

**Add On**

Meeting Date
<b>March 7, 2017</b>



AGENDA	
Section	<b>New Business</b>
Item No.	<b>VI D 1</b>

**AGENDA REPORT**  
*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

SUBJECT:	Approve Stipulated Partial Final Judgment for engineering fees and construction estimation fees in the case of Brevard County vs. BWest (Tradewinds Plaza, LLC and Meadowbrook, LLC)
DEPT/OFFICE:	County Attorney's Office/ Public Works Department Contact Person, Scott L. Knox, County Attorney and Eden Bentley, Deputy County Attorney Telephone: (321) 633-2090; Email – <a href="mailto:scott.knox@brevardcounty.us">scott.knox@brevardcounty.us</a> and <a href="mailto:eden.bentley@brevardcounty.us">eden.bentley@brevardcounty.us</a>

Requested Action:

Approve Stipulated Partial Final Judgment regarding engineering fees and construction estimation fees for the Barnes Boulevard widening project, specifically addressing engineering fees incurred by Tradewinds Plaza, LLC and Meadowbrook, LLC.

Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels along Barnes Boulevard. Parcels were taken from Tradewinds Plaza, LLC and Meadowbrook, LLC. The value and damage portions of those cases have settled. The County has received invoices from the property owners' engineer, MEI Civil, Inc. and has approved payment of the engineer for both property owners in the total amount of \$27,500.00 in a private attorney client session. In addition, payment of \$1,951.25 was authorized for construction estimation services at the same session.

Fiscal Impact: Commission District: 4 (\$27,500.00 engineering fees and \$1,951.25 for construction estimation)  
Fund/Account/Cost Code: 1163/265160

Clerk to the Board instruction:

Exhibits Attached: Proposed Motion and Stipulated Final Judgment

Contract /Agreement (If attached):		Reviewed by County	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
County Manager's Office		Department	County Attorney/ Public Works		PR	<input type="checkbox"/>
Stockton Whitten, County Manager		Scott L. Knox, County Attorney				



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

March 8, 2017

**M E M O R A N D U M**

**TO:** Scott Knox, County Attorney Attn: Eden Bentley

**RE:** Item VI.D.1., Stipulated Partial Final Judgment for Engineering Fees and Construction Estimation Fees in the Case of Brevard County v. B West Townhouses (Tradewinds Plaza, LLC and Meadowbrook, LLC)

The Board of County Commissioners, in regular session on March 7, 2017, approved Stipulated Partial Final Judgment regarding engineering fees and construction estimation fees for the Barnes Boulevard Widening Project, specifically addressing engineering fees incurred by Tradewinds Plaza, LLC and Meadowbrook, LLC.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

**cc:** Public Works Director  
Finance  
Budget

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

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

CASE NO.: 05-2013-CA-025677  
Parcels 115, 731, 117, 828, 706  
Tradewinds and Meadowbrook

Petitioner,

v.

B WEST TOWNHOUSES, et al,  
Respondents/Defendants.

**STIPULATED PARTIAL FINAL JUDGMENT AS TO EXPERT WITNESS FEES AND  
COSTS FOR ENGINEERING SERVICES AND CONSTRUCTION ESTIMATION  
SERVICES AS TO PARCELS 115, 731, 117, 828, AND 706, WITH JOINT MOTION**

THIS CAUSE having come on for consideration upon the Joint Motion for Entry of Final Judgment as to Expert Witness Fees and Costs by Petitioner, BREVARD COUNTY, FLORIDA ("Petitioner"), and Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC ("Respondents"), as the former fee owner of Parcels 115, 731, 117, 828, and 706, and it appearing to the Court that the parties have reached a stipulation as to engineering expert witness fees and construction estimation fees were authorized to enter into such stipulation as to engineering fees, and the Court being otherwise fully advised in the premises, it is now, therefore

**ORDERED AND ADJUDGED** as follows:

1. Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC, pursuant to §73.091, Florida Statutes, shall have and recover from the Petitioner the sum of Twenty-seven Thousand Five Hundred Dollars and No Cents (\$27,500.00) for the claims of MEI Civil.

2. Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC, pursuant to §73.091, Florida Statutes, shall have and recover from the Petitioner the sum of

Twenty-seven Thousand Five Hundred Dollars and No Cents (\$1,951.25) for the claims of Ovation Construction, Inc.

3. Upon entry of this Stipulated Final Judgment as to Expert Witness Fees and Costs, the Petitioner shall, within thirty (30) days, pay to Gray Robinson, Trust Account, Twenty-seven Thousand Five Hundred Dollars and No Cents (\$29,451.25). Petitioner shall mail said check to: Jack Kirschenbaum, Esquire, Gray Robinson PA, P.O. Box 1870, Melbourne, FL, 32902-1870.

4. Upon payment of the amounts stated herein, Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC, shall have no further claims against Petitioner for expert witness fees for engineering services and construction services associated with this action.

5. The court reserves jurisdiction to address the claims of Calhoun, Dreggors and Associates, Inc. for appraisal services. The court further reserves jurisdiction to address claims for attorney's fees, if any are authorized by statute, for litigating the amount of the fees for appraisal services.

6. **DONE AND ORDERED** in Chambers at Titusville, Brevard County, Florida, this \_\_\_\_ day of March, 2017.

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JOHN M. HARRIS  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this \_\_\_\_ date of \_\_\_\_\_, 2017, by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorneys/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.

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Judicial Assistant

**JOINT MOTION FOR ENTRY OF STIPULATED FINAL JUDGMENT AS TO EXPERT WITNESS FEES AND COSTS AS TO PARCELS 115, 731, 117, 828, AND 706.**

Petitioner, BREVARD COUNTY, FLORIDA, and Defendants, TRADEWINDS PLAZA, LLC, and MEADOWBROOK, LLC by and through their undersigned counsel, respectfully move for entry of the foregoing Stipulated Final Judgment as to Expert Witness Fees and Costs as to Parcels 115, 731, 117, 828, and 706,. The undersigned are authorized to enter into this Motion.

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Attorney for Petitioner, Brevard County,  
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Attorneys for Respondents, Meadowbrook, LLC  
and Tradewinds Plaza, LLC

Dated \_\_\_\_\_, 2017

Dated: \_\_\_\_\_, 2017