

## AGREEMENT TO PURCHASE AND SELL REAL ESTATE

**THIS AGREEMENT** is entered into as of the \_\_\_ day of August, 2021, by and between Indian River County, a political subdivision of the State of Florida, whose address is 1801 27<sup>th</sup> Street, Vero Beach, FL 32960 ("County"), and Frederick W. Van Antwerp and Florence B. Van Antwerp, as Co-Trustees of the Frederick W. Van Antwerp and Florence B. Van Antwerp Revocable Trust Agreement dated 3/19/10, whose address is 6285 81<sup>st</sup> Street, Vero Beach, FL 32967 ("Van Antwerp").

**WHEREAS**, Van Antwerp owns a 4.39-acre parcel of improved land located at 6555 81<sup>st</sup> Street, Vero Beach, FL 32967 on the east side of 66<sup>th</sup> Avenue and south of 81<sup>st</sup> 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 66<sup>th</sup> Avenue north of 69<sup>th</sup> Street to County Road 510, for which County needs a 0.99 acre parcel of property (Property) at the western 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 66<sup>th</sup> 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. Van Antwerp hereby agrees to sell to the County, and the County hereby agrees to purchase from Van Antwerp, upon the terms and conditions set forth in this Agreement, the 0.99-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 SEVENTY-FIVE dollars (\$45,075.00). 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. Van Antwerp shall convey marketable title to the Property by warranty deed free of claims, liens, easements and encumbrances of record or known to Van Antwerp; 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 Van Antwerp 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 Van Antwerp cures the defects within thirty (30) days from receipt of notice from County of title defects ("Curative Period"). Van Antwerp 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 Van Antwerp, 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 Van Antwerp.

5.1 Van Antwerp 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 Countryside Citrus.

5.2 From and after the Effective Date of this Agreement, Van Antwerp 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 Van Antwerp 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 Van Antwerp 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 Van Antwerp's default and proceed to Closing.

6.2 In the event of a default by the County, the Van Antwerp shall be entitled, as its sole remedy hereunder, to terminate this Agreement. Van Antwerp 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) Van Antwerp 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) Van Antwerp 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 Van Antwerp 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) Van Antwerp shall deliver to the County an affidavit, in form acceptable to the County, certifying that Van Antwerp is not a non-resident alien or foreign entity, such that Van Antwerp and such interest holders are not subject to tax under the Foreign Investment and Real Property Tax Act of 1980.
- (e) Van Antwerp 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.
- (d) Appraisal fees in the amount of \$344.00 to Calhoun, Dreggors & Associates, Inc.
- (e) Attorney's fees in the amount of \$4,508.00 representing 10% of the purchase price to Maguire Eminent Domain, P.A.

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 Van Antwerp. If the Closing Date occurs during the time interval commencing on November 2 and ending on December 31, Van Antwerp 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, Van Antwerp 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 Van Antwerp 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 Van Antwerp 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 Van Antwerp 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 Van Antwerp: Frederick W. Van Antwerp and Florence B. Van Antwerp  
Co-Trustees of the Frederick W. Van Antwerp and Florence  
B. Van Antwerp Revocable Trust Agreement dated 3/19/10  
6285 81<sup>st</sup> Street  
Vero Beach, FL 32967

If to County: Indian River County  
1801 27<sup>th</sup> 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 The County shall construct its project substantially in conformity with the attached road construction line plans. (See Exhibit "C" attached). Accordingly, if the project is not so implemented, Sellers shall have the same remedies as would have been afforded to them had the case been resolved by verdict with said plans and specifications (Exhibit "C") having been made a part of the record at trial. *Central & Southern Florida Flood Control District v. Wye River Farms, Inc.*, 297 So.2d 323 (Fla. 4<sup>th</sup> DCA 1974); *cert denied* 310 So.2d 745 (Fla. 1975).

9.8 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.

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

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

9.11 Post Acquisition Status of Lot. This Agreement shall serve as a letter stating that the 3.40 acre parcel remaining after the purchase of the 0.99 acre right-of-way property shall be considered a buildable lot, as provided by Indian River County Code §904.05(4).

SIGNATURES ON THE FOLLOWING PAGE

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

Frederick W. Van Antwerp and Florence B. Van Antwerp Revocable Trust Agreement dated 3/19/10

BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA

By: \_\_\_\_\_  
Frederick W. Van Antwerp, Trustee

By: \_\_\_\_\_  
Joseph E. Flescher, Chairman

Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Florence B. Van Antwerp, Trustee

Date Signed: \_\_\_\_\_

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

By: \_\_\_\_\_  
Deputy Clerk

Approved as to form and legal sufficiency:

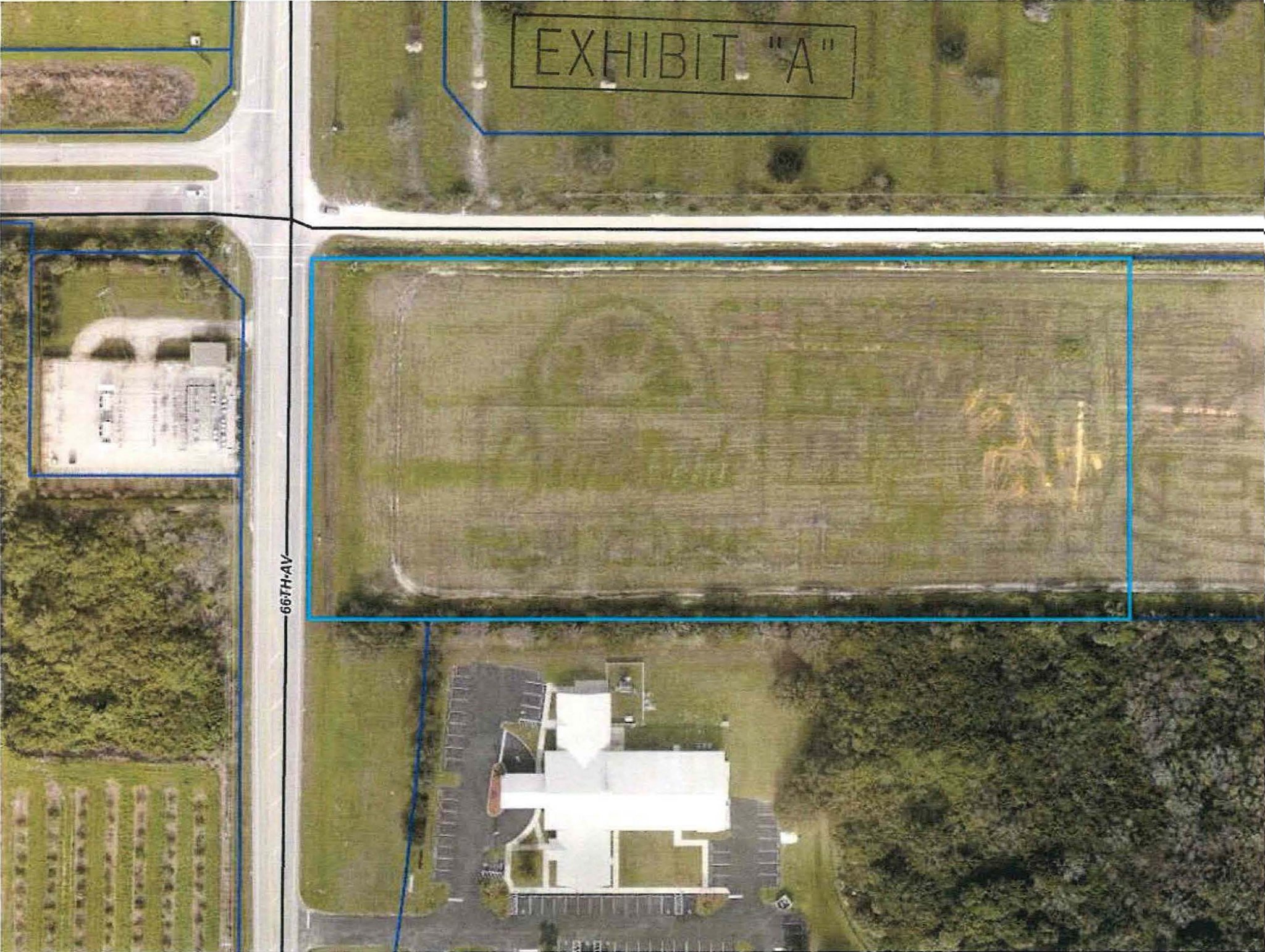
Indian River County Administrator

By:  \_\_\_\_\_  
William K. DeBraal  
Deputy County Attorney

By: \_\_\_\_\_  
Jason E. Brown

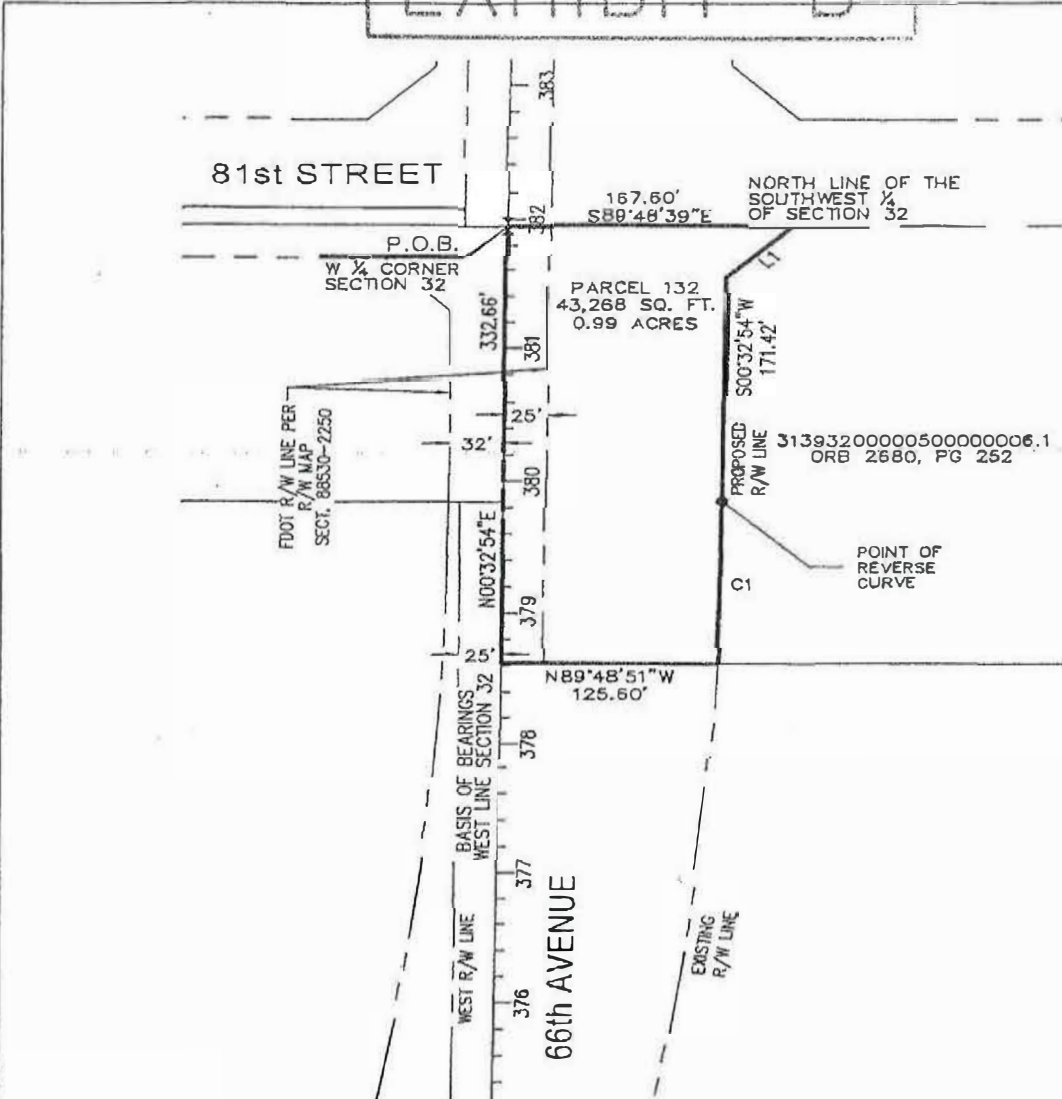
EXHIBIT "A"

66TH AV



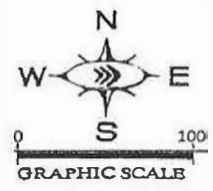
# EXHIBIT "B"

66TH AVENUE  
PARCEL 132



LINE TABLE		
LINE	LENGTH	BEARING
L1	56.21	S45°20'01"W

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	121.64	3080.00	60.83	121.63	S01°40'47"W	2°15'45"



### LEGEND

- SECTION LINE
- EASEMENT LINE
- PROPERTY LINE
- PROPOSED RIGHT OF WAY
- PARCEL
- RIGHT OF WAY LINE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R/W RIGHT OF WAY
- ORB OFFICIAL RECORDS BOOK
- PG PAGE
- FDOT FLORIDA DEPARTMENT OF TRANSPORTATION
- SECT. 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: J:\WEB\_Survey\INDIAN RIVER CO\66TH AVENUE\2017-0112 - Revised Per BO\PARCEL 132-R.dwg 132 Jul 18, 2017 10:56am by: Demeter.Drr

SCALE 1"=100'	<b>Kimley-Horn</b>	DATE 7/10/17	LEGAL DESCRIPTION AND SKETCH OF PARCEL 132 INDIAN RIVER COUNTY, FLORIDA	SHEET NUMBER 1 OF 2
DESIGNED BY DFD	© 2017 KIMLEY-HORN AND ASSOCIATES, INC. 448 34TH STREET, SUITE 200, VERO BEACH, FL 32960 PHONE 772-796-1100 FAX 772-796-4130 WWW.KIMLEY-HORN.COM	PROJECT NO. 047035041		
DRAWN BY DFD				
CHECKED BY ECD				



LEGAL DESCRIPTION  
RIGHT OF WAY PARCEL

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING A PORTION OF SECTION 32, TOWNSHIP 31 SOUTH, RANGE 39 EAST, INDIAN RIVER COUNTY, FLORIDA; SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT;

BEGINNING FOR REFERENCE AT THE WEST ¼ CORNER OF SAID SECTION 32;

THENCE, BEARING SOUTH 89°48'39" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST ¼ OF SAID SECTION 32, A DISTANCE OF 167.60 FEET TO A POINT;

THENCE, LEAVING SAID NORTH LINE, BEARING SOUTH 45°20'01" WEST, A DISTANCE OF 56.21 FEET TO A POINT;

THENCE, BEARING SOUTH 00°32'54" WEST, A DISTANCE OF 171.42 FEET TO A POINT;

SAID POINT BEING THE BEGINNING OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 3,080.00 FEET, A CENTRAL ANGLE OF 02°15'46", A CHORD LENGTH OF 121.63 FEET BEARING SOUTH 01°40'47" WEST;

THENCE, SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 121.64 FEET TO A POINT;

THENCE, BEARING NORTH 89°48'51" WEST, A DISTANCE OF 125.60 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 32;

THENCE, BEARING NORTH 00°32'54" EAST, ALONG SAID WEST LINE, A DISTANCE OF 332.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PREMISES CONTAIN AN AREA OF 43,268 SQUARE FEET OR 0.99 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS, CONDITIONS AND RESTRICTIONS AS CONTAINED WITHIN THE CHAIN OF TITLE.

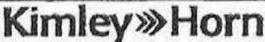
PROPOSED ACQUISITION PARCEL ACREAGE = 0.99 ACRES

PORTION OF THE ACQUISITION PARCEL THAT IS ENCUMBERED BY THE FDOT RIGHT-OF-WAY = 0.19 ACRES

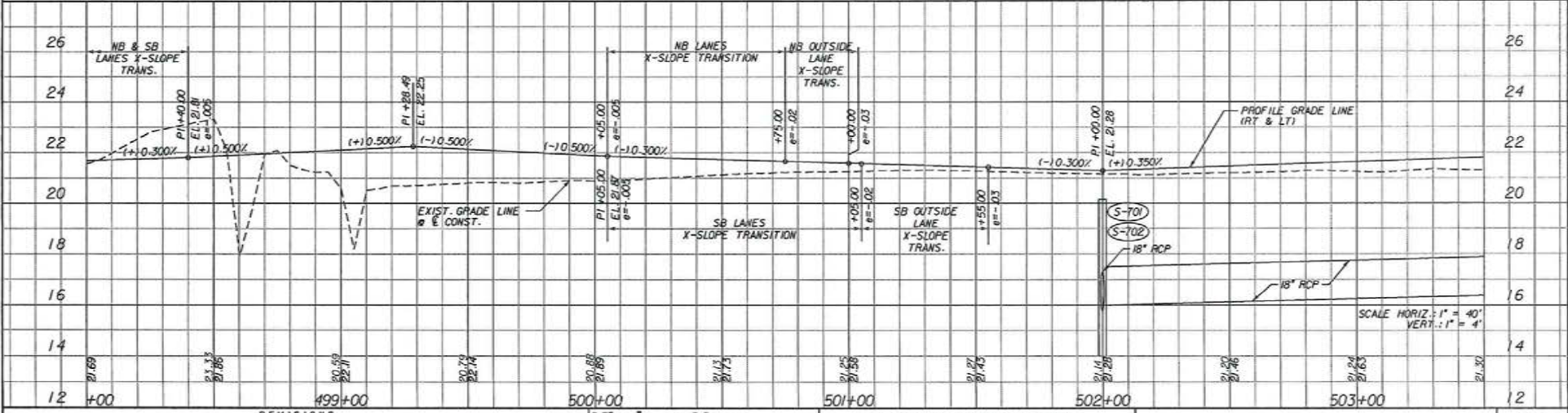
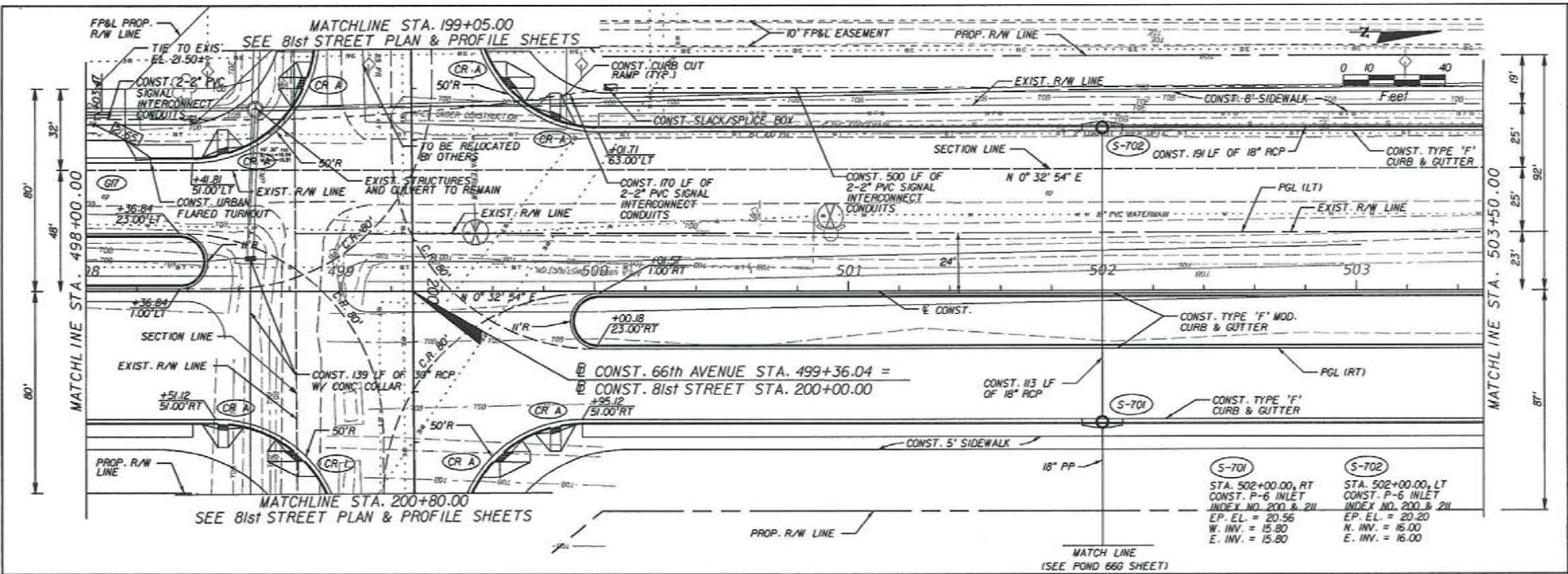
SURVEYORS NOTES

- 1) THIS IS A SKETCH OF LEGAL DESCRIPTION ONLY, NOT A BOUNDARY RETRACEMENT SURVEY.
- 2) THE BEARING BASE FOR THIS SURVEY, IS THE WEST LINE OF SECTION 32. 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 10-10-08, AS DIRECTED BY INDIAN RIVER COUNTY, FLORIDA.

Drawing made by: WRL, Sunnyvale, CA; DATE: JUL 16, 2017; 2:30pm; by: Desmet-Dor; 132 (2); 66TH AVENUE PARCEL 132-132-132

SCALE	N/A	 <p>© 2017 KIMLEY-HORN AND ASSOCIATES, INC. 446 24TH STREET, SUITE 200, VERO BEACH, FL 32906 PHONE: 772-794-4100 FAX: 772-794-4100 WWW.KIMLEY-HORN.COM</p>	DATE	7/10/17	LEGAL DESCRIPTION AND SKETCH OF PARCEL 132 INDIAN RIVER COUNTY, FLORIDA	SHEET NUMBER	2 OF 2
DESIGNED BY	DPD		PROJECT NO.	047035041			
DRAWN BY	DPD						
CHECKED BY	EOD						

# EXHIBIT "C"



REVISIONS			
DESCRIPTION	DATE	BY	DESCRIPTION

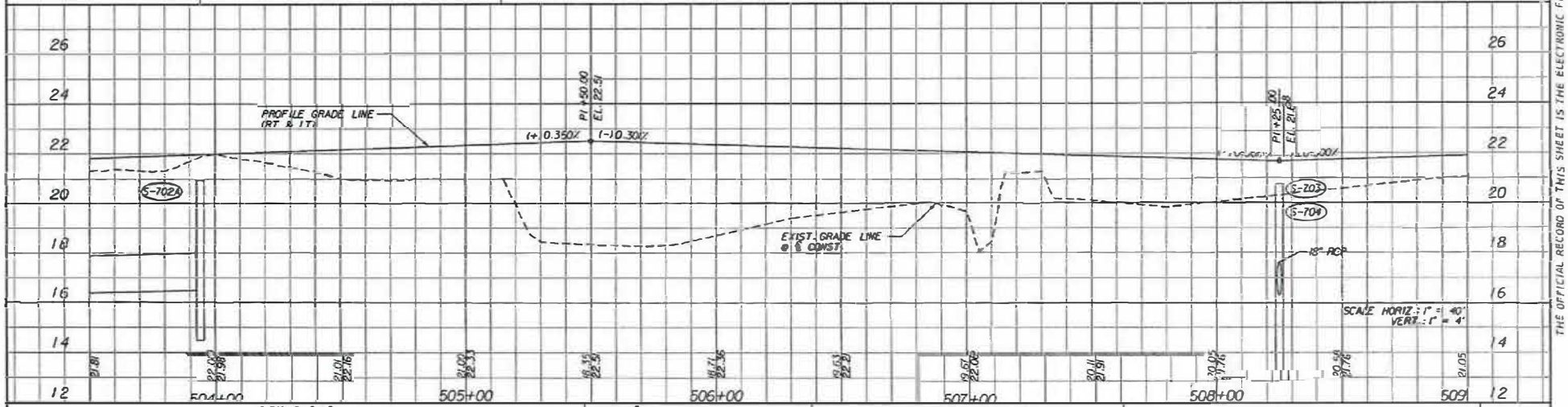
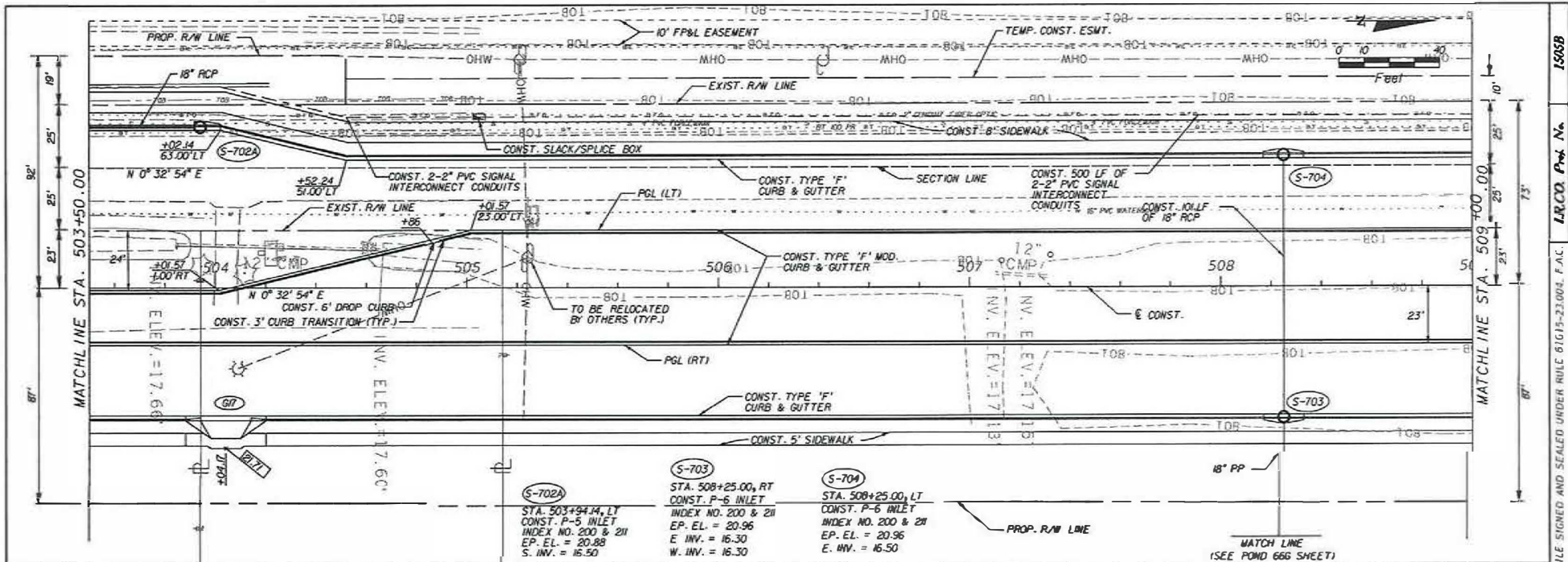
**Kimley»Horn**  
BRUN A. 0000, P.E.  
 P.E. LICENSE NUMBER 96933  
 445 2ND STREET, SUITE 200  
 VERO BEACH, FL 32960  
 (787) 794-4000  
 REGISTRY NO. 006

**INDIAN RIVER COUNTY  
 BOARD OF COUNTY COMMISSIONERS**  
**66th AVENUE ROADWAY WIDENING -  
 PHASE II 69th STREET TO 81st STREET**

**66th AVENUE  
 PLAN & PROFILE**

SHEET NO.  
34

1505B  
 L.R.C.O. Proj. No.  
 THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



REVISIONS		DESCRIPTION	
NO.	DATE	BY	DESCRIPTION

**Kimley»Horn**  
 ARNOLD A. GIBB, P.E.  
 P.E. LICENSE NUMBER 58820  
 445 POND STREET, SUITE 200  
 WINDY BEACH, FL 33410  
 (407) 791-4400  
 REGISTRY NO. 008

INDIAN RIVER COUNTY  
 BOARD OF COUNTY COMMISSIONERS  
 666 AVENUE ROADWAY WIDENING -  
 PHASE II 69th STREET TO 84th STREET

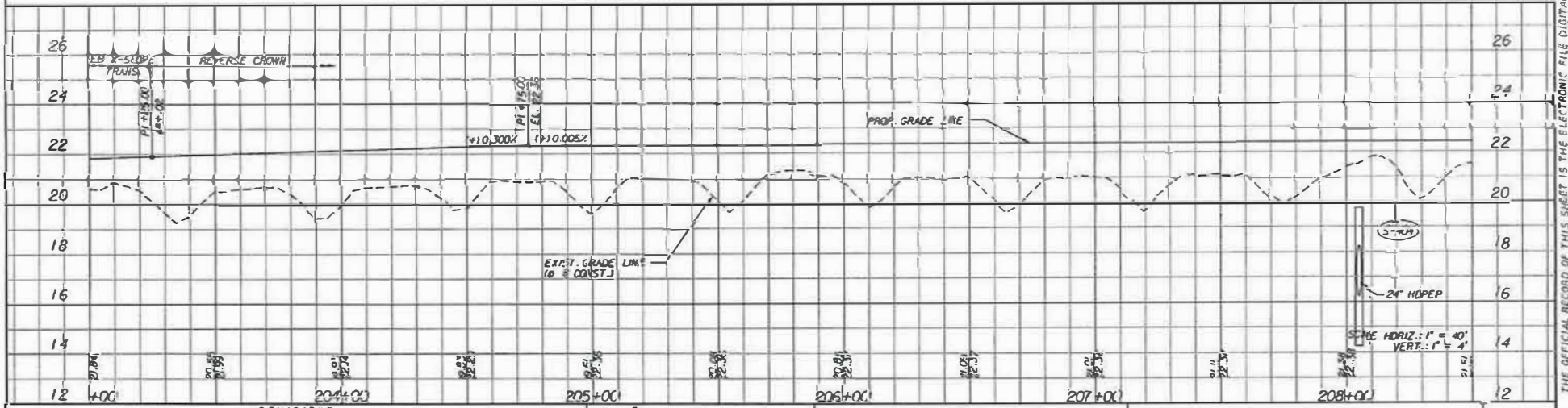
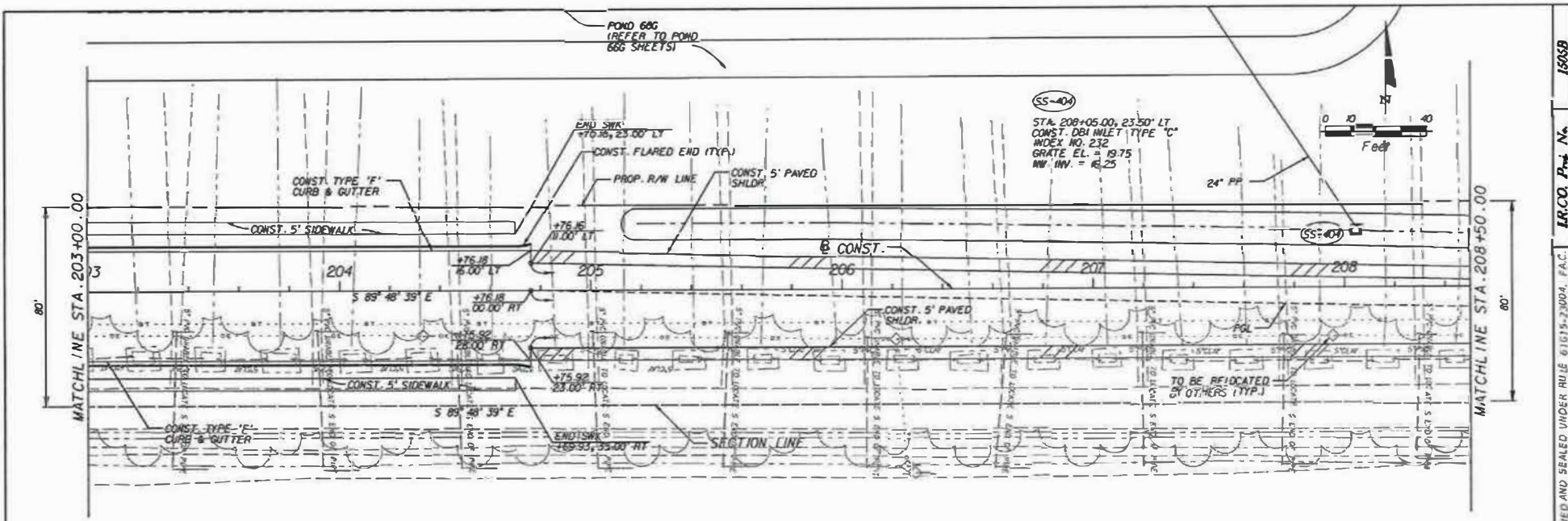
666 AVENUE  
 PLAN & PROFILE

SHEET NO.  
 35

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE SIGNED AND SEALED UNDER RULE 61G15-23.002, F.A.C. L.R.C.O. Proj. No. 1505B



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G13-23004, F.A.C. I.R.C.O. Proj. No. 1606B



DESCRIPTION	DATE	BY	DESCRIPTION

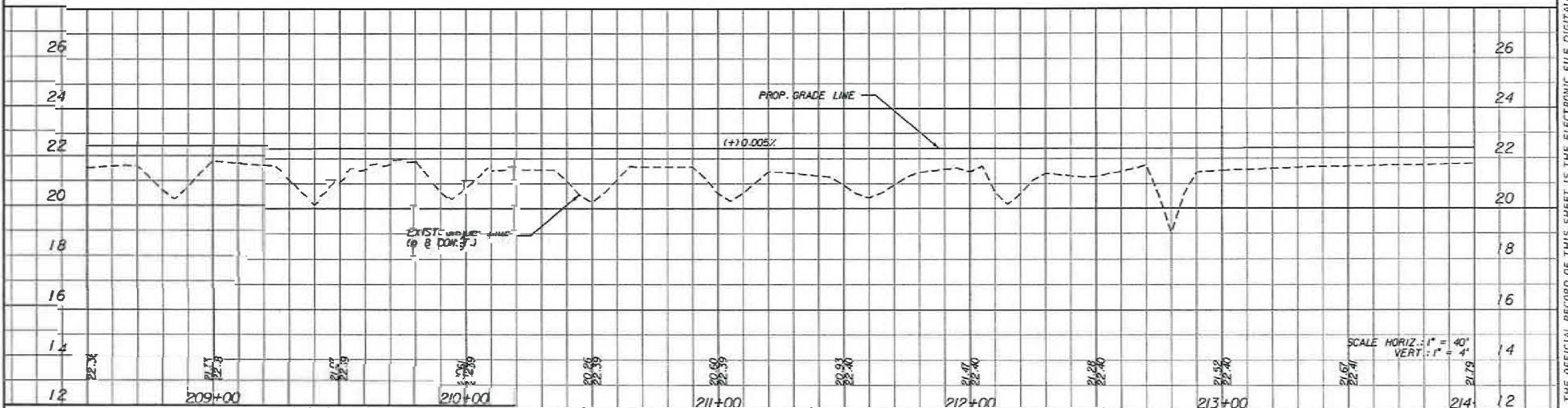
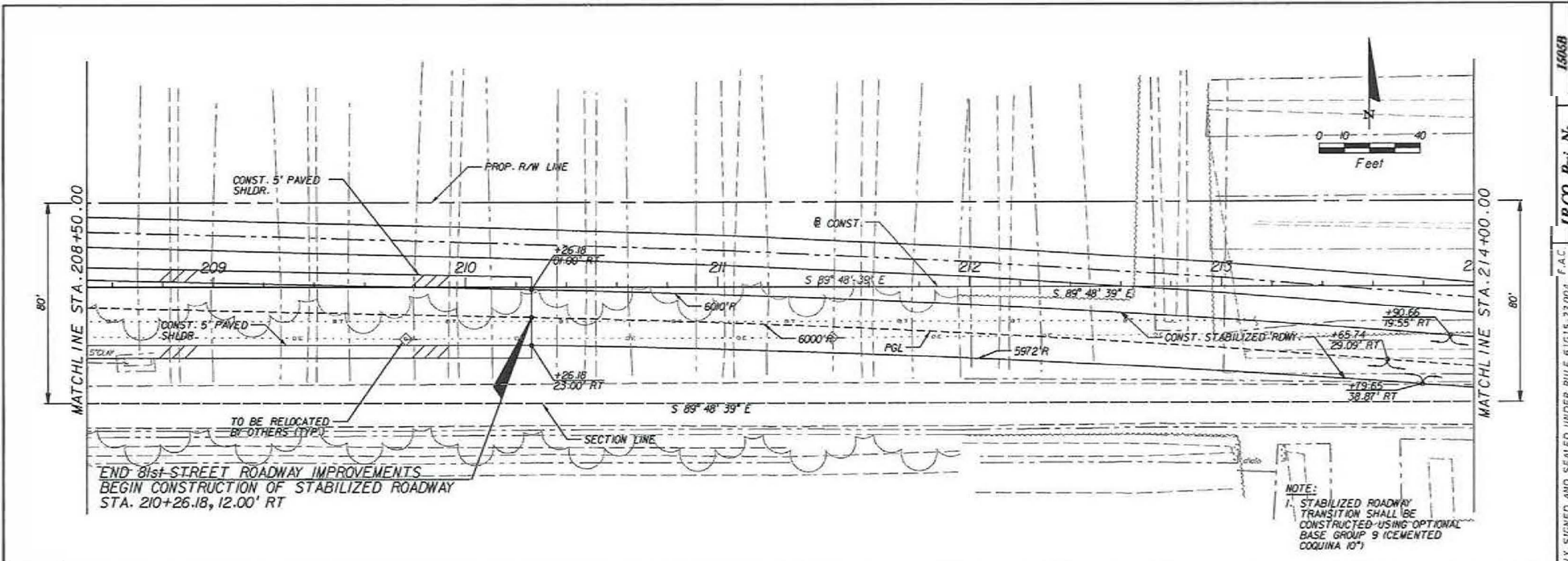
**Kimley»Horn**  
BRUCE A. KIMLEY, P.E.  
 1415 S. W. 10TH AVENUE, SUITE 200  
 MIAMI, FL 33135  
 (305) 351-1000  
 WWW.KIMLEY-HORN.COM

**INDIAN RIVER COUNTY  
 BOARD OF COUNTY COMMISSIONERS**  
 664 AVENUE ROADWAY WIDENING -  
 PHASE II 69th STREET TO 81st STREET

**81st STREET  
 PLAN & PROFILE**

SHEET NO.  
 41

16068B  
IRCO Proj. No. 16068B  
F.A.C. UNDER RULE 61G15-237004



REVISIONS		
NO.	DATE	DESCRIPTION

**Kimley»Horn**  
 GRAY A. KIMLEY, P.E.  
 P.E. LICENSE NUMBER 38920  
 445 POND STREET, SUITE 300  
 BEACH BLVD, FL 32803  
 (407) 486-4600  
 KHC079 IN 616

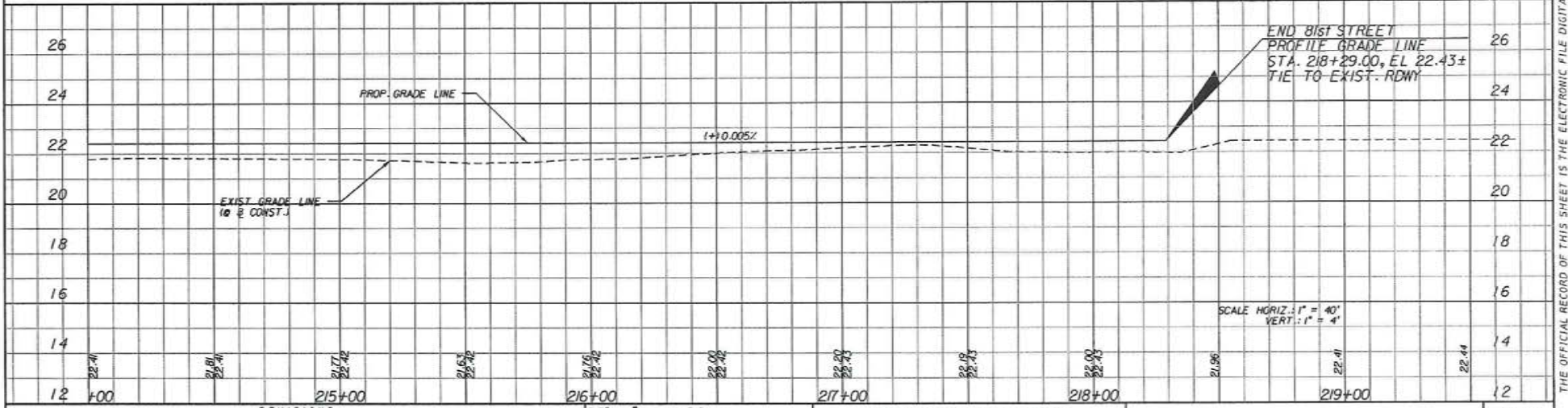
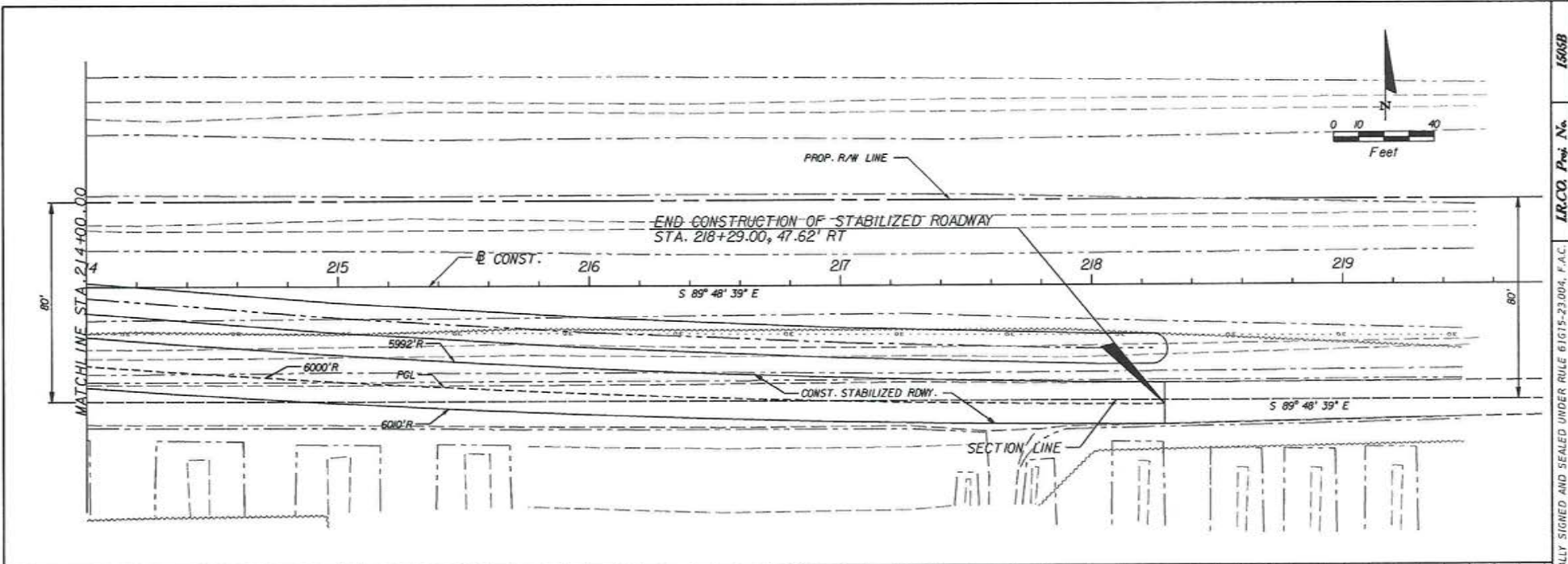
**INDIAN RIVER COUNTY  
 BOARD OF COUNTY COMMISSIONERS**  
 664 AVENUE ROADWAY WIDENING -  
 PHASE II 69th STREET TO 81st STREET

**81st STREET  
 PLAN & PROFILE**

CHEFF  
 NO. 42

6/11/2016

PROJECT NO. 1605B  
 L.R.C.C. Proj. No.  
 THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



REVISIONS			
NO.	DATE	BY	DESCRIPTION

**Kimley»Horn**  
 BRUN A. GORD, P.E.  
 P.E. LICENSE NUMBER 95979  
 445 SW 3rd STREET, SUITE 800  
 WEST BEACH, FL 33560  
 (772) 794-4600  
 REGISTRY NO. 606

INDIAN RIVER COUNTY  
 BOARD OF COUNTY COMMISSIONERS  
 66th AVENUE ROADWAY WIDENING -  
 PHASE II 6th STREET TO 81st STREET

**81st STREET**  
**PLAN & PROFILE**

SHEET NO.  
 43