



*Office of*  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBaal, 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 15, 2020

SUBJECT: Acquisition of Right-Of-Way for Phase II of 66th Avenue Improvements  
– Angela E. Hicks-Rosalia - 66<sup>th</sup> Avenue, Parcel 124-B

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Angela E. Hicks-Rosalia is the owner of the parcel of property at 7595 66<sup>th</sup> Avenue, Vero Beach, Florida 32967, depicted on the aerial photo attached to this memorandum as Exhibit "A". The parcel is a 100 by 100 foot lot approximating 0.23 acres directly abutting the west side of 66<sup>th</sup> Avenue. The parcel is zoned A-1, Agricultural, up to one residential unit per five acres and lies outside of the Urban Services Boundary. This is a legal non-conforming property. The site is a former citrus grove, and currently a single family grove care takers type home is located upon the site. This house is being used as a rental property and is not within the area of take, however improvements consisting of a potable well are within the area of take.

Construction plans call for the County to acquire the following from Ms. Hicks-Rosalia:

- Parcel 124-B which is made up of 0.09 acres of right-of-way consisting of a 38.6' X 100' wide strip along the entire length of the eastern border of the 0.23 acre parcel;

Please see the aerial image that depicts the property interest attached hereto.

The County's appraisal for Parcel 124-B was performed by Armfield & Wagner. The appraisals assigned Parcel 124-B a value of \$3,700. The appraisal did not find any severance damages

There is a potable well that will be lost as part of the take. The potable well needs to be relocated in order for the property to continue to be used by Ms. Hicks-Rosalia. The Cost to relocate the well is \$1,760.

Ms. Hicks-Rosalia and her attorney negotiated with Bill DeBaal and Susan Prado on the sale of the piece of Right of Way. Staff and Ms. Hicks-Rosalia 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 Ms. Hicks-Rosalia \$7,760 for right-of-way parcel 124-B, permanent access easement, and temporary construction easement.
- Statutory attorney's fees of \$1,339.80
- All costs and expert witness fees of \$1,500
- One 14 (fourteen) foot driveway extending from the new edge of pavement to the new right of way line

The total settlement cost to the County is \$10,599.80 plus the cost of the driveway. An aerial image of Parcel 124-B is attached to this memo.

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 Ms. Hicks-Rosalia. 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 Ms. Hicks-Rosalia. The County has incurred significant savings by not having to hire our trial witnesses (appraiser, engineer and land planner) and outside counsel.

Ms. Hicks-Rosalia is represented by John Evans of the law firm Dill, Evans, and Rhodeback in Sebastian.

**STAFF RECOMMENDATION:** Staff recommends the Board approve the Agreement to Purchase and Sell Real Estate for the Hicks-Rosalia 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/ District I/ROW/66<sup>th</sup> Ave/69<sup>th</sup> Street-85<sup>th</sup> Street, Account # 10215141-066120-16009.

**Attachments:**

Exhibit "A" Aerial Photo

Exhibit "B" Agreement to Purchase and Sell Real Estate for right-of-way Parcel 124-B.