction, including any corrective documents.

7.2. Closing Costs; Expenses. County shall be responsible for preparation of all Closing documents. County shall pay the following expenses at Closing:

(a) The cost of recording the warranty deed and any release or satisfaction obtained by Seller pursuant to this Agreement.

(b) Documentary Stamps required to be affixed to the warranty deed.

(c) All costs and premiums for the owner's marketability title insurance commitment and policy, if any.

8. Prorations. All taxes and special assessments which are a lien upon the property on or prior to the Closing Date (except current taxes which are not yet due and payable) shall be paid by Lipfert. If the Closing Date occurs during the time interval commencing on November 2 and ending on December 31, Lipfert shall pay all current real estate taxes and special assessments levied against the Property, prorated based on the "due date" of such taxes established by the taxing authority having jurisdiction over the Property. If the Closing Date occurs between January 1 and November 1, Lipfert shall, in accordance with Florida Statutes Section 196.295, deposit into escrow with the Tax Collector, an amount equal to the current real estate taxes and assessments, prorated to the Closing Date.

9. Miscellaneous.

9.1 Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Venue shall be in Indian River County for all state court matters, and in the Southern District of Florida for all federal court matters.

9.2 Conveyance in Lieu of Eminent Domain. It is understood by the parties that this contract is entered into by Lipfert under the threat and in lieu of condemnation.

9.3 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to this transaction and supersedes all prior agreements, written or oral, between Lipfert and the County relating to the subject matter hereof. Any modification or amendment to this Agreement shall be effective only if in writing and executed by each of the parties.

9.4 Assignment and Binding Effect. Neither County nor Lipfert may assign its rights and obligations under this Agreement without the prior written consent of the other party. The terms hereof shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

9.5 Notices. Any notice shall be deemed duly served if personally served or if mailed by certified mail, return receipt requested, or if sent via "overnight" courier service or facsimile transmission, as follows:

If to Lipfert: Fredrick Lipfert
 2536 1st Street
 Vero Beach, FL 32962

If to County: Indian River County
 1801 27th Street
 Vero Beach, FL 32960
 Attn: Public Works Director

Either party may change the information above by giving written notice of such change as provided in this paragraph.

9.6 Survival and Benefit. Except as otherwise expressly provided herein, each agreement, representation or warranty made in this Agreement by or on behalf of either party, or in any instruments delivered pursuant hereto or in connection herewith, shall survive the Closing Date and the consummation of the transaction provided for herein. The covenants, agreements and undertakings of each of the parties hereto are made solely for the benefit of, and may be relied on only by the

other party hereto, its successors and assigns, and are not made for the benefit of, nor may they be relied upon, by any other person whatsoever.

9.7 Attorney's Fees and Costs. In any claim or controversy arising out of or relating to this Agreement, each party shall bear its own attorney's fees, costs and expenses.

9.8. Counterparts. This Agreement may be executed in two or more counterparts, each one of which shall constitute an original.

9.9. County Approval Required. This Agreement is subject to approval by the Indian River County Board of County Commissioners as set forth in paragraph 2.

9.10 Replacement of Fencing Along the Property. At the time of construction, the County shall, at its own cost, remove the existing fencing along the current right-of-way line and either relocate it or replace it with similar fencing at the new right-of-way line.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth below.

The Frederick L. Lipfert and Norma C. Lipfert
Trust Agreement dated February 14, 2013

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By: _____
Fredrick L. Lipfert, Trustee

By: _____
Joseph E. Flescher, Chairman

Date Signed: _____

Date Signed: _____

ATTEST: Jeffrey R. Smith, Clerk of
the Court and Comptroller

By: _____
Deputy Clerk

Approved as to form and
legal sufficiency:

Indian River County Administrator

By: _____
William K. DeBaal
Deputy County Attorney

By: _____
Jason E. Brown



EXHIBIT "A"



Overview



Legend

- Parcels
- Street Centerlines
- Lots and Units
- Subdivisions
- Water

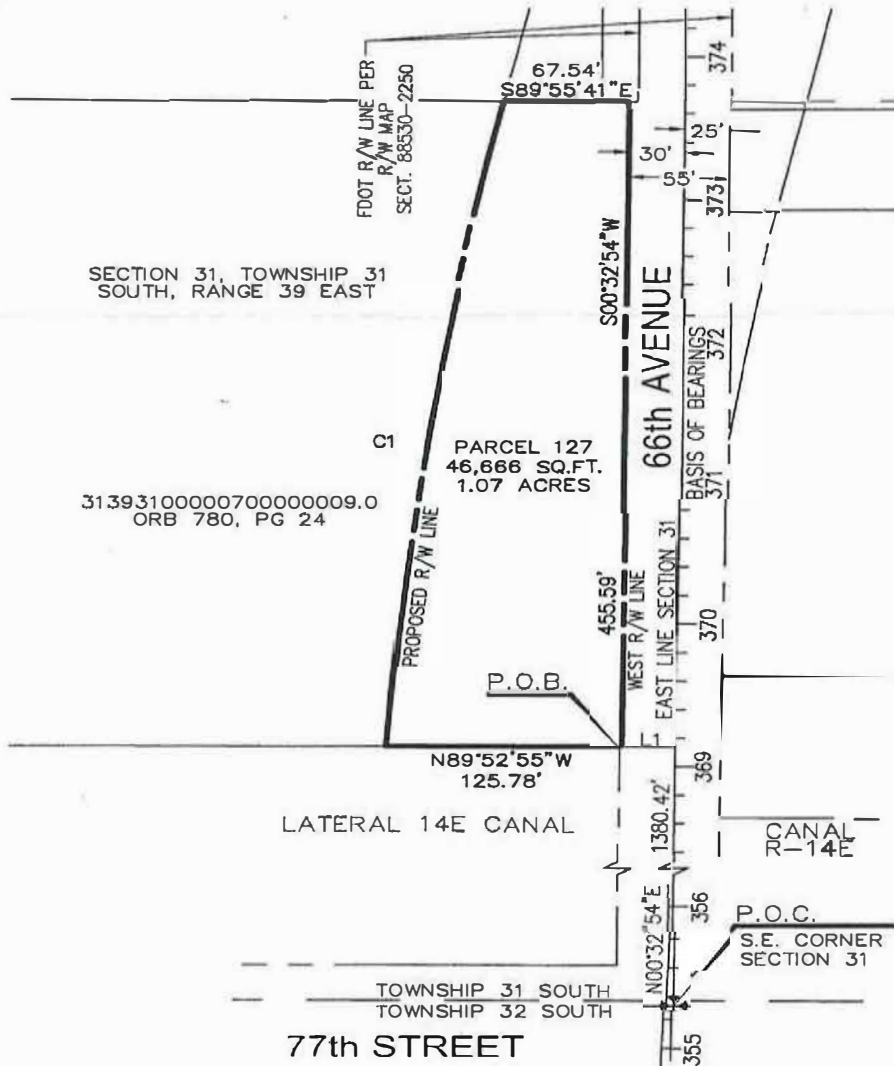
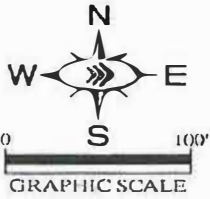
Parcel ID	31393100000700000009.0	Prop ID	39491	Owner	LIPPERT FREDERICK L (COTR)	Last 2 Sales			
Sec/Twp/Rng	31-31-39	Class	6900 - Orn	Address	and NORMA C (COTR)	Date	Price	Instr	Qual
Property Address	7905 66TH AV VERO BEACH		Nurs,HorseFrm,Misc Ag		2536 1ST ST VERO BEACH, FL 32962	2/1/2013	\$100	Quit	U
		Acreage	12.25			n/a	0	n/a	n/a
						Plat Book Link			

District 1- NORTH COUNTY W/SEB INLET

Brief Tax Description N 1/2 OF FOLL DESC PROP: BEG 275 YDS S, 480 YDS E FROM THE NWCOR OF SE 1/4; S 302.5 YDS; E 400 YDS; RUN N ALONG E BDRYLINE OF 1/4 SEC 302.5 YDS; RUN W 400 YDS TO POB, LESS RD R/W (OR BK 399 PP 863)

(Note: Not to be used on legal documents)

Date created: 6/29/2021
 Last Data Uploaded: 6/29/2021 8:29:48 AM



LINE TABLE		
LINE	LENGTH	BEARING
L1	30.00	N89°27'06"W

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	460.11	3080.00	230.48	459.68	N07°49'39"E	08°33'33"

LEGEND

- SECTION LINE
- EASEMENT LINE
- PROPERTY LINE
- PROPOSED RIGHT OF WAY
- PARCEL
- RIGHT OF WAY LINE
- P.O.C.
- P.O.B.
- R/W
- ORB
- PG
- FDOT
- SECT.
- SECTION LINE
- EASEMENT LINE
- PROPERTY LINE
- PROPOSED RIGHT OF WAY
- PARCEL
- RIGHT OF WAY LINE
- POINT OF COMMENCEMENT
- POINT OF BEGINNING
- RIGHT OF WAY
- OFFICIAL RECORDS BOOK
- PAGE
- FLORIDA DEPARTMENT OF TRANSPORTATION
- SECTION

This certifies that a legal description and sketch of the property shown hereon was made under my supervision and that this legal description and sketch meets the standards of practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes, and that this drawing is a true and accurate representation thereof to the best of my knowledge and belief. Subject to notes and notations shown hereon.

E.C. Demeter
E.C. DEMETER, P.S.M. NO. 5179

DATE: JUL 24 2017
Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

Drawing name: K:\WEB_Survey\INDIAN RIVER CO\66TH AVENUE\2017-0112 - Final.dwg Per BCL\PARCEL 127-R.dwg 127 Jul 18, 2017 5:36pm by: Domenic.Dart

SCALE 1"=100' DESIGNED BY DFD DRAWN BY DFD CHECKED BY ECC	Kimley-Horn © 2017 KIMLEY-HORN AND ASSOCIATES, INC. 440 S.W. 34TH STREET, SUITE 300, MIAMI BEACH, FL 33109 PHONE 772-794-4100 FAX: 772-794-4130 WWW.KIMLEY-HORN.COM	DATE 7/10/17 PROJECT NO. 047035041	LEGAL DESCRIPTION AND SKETCH OF PARCEL 127 INDIAN RIVER COUNTY, FLORIDA	SHEET NUMBER 1 OF 2
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EXHIBIT "B"

LEGAL DESCRIPTION
RIGHT OF WAY PARCEL

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING A PORTION OF SECTION 31, TOWNSHIP 31 SOUTH, RANGE 39 EAST, INDIAN RIVER COUNTY, FLORIDA; SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT;

COMMENCING FOR REFERENCE AT THE SOUTHEAST CORNER OF SAID SECTION 31; THENCE, BEARING NORTH 00°32'54" EAST, ALONG THE EAST LINE OF SAID SECTION 31, A DISTANCE OF 1,380.42 FEET TO A POINT;

THENCE, LEAVING SAID EAST LINE, BEARING NORTH 89°27'06" WEST, A DISTANCE OF 30.00 FEET TO THE WEST RIGHT OF WAY LINE OF 66TH AVENUE AND THE POINT AND PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE, BEARING NORTH 89°52'55" WEST, A DISTANCE OF 125.78 FEET TO A POINT;

SAID POINT BEING THE BEGINNING OF A NON TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 3,080.00 FEET, A CENTRAL ANGLE OF 08°33'33", A CHORD LENGTH OF 459.68 FEET BEARING NORTH 07°49'39" EAST;

THENCE, NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 460.11 FEET TO A POINT;

THENCE, BEARING SOUTH 89°55'41" EAST, A DISTANCE OF 67.54 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF 66TH AVENUE;


THENCE, BEARING SOUTH 00°32'54" WEST, ALONG SAID WEST LINE, A DISTANCE OF 455.59 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PREMISES CONTAIN AN AREA OF 46,666 SQUARE FEET OR 1.07 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS, CONDITIONS AND RESTRICTIONS AS CONTAINED WITHIN THE CHAIN OF TITLE.

SURVEYORS NOTES

- 1) THIS IS A SKETCH OF LEGAL DESCRIPTION ONLY, NOT A BOUNDARY RETRACEMENT SURVEY.
- 2) THE BEARING BASE FOR THIS SURVEY, IS THE EAST LINE OF SECTION 31. SAID LINE BEARS NORTH 00°32'54" EAST.
- 3) THE SCALE OF THIS DRAWING MAY HAVE BEEN DISTORTED DURING REPRODUCTION PROCESSES.
- 4) THIS LEGAL DESCRIPTION AND SKETCH IS BASED ON THE PRELIMINARY RIGHT OF WAY MAP FOR 66TH AVENUE PREPARED BY BURDETTE AND ASSOCIATES, DATED 10-10-06, AS DIRECTED BY INDIAN RIVER COUNTY, FLORIDA.

Drawing name: K:\VRS_Survey\INDIAN RIVER CO\66TH AVENUE\2017-0112 - Parcel 127.dwg 127 (2) Jul 18, 2017 5:56pm by: Domenic Durr

SCALE N/A	 © 2017 KIMLEY-HORN AND ASSOCIATES, INC. 445 24TH STREET, SUITE 200, VERO BEACH, FL 32980 PHONE 772-794-4100 FAX 772-794-4130 <small>www.khac.com</small>	DATE 7/10/17	LEGAL DESCRIPTION AND SKETCH OF PARCEL 127 INDIAN RIVER COUNTY, FLORIDA	SHEET NUMBER 2 OF 2
DRAWN BY DFD		PROJECT NO. 047035041		
CHECKED BY ECD				