

PROPOSED

RESOLUTION NO.

1 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND THE CLERK TO CERTIFY THE
3 MAINTENANCE MAP OF CYPRESS CREEK ROAD (NW 62ND STREET) EAST OF
4 THE INTERSECTION WITH POWERLINE ROAD (NW 9TH AVENUE), LOCATED IN
5 THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND FILE SAME
6 IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF BROWARD COUNTY,
7 IN ACCORDANCE WITH SECTION 95.361(3), FLORIDA STATUTES; AND PROVIDING
8 FOR SEVERABILITY AND AN EFFECTIVE DATE.

9
10 WHEREAS, Broward County constructed Cypress Creek Road (NW 62nd Street),
11 including the portion described in the Maintenance Map, attached hereto and
12 incorporated herein as Exhibit A (the "Right-of-Way"), and has maintained or repaired the
13 Right-of-Way continuously and uninterruptedly for at least four (4) years. The legal
14 description of the Right-of-Way is set forth in Exhibit A;

15 WHEREAS, Section 95.361, Florida Statutes, details the procedure for a local
16 government to claim a vested interest in a road to the extent of the width that has been
17 actually maintained;

18 WHEREAS, Section 95.361(1), Florida Statutes, provides that "[w]hen a road,
19 constructed by a county, a municipality, or the Department of Transportation, has been
20 maintained or repaired continuously and uninterruptedly for 4 years by the county,
21 municipality, or the Department of Transportation, jointly or severally, the road shall be

22 deemed to be dedicated to the public to the extent in width that has been actually
23 maintained for the prescribed period, whether or not the road has been formally
24 established as a public highway. The dedication shall vest all rights, title, easement, and
25 appurtenances in and to the road in . . . [t]he county, if it is a county road . . . whether or
26 not there is a record of a conveyance, dedication, or appropriation to the public use";

27 WHEREAS, the Right-of-Way consists of a sidewalk, curbing, gutter, and other
28 appurtenances of Cypress Creek Road (NW 62nd Street), a County road;

29 WHEREAS, Section 95.361(3), Florida Statutes, provides that the "filing of a map
30 in the office of the clerk of the circuit court of the county where the road is located showing
31 the lands and reciting on it that the road has vested in . . . a county . . . in accordance with
32 . . . subsection (1) [of Section 95.361] . . . duly certified by . . . [t]he chair and clerk of the
33 board of county commissioners of the county, if the road is a county road . . . shall be
34 prima facie evidence of ownership of the land by the . . . county"; and

35 WHEREAS, it is in the best interest of Broward County and to the benefit of its
36 residents that Broward County assert its ownership of the Right-of-Way pursuant to
37 Section 95.361(1), Florida Statutes, NOW, THEREFORE,

38 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
39 BROWARD COUNTY, FLORIDA:

40 Section 1. The above recitals are true and correct and are incorporated herein
41 as if set forth in full hereunder.

42 Section 2. The Mayor and the Clerk are authorized to certify and file the
43 Maintenance Map of the Right-of-Way, attached hereto as Exhibit A, in the office of the

Clerk of the Circuit Court of Broward County in accordance with Section 95.361, Florida Statutes.

Section 3. Severability.

If any portion of this Resolution is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Resolution. If any court determines that this Resolution, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Resolution to any other individual, group, entity, property, or circumstance.

Section 4. Effective Date.

This Resolution is effective upon adoption.

ADOPTED this day of , 2023. **PROPOSED**

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Al DiCalvo 11/13/2023
Al DiCalvo (date)
Senior Assistant County Attorney

By: /s/ Michael J. Kerr 11/13/2023
Michael J. Kerr (date)
Deputy County Attorney