

Meeting Date
August 9, 2016



AGENDA	
Section	CONSENT
Item No.	II D 4

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approve Stipulated Final Judgment in the amount of \$ 176,000.00 re: Brevard County v. Premier Investments Inc., et al, 05-2013-CA-71538, Parcel 102(Premier)
DEPT/OFFICE:	County Attorney's Office and Public Works Department Scott Knox, County Attorney and Eden Bentley, Deputy County Attorney Scott.knox@brevardcounty.us ; eden.bentley@brevardcounty.us John Denninghoff, Director Public Works, john.denninghoff@brevardcounty.us

Requested Action:

Approve Stipulated Final Judgment in the amount of \$176,000 less amount previously deposited for land value, expert witness fees, costs and attorney's fees.

Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels for the widening of Barnes Boulevard. Parcel 102 is the old Texaco gas station. The gas station has been demolished and numerous underground tanks were removed. The cost of trying this case is extremely high due to the need for additional expert witnesses. The property owner demanded payment of \$349,000 initially. This settlement represents a global settlement for valuation, fees and costs. Given the spread in valuation and the extremely high costs involved in trying this case, staff recommends settlement of all claims as presented.
 Fiscal Impact: \$81,000.00 (Settlement of \$176,000.00 less \$95,000.00 previously paid)
 Commission District: 4
 Fund Account/Cost Code: Fund 1163 Cost Center GL-265160/5610000

Clerk to the Board Instructions:

Exhibits Attached: Joint Motion and Stipulated Final Judgment (Parcel 102.2)

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager	Department Director / Extension Scott Knox, County Attorney/52090 John Denninghoff Public Works Director
Stockton Whitten	Assistant County Manager	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

August 10, 2016

MEMORANDUM

TO: John Denninghoff, Public Works Director

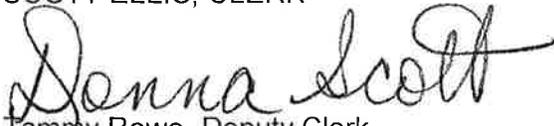
RE: Item II.D.4., Stipulated Final Judgment in the Amount of \$176,000.00, for Brevard County v. Premier Investments Inc., et al, 05-2013-CA-71538, Parcel 102

The Board of County Commissioners, in regular session on August 9, 2016, approved Stipulated Final Judgment in the amount of \$176,000, less amount previously deposited for land value, expert witness fees, costs, and attorney's fees.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for 
Tammy Rowe, Deputy Clerk

/cm

cc: Finance
Budget

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL
CIRCUIT, IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2013-CA-071538-XXXX-XX

BREVARD COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Petitioner,

v.

PREMIER INVESTMENTS, INC.; et al.

Respondents/Defendants.

**JOINT MOTION AND
STIPULATED FINAL JUDGMENT FOR PARCEL 102 PREMIER INVESTMENTS, INC**

THIS CAUSE having come on upon joint motion for the entry of a Final Judgment made by the Petitioner, BREVARD COUNTY, FLORIDA, and the Respondent PREMIER INVESTMENTS, INC. set forth hereinbelow; and it appearing to the Court that the parties were authorized to enter into such motion; and the Court finding that the taking is necessary for a public purpose and that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, it is hereby

ORDERED and ADJUDGED that the Respondent, PREMIER INVESTMENTS, INC, does have and recover of and from the Petitioner the sum of One Hundred Seventy Six Thousand Dollars (\$ 176,000.00) for Parcel 102 (less the \$95,0000 previously paid) in full payment for the property taken and for damages resulting to the remainder if less than the entire property was taken and for all other damages of any nature arising from the taking, including full payment of all expert witness fees, costs and attorney's fees. It is further,

ORDERED that upon entry of this Final Judgment, the Petitioner shall deposit the additional sum of Eighty One Thousand Dollars (\$81,000.00) for Parcel 102 into the Registry of the Court for payment to Respondent, PREMIER INVESTMENTS, INC., Ninety Five Thousand Dollars (\$95,000.00) having been paid previously. In addition, it is

ORDERED and DIRECTED that the Clerk of this Court, from the monies deposited by the Petitioner in this cause, shall immediately pay to the Lowndes, Drosdick, Doster, Kantor & Reed, P.A. Trust Account, on behalf of Respondent, the sum of Eighty One Thousand Dollars (\$81,000.00) and mail such check to Brendan Lynch, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., P.O. Box 2809, Orlando, Florida 32802 for payment to the Respondent. It is further

ORDERED and ADJUDGED that title to the following described property, to-wit:

See Exhibit "A" attached hereto and incorporated herein which vested in the Petitioner pursuant to the Order of Taking and deposit of money heretofore made, is approved, ratified, and confirmed.

DONE and ORDERED in Chambers in Viera, Brevard County, Florida, this _____ day of _____, 2016.

Circuit Court Judge

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing Stipulated Final Judgment has been furnished by U. S. Mail to Brendan Lynch, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., P.O. Box 2809, Orlando, Florida 32802 and Eden Bentley, Deputy County Attorney, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida, 32940, this _____ day of _____, 2016.

Judicial Assistant

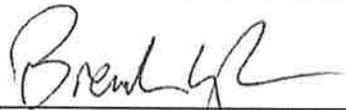
JOINT MOTION

The parties, by and through the undersigned, respectfully move for the entry of the foregoing Stipulated Final Judgment as to Parcel 102 this _____ day of _____, 2016.

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way,
Building C
Viera, FL 32940
(321) 633-2090

By: _____
Eden Bentley
Deputy County Attorney
Florida Bar No. 370908

PREMIER INVESTMENTS, INC.



Brendan Lynch, Attorney for Respondent Premier Investments, Inc.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
P.O. Box 2809
Orlando, Florida 32802
Florida Bar No. 48124

Exhibit "A"

Description: Parcel 102

A parcel of land lying in the Northeast $\frac{1}{4}$ of Section 20 and the Northwest $\frac{1}{4}$ of Section 21, both of Township 25 South, Range 36 East, also being those lands as described in OR Book 5282 Page 0050 of the Public Records of Brevard County, Florida; said subject parcel being more fully described as follows:

Commence at the northwest corner of said Northwest $\frac{1}{4}$ as monumented by a concrete monument stamped "Paxton" as shown on Florida Department of Environmental Protection Certified Corner Record ("C.C.R.") Document No. 00020078; thence S.01 degrees 15'43"E., along the west line of said Northwest $\frac{1}{4}$, a distance of 2620.75 feet to a point on the north line of the 100.00 foot wide right-of-way of Barnes Boulevard as recorded in OR Book 0139 Page 0585 of said Public Records, said point lying N.01 degrees 15'43"W and 36.72 feet from the southwest corner of said Northwest $\frac{1}{4}$ as monumented by a nail and washer in pavement over a concrete monument stamped "Paxton" as shown on C.C.R. Document No. 0027674 and being the Point-of-Beginning of the lands herein described; thence S.89 degrees 54'42"W., along said north right-of-way line, a distance of 26.01 feet to the west line of said lands per OR Book 5282 Page 0050; thence departing said north right-of-way line, N.01 degrees 15'43"W. along said west line and parallel with said west line of the Northwest $\frac{1}{4}$ a distance of 132.00 feet to the north line of said lands per OR Book 5282 Page 0050; thence departing said west line, N.89 degrees 54'42" E., along said north line, a distance of 158.01 feet to the east line of said lands per OR Book 5282 Page 0050; thence S.01 degrees 15'43" E., along said east line and parallel with said west line of the Northwest $\frac{1}{4}$, a distance of 132.00 feet to said north right-of-way line; thence departing said east line, S.89 degrees 54'42" W., along said north right-of-way line, a distance of 132.00 feet to the Point-of-Beginning.

Containing 0.48 acres (20,852 square feet) more or less, and being subject to any restrictions, covenants, easements and/or rights-of-way of record