RESOLUTION NO. 2026-21

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AUTHORIZING THE USE OF EMINENT DOMAIN FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OF FOUNTAIN LAKES TO FACILITATE THE CONSTRUCTION OF THE WILLIAMS ROAD ROUNDABOUT PROJECT; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, eminent domain is the right of a government or its agent to expropriate private property for public use, with payment of just compensation; and

WHEREAS, § 6 of Article X of the Florida Constitution provides, in relevant part, that "no private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner"; and

WHEREAS, eminent domain in Florida is governed by Florida Statutes Chapter 73 (Eminent Domain), and Chapter 74 (Proceedings Supplemental to Eminent Domain); and

WHEREAS, Chapter 73 governs the traditional method of eminent domain (where ownership in property is not acquired until the trial), while Chapter 73 (known commonly as "quick take") permits acquisition of the land at the beginning of a case, leaving only compensation to be determined by the court at a later date; and

WHEREAS, Florida Statutes § 166.401(1) provides that eminent domain may be used either to acquire absolute fee simple title to property, or some lesser right or estate in property (such as an easement); and

WHEREAS, Florida Statutes § 166.401(3) provides that a local governing body of a municipality may not exercise its power of eminent domain unless the governing body adopts a resolution authorizing the acquisition of the property by eminent domain for the municipal use or purpose designated in such resolution; and

WHEREAS, the Village of Estero has designed and has the financial resources to construct certain road improvements along Williams Road west of U.S. 41 (the "Project") to resolve traffic flow and traffic safety issues which have long plagued this portion of Williams Road and the intersection with Atlantic Gulf Boulevard; and

WHEREAS, while the Village has been able to design the majority of the Project within existing pubic property or rights of way, it has been unable to design the necessary roundabout element of the Project without the need to acquire private property; and

WHEREAS, the Village has explored acquisition of land to the north of Williams Road but that land was developed with federal funds and eminent domain would not fully resolve the legal issues which would arise should a portion of that land be taken; and

WHEREAS, the Village has therefore determined that 12,229 square feet (0.281 acres, more or less) of land to the south of Williams Road (depicted in **Exhibit "A"** attached to and incorporated into this Resolution and referred to herein as the "Property"), currently owned by the Fountain Lakes Community Association, Inc. (the "Owner"), must be acquired; and

WHEREAS, while the Village's communications with the Owner have been cooperative, the Owner's governing documents limit the board of director's ability to willingly convey common area land absent a vote of all members unless in resolution of an eminent domain proceeding; and

WHEREAS, the Village's professional engineering staff have considered the availability of an alternate route, designs, costs, environmental factors, long-range area planning, and safety considerations related to the placement of the Project and the need for acquisition of the Property; and

WHEREAS, while staff considered alternatives which would not create the need for acquisition of the Property, since the Project has been designed to provide for adequate safe travel of both cars and larger trucks, and resolution of the safety issues requires use of a roundabout installation, alternatives are not realistic without compromising the integrity of the Project and decreasing the safety and effective traffic flow sought by the Project; and

WHEREAS, in light of the foregoing facts, and pursuant to the foregoing authorities, the Village Council finds that adoption of this Resolution is in the Village's best interests.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, THAT:

1. The Village Attorney is authorized to institute eminent domain to acquire the Property depicted in **Exhibit "A"** from the Owner where the Village and Property Owner are unable to mutually agree on terms of a voluntary sale after adoption of this Resolution but prior to filing of the eminent domain action.

2. This authorization is for the acquisition of the Property in fee.

3. The Village Manager and Village Attorney are authorized to conduct the mandatory pre-suit negotiation required by Florida Statutes § 73.015 prior to the institution of an eminent domain proceeding pursuant to this Resolution.

4. The Village Attorney is authorized to use the statutory procedures available to the Village which the Village Manager determines are in the Village's best interests, taking into account logistical and financial considerations.

5. Prior to the filing of the eminent domain action, the Village Manager or his designee shall provide notice of the action to the Florida Department of Environmental Protection as required by Florida Statutes § 373.023(3).

6. The Village Clerk shall work with the Village Attorney to ensure the notice of the condemnation will be placed in a newspaper published in Lee County as required by Florida Statutes § 73.031(2) or § 74.041(2).

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, provision or word of this Resolution is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Resolution shall not be affected by such invalidity, such that any remainder of the Resolution shall withstand any severed provision, as the Village Council would have adopted the Resolution even absent the invalid part.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon adoption.

DULY ADOPTED with a quorum present and voting this 9th day of September, 2026.

Joanne Ribble, Mayor

Attest:

Carol Sacco, CMC, Village Clerk

E.F. Gaines Surveying Services, Inc.
8481 Yorkshire Lane
Fort Myers, Florida 33919
239-822-4565 EFGaines.com

A

LEGAL DESCRIPTION
WILLIAMS ROAD & ATLANTIC GULF BLVD INTERSECTION IMPROVEMENTS
R/W PARCEL C

All that part of the northwest one-quarter (NW 1/4) of Section 4, Township 47 South, Range 25 East, Lee County Florida being more particularly described as follows:

COMMENCING at the south quarter corner of said Section 4, Township 47 South, Range 25 East, Lee County, Florida;
thence S.01°22'06"E., a distance of 30.00 feet to the south right-of-way line of Williams Road;
thence along said south right-of-way line S.88°33'43"W., a distance of 240.57 feet to the northeast corner of those lands described in Official Record Book 2472, Page 1646, Public Records of Lee County, Florida and the **POINT OF BEGINNING** of the Parcel herein described;
thence along the east line of said described lands S.04°51'48"W., a distance of 18.01 feet to a point on a curve;
thence southwesterly, a distance of 67.03 feet along the arc of a non-tangential curve to the left, having a radius of 148.00 feet, through a central angle of 25°56'55" and being subtended by a chord which bears S.55°53'34"W. for a distance of 66.46 feet; thence southwesterly, westerly and northwesterly, a distance of 121.67 feet along the arc of a reverse curve to the right, having a radius of 76.00 feet, through a central angle of 91°43'27" and being subtended by a chord which bears S.88°46'50"W. for a distance of 109.09 feet; thence northwesterly, a distance of 101.44 feet along the arc of a reverse curve to the left, having a radius of 150.00 feet, through a central angle of 38°44'56" and being subtended by a chord which bears N.64°43'55"W. for a distance of 99.52 feet; thence westerly, a distance of 72.43 feet along the arc of a compound curve to the left, having a radius of 566.00 feet, through a central angle 7°19'54" and being subtended by a chord which bears N.87°46'20"W. for a distance of 72.38 feet; thence S.88°33'43"W., a distance of 51.34 feet to the west line of the aforesaid described lands; thence along the west line of said described lands N.08°50'53"W., a distance of 4.03 feet to the said south right-of-way line of Williams Road; thence along said south right-of-way line N.88°33'43"E., a distance of 380.00 feet to the **POINT OF BEGINNING** of the herein described Parcel;

Containing 12,229 square feet or 0.281 acres, more or less.

Bearings are based on the north line of the northwest one-quarter (NW 1/4) of Section 4, Township 47 South, Range 25 East, Lee County, Florida being S.88°33'43"W.

Prepared by:

E.F. Gaines Surveying Services, Inc.
Florida License No. LB 7165

Elizabeth F. Gaines, PSM

Digitally signed by Elizabeth F. Gaines, PSM
Date: 2026.06.19 14:38:12 -04'00'

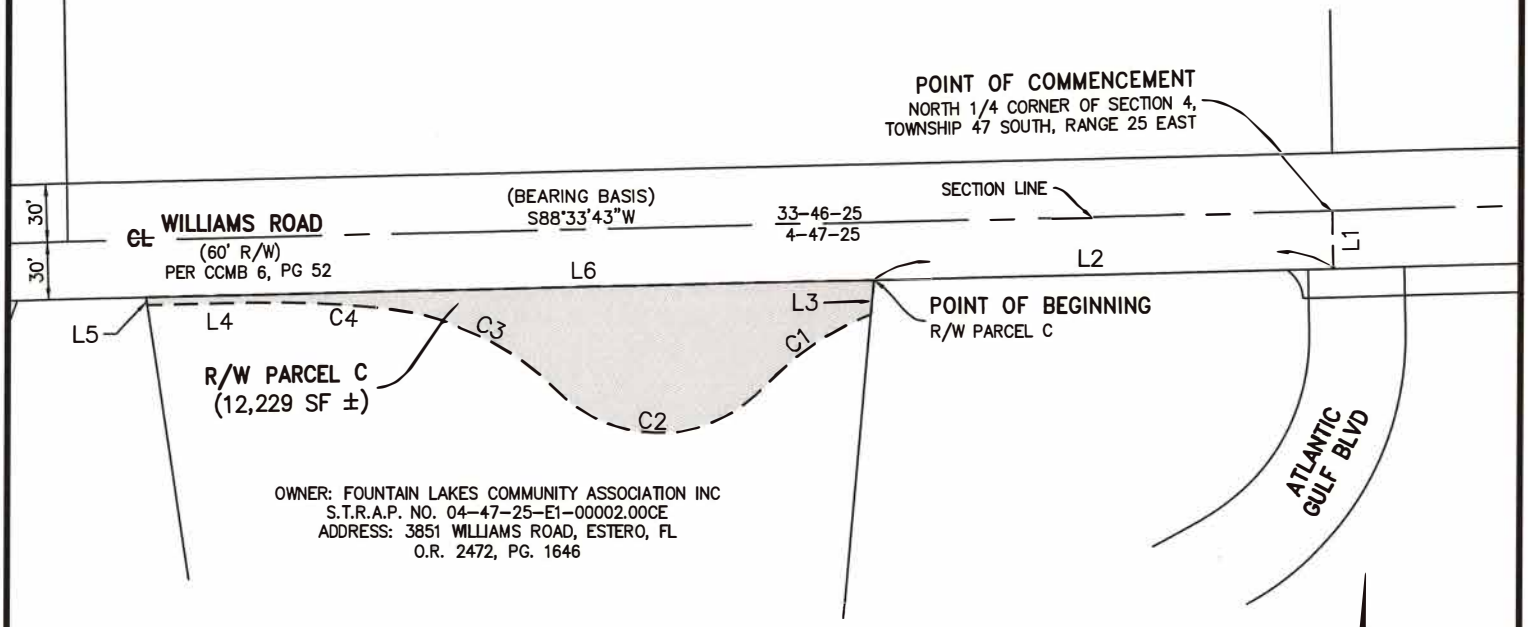
Elizabeth F. Gaines, PSM
Florida License No. LS 4576

Sketch: EFG Drawing No. 0858-006
Rev. 6/19/2026

NOTES:

1. DISTANCES ARE IN FEET AND DECIMALS THEREOF. BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST BEING S88°33'43"W.
2. THIS IS A SKETCH TO ACCOMPANY A LEGAL DESCRIPTION, THIS IS NOT A BOUNDARY SURVEY.
3. LANDS SHOWN HEREON ARE SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED, UNRECORDED, WRITTEN AND UNWRITTEN).

Parcel Line Table		
Line #	Length	Direction
L1	30.00	S1° 22' 06"E
L2	240.57	S88° 33' 43"W
L3	18.01	S4° 51' 48"W
L4	51.34	S88° 33' 43"W
L5	4.03	N8° 50' 53"W
L6	380.00	N88° 33' 43"E



OWNER: FOUNTAIN LAKES COMMUNITY ASSOCIATION INC
S.T.R.A.P. NO. 04-47-25-E1-00002.00CE
ADDRESS: 3851 WILLIAMS ROAD, ESTERO, FL
O.R. 2472, PG. 1646

Parcel Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	67.03	148.00	25° 56' 55"	S55° 53' 34"W	66.46
C2	121.67	76.00	91° 43' 27"	S88° 46' 50"W	109.09
C3	101.44	150.00	38° 44' 56"	N64° 43' 55"W	99.52
C4	72.43	566.00	7° 19' 54"	N87° 46' 20"W	72.38

1 inch = 100 feet

R/W PARCEL C

WILLIAMS ROAD & ATLANTIC GULF BLVD INTERSECTION IMPROVEMENTS

This is a sketch to accompany a legal description (see attached) of a parcel of land located in Section 4, Township 47 South, Range 25 East, Lee County, Florida

Elizabeth F. Gaines, PSM

Digitally signed by Elizabeth F. Gaines, PSM
Date: 2026.06.19 14:40:33 -04'00'

Not valid without the signature and raised seal or Adobe electronic signature of Elizabeth F. Gaines, PSM shown above

Issue Date: 7/14/2025
Rev 1: 6/19/2026
Drawn: EFG
Scale: 1"=100'
Project No.: 0858
CAD File: 0858-006
Sheet No. 1 of 1

E.F. Gaines Surveying Services, Inc.
FL License No. LB7165
8481 Yorkshire Lane
Fort Myers, Florida 33919
Phone: 239-822-4565
Web: EFGaines.com