

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: September 12, 2006

☒ Consent☐ Regular☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a settlement in the amount of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500.00), inclusive of attorney's fees and costs in the eminent domain action styled Palm Beach County v. Aliette St. Fleur And Moise Louis, Case No. 502006CA008279XXXXMB.

**Summary:** This is an eminent action in which the County is seeking to acquire Parcel 0130 for incorporation into the Cypress Creek Natural Area. The County has negotiated a proposed settlement in the amount of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500), subject to the approval of the Board of County Commissioners. This settlement is inclusive of attorney's fees and costs. District 1 (PGE)


**Background and Justification:** Parcel 0130 is one of 12 parcels which are part of an old recorded subdivision north of Indiantown Road and west of Jupiter Farms Road. The purpose of this acquisition as stated in Resolution No. 2006-1269 is for passive recreation, environmental education and scientific research, hydrologic/environmental restoration, use as a wildlife corridor, greenway, conservation area and natural area, and enhancement of local surface and groundwater quality and quantity. The Board previously approved a Budget Transfer of \$5,750,000 in the Conservation Lands Bond Fund for acquisition of the Cypress Creek parcels. This transfer represented the value of the land to be taken, improvements, and severance damages. The Board previously approved an offer prior to initiating eminent domain proceedings in the amount of Four Hundred Sixty Two Thousand Dollars (\$462,000) for this parcel. The property owners made a counter-offer for settlement in the amount of Five Hundred Forty-five Thousand Dollars (\$545,000), but will accept a compromise settlement of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500), subject to the approval of the Board of County Commissioners.

This proposed settlement is cost-effective in light of the expense and risk of seeking a judicial resolution through a jury trial. Therefore, it is recommended that this settlement be approved in the amount of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500).

**Attachments:**

1. Signed Joint Motion and Proposed Stipulated Order of Taking and Final Judgment

Recommended by:

  
 Department Director

Date

8/22/06

Approved by:

N/A

## **II. FISCAL IMPACT ANALYSIS**

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	<u>\$503,500</u>	—	—	—	—
Operating Costs	—	—	—	—	—
External Revenues	—	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
NET FISCAL IMPACT	<u>\$503,500</u>	—	—	—	—
# ADDITIONAL FTE POSITIONS (Cumulative)	—	—	—	—	—

**Is Item Included in Current Budget?** Yes X No     

**Budget Account No.:** Fund 3002 Department 381 Unit E406 Object 6101

Reporting Category\_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** \_\_\_\_\_

### III. REVIEW COMMENTS

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

8/23/06 OFMB 8/23/06

*[Signature]* 8/25/06  
Contract Dev. and Control

**B. Legal Sufficiency:**

Danella F. Eidellberg  
Assistant County Attorney

### C. Other Department Review:

Robt Blum 8/21/06  
Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

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IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR PALM  
BEACH COUNTY, FLORIDA

PALM BEACH COUNTY, a political  
subdivision of the State of Florida,  
Petitioner,

CASE NO. 502006CA008279XXXMB

v.

PARCEL NO: 00414036010200130

ALIETTE ST. FLEUR and MOISE LOUIS,  
Respondents.

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**STIPULATED ORDER OF TAKING AND FINAL JUDGMENT AS TO  
PARCEL NO. 00414036010200130 OWNED BY ALIETTE ST. FLEUR and MOISE LOUIS  
WITH DIRECTIONS FOR DISBURSEMENT BY THE CLERK**

THIS CAUSE having come before the Court on the Joint Motion by Petitioner, Palm Beach County, by and through its undersigned Assistant County Attorney, and Respondents, Aliette St. Fleur and Moise Louis, by and through J. Reeve Bright, Esq., 135 N.E. Fifth Avenue, Ste. 200, Delray Beach, FL 33483-4528, and the Court being fully advised in the premises, hereby finds and decides as follows:

1. The Court has jurisdiction over the subject matter of, and the parties to this cause.
2. The pleadings in this cause are sufficient, and Petitioner is properly exercising its delegated authority of eminent domain in furtherance of the acquisition of this property for the incorporation into the Cypress Creek Natural Area and to provide opportunities for passive recreation, environmental education and scientific research; use as a wildlife corridor, greenway, conservation area, natural area, and wetland preservation and restoration area; and the enhancement of local service and groundwater quality and quantity.
3. The estimate of value for the parcel set forth below and filed in this cause by Petitioner was made in good faith. The final agreement for full compensation to Respondent is based on an agreement of the parties.
4. The sum of money which represents Petitioner's good faith estimate of value for

the parcel taken is as follows:

Parcel No. 00414036010200130: \$503,500.00

5. Respondents, Aliette St. Fleur and Moise Louis, shall have and recover the total sum of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500.00), as full, just and final compensation to the Respondents for the taking of Parcel No. 00414036010200130, which sum includes all costs and reasonable attorneys fees and less estimated ad valorem and non-ad valorem taxes due on Parcel No. 00414036010200130.

6. Petitioner shall deposit the sum of Five Hundred Three Thousand, Five Hundred Dollars (\$503,500.00), plus One Hundred Fifty Dollars (\$150.00) as the fee for the Clerk of the Court, for a total amount of Five Hundred Three Thousand, Six Hundred Fifty Dollars and 00/00 Cents (\$503,650.00), into the Registry of the Court within twenty (20) days after entry of this Stipulated Order of Taking and Final Judgment.

7. Upon deposit by Petitioner into the Registry of the Court of the sums referenced herein, the fee simple title and possession to the property identified as Parcel No. 00414036010200130 and described in **Exhibit "A"** attached hereto shall vest in the Petitioner.

8. Upon deposit of the sums referenced herein, the Clerk of Court is directed to immediately disburse a portion of said sum in the amount of Five Hundred Three Thousand, Seventy Five Dollars and 18/00 (\$503,075.18), by check made payable to Bright Chimera & Associates Trust Account, Tax I.D. # 14-1935919, without any further Order of this Court.

9. The Clerk of Court is further directed to immediately disburse the sum of Four Hundred Twenty Four Dollars and 82/00 (\$424.82) to Peter H. Carney, Palm Beach County Tax Collector to satisfy all estimated ad valorem and non-ad valorem taxes due on Parcel No. 00414036010200130.

10. In the event of any overpayment, the Tax Collector shall remit the overpayment to Respondents, Aliette St. Fleur and Moise Louis, c/o Bright Chimera & Associates Trust Account,

in accordance with Florida law.

11. The sums paid to the Respondents includes all costs and attorneys fees and represents full and final compensation for the taking of Parcel No. 00414036010200130, and the Respondents will not seek any further monies from the Petitioner in this cause, except as specifically set forth herein.

12. The Court reserves jurisdiction to enforce the terms of this judgment and over the apportionment of any claims.

**DONE AND ORDERED** in Chambers this \_\_\_\_ day of September, 2006, in Palm Beach County, Florida.

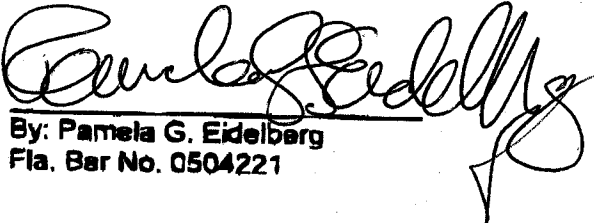
\_\_\_\_\_  
Honorable Jonathan D. Gerber  
Circuit Court Judge

**Copies forwarded to all parties on the attached service list.**

**JOINT MOTION**

Petitioner, Palm Beach County, and Respondents, Alette St. Fleur and Moise Louis, by and through the undersigned, hereby stipulate that they have resolved this case as described above, and move this Court for entry of the foregoing Stipulated Order of Taking and Final Judgment.

**PAMELA G. EIDELBERG, ESQ.**  
Assistant County Attorney  
Counsel for Petitioner  
301 N. Olive Avenue, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401-4791

  
By: Pamela G. Edelberg  
Fla. Bar No. 0504221

**J. REEVE BRIGHT, ESQ.**  
Bright Chimera & Associates  
Counsel for Respondents  
135 N.E. Fifth Avenue, Suite 200  
Delray Beach, FL 33483-4528

  
By: J. Reeve Bright  
Fla. Bar No. 322938

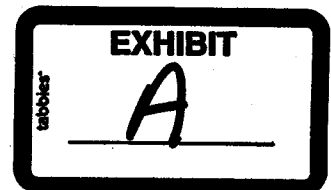
**LEGAL DESCRIPTION**

**PBC v. ST. FLEUR**  
**PARCEL NUMBER: 0130**

PCN 00414036010200130

**Legal Description:**

Lots M, N and O Tract 20, PHILO FARMS, a subdivision of Section 36,  
Township 40 South, Range 41 East, all as shown upon the Map of PHILO  
FARMS in Palm Beach County, Florida, which said map is recorded in the  
Office of the Clerk of the Circuit Court in and for Palm Beach County,  
Florida, in Plat Book 3, Page 11.



**PALM BEACH COUNTY v. ALIETTE ST. FLEUR**  
**Philo Farms Subdivision and the Cypress Creek Natural Area**  
**CASE NO. 502006CA008279XXXXMB**

**SERVICE LIST**

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**PARCEL 0130**

**Owned By:** Aliette St. Fleur and Moise Louis

**Serve:** J. Reeve Bright, Esq.  
135 S.E. Fifth Avenue, Ste. 200  
Delray Beach, FL 33483-4528

**Interested**

**Party:** Palm Beach County Tax Collector's Office

**Serve:** Palm Beach County Tax Collector's Office  
c/o Brian Hanlon, Esquire  
301 North Olive Avenue - 3rd Floor  
West Palm Beach, FL 33401

**Interested**

**Party:** Harbor Federal Savings Bank

**Serve:** Michael Brown, Sr., CEO  
100 S. 2<sup>nd</sup> Street  
Ft. Pierce, FL 34950

**Counsel for** Pamela G. Eidelberg  
**Petitioner:** Assistant County Attorney  
301 N. Olive Avenue, Suite 601  
West Palm Beach, FL 33401