Agenda Item #: 3D-4

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS <u>AGENDA ITEM SUMMARY</u>

Meeting Date: Department	August 18, 2015	[X] Consent [] Public Hearing	[] Regular
Submitted By:	COUNTY ATTORNEY		
Submitted For:			

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: the Release of Permanent Easement Rights as full settlement in the re-foreclosure case of <u>JPMorgan Chase Bank</u> <u>National Association vs. Francisco Macias, et al.</u>, Case No.: 502010CA017601XXXXMB.

Summary: This is a re-foreclosure case where the Plaintiff is attempting to foreclose Palm Beach County's (the "County") fee simple and easement interest off certain property located at 16701 E. Brighton Drive, Loxahatchee, Florida. The County prevailed as to its fee simple interest and has no need to spend public funds to defend or maintain its easement interest. If the Board approves this easement transfer and settlement, the County will not pay attorney's fees, costs, or transfer fees to the Plaintiff. <u>District 6</u> (PM)

Background and Justification: The County was inadvertently not named as a Defendant by the mortgagee bank in the original foreclosure case. The Plaintiff in this re-foreclosure case purchased the subject property after the foreclosure sale in the original foreclosure. In this case, the Plaintiff is attempting to "re-foreclose" the County's fee simple and easement interest off the property since the mortgagee bank had inadvertently not named the County as a Defendant in the original foreclosure. The County prevailed in this reforeclosure as to its fee simple interest and has no need to further defend this case as to its easement interest. The Plaintiff has requested the County to release its interest in the easement. The Engineering and Public Works Department has reviewed the request and determined the transfer would not be detrimental to the County. Therefore, the County Attorney's Office and the Engineering and Public Works Department recommend the transfer of the easement to the Plaintiff in this re-foreclosure as full and final settlement of this case. There is no need to expend additional public funds to continue maintenance, or be exposed to any liability due to ownership of the easement.

Attachments:

1. Location Map.

2. Release of Permanent Easement Rights.

Recommended by:	Mum	\$ 8/5	15
		Date	
Approved by:	NA		

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	<u>\$</u> -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	<u>\$0-</u>	-0-	-0-	-0-	-0-
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes No

Budget Acct No.: Fund___ Dept.___ Unit__ Object Program

Recommended Sources of Funds/Summary of Fiscal Impact:

The Department is responsible for the maintenance of County owned Rights of Way. This item has a negligible fiscal impact due to decreased maintenance costs which is indeterminable at this time. The easement was previously valued at \$12,002.

C. Departmental Fiscal Review:

III. <u>REVIEW COMMENTS</u>

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

B. Approved as to Form and Legal Sufficiency:

Åssistan Count ttorney

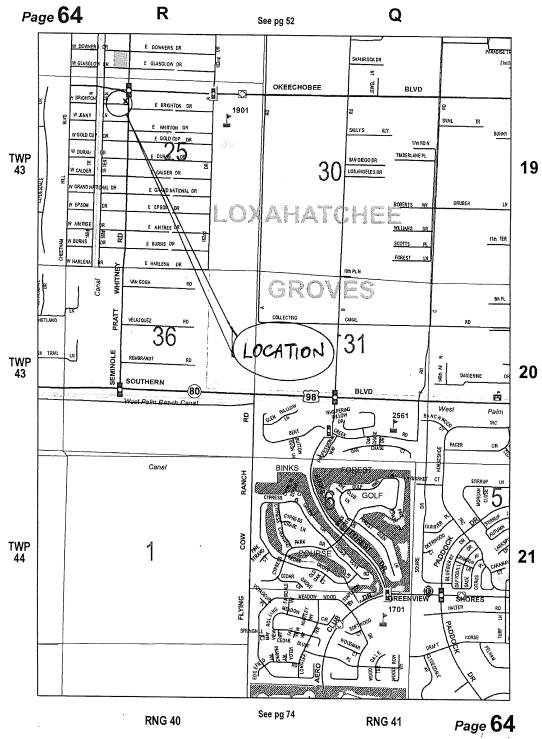
C. Other Department Review:

515 Conti and Control Æ Bucheela Lo -15

Department Director

This summary is not to be used as a basis for payment.

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WILL CALL 1066
Prepared by: Marlene R. Everitt, Esq., Assistant County Attorney
Return to: Right-of-Way Acquisition Section
Post Office Box 21229, West Palm Beach, FL 33416
Attention: Tripp Cioci
Account No.: 1010
A Portion of PCN: 00-40-43-25-00-000-3280

RELEASE OF PERMANENT EASEMENT RIGHTS

Whereas, on December 13, 2006, a permanent easement was conveyed to Palm Beach County by Franciso Macia and Daphne Macias, to be utilized for sloping the sides of an earth embankment associated with Seminole Pratt Whitney Road, which was recorded in Official Record Book 21191, Page 1908, Public Records of Palm Beach County, Florida; and,

Whereas, Nicholas Arsali, as Trustee, the successor in interest to the original grantor of the permanent easement, has requested a release of the permanent easement rights granted therein; and,

Whereas, the Palm Beach County Engineering Department staff has reviewed the request submitted by the current owner and made a field inspection of the property; and,

Whereas, Engineering Department staff has determined that release of the permanent easement referenced in Official Record Book 21191, Page 1908, and as described in Exhibit "A", will not adversely affect Seminole Pratt Whitney Road; and,

NOW, THEREFORE, in consideration of the recitals set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Palm Beach County does hereby release the Permanent Easement Rights as referenced in Official Record Book 21191, Page 1908 and as described in Exhibit "A", and made part hereof.

IN WITNESS WHEREOF, the Palm Beach County has caused this Release of Permanent Easement Rights to be executed on this _____ day of ______, 2015.

ATTEST:

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

SHARON R. BOCK, Clerk & Comptroller

By:

Deputy Clerk

APPROVED AS TO FORM AND LEGAL SHFFICIENCY: By: County Autorney BY ITS BOARD OF COUNTY COMMISSIONERS

By:___

Its Mayor (or Vice Mayor)

		Exhibit "A"	
	A PARCEL OF LAND IN SECTION 25, TOWNSI RANGE 40 EAST, MORE PARTICULARLY DESC COMMENCE AT THE INTERSECTION OF THE N 248.00 FEET OF THE NORTH 744.00 FEET O THE WEST RIGHT-OF-WAY OF SEMINOLE PRA RECORDED IN ROAD PLAT BOOK 4, PAGE 34 OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID NORTH LINE, N88'30'09 THE POINT OF BEGINNING; THENCE CONTINUE N88'30'09"W FOR 15.00 F THENCE S01'32'54"W FOR 208.01 FEET; THENCE N46'32'54"E FOR 21.21 FEET; THENCE N01'32'54"E FOR 193.02 FEET TO T	CRIBED AS FOLLOWS: NORTH LINE OF THE SOUTH DF SAID SECTION 25, WITH ATT WHITNEY ROAD, 4 OF THE PUBLIC RECORDS 9"W FOR 15.50 FEET TO FEET; THE POINT OF BEGINNING.	
	CONTAINING 3008 SQUARE FEET, MORE OR I	LESS.	
	BEARING BASIS: S01°32'54"W ALONG THE WE OF SEMINOLE PRATT WHITN		
P.O.C. – POINT R/W – RIGHT R.P.B. – ROAD O.R.B. – OFFICI D.B. – DEED B Q – CENTERLI	TIONS OF BEGINNING OF COMMENCEMENT -OF-WAY PLAT BOOK AL RECORD BOOK OK NE N TRAIL WATER CONTROL DISTRICT	OF THIS DOCUMENT, ARE NOT VAL GINAL SIGNATURE, AND THE ORIGI THE FLORIDA LICENSED SURVEYOR	ID NAL R AND
œ	PBC PROJECT #97511B	LEGAL DESCRIPTION	
PROFESSION CERTIFICATE 901 NORTHPOIN	WN & PHILLIPS, INC. NAL SURVEYING SERVICES OF AUTHORIZATION # LB 6473 NT PARKWAY, SUITE 305, W.P.B., FL 33407 88, (561) 615-3986 FAX	DRAWN: MDB PROJ. No. 99- CHECKED: JEP SCALE: NON DATE: 9/29/05 SHEET 1 OF SEMINOLE PRATT WHITNEY ROA EASEMENT 205	E2

