

SECTION No.: 88061000
FM No.: 431521-1
AGENCY: Indian River County
C.R. No.: 606

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, entered into this _____ day of _____, 20__, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and Indian River County, a political subdivision of the State of Florida, hereinafter called the AGENCY collectively referred to as Parties.

W I T N E S S E T H:

WHEREAS, the AGENCY has jurisdiction over Oslo Road, as part of the County roadway system from 82nd Ave to 58th Ave (Kings Highway) and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the DEPARTMENT is authorized to undertake projects within the AGENCY's geographical limits and the AGENCY agrees to have this improvement constructed; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement with the AGENCY to maintain the project; and

WHEREAS, pursuant to such authority, the DEPARTMENT and the AGENCY agrees to have the DEPARTMENT construct certain improvements more particularly described as Financial Project ID 431521-1, which involves widening and reconstructing Oslo Road; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, this project is eligible for use of ARPA state funds; and

WHEREAS, pursuant to that certain Right of Way MOA between the AGENCY and the DEPARTMENT dated July 15, 2021, and all subsequent amendments thereto, the DEPARTMENT will acquire Right of Way for the project on behalf of AGENCY; and

WHEREAS, upon acquisition of the necessary right-of-way, the DEPARTMENT will proceed to construct the Project; and

WHEREAS, the Parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY by Resolution on the _____ day of _____, 20__, a copy of which is attached hereto as Exhibit B and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Parties covenant and agree as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT has undertaken and obtained the approval of Federal participation for the Project. The AGENCY is responsible for additional Project costs determined to be Federal Aid Non-Participating.
3. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property. No further permit or agreement from the Agency shall be required.
4. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the Project. The DEPARTMENT shall be responsible for mowing and litter removal during the duration of the Project.
5. Upon "final acceptance" by the DEPARTMENT of the Project, (as "final acceptance" is described in the Standard Specifications for Roadway and Bridge Construction dated 2019, as amended), and Notice thereof to the AGENCY, the AGENCY shall maintain the Project, at its own cost, in accordance with the following Federally and State accepted standards: (a) FDOT Design Manual (FDM), current edition (b) Florida Green Book dated 2018, as amended (c) Governing standards and specifications: FDOT Design Standards dated FY 2022-23, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2022, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes maintaining roadway, pavement marking, lighting, signalization, sidewalk, and drainage systems.
 - a. The AGENCY grants to the DEPARTMENT all rights necessary to enter and construct the Project.
 - b. The Department shall give the AGENCY seven (7) days' notice before final inspection. The AGENCY will have the opportunity to inspect and identify corrections to the PROJECT within seven (7) days' notice and the DEPARTMENT agrees to undertake those corrections prior to final acceptance so long as the corrections comply with the Final Proposed Construction plans and specification previously approved by both the DEPARTMENT and the AGENCY.
 - c. If the project requires one or more permits that are revocable by the permitting entity and the permitting entity's needs require the removal of the project facility or any portion of it, either:
 - i. The facility would be reconstructed or relocated in such a way as to continue serving the same need (e.g., roadway and sidewalk connectivity) at the Agency's expense and a funding source would be made available; or

- ii. Federal funds would be repaid, again at the Agency's expense. The useful life of the facility would be determined and a schedule for repayment developed (i.e., the amount of repayment necessary for each year of the remaining useful life of the facility at the time of its removal).
- 6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
- 7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint applicant and be responsible for the permits related to the Project. Further the AGENCY shall be solely responsible for ensuring that the Project remains in compliance with all permits after the construction is complete and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the Department or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. The AGENCY shall be the applicant for all occupancy permits that are required for the Project.
- 8. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way and proposed right of way. At its own expense, the AGENCY shall comply with any and all request of the DEPARTMENT to provide written notice to utility owner to initiate work necessary to alleviate interference; to remove or relocate non-compliant utilities; and to place liens upon non-compliant utility owners within the AGENCY right of way, as defined in Florida Statutes 337.403 and 337.404. The AGENCY shall be liable and reimburse the DEPARTMENT for any cost incurred by the DEPARTMENT for the AGENCY's failure to timely comply with said request.
 - a. AGENCY'S Utilities: The AGENCY shall relocate and adjust its own utilities including connection with utility customers. The PARTIES will enter into an agreement to relocate and adjust utilities. The COUNTY will pay for this work.
- 9. Signals: The AGENCY shall cooperate with the DEPARTMENT to effect signal and interconnect connections for the Project.
- 10. Drainage: Closed drainage system and storm water management ponds shall be maintained per permit.
- 11. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT to the extent necessary to construct the Project. This shall include but not be limited to the execution of documents; allowing the Department and/or their contractors/consultants to enter upon the real property owned, leased, possessed and/or

controlled by the Agency upon which the Project is to be constructed or any property adjacent thereto.

12. E-Verify requirements: The AGENCY:

- shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the AGENCY during the term of the contract; and
- shall expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term.

13. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings as represented in the Final Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. []

14. The DEPARTMENT will provide the AGENCY with as-builts as a part of the final acceptance package.

15. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

16. LIST OF EXHIBITS

- **Exhibit A:** Project Scope
- **Exhibit B:** AGENCY's Resolution
- **Exhibit C:** Executed ROW MOA

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year provided below.

FOR DEPARTMENT:

FLORIDA DEPARTMENT OF
TRANSPORTATION, DISTRICT FOUR

By: _____

Administrative Assistant:

Steven C. Braun, P.E.

Director of Transportation Development

Print Name: _____

Legal Approval:

District Four Attorney

FOR AGENCY:

ATTEST: Jeffrey R. Smith
Clerk of Court and Comptroller

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By: _____

Deputy Clerk

By: _____

Peter D. O'Bryan

Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

William K. DeBaal

Deputy County Attorney

This Memorandum of Agreement has been duly authorized and approved on _____ by
Indian River County Resolution No. _____.

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EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing and proposed right-of-way.

Typical Section

- 2 travel lanes in each direction
- Bike lanes and sidewalk on both sides

Signing and Pavement Markings

Signalization

- New mast arm signal at 66th Avenue
- Signal interconnect

Drainage

- Closed drainage system
- 3 storm water management ponds

Permits

- The FDOT will acquire in the AGENCY's name.

Lighting

- Roadway lighting at signalized intersections

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EXHIBIT B

AGENCY's Resolution

SECTION No.: 88061000
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AGENCY: Indian River County
C.R. No.: 606

EXHIBIT C

Executed Right of Way Memorandum of Agreement

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**RIGHT OF WAY ACQUISITION
MEMORANDUM OF AGREEMENT**

This is a Memorandum of Agreement ("MOA") made and entered into this 15 day of July, 2021, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida ("DEPARTMENT") and INDIAN RIVER COUNTY, a Political Subdivision of the State of Florida ("AGENCY").

WITNESSETH:

WHEREAS, the DEPARTMENT is constructing a transportation project for the Oslo Road Widening ("Project"), as depicted in the attached Exhibit "A" and associated with Item / Segment Number 431521-1-52-01; and

WHEREAS, the AGENCY is the owner of the facility; and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes, and federal funding provisions, the DEPARTMENT is authorized to undertake projects within the AGENCY's geographical limits; and

WHEREAS, the Project will involve the acquisition of various property interests along the Project corridor; and

WHEREAS, the DEPARTMENT plans to construct the Project and conduct right of way acquisition and related activities, including eminent domain proceedings, on the Project for and on behalf of the AGENCY to prepare the Project for construction; and

WHEREAS, the DEPARTMENT will conduct its right of way acquisition activities in accordance with its right of way procedures and applicable federal acquisition requirements; and

WHEREAS, the parties agree that it is in the best interest of the public to promote a cooperative effort between the DEPARTMENT and the AGENCY for the successful completion of the Project.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, this MOA sets forth and outlines the following agreements between the DEPARTMENT and the AGENCY concerning the performance of acquisition and maintenance activities by the AGENCY and the DEPARTMENT for the AGENCY's Project:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Upon completion of its acquisition and construction activities for the Project, the DEPARTMENT will transfer and the AGENCY will accept acquired property rights along the AGENCY facilities, including excess property acquired by the DEPARTMENT on behalf of the AGENCY. If for some reason the DEPARTMENT does not construct the Project, any acquired property shall be conveyed to the AGENCY in accordance with all federal and state regulations, and the AGENCY shall accept the property and comply with all regulations, including making any and all reimbursements to the DEPARTMENT or the Federal Highway Administration ("FHWA") that may be required by said regulations due to the Project not being constructed.
3. Said conveyance shall include, and the AGENCY fully accepts, a transfer and assignment of all rights and obligations pursuant to any maintenance agreement, utility agreement,

subordination, and/or other agreements or matters of record relating to the property to be conveyed and the AGENCY shall assume all responsibilities and liabilities arising from any obligations thereunder which responsibilities, liabilities and obligations as set forth in the conveyance documents shall run with the land. This provision shall survive the termination of this MOA.

4. Notwithstanding any other provision herein to the contrary, the DEPARTMENT shall not be responsible for any costs or attorney fees arising out of any liabilities or obligations incurred regarding the right of way after the transfer of property.
5. Prior to and during construction of the Project by the DEPARTMENT, the AGENCY shall be responsible for the maintenance of all properties acquired for the Project by the DEPARTMENT, keeping them in a safe condition. This includes responding to and addressing Code Enforcement violations and complaints from the public as well as any required mowing and litter removal during construction.
6. To the extent provided by law, the AGENCY shall indemnify, defend and hold harmless the DEPARTMENT and all of its officers, agents and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the AGENCY, its agents or employees during acquisition and other related activities on the Project except that neither the AGENCY, its officers, agents or employees will be liable for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT or any of its officers, agents or employees during the performance of acquisition and other related activities on the Project.
7. Any and all notices given or required under this MOA shall be in writing and either hand-delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be directed as follows:

As to the DEPARTMENT:

Anson Sonnett, P.E., Project Manager
Florida Department of Transportation
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309-3421
Phone: (954) 777-4474

With copy to:

Dan Marwood, Deputy Right of Way Manager - Production
Florida Department of Transportation
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309-3421
Phone: (954) 777-4237

As to the AGENCY:

Richard B. Szpyrka, P.E.
Public Works Director
Indian River County
1801 27th Street
Vero Beach, FL 32960
(772) 226-1234
With copy to:

County Attorney
Indian River County
1801 27th Street
Vero Beach, FL 32960

8. Multiple copies of this MOA may be fully executed by all parties, each of which shall be deemed to be an original. The date entered above where indicated shall be the date the last party signed this MOA.

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IN WITNESS WHEREOF, the parties hereto have made and caused this Memorandum of Agreement to be authorized and duly executed on behalf of their respective entities.

FOR DEPARTMENT:

FLORIDA DEPARTMENT OF
TRANSPORTATION, DISTRICT FOUR


By:



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Administrative Assistant:

DocuSigned by:



Print Name:

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Steven C. Braun, P.E.
Director of Transportation Development

Legal Approval:



CAA57910ADF54DE...

District Four Attorney

FOR AGENCY:

ATTEST: Jeffrey R. Smith
Clerk of Court and Comptroller

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By:

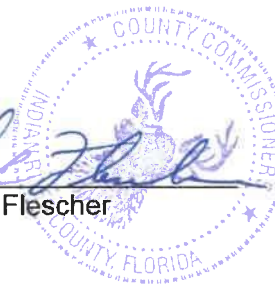


Deputy Clerk

By:



Joseph E. Flescher
Chairman



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



William K. DeBraal
Deputy County Attorney

This Memorandum of Agreement has been duly authorized and approved on March 16, 2021
by Indian River County Resolution No. 2021-023.

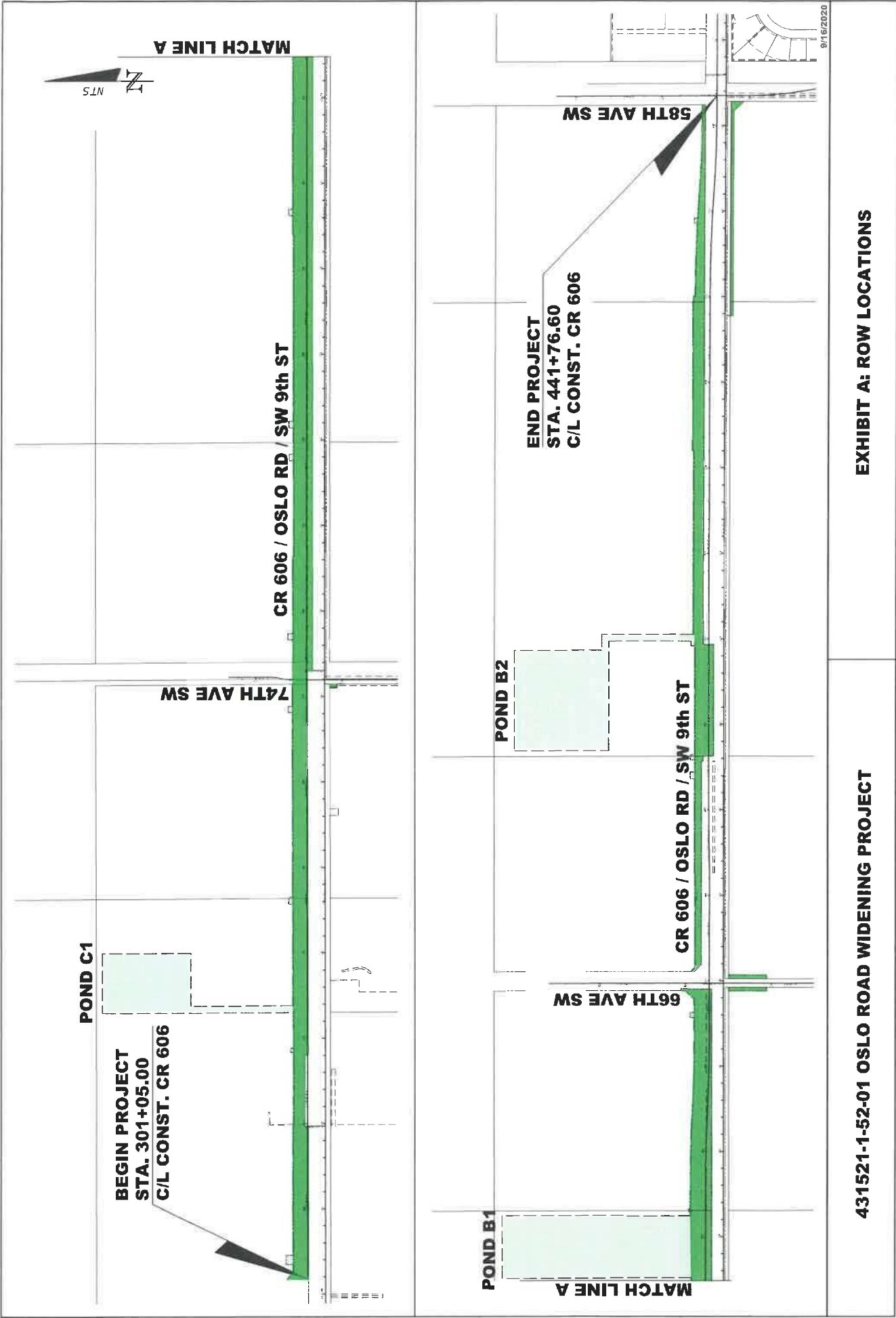


EXHIBIT A: ROW LOCATIONS

431521-1-52-01 OSLO ROAD WIDENING PROJECT

RESOLUTION 2021- 023

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AUTHORIZING THE CHAIRMAN'S EXECUTION OF A RIGHT OF WAY ACQUISITION MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR ACQUISITION OF RIGHT OF WAY FOR THE WIDENING OF OSLO ROAD/CR606 FROM 82ND AVENUE SW TO 58TH AVE SW.

WHEREAS, the BCC previously accepted a resolution number 2017-023, in support of the widening improvements to Oslo Road/CR606 from 82nd Avenue SW to 58th Avenue SW, Indian River County; and

WHEREAS, the State of Florida, Department of Transportation, has requested Indian River County execute and deliver to the State of Florida, Department of Transportation, the Right of Way Acquisition Memorandum of Agreement for the aforementioned project; and

WHEREAS, a resolution to execute the Right of Way Acquisition Memorandum of Agreement for the aforementioned project is required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, that the Chairman of the Board is hereby authorized to make, execute, and deliver to the State of Florida, Department of Transportation, the Right of Way Acquisition Memorandum of Agreement for the aforementioned project.

The foregoing resolution was offered by Commissioner O'Bryan who moved its adoption. The motion was seconded by Commissioner Adams and, upon being put to a vote, the vote was as follows:

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

AYE

AYE

AYE

AYE

AYE

The Chairman thereupon declared the resolution duly passed and adopted this 16th day of March, 2021.

BOARD OF COUNTY COMMISSIONERS INDIAN
RIVER COUNTY, FLORIDA

By Joseph E. Flescher
Joseph E. Flescher, Chairman

Attest: Jeffrey R. Smith, Clerk of
Court and Comptroller

By: Demi Collins Lister
Deputy Clerk

Approved as to form and
legal sufficiency:

By: William K. DeBraal
William K. DeBraal, Deputy Attorney

