

Agenda Item #:

5C-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: November 17, 2009

☐ 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 \$339,365, including attorney's fees and all reasonable expert fees and costs, for parcel 15 in the eminent domain action styled Palm Beach County v. Michael Martin, et al., Case No. 502005CA006339XXXMB, for the fee simple taking of five acres of vacant land in Indian Lake Estates.

Summary: The County has negotiated a settlement in the amount of \$339,365, including attorney's fees and reasonable expert fees and costs, subject to the approval of the Board of County Commissioners, for parcel 15, which is five acres of vacant land in the Indian Lake Estates subdivision. The experts for the County and property owner agree that the land is buildable and suitable for residential use subject to permitting. The experts for both parties agree that the required permits can be obtained upon payment of the necessary and related expenses. The County previously deposited \$225,000 as its initial good faith deposit and estimate of value. The property owner's appraiser opined that the value of the subject property was \$400,000. The settlement in this case, if approved, would compensate the property owners in the total amount of \$290,000, plus \$33,000 in attorney's fees and \$16,365 for all reasonable expert fees and costs. Therefore, payment of an additional \$114,365 would constitute full and final settlement of this case in its entirety, including all fees and costs. District 1 (PM)

Background and Justification: The County's initial appraisal in the amount of \$190,000 for parcel 15 was done approximately a year before the order of taking. The County's initial appraisal was updated to \$225,000 through the date of taking, November 3, 2006. As a result, the County's initial good faith of deposit was in the amount of \$225,000. The owner's appraiser appraised the subject parcel at \$400,000 through the date of taking. Therefore, in order to minimize the County's exposure to a higher jury verdict, additional interest, costs and attorney's fees, this settlement is recommended and very favorable to the County. The proposed settlement has been approved by the Department Director.

Attachments:

1. Proposed Stipulated Final Judgment.

Recommended by:


County Attorney

11/2/08
Date

Approved by:

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>\$114,365</u>	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT *	<u>\$114,365</u>	_____	_____	_____	_____
 # ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____

Budget Account No.: Fund 1226 Department 380 Unit E205 Object 6101

Reporting Category _____

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

C. Departmental Fiscal Review: _____ *JP*

* Total Fiscal Impact 339,365
Less court ordered deposit (225,000)
Net FY2010 Fiscal Impact 114,365

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature] *11/3/09*
OFMB *SN 11/3/09 CN 11/2/09*

[Signature] *11/5/09*
Contract Development and Control

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

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

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

Petitioner,

v

MICHAEL MARTIN, et al.,

Respondents.

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO: 502005CA006339XXXMB
DIVISION: AD

PARCEL: 15

**STIPULATED FINAL JUDGMENT AS TO PARCEL 15 OWNED
BY MICHAEL MARTIN AND MAGDALENA MARTIN**

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 Merry E. Lindberg, Esq., Attorney for the Respondents, Michael Martin and Magdalena Martin, 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. Respondents, Michael Martin and Magdalena Martin, shall have and recover the sum of **TWO HUNDRED NINETY THOUSAND DOLLARS AND 00/100 CENTS (\$290,000.00)**, as full, just and final compensation to the Respondents for the taking of Parcel 15, excluding attorney's fees and costs, subject to approval of the Palm Beach County Board of County Commissioners. There are no taxes due on Parcel 15.
3. Petitioner, Palm Beach County, having previously deposited the sum of **TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND 00/100 CENTS (\$225,000.00)** into the Registry of the Court pursuant to the Order of Taking entered on November 3, 2006, and the Respondents, Michael Martin and Magdalena Martin, having previously withdrawn and received this amount as partial payment toward the full compensation, less taxes paid to the Palm Beach County

Tax Collector in the amount of \$776.24. Therefore, the Petitioner is entitled to a credit in that amount (\$225,000) towards the final compensation

4. Petitioner, Palm Beach County, shall within thirty days (30) days from the date of entry of this Stipulated Final Judgment, issue a check in the amount of **SIXTY-FIVE THOUSAND DOLLARS AND 00/100 CENTS (\$65,000.00)**, made payable to **CHRISTINE D. HANLEY & ASSOCIATES, P.A., TRUST ACCOUNT**, and mail same c/o Merry E Lindberg, Esq , Christine D Hanley & Associates, P A , 1000 Southern Boulevard, 2nd Floor, West Palm Beach, Florida, 33405, representing the difference between the agreed upon compensation referenced in paragraph two and the amount previously deposited into the Registry of the Court and distributed for Parcel 15. Respondents' counsel shall make the appropriate disbursements.

5 The Respondents, Michael Martin and Magdalena Martin, shall also have and recover from Petitioner, Palm Beach County, attorney's fees in the amount of \$33,000.00, for monetary benefits calculated pursuant to Florida Law, and all reasonable expert fees and costs in the amount of \$16,365.00. Accordingly, Petitioner shall within thirty days (30) days from the date of entry this Stipulated Final Judgment, issue a check in the total amount of **FOURTY-NINE THOUSAND THREE HUNDRED SIXTY-FIVE DOLLARS AND 00/100 CENTS (\$49,365.00)**, made payable to **CHRISTINE D. HANLEY & ASSOCIATES, P.A., TRUST ACCOUNT**, and mail same c/o Merry E. Lindberg, Esq , Christine D Hanley & Associates, P A., 1000 Southern Boulevard, 2nd Floor, West Palm Beach, Florida, 33405.

6. Title to Parcel 15, as further described in **Exhibit "A"** attached hereto, which vested in the Petitioner pursuant to the Order of Taking and deposits previously made is hereby approved, ratified and confirmed.

7. The sums paid to the Respondents, Michael Martin and Magdalena Martin, represent full and final compensation for the taking of Parcel 15, and the Respondents will not seek any further monies from the Petitioner in this cause, except as specifically set forth herein

8. The Court reserves jurisdiction over supplemental proceedings, if any.

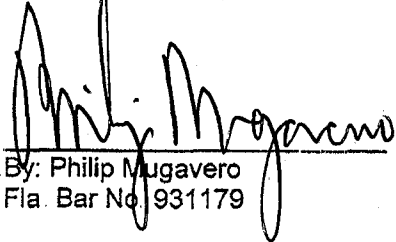
DONE AND ORDERED in chambers this ____ day of October, 2009, in West Palm Beach,
Palm Beach County, Florida.

Honorable David French
Circuit Judge

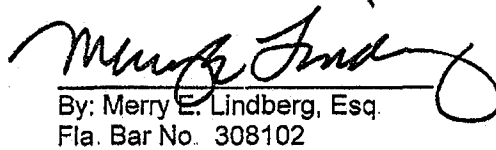
JOINT MOTION

Petitioner, Palm Beach County, and Merry E. Lindberg, Esquire, Attorney for the Respondents, Michael Martin and Magdalena Martin, hereby stipulate that they have resolved this case as described above, and move this Court for entry of the foregoing Stipulated Final Judgment.

PHILIP MUGAVERO, ESQ.
Assistant County Attorney
300 N. Dixie Hwy., Suite 359
West Palm Beach, FL 33401-4791


By: Philip Mugavero
Fla. Bar No. 931179

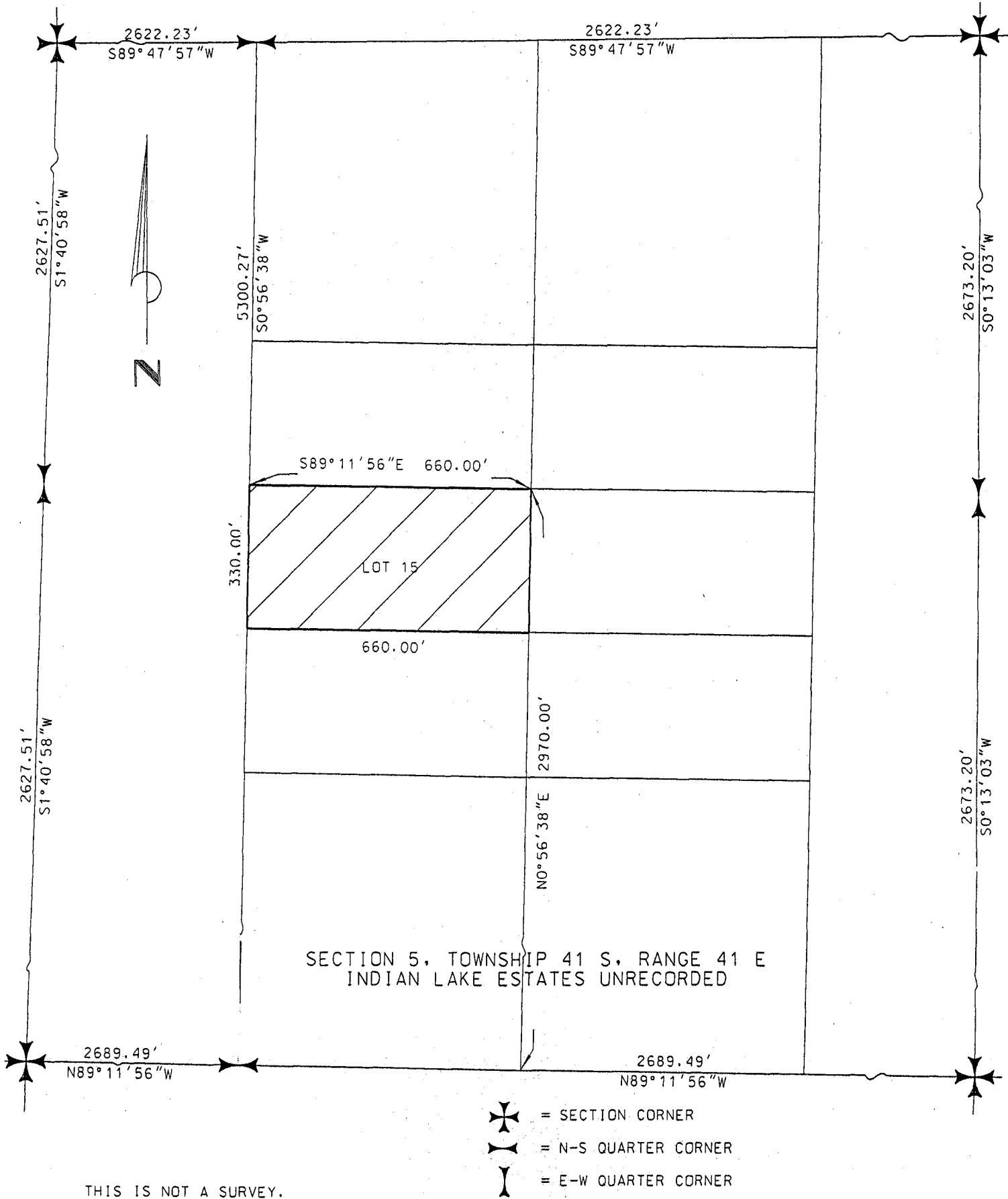
MERRY E. LINDBERG, ESQ.
Christine D. Hanley & Associates, P.A.
1000 Southern Blvd., 2nd Floor
West Palm Beach, Florida 33405


By: Merry E. Lindberg, Esq.
Fla. Bar No. 308102

Copies furnished to the parties listed above.

LEGAL DESCRIPTION

Lot 15 of the unrecorded plat of Indian Lake Estates and more particularly described as follows: The North 330.00 feet of the South 2970.00 feet of the West 660.00 feet of the East half of Section 5, Township 41 South, Range 41 East, Palm Beach County, Florida.



THIS IS NOT A SURVEY.

THIS INSTRUMENT PREPARED BY WILLIAM ETHERIDGE, P.L.S. FLORIDA CERTIFICATE NO. 3173
OFFICE OF THE COUNTY ENGINEER.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THE NORTH LINE OF SECTION 5 BEARS N89°47'57"E AND ALL BEARINGS ARE RELATIVE THERETO.

THE EASEMENTS SHOWN ON THE UNRECORDED PLAT ARE NOT SHOWN ON THIS SKETCH. *WCE Etheridge*

PROJECT: DESCRIPTION SKETCH PAL-MAR NATURAL AREA SECTION 5, TWP 41 S, RGE 41 E	DESIGN FILE NAME S-1-05-2275.DGN	DRAWING NO. S-1-05-2279	DATE 11/15/04	SCALE: 1"=300' APPROVED: WCE DRAWN: CAD CHECKED: NJH	NO.	REVISION	BY	DATE
			FIELD BOOK NO. NONE					

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS

EXHIBIT
A

PROJECT NO.
2005012-03

SHEET:
1 OF 1