



Office of

Attorney's Matters 01/15/2019


**INDIAN RIVER COUNTY  
ATTORNEY**


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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
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MEMORANDUM

TO: The Board of County Commissioners

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

FROM: William K. DeBaal, Deputy County Attorney 

DATE: January 8, 2019

SUBJECT: Acquisition of Right-Of-Way for Phase II of 66th Avenue Improvements Central Groves Corp. - 66th Avenue and 69th Street

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Central Groves Corp. is the owner of an 18.59 acre parcel of unimproved property on the northwest corner of 66<sup>th</sup> Avenue and 69<sup>th</sup> Street. The parcel is commonly known as the Miami Block and is depicted on the aerial photo attached as Exhibit "A". The Miami Block is zoned A-1, Agricultural, up to one residential unit per five acres and lies outside of the Urban Services Boundary. This site is a former citrus grove and contains fencing and a flow well. Mr. Ben Bailey is the sole officer.

Construction plans call for the County to acquire 5.45 acres of right-of-way consisting of:

- A 156-foot wide strip along the length of the eastern border of the Central Grove property;
- A 70-foot wide strip along 69<sup>th</sup> Street on the southern property border; and
- A corner clip at the southeast corner of the parcel.

The County also needs a 2.27 acre parcel for a stormwater pond for treatment of stormwater from 66<sup>th</sup> Avenue in its expanded state. The total property needed is 7.72 acres or 41.5% of the property, leaving a remainder of 10.87 acres. A sketch and legal description of the right-of-way, corner clip and pond site are attached as Exhibit "B".

The County's initial appraisal was performed by Armfield & Wagner and assigned a value of \$176,000 for the 7.72 acres (\$22,800 per acre) and did not find any severance damages. Central Groves' appraiser did find severance damages and an appraised value of \$55,000 per acre. By comparison, in February 2017, the County purchased the 18.72 acre Greene property located at the northeast corner of 66<sup>th</sup> Avenue and 53<sup>rd</sup> Street for a future stormwater park for \$558,900 (\$29,855 per acre) which was an arm's length

transaction without the threat of eminent domain. After holding a settlement conference in November 2018, Central Grove agreed to sell the entire 18.59 acre parcel to the County for \$655,298.00 (Six Hundred Fifty-Five Thousand Two Hundred Ninety-Eight Dollars). A legal description of the Miami Block is more specifically described in Exhibit "C" attached to this memorandum. The purchase price is based on a per acre price of \$35,250.00. The Purchase Price is inclusive of all compensation for damages incurred by Central Groves as a result of the County's proposed take of the Miami Block.

Staff considered purchasing only the 7.72 acres need for right-of-way and the pond site, but given the size of the take, 41.5% of the parcel, it was decided that a whole take was a viable option in order to avoid severance damages to the remainder parcel. Staff opined that it would cost about the same amount to buy the entire parcel as it would to buy 7.72 acres and paying severance damages. The remainder parcel of 10.87 acres could be sold at the end of the construction process in order to defray the cost of the purchase of the entire parcel. By purchasing the whole parcel, staff is attempting to save on expert witness fees incurred by both the county and Central Groves. 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 of Central Groves.

Central Groves is represented by Andrew Diaz of the law firm of Gaylord Merlin in Tampa.

There are appraisal, engineering and land planning fees in the global amount of \$22,000.00 and attorney's fees and costs equal to 10% of the purchase price or \$65,529.80, making the total purchase price \$742,827.80.

**STAFF RECOMMENDATION:** Staff recommends the Board approve the Agreement to Purchase and Sell Real Estate for the Central Groves parcel and authorize the Chairman to execute the document on behalf of the Board.

**FUNDING:** Funding for this acquisition is budgeted and available from Traffic Impact Fee/District I/Row/66<sup>th</sup> Avenue- 69<sup>th</sup> Street-85<sup>th</sup> Street- Acct# 10215141-066120-16009.

Attachments: Exhibit "A" Aerial Photo  
Exhibit "B" sketch and legal description of the right-of-way, corner clip and pond site  
Exhibit "C" legal description of the Miami Block  
Agreement to Purchase and Sell Real Estate

Copies to: Andrew Diaz, Esq.