

RESOLUTION 2022-_____

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, DECLARING A REASONABLE NECESSITY TO CONFIRM AND PERFECT FEE SIMPLE TITLE IN AND TO CERTAIN REAL PROPERTY FREE AND CLEAR OF ANY LEASEHOLDS AND ANY OTHER INTERESTS FOR THE PUBLIC PURPOSES OF IMPROVING AND RECONSTRUCTING 66TH AVENUE, INCLUDING SIDE STREET, INTERSECTION, SIDEWALK AND WATER RETENTION POND IMPROVEMENTS; AUTHORIZING THE COUNTY ATTORNEY OR ITS OUTSIDE COUNSEL TO CONFIRM AND PERFECT FEE SIMPLE TITLE IN AND TO THE PROPERTIES DESCRIBED IN ATTACHED EXHIBIT A BY ACQUIRING ANY LEASEHOLD AND OTHER INTERESTS, IF ANY, IN AND TO SAID PROPERTIES BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the continued growth in Indian River County has greatly increased the vehicular traffic within the County roadway network; and

WHEREAS the increased traffic has greatly impacted the traffic flow on north/south arterial roadways within the County's roadway network; and

WHEREAS there is a great need to relieve congestion on U.S. Highway 1 and other arterial north/south roadways within the transportation network in Indian River County by widening and reconstructing 66th Avenue; and

WHEREAS the Indian River County Long Range Transportation Plan includes the planned construction of 66th Avenue as a major north/south arterial roadway; and

WHEREAS, on July 9, 2021, the County acquired fee simple title to Parcel 127 by Statutory Warranty Deed recorded at Official Record Book 3443, page 1330, by virtue of a voluntary purchase and sale agreement with the former owners, Frederick L. and Norma C. Lipfert Trust Agreement dated February 14, 2013 ("Former Owners"). Although the County has been unable to obtain a copy of a written lease, it is believed that at the time the County acquired title to Parcel 127, said Parcel was subject to a lease by and between the Former Owners and Empire Equine and/or Amanda Tongay; and

WHEREAS, on November 23, 2021, the County acquired fee simple title to Parcel 132 by Warranty Deed recorded at Official Record Book 3491, page 799, by virtue of a voluntary purchase and sale agreement with the former owners, Frederick W. Van Antwerp and Florence B. Van Antwerp, individually and as Co-Trustees of the Frederick W. Van Antwerp and Florence B. Van Antwerp Revocable Trust Agreement dated March 19, 2010 ("Former Owners"). Although the County has been unable to obtain a copy of a written lease, it is believed that at the time the County acquired title to Parcel 132, said Parcel was subject to a lease by and between the Former Owners and B & B Farms; and

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WHEREAS, in order to proceed with its 66th Avenue Road Project, it is necessary for the County to hold fee simple title in and to Parcels 127 and 132 free and clear of any leasehold or other interests; and

WHEREAS the Board of County Commissioners of Indian River County, having considered information provided by the County Public Works Director has determined that it is necessary and in the public interest to confirm and perfect fee simple title free and clear of any leasehold or other interests, if any, in the real property identified as Parcels 127 and Parcel 132 more particularly described in Composite Exhibit "A" for the improvement and the reconstruction of 66th Avenue; and

WHEREAS the Board of County Commissioners of Indian River County, Florida is authorized pursuant to Chapter 127, Florida Statutes, to acquire property by eminent domain for County purposes,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY as follows:

SECTION 1. The Board of County Commissioners adopts and ratifies those matters identified and set forth in the foregoing recitals.

SECTION 2. Indian River County finds it necessary and in the public interest to confirm and perfect fee simple title by acquiring any leasehold or other interests, if any, in the real property described in Composite Exhibit "A", attached hereto and incorporated herein by reference, for the purpose of improving and reconstructing 66th Avenue, including Side Street, Intersection, Sidewalk and Water Retention Pond Improvements in order to provide for the health, safety and welfare of the growing population of Indian River County.

SECTION 3. The County Administrator, County Attorney and outside eminent domain counsel are hereby authorized and directed to immediately proceed to take the necessary steps for Indian River County to confirm, perfect and acquire in its own name, by donation, purchase or eminent domain proceedings, fee simple title, including the acquisition of any leasehold interest, if any, in the real property described in Composite Exhibit "A", in the estate or interest as identified therein, and to have prepared in the name of Indian River County, all papers, pleadings, and other instruments required for this purpose, to file a Declaration of Taking upon the filing of any such eminent domain action and to ensure any eminent domain proceedings which may be filed pursuant to Florida Statutes Chapters 73, 74, and 127 are prosecuted through Final Judgment.

SECTION 4. The Board of County Commissioners of Indian River County, through the power of eminent domain conferred by Chapters 73, 74 and 127, Florida Statutes and all other statutory or common law granting the County the power to institute and proceed to acquire property utilizing the power of eminent domain, further hereby authorizes and directs the County Attorney for Indian River County, outside eminent domain counsel, and any other County employees or agents to take such further actions as are reasonably required to accomplish the purposes identified herein.

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SECTION 5. This resolution shall take effect immediately upon its adoption.

This resolution was moved for adoption by Commissioner _____, and the motion was seconded by Commissioner _____ and, upon being put to a vote, the vote was as follows:

Chairman Peter D. O'Bryan	_____
Vice Chairman Joe Earman	_____
Commissioner Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the resolution duly passed and adopted this 1st day of February, 2022.

Attest: Jeffrey Smith, Clerk of the Court and Comptroller

INDIAN RIVER COUNTY, FLORIDA
By its Board of County Commissioners

By _____
Deputy Clerk

By _____
Peter D. O'Bryan, Chairman

Approved as to form and legal Sufficiency:

William K. DeBraal
Deputy County Attorney

Approved:

Jason E. Brown
County Administrator