

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	\$1,195,000	-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	\$1,195,000	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	-0-	-0-	-0-	-0-	-0-

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

Budget Account No:
 Fund 3501 Dept 361 Unit 0994 Object 6120



Settlement fee for Eminent Domain Case No
 502018CA013883, PBC v Diosdad J. Broche, et al. \$ 1,195,000.00
 Parcels 131 & 331

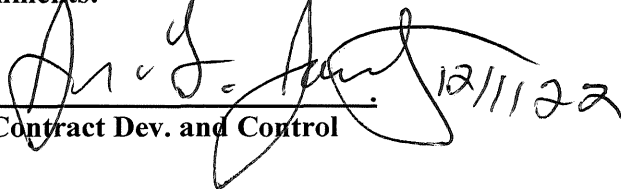
Note: Funds are available through the 5 Year Road Program to cover the \$1,195,000 settlement agreement. In the event that additional costs accrue over the \$1,195,000 or as worst case scenario of \$4,500,000 as described on page 3, it will be brought back to the Board of County Commissioners as an agenda item that includes the complete fiscal impact.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 12/1/22
 OFMB  12/1

 12/1/22
 Contract Dev. and Control

B. Approved as to Form and Legal Sufficiency:


 Assistant County Attorney

C. Other Department Review:


 Department Director

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

(Background and Justification Continued)

In the event of a trial, the County will be prepared to vigorously contest the Town's conclusion that there was a violation of the settlement agreement caused by the taking. The County will also argue that any alleged violation of the settlement agreement was cured when the County rebuilt a sufficient landscape berm several months later as part of its road project.


The County intervened in an injunction action the Town filed to enjoin the salvage yard use. However, the injunction action was dismissed by the Town after the owners agreed to cease the salvage yard use one year after the eminent domain case is concluded. The County has also prevailed in the eminent domain proceeding on several motions filed by the Owners in which they sought to severely limit the County's case. However, the Court denied the County's motion asserting that the Town's position was incorrect as a matter of law, regarding the settlement agreement. Therefore, it will be left to a jury to determine whether the Town's position is correct and therefore resulting in a change in the market value of the Owner's property caused by the County's acquisition.

There is a risk of a jury verdict that is adverse to the County. Under the worst case scenario, additional attorney's fees, and additional expert fees (which are discounted under the settlement but in the event of trial will increase), the County would be obligated to pay in excess of \$4,500,000 with interest accruing from January 31, 2019 (which is being waived under the settlement). A trial would also require the County's expenditure of additional professional fees.

This settlement is cost-effective in light of the expense and risk of a jury trial in this matter. Accordingly, outside counsel, the County Attorney's Office, and the Engineering Department recommend approval of this settlement in the total amount of \$1,195,000.

BUDGET AVAILABILITY STATEMENT

Eminent Domain Settlement

Requested By: Morton Rose, P.E. Morton Rose 

Request Date: 12/1/22

Project Name: Silver Beach Rd., E. of Congress Ave. to Old Dixie Hwy.

Project Number: 2003514

Statement of Scope of Services to be provided:

For settlement of Eminent Domain, Case No. 502018CA013883, PBC v. Diosdado J. Broche, et al.

RUSH: Agenda Item going to December 20, 2022.

<u>Invoice #</u>	<u>Amount</u>
Agenda Item	\$1,195,000.00

TOTAL COSTS: \$1,195,000.00

Budget Account Number:


FUND	DEPT.	UNIT	OBJECT
3501	361	0994	6120

Fiscal Note : Funded by a \$ 1,750,000 non-board transfer from FY 2018 Road Program Reserves to project.

Funds are available through the 5 Year Road Program to cover the \$1,195,000 settlement agreement. In the event that additional costs accrue over the \$1,195,000 or as worst case scenario of \$4,500,000 as described on page 3, it will be brought back to the Board of County Commissioners as an agenda item that includes the complete fiscal impact.

Return to David Ottey, County Attorney's Office c/o
Ashley Rodriguez, Legal Secretary

*****FISCAL APPROVAL *****

BAS Approved By:  _____ Date: 12/1/2022

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

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

Petitioner,

v.

CASE NO.: 502018CA013883

DIOSDADO J. BROCHE Et al.,

Parcels 131 and 331

Defendants,

JOINT MOTION AND STIPULATION FOR THE ENTRY OF STIPULATED FINAL
JUDGMENT AND ORDER AWARDING
ATTORNEY'S FEES, EXPERTS' FEES, AND COSTS

Comes now the Petitioner, Petitioner, Palm Beach County ("County"), and Defendants, DIOSADADO J. BROCHE and TRINIDAD BROCHE (collectively, the "Broches") and JB SALVAGE YARD, INC d/b/a THOUSANDS OF PARTS ("JB Salvage"), and respectfully stipulate to the entry of the Stipulated Final Judgment and Order Awarding Attorney's Fees, Expert Fees, and Costs attached hereto as Exhibit "1" and move for its entry. By executing below, counsel represent that they are authorized to enter into this stipulation and joint motion.

BARRY S. BALMUTH, P.A.

/s/ Barry S. Balmuth

BARRY S. BALMUTH, B.C.S.

Florida Bar No.: 868991

Counsel for Palm Beach County

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Palm Beach Gardens, Florida 33401

Florida Bar No. 0868991

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GRAY ROBINSON, P.A

/s/ MICHAEL J. TOMKIEWICZ

MICHAEL J. TOMKIEWICZ, ESQ.

Florida Bar No.: 73944

Counsel for Broches and JB Salvage

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Gino A. Luzietti, Esq.

Florida Bar No.: 310130

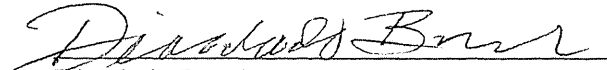
gino.luzietti@gray-robinson.com

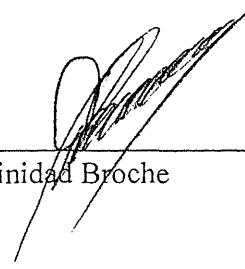
301 S. Bronough Street, Suite 600

Tallahassee, FL 32301

Telephone: (850) 577-9090

Agreed to by Diosdado J. Broche, on behalf of himself and as President of JB Salvage Yard, Inc.
d/b/a Thousands of Parts, and Trinidad Broche


Diosdado Broche


Trinidad Broche

CERTIFICATE OF SERVICE

I certify that the foregoing document has been served via email through Florida Court's E-filing portal to all counsel listed below on the Service List on this ____ day of _____, 2022.

/s/ Barry S. Balmuth
Barry S. Balmuth, B.C.S.

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EXHIBIT 1

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

**PALM BEACH COUNTY, a political
Subdivision of the State of Florida**

**Petitioner,
vs.**

CASE NO.: 502018CA013883

DIOSDADO J. BROCHE Et al.,

Parcels 131, 331

Defendants,

**STIPULATED FINAL JUDGMENT AND ORDER AWARDING
ATTORNEY'S FEES, EXPERTS' FEES, AND COSTS**

THIS CAUSE having come before the Court on the Joint Motion and Stipulation of the parties, Petitioner, Palm Beach County ("County"), and Defendants, DIOSDADO J. BROCHE and TRINIDAD BROCHE (collectively, the "Broches") and JB SALVAGE YARD, INC d/b/a THOUSANDS OF PARTS ("JB Salvage"), for the entry of this Stipulated Partial Final Judgment and Order Awarding Attorney's Fees, Experts' Fees, and Costs ("Final Judgment") and the Court being fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED as follows:

1. This is an eminent domain proceeding wherein, pursuant to that Stipulated Order of Taking as to Parcels 131 and 331 owned by Diosdado J. Broche and Trinidad Broche entered on January 31, 2019 ("Order of Taking") and the deposit of monies thereunder, County acquired fee simple title to the property designated as Parcel 131 and a temporary construction easement designated as Parcel 331. At the time of the acquisition of Parcels 131 and 331, the Broches were the owners of the property and JB Salvage was the lessee of the property.

2. Subject to apportionment, the Broches shall recover from County the sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$750,000.00) (inclusive of the amount previously deposited pursuant to the Order of Taking, SIXTY-FOUR THOUSAND FOUR HUNDRED SEVENTY DOLLARS AND NO CENTS (\$64,470.00)) for the taking of Parcels 131 and 331 and any improvements acquired, damages to the remaining property including damages to improvements and trade fixtures, costs to cure any damages, relocation costs, business damages, and any and all other damages which have been caused by, may have been caused by, or are related to the taking of Parcels 131 and 331 and the County's use of Parcels 131 and 331, any statutory interest, and for any other claims or counter claims which were brought or could have been brought by the Broches caused by or related to the taking of Parcels 131 and 331. exclusive of attorney's fees and expert fees and costs.

3. Within thirty (30) days of its receipt of a certified copy of this Final Judgment, County shall deposit SIX HUNDRED EIGHTY-FIVE THOUSAND FIVE HUNDRED THIRTY DOLLARS AND NO CENTS (\$685,530.00), representing the difference between the above recovery and the amount previously deposited pursuant to the Order of Taking, along with the fees of the Clerk of the Court in the amount of ONE HUNDRED SEVENTY DOLLARS AND NO CENTS (\$170.00) for a total of SIX HUNDRED EIGHTY-FIVE THOUSAND SEVEN HUNDRED DOLLARS AND NO CENTS (\$685,700.00).

4. On August 26, 2022, JB Salvage filed a Disclaimer of Interest disclaiming any interest in Parcels 131 and 331 and the condemnation proceeds from the taking of same. Accordingly, no portion of the above recovery shall be paid to JB Salvage and JB Salvage shall recover no compensation, including fees and costs, of any kind in this proceeding.

5. The Broches shall also recover from County the sum of ONE HUNDRED NINETY FIVE THOUSAND DOLLARS AND NO CENTS (\$195,000.00) as full and complete attorney's fees and legal costs and TWO HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$250,000.00) as full and complete expert fees and costs.

6. Within thirty (30) days of its receipt of a certified copy of this Final Judgment, County shall pay the sum of FOUR HUNDRED FORTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$445,000.00) representing the above-referenced attorney's fees and legal costs and expert fees and costs by making a check for this amount payable to the Trust Account of Gray Robinson, P.A. and mailing same to Michael J. Tomkiewicz, Esquire, Gray Robinson, P.A., 301 South Bronough Street, Suite 600, Tallahassee, FL 32301 for further disbursement.

7. With the exception of the above-referenced sums, there shall be no further compensation for or relating to the taking of Parcels 131 and 331 to be paid by County.

8. The Order of Taking is approved, ratified, and confirmed.

9. The Court shall retain jurisdiction to enforce the terms of this Stipulated Final Judgment and over the apportionment and disbursement of any compensation recovered hereunder.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this ____ day of _____, 20__.

Bradley Harper
Circuit Judge

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