

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

Agenda Item # **3D-1**

AGENDA ITEM SUMMARY

Meeting Date: December 17, 2019 ☒ Consent ☐ Regular
Department: Engineering & Public Works ☐ Ordinance ☐ Public Hearing
Submitted By: County Attorney

I. EXECUTIVE BRIEF

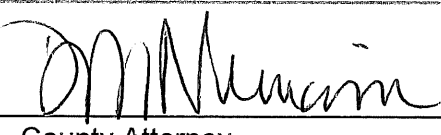
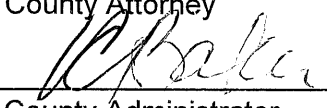
Motion and Title: Staff recommends motion to approve a settlement in the amount of \$770,000.00, including attorney's fees and all reasonable expert fees and costs for Parcels 1, 101, 201, and 301 in the eminent domain action styled Palm Beach County v. Evelyn Paray; et al., Case No. 502015CA001019XXXMB(AO), for the construction and improvement of Haverhill Road, from south of Lake Worth Drainage District L-14 Canal to Lake Worth Road, in Palm Beach County.

Summary: The County has negotiated settlement in the amount of \$770,000.00, including attorney's fees and reasonable expert fees and costs, subject to the approval of the Board of County Commissioners. The property acquired by the County includes 1.7 acres in fee simple, from a 4.025-acre property improved with a single family residence, as well as a permanent easement, and a temporary construction easement. The engineers and appraisers for the County and the property owners agree that the vacant area of the land is buildable and suitable for residential development. The County deposited \$251,510.00 in the court registry as its initial good faith deposit and estimate of value, dated March 19, 2014. In preparation for trial, the County updated its appraisal through the date of the taking, and the updated value was \$443,750.00. The property owner's appraisal through the date of taking for the subject parcels was \$971,580.00. The settlement in this case, if approved, would compensate the property owners in the total amount of \$660,000.00, plus \$100,656.70 in attorney's fees, and \$9,343.30 for all reasonable expert fees and costs. Therefore, payment of an additional \$518,490.00 would constitute full and final settlement of this case in its entirety, including all fees and costs. District 2 (DO)

Background and Justification: The County's initial appraisal in the amount of \$ 251,510.00 for Parcels 1, 101, 201, and 301 was done in March 2014, approximately two years before the order of taking in November 2016, and was the basis of the County's initial good faith deposit. A subsequent appraisal was obtained by the County for trial purposes and the County's updated appraisal reflected the value of the subject parcels acquired was \$443,750.00 through the date of the taking. The property owner's appraiser appraised the subject parcels at \$971,580.00 through the date of taking, which was a reduction from the initial counter-offer of \$2,000,000.00. Therefore, in order to minimize the County's exposure to a higher 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. Mediation Report / Settlement Agreement
2. Budget Availability Statement

Recommended By:  12/4/19
County Attorney Date
Approved By:  12/12/19
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	\$518,490.00				
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE					
POSITIONS (CUMULATIVE)	\$518,490.00				

Is Item included in current budget? Yes No

Does this Item include the use of federal funds? Yes No

Budget Account No.:
Fund 3504 Agency/Dept. 361 Organization/Unit 1325 Object 6120

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

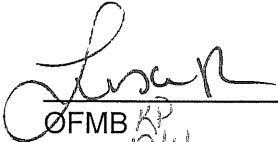
Road Impact Fee Fund – Zone 4
Haverhill Rd/S of LWDD L-14 Canal to Lake Worth Rd

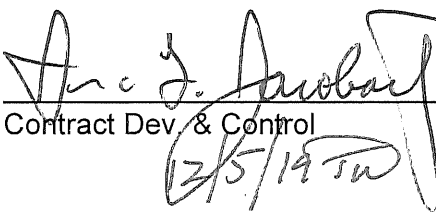
Settlement Eminent Domain Action \$518,490.00
Parcels 1, 101, 201, and 301

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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


OFMB 12/4/19
12/4


Contract Dev & Control 12/5/19
12/5/19 TW

B. Legal Sufficiency


Assistant County Attorney

C. Other Department Review

Department Director

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

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

Palm Beach County, a political subdivision
of the State of Florida,

Petitioner,

CASE NO. 502015CA001019XXXXMB

vs.

Parcel Nos.: 1, 101, 201 & 301

Evelyn Paray, et al.,

Respondents.

_____/

MEDIATION REPORT

A Mediation Conference was conducted pursuant to the Florida Rules of Civil Procedure on May 30, 2019, by Tony J. Rodriguez, Esquire, Certified Circuit Civil Mediator.

1. The following were present:
 - a) Attendees for the Petitioner were Morton Rose and Kathleen Farrell of the Palm Beach County Roadway Production Division; and Assistant County Attorneys MaryAnn Braun and Destinie Baker Sutton, Palm Beach County Attorneys Office.
 - b) Attendees on behalf of Respondents were Evelyn Paray, individually and on behalf of Lachtman Singh; Sam Paray; and John W. Little, Esquire, Gunster, Yoakley & Stewart, P.A.
2. The parties reached an agreement.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Mediation Report has been furnished on May 31, 2019 by email only to John W. Little, Esquire, jlittle@gunster.com, aalfaro@gunster.com Gunster, Yoakley & Stewart, P.A.

Respectfully Submitted

/s/ Tony J. Rodriguez

TONY J. RODRIGUEZ, ESQUIRE
Certified Circuit Civil Mediator
FBN 832820/Certified No. 15483
17500 North Bay Road #605
Sunny Isles Beach, Florida 33160
Ncc1956@gmail.com
305-323-0862

**INTEROFFICE COMMUNICATION
PALM BEACH COUNTY
BUDGET AVAILABILITY STATEMENT**

DATE: December 4, 2019

TO: Tripp D. Cioci, Manager
Right of Way Section
Attn: David Kuzmenko, Morton Rose

FROM: Alice Kovalainen, Fiscal Manager *af*
Administrative Services

RE: Haverhill Rd/S of LWDD L-14 Canal to Lake Worth Rd
Project # 2010503
Agenda Item
Settlement Eminent Domain Action \$518,490.00
Parcels 1, 101, 201, and 301

BOARD MEETING DATE: December 17, 2019

FISCAL IMPACT LOCATION: F:\COMMON\WP\AgendaPage2\20.043.ROW

FUNDING STATUS: FULLY FUNDED

Is Item Included in Current Budget?	Yes	X	No
Does this item include the use of federal funds?	Yes	No	X

Budget Account No:
Fund 3504 Dept 361 Unit 1325 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:
Road Impact Fee Fund - Zone 4
Haverhill Rd/S of LWDD L-14 Canal to Lake Worth Rd

Settlement Eminent Domain Action \$518,490.00
Parcels 1, 101, 201, and 301

Note: Funded by a non-board transfer of \$213,000 from FY2012,
and a \$400,000 transfer from FY 2016 Reserve for the project.

This BAS is valid for up to ninety days from its date of issuance.
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