

RESOLUTION 2023-R-27

A RESOLUTION OF THE CITY OF EDGEWATER, FLORIDA, VACATING A PORTION OF THE 200-FOOT+/- RIGHT-OF-WAY LOCATED WEST OF INTERSTATE 95, KNOWN AS WEST INDIAN RIVER BOULEVARD/OPOSSUM CAMP ROAD; AUTHORIZING THE EXECUTION OF AN ACCESS EASEMENT AGREEMENT; PROVIDING FOR FILING WITH THE VOLUSIA COUNTY CLERK OF THE CIRCUIT COURT AND THE VOLUSIA COUNTY PROPERTY APPRAISER; REPEALING RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND APPLICABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Glenn Storch applied on behalf of Farmton North, LLC and Farmton Deering Park, LLC, to vacate a portion of the 200-foot ± right-of-way located west of Interstate 95 known as West Indian Boulevard/Opossum Camp Road being more particularly described in Exhibits "A" and "B"; and

WHEREAS, the City previously solicited and received contribution of right-of-way from adjoining property owners to allow the extension of IRB in a westerly direction from Interstate 95, including right-of-way that will no longer be built based on the approved zoning for this area, and

WHEREAS, Said vacation shall provide for the dedication of a new right of way for the extension of Indian River Boulevard upon construction and acceptance by the City of said IRB extension and that an easement in favor of the City shall remain to access any wellfields along Opossum Camp Road of the Farmton parcel as indicated in the Right-of-Way Vacation and Realignment Agreement, attached hereto and incorporated by reference as Exhibit "C".

WHEREAS, pursuant to Section 21-99.03 (Procedures) of the Land Development Code of the City of Edgewater, and the requirements contained in the Florida Statutes, a Notice of Public Hearing was published one (1) time in a newspaper of general circulation in the City of Edgewater

by an advertisement that was published in the Daytona Beach News-Journal on September 28, 2023; and

WHEREAS, the City Council of the City of Edgewater finds that said application and supporting documents are in accordance with the requirements of Chapter 2 I (Land Development Code), Article IX (Application Procedures), Section 2 I -99 (Abandonments and Vacations) and that the requested action is consistent with the City of Edgewater Comprehensive Plan's goals, objectives and policies. The City Council further finds that vacating that portion of the right-of-way will not affect the ownership or access of persons owning adjacent property; and

WHEREAS, the City Council of the City of Edgewater finds that it is in the best interest of the City to vacate and abandon said right-of-way.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Edgewater, Florida:

Section 1. Authority. The City Council of the City of Edgewater has the authority to adopt this Resolution pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes, Chapter 177.101(5), and Article IX (Application Procedures) of Chapter 21 (Land Development Code) of the City of Edgewater. The foregoing recitals are hereby incorporated herein by this reference and are hereby ratified and confirmed as being true.

Section 2. Abandonment, Vacation. The City Council of the City of Edgewater, Florida, hereby abandons, vacates and renounces any rights in and to that portion of West Indian River Boulevard being more particularly described in Exhibits "A" and "B". The subject property will vest in the adjacent property owners, free and clear of any rights of the City.

Section 3. Right-of-Way Vacation and Realignment Agreement. The City Council hereby authorizes the City Manager to execute the Agreement attached as Exhibit "C".

Section 4. Recording. A certified copy of this Resolution shall be filed with the Volusia County Property Appraiser and duly recorded into the Public Records of Volusia County, Florida, by the Volusia County Clerk of Court.

Section 5. Conflicting Provisions. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 6. Severability and Applicability. If any portion of this resolution is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this resolution. If this resolution or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances, such holding shall not affect its applicability to any other person, property, or circumstance.

Section 7. Effective Date. This Resolution shall become effective immediately upon passage and adoption.

PASSED AND DULY ADOPTED this ____ day of _____, 2023.

Diezel Depew, Mayor

ATTEST:

Bonnie Zlotnik, CMC, City Clerk

REVIEWED AND APPROVED: _____
Aaron R. Wolfe, City Attorney

EXHIBIT "A" LEGAL DESCRIPTION

A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7272, PAGE 1214, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LOCATED IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA, RUN THENCE S89°44'56"W ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 6, A DISTANCE OF 1555.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S89°44'56"W ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 6, A DISTANCE OF 584.05 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE WEST BOUNDARY OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 6768, PAGE 4191, ALSO BEING THE EAST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7284, PAGE 3364, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH LINE, RUN N00°15'04"E, ALONG SAID SOUTHERLY EXTENSION OF THE WEST LINE, A DISTANCE OF 200.00 FEET TO A POINT ON THE NORTH LINE OF THE EXISTING NORTH RIGHT-OF-WAY LINE OF INDIAN RIVER BOULEVARD (STATE ROAD NO. 442/OPOSSUM CAMP ROAD) AS RECORDED IN OFFICIAL RECORDS BOOK 7272, PAGE 1214, SAID PUBLIC RECORDS; THENCE S89°44'56"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 581.04 FEET; THENCE DEPARTING SAID NORTH LINE, RUN S00°36'41"E, A DISTANCE OF 200.02 FEET TO THE POINT OF BEGINNING.
SAID LANDS CONTAINING 2.675 ACRES, MORE OR LESS.

A PART OF SECTION 6, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID SECTION 6, RUN N.89°44'56"W., ALONG THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 2139.59 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°44'56"W., ALONG SAID SOUTH LINE, A DISTANCE OF 842.87 FEET; THENCE N.89°45'01"W., ALONG SAID SOUTH LINE, A DISTANCE OF 2982.40 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE N.85°06'06"E., A DISTANCE OF 2228.95 FEET; THENCE S.89°45'01"E., PARALLEL WITH THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 762.44 FEET; THENCE S.89°44'56"E., PARALLEL WITH THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 842.87 FEET; THENCE S.00°15'04"W., ALONG THE WEST LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 6768, PAGE 4191, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 12.467 ACRES.

A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7284, PAGE 3370, BOOK 7406, PAGE 1812 AND BOOK 7406, PAGE 1820, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LOCATED IN SECTION 7, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

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CONTAINING 5.106, ACRES.

EXHIBIT "B"

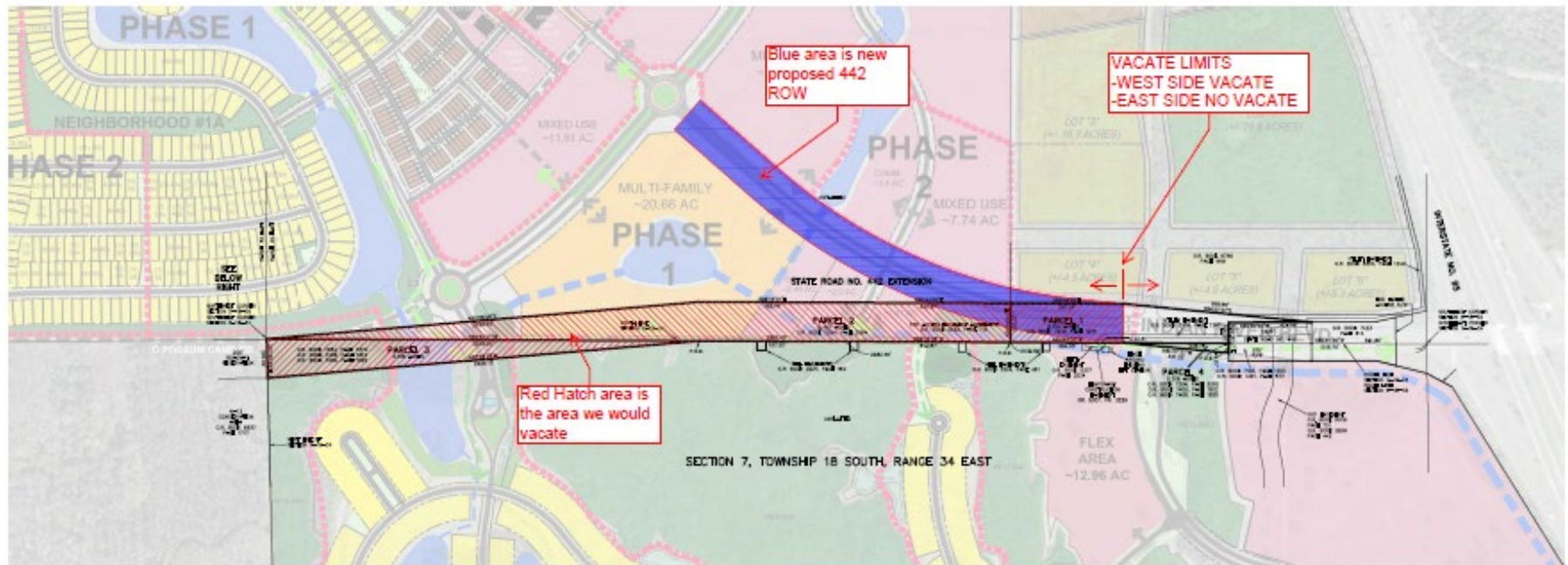


EXHIBIT “C”
RIGHT OF WAY VACATION AND REALIGNMENT AGREEMENT

The Parties, FARMTON NORTH, LLC, a Delaware limited liability company, (hereinafter “FARMTON”) and the CITY OF EDGEWATER, a Florida municipal corporation, (hereinafter “EDGEWATER”) agree as follows:

WHEREAS, EDGEWATER adopted the Deering Park North PUD, which changed the alignment for Indian River Boulevard (“IRB”) from a direct west direction to northwest direction and tied it into the new Williamson Boulevard right-of-way. Said concept plan alignment is attached hereto as Exhibit “A”; and

WHEREAS, EDGEWATER previously solicited and received contribution of Right of Way from adjoining property owners to allow the extension of IRB in a westerly direction from Interstate 95, including Right of Way that will no longer be built based on the approved zoning for this area. A description and sketch of said donated right of way that is no longer required for the construction of Indian River Boulevard is attached and incorporated hereto as Exhibit B, and

WHEREAS, FARMTON is in the process of amending the permits for the Deering Park North project, consistent with the terms of the Deering Park North PUD and as such needs to determine what areas will be developed as roadway and paved impervious surface, and

WHEREAS, the parties desire to provide for the substitution and vacation of the previously donated right of way provided prior to the approval of the Deering Park North PUD in exchange for appropriate right of way for the extension of Indian River Boulevard as provided for in the conceptual plan shown in the attached Exhibit A, and

WHEREAS, EDGEWATER shall require dedication of right of way subsequent to construction of the Indian River Boulevard extension shown in Exhibit A, and the parties desire to confirm by agreement that said right of way shall be dedicated upon completion of construction and acceptance by EDGEWATER, and

WHEREAS, permitting will require the ownership of the subject property by FARMTON, including the right of way shown in Exhibit B, to be determined prior to construction of Indian River Boulevard as provided in Exhibit A, and thus will be requesting vacation of the area shown in Exhibit B as part of this agreement and with the specific agreement to provide such extension of right of way in the planned area shown in Exhibit A and, in addition,

WHEREAS the parties agree that Edgewater owns existing and future potable water supply well sites and associated infrastructure along the right of way of Opossum Camp Road of the FARMTON parcel, which is to be vacated, and,

WHEREAS the parties confirm and agree that after the right of way is vacated, EDGEWATER will continue to own all of the well sites, and associated infrastructure and an access easement to said well sites and infrastructure, and,

WHEREAS it is contemplated that FARMTON will donate additional well sites, the parties also confirm and agree that those well sites and associated infrastructure will be owned by Edgewater upon such transfer by dedication or deed, and, and with access to such additional well sites and infrastructure, added to this agreement, and,

THEREFORE, the parties agree as follows:

1. FARMTON shall file for a vacation of the previously donated right of way that will be unused for the extension of Indian River Boulevard as shown in Exhibit B hereinabove.

2. Said vacation shall include conditions that provide for the dedication of a new right of way for the extension of Indian River Boulevard upon construction and acceptance by EDGEWATER of said IRB extension and FARMTON specifically stipulates and agrees to this condition in the event the vacation of right of way is granted.

3. The Parties agree that an easement in favor of EDGEWATER shall remain to access any wellfields along Oppossum Camp Road of the FARMTON parcel.

4. The Parties agree that this agreement shall be attached as a record of such conditions to any vacation approved by the City Council of EDGEWATER.

5. Prior to the approval of such vacation, and upon request, EDGEWATER, shall provide notice to St. Johns Water Management District of the status of said vacation of right of way and of this agreement request for substitution of right of way alignments.

6. FARMTON agrees to execute the Easement Agreement, attached as Exhibit C, in favor of EDGEWATER which grants. EDGEWATER the continuing ownership and right to use both existing, and any future well sites transferred to the City, within the proposed easement area and an easement for the use of all associated infrastructure therein, and specifically grants to the City of EDGEWATER an access easement, as legally described therein, to allow the City of Edgewater the ability to access, operate, service and maintain the potable water well sites and all associated infrastructure.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on behalf of the respective Party set forth below pursuant to the authority granted to each of the undersigned in the action by which each Party approved and adopted this Agreement.

CITY OF EDGEWATER

By: _____

Attest: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by _____ and _____, respectively, on behalf of the City of Edgewater, who acknowledge that they are duly authorized to execute the foregoing Agreement on behalf of the City. They are ☐ personally known to me, or ☐ have produced _____ as identification.

NOTARY PUBLIC

Type or print name:

Commission No.:

FARMTON NORTH, LLC

By: _____

David C. Fuechtman, Manager

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by David C. Fuechtman, Manager, as Manager of Farmton North, LLC, who acknowledges that he is duly authorized to execute the foregoing Agreement. He is ☐ personally known to me, or ☐ has produced _____ as identification.

NOTARY PUBLIC

Type or print name:

Commission No.:

Exhibit "A"

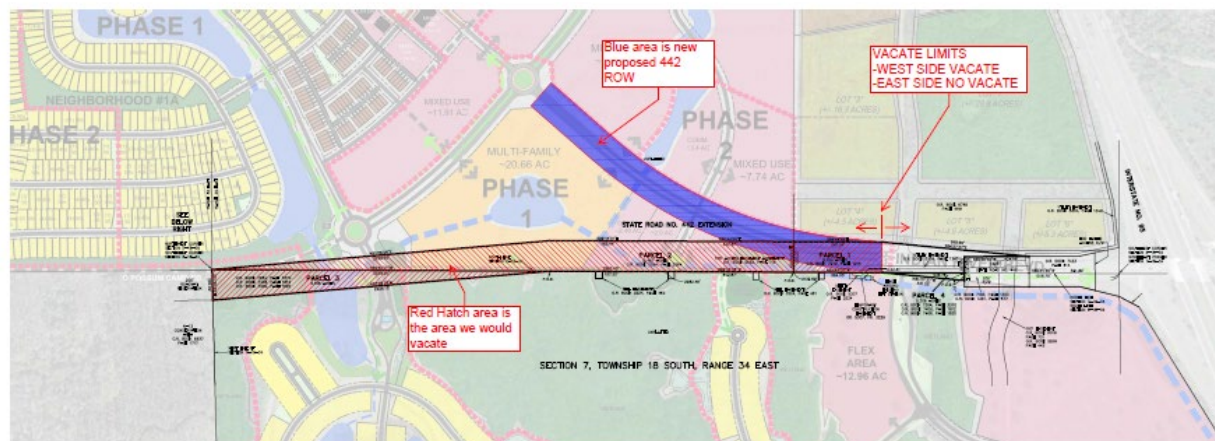


Exhibit "B"

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