



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

3/8/2022

Subject:

Approval, Re: Resolution and Perpetual Easement in favor of Florida Department of Transportation (FDOT) for the Noise Wall on State Highway System 528 Parallel to Furman Road- District 2.

Fiscal Impact:

None

Dept/Office:

Public Works Department / Land Acquisition

Requested Action:

It is requested that the Board of County Commissioners: 1) adopt and authorize the Chair to execute the attached Resolution and 2) approve and authorize the Chair to execute the attached Perpetual Easement.

Summary Explanation and Background:

The subject property is located in Section 14, Township 24 South, Range 36 East, on the east side of North Courtenay Parkway, south side of Highway 528 in Merritt Island.

The State Legislature has approved and mandated FDOT to complete various projects in FDOT's work program that includes Financial Management number 407402-3-52-01, State Road 528 from East of State Road 528 (Industry Road) to east of State Road 3. The project involves the construction of a ground-mounted noise wall along State Road 528, running parallel with Furman Road, a County-owned and maintained right of way.

FDOT has made application for the County to execute and deliver an easement over Furman Road for the purposes of access, construction and maintenance of the noise wall at FDOT expense. Final design is subject to review and approval by the County prior to construction.

The User Department approves this request.

This acquisition follows the policies and procedures as set forth in Administrative Order 37.

Clerk to the Board Instructions:

Upon execution by the Chair, Public Works Department will contact the Clerk's office to make arrangements to pick up the original executed Resolution with Exhibit and original executed Perpetual Easement with Exhibit.

BOARD OF COUNTY COMMISSIONERS

AGENDA REVIEW SHEET

AGENDA: Resolution and Perpetual Easement in favor of State of Florida
Department of Transportation for the Noise Wall on State Highway System
528 parallel to Furman Road – District 2.

AGENCY: Public Works Department / Land Acquisition

AGENCY CONTACT: Lucy Hamelers, Land Acquisition Supervisor

CONTACT PHONE: 321-350-8336

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Lucy Hamelers, Supervisor			<u>2-17-2022</u>
COUNTY ATTORNEY Christine Schverak Assistant County Attorney	<u>cms</u>		<u>2-18-2022</u>



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

March 9, 2022

MEMORANDUM

TO: Marc Bernath, Public Works Director

RE: Item F.4., Resolution and Perpetual Easement in Favor of Florida Department of Transportation (FDOT) for the Noise Wall on State Highway System 528 Parallel to Furman Road

The Board of County Commissioners, in regular session on March 8, 2022, adopted Resolution No. 22-020; and executed Perpetual Easement with FDOT for the noise wall on State Highway 528 parallel to Furman Road. Enclosed are fully-executed Resolution and Perpetual Easement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/tr

Encls. (2)

cc: Contracts Administration
Asset Management

RESOLUTION NO. 22- 020

RESOLUTION PURSUANT TO SECTION 125.38, FLORIDA STATUTES
AUTHORIZING THE CONVEYANCE OF REAL PROPERTY INTEREST BY
THE COUNTY.

RECITALS

WHEREAS, Brevard County, Florida (County), a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, hereafter known as "COUNTY," owns certain real property interest described in Exhibit "A"; and

WHEREAS, the State of Florida Department of Transportation (FDOT) proposes to construct a ground mounted noise wall along the State Highway System that runs parallel to Furman Road as part of the Department's Work Program FM 407402-3-52-01, State Road 528 East of State Road 524 to East of State Road 3; and

WHEREAS, FDOT needs to be able to access Furman Road for the construction and maintenance of the noise wall; and

WHEREAS, Furman Road is owned and maintained by the County; and

WHEREAS, FDOT has made application to said County to execute and deliver to the FDOT a perpetual easement for access and maintenance for the proposed noise wall; and

WHEREAS, said easement will not conflict with the County's use of the servient property.

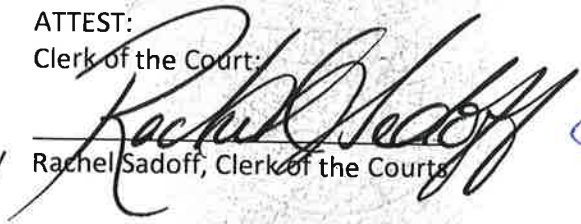
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA that:

1. The recitals above are true and correct, and incorporated herein.
2. Pursuant to section 125.38, Florida Statutes, an easement is required to promote community interest and welfare. The easement shall be conveyed at nominal cost. The area of the easement is not needed for other County purposes that would conflict with FDOT's use of the easement.
3. County agrees to convey a perpetual easement for the purpose of permitting FDOT access within said easement area in order for FDOT to construct and maintain the mounted noise wall.
4. This Resolution shall take effect immediately upon its adoption, but the final design is subject to the review and approval of the County prior to construction.

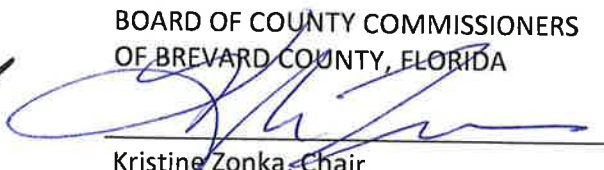
DONE, ORDERED, and ADOPTED in Regular Session this 8th day of March, 2022.

ATTEST:

Clerk of the Court:


Rachel Sadoff, Clerk of the Courts

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


Kristine Zonka, Chair

As approved by the Board on 3/8/2022

Prepared by and return to: Lucy Hamelers
Public Works Department, Land Acquisition
2725 Judge Fran Jamieson Way, A204, Viera, Florida 32940
Section 70070; F.P. NO. 407402-3 (Furman Road Easement)

PERPETUAL EASEMENT

THIS INDENTURE, made this 8th day of March, 2022, between Brevard County, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940 as the first party, and State of Florida Department of Transportation, whose address is 719 South Woodland Boulevard, Deland, Florida 32720-6834 as the second party, for the use and benefit of State of Florida Department of Transportation.

WITNESSETH that the first party, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, grants unto the second party, its successors and assigns, a perpetual easement commencing on the above date for the purposes of permanent access, constructing, reconstructing, and maintaining a noise wall and other allied uses pertaining thereto, over, under, upon, above, and through the following lands:

The land affected by the granting of the easement is located in Section 14, Township 24 South, Range 36 East, Brevard County, Florida, and being more particularly described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A"

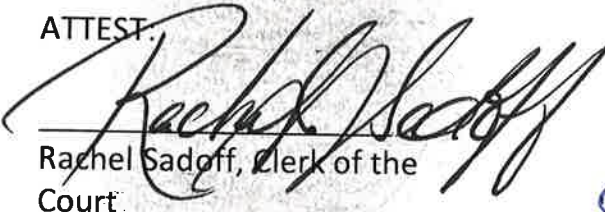
Including the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment by the second party of its easement but shall not make any improvements within the easement area which will conflict or interfere with the roadway, clear zone or drainage area without prior plan approval of the first party. The first party shall have full use and enjoyment of the easement area but shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein.

TO HAVE AND TO HOLD said easement unto State of Florida Department of Transportation, and to its successors and/or assigns. The first party does covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.

(Signatures and Notary on next page)

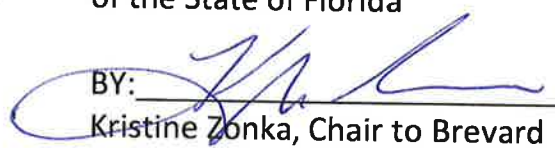
IN WITNESS WHEREOF, the first party has caused this easement to be executed,
the day and year first above written,

ATTEST:



Rachel Sadoff, Clerk of the
Court

Brevard County, a political subdivision
of the State of Florida

BY: 

Kristine Zonka, Chair to Brevard
County Board of County
Commissioners

As approved by the Board 03/08/2022

**PARCEL 803
PERPETUAL NOISE WALL EASEMENT**

**SECTION 70070
F.P. NO. 407402-3**

THAT PART OF:

Furman Road a varied width Brevard County Right of Way lying in the Northwest 1/4 and the Northeast 1/4 of Section 14, Township 24 South, Range 36 East, Brevard County, Florida, lying South of State Road 528;

DESCRIBED AS FOLLOWS:

Commence at a 3/4" iron pipe with no identification, marking the Southwest corner of the Northwest 1/4 of Section 14, Township 24 South, Range 36 East, Brevard County, Florida, as shown on the Florida Department of Transportation Right of Way Map for State Road 528, Section 70070, Financial Project Number 407402-3; thence North 89°41'15" East, along the South line of the Northwest 1/4 of said Section 14, a distance of 2629.87 feet to a nail and disk stamped "BSA LB 1221", marking the Southeast corner of the Northwest 1/4 of said Section 14 as shown on said map; thence departing said South line, run North 00°24'36" West along the East line of said Northwest 1/4, a distance of 2531.02 feet to the intersection with the existing Southerly Limited Access Right of Way Line of State Road 528 as shown on said map for a POINT OF BEGINNING; thence departing said East line, run North 89°42'31" East along said existing Southerly Limited Access Right of Way Line, a distance of 828.97 feet; thence departing said existing Southerly Limited Access Right of Way Line run South 00°17'29" East a distance of 50.00 feet to a point on the existing Southerly Right of Way Line of Furman Road as shown on said Right of Way Map; thence run South 89°42'31" West along said existing Southerly Right of Way Line a distance of 828.87 feet to a point on the aforesaid East line of said Northwest 1/4 of Section 14; thence continue South 89°42'31" West along said existing Southerly Right of Way Line a distance of 586.77 feet to the beginning of a non-tangent curve having a radius of 1120.92 feet and a chord bearing of South 81°45'02" West; thence from a tangent bearing of South 89°42'09" West run Westerly along the arc of said curve and continue along said existing Southerly Right of Way Line through a central angle of 15°54'14" a distance of 311.14 feet to the end of said curve; thence departing said curve run South 73°47'33" West and continue along said existing Southerly Right of Way Line a distance of 666.49 feet to the point of curvature of a curve concave Southeasterly having a radius of 100.00 feet and a chord bearing of South 34°37'02" West; thence run Southwesterly along the arc of said curve and continue along said existing Southerly Right of Way Line through a central angle of 78°21'04" a distance of 136.75 feet to a point of cusp on the existing Easterly Right of Way Line of State Road No. 3, Section 70140, as shown on the aforesaid Right of Way Map; thence departing said existing Southerly Right of Way Line

run North $04^{\circ}33'30''$ West along said existing Easterly Right of Way Line a distance of 175.00 feet to a point on the aforesaid existing Southerly Limited Access Right of Way Line of State Road 528 as shown on said Right of Way Map; thence departing said existing Easterly Right of Way Line run North $75^{\circ}12'10''$ East along said existing Southerly Limited Access Right of Way Line a distance of 635.68 feet to the point of curvature of a curve concave Southerly having a radius of 1429.54 feet and a chord bearing of North $75^{\circ}59'21''$ East; thence run Easterly along the arc of said curve and continue along said existing Southerly Limited Access Right of Way Line through a central angle of $01^{\circ}34'22''$ a distance of 39.24 feet to the end of said curve; thence departing said curve and said existing Southerly Limited Access Right of Way Line run North $85^{\circ}53'43''$ East a distance of 66.74 feet; thence run North $87^{\circ}02'28''$ East a distance of 683.82 feet to a point on the aforesaid existing Southerly Limited Access Right of Way Line; thence run North $89^{\circ}42'31''$ East along said existing Southerly Limited Access Right of Way Line a distance of 216.87 feet to the POINT OF BEGINNING.

CONTAINING 3.270 acres, more or less.

LOCATION MAP

Section 14, Township 24 South, Range 36 East - District: 2

PROPERTY LOCATION: The east side of North Courtenay Parkway, south side of Highway 528

OWNERS NAME(S): Brevard County

