

Meeting Date
<b>August 18, 2015</b>



AGENDA	
Section	CONSENT
Item No.	II.D.8

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

SUBJECT:	Approve Partial Stipulated Final Judgment as to Expert Witness Fees and Costs re: Brevard County v. Walter E. Platt, et al, 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)
DEPT/OFFICE:	County Attorney's Office and Public Works Department Scott Knox, County Attorney and Eden Bentley, Deputy County Attorney <u>Scott.knox@brevardcounty.us; eden.bentley@brevardcounty.us</u> John Denninghoff, Director Public Works, <u>john.denninghoff@brevardcounty.us</u>

Requested Action:  
 Approve Stipulated Partial Final Judgment for Expert Fees and Costs in the amount of \$4,972.00.

Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels for the southern segment of the St. Johns Heritage Parkway Project.

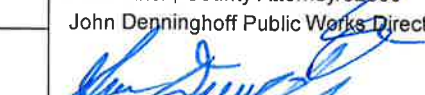
On May 12, 2015, the Board of County Commissioners met in an attorney-client private meeting and authorized an offer of judgment to the owners of Parcel 102.2, Rhonda and Richard Hammer. The Hammers accepted the offer and the stipulated final judgment was entered.

Expert witness fees and costs were not included in the offer of judgment and the majority of those issues are addressed by this proposed stipulation. The reasonable costs of the eminent domain case incurred by the property owner are required to be paid by the County per the statute. In this case, the appraisal fees appeared to be excessive and the appraiser is not included in this stipulation. While the engineering and other expert fees were not low, they did not appear to be outside the normal market range. Further, the experts agreed to reduce their fees from 10 to 20%. The stipulation provides for payment of expert witnesses and other costs in the amount of \$4,972.00 (Allen Engineering, Inc., \$2,287.50, Rahenkamp Design Group, Inc., \$1,772.50, and Tipton and Associates, Inc. \$912.00).

Fiscal Impact: \$4,972.00  
 Commission District: 5  
 Fund Account/Cost Code: Fund 1700/344928/5610000 FDOT Grant

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	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager		Department Director / Extension			Scott Knox, County Attorney/52090		
Stockton Whitten	Assistant County Manager		John Denninghoff Public Works Director					



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972

August 19, 2015

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item II.D.8., Partial Stipulated Final Judgment as to Expert Witness Fees and Costs for Brevard County v. Walter E. Platt, et al 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)

The Board of County Commissioners, in regular session on August 18, 2015, approved the Stipulated Partial Final Judgment for Expert Witness Fees and Costs in the amount of \$4,972 in Brevard County v. Walter E. Platt, et al 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda).

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/ds

cc: County Manager  
Deputy County Attorney Bentley  
Public Works Director  
Finance  
Budget

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

CASE NO. 05-2013-CA-072132-XXXX-XX

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

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,  
HUSBAND AND WIFE AS TO A LIFE ESTATE AND  
WALTER E. PLATT AND CARLYN P. PLATT AS  
TRUSTEES OF THE WALTER E. PLATT AND  
CARLYN P. PLATT TRUST AGREEMENT DATED  
NOVEMBER 9, 1999; RICHARD M. HAMMER;  
RHONDA J. HAMMER; DOUGLAS W. HARRISON,  
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,  
Brevard County Tax Collector, and ALL PARTIES  
CLAIMING INTEREST BY, THROUGH, UNDER OR  
AGAINST THE NAMED DEFENDANTS; and if any of  
the Defendants or all Defendants are deceased, THE  
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEES,  
CREDITORS, LIENORS, OR OTHER PARTIES  
CLAIMING BY, THROUGH, UNDER, OR AGAINST  
ANY SUCH DECEASED DEFENDANT OR  
DEFENDANTS IF ALIVE AND IF DEAD THEIR  
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,  
GRANTEES, CREDITORS, LIENORS, OR OTHER  
PARTIES CLAIMING BY, THROUGH, UNDER OR  
AGAINST ANY SUCH DECEASED DEFENDANT OR  
DEFENDANTS,

Respondents/Defendants.

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**JOINT MOTION FOR STIPULATED PARTIAL FINAL JUDGMENT**  
**AS TO COSTS**

The Petitioner, BREVARD COUNTY, FLORIDA and the Respondents, RICHARD M.  
HAMMER and RHONDA J. HAMMER, by and through the undersigned counsel, respectfully  
move for the entry of the attached Stipulated Partial Final Judgment as to Costs for Parcel 102.2  
on this \_\_\_\_\_ day of July, 2015.

GRAY|ROBINSON, P.A.  
1795 West NASA Boulevard  
P. O. Box 1870  
Melbourne, Florida 32901  
Telephone: 321.727-8100  
Facsimile: 321.984-4122  
Jack.kirschenbaum@gray-robinson.com

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Jack A. Kirschenbaum, Esq.  
Florida Bar No. 250759

Attorney for Respondents Richard C. Hammer  
and Rhonda J. Hammer

OFFICE OF THE COUNTY ATTORNEY  
2725 Judge Fran Jamieson Way  
Building C - Suite 308  
Viera, Florida 32940  
Telephone: 321.633.2090  
Facsimile: 321.633.2096  
Eden.bentley@brevardcounty.us

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Eden Bentley, Deputy County Attorney  
Florida Bar No. 370908

Attorney for Petitioner Brevard County

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

CASE NO. 05-2013-CA-072132-XXXX-XX

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

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,  
HUSBAND AND WIFE AS TO A LIFE ESTATE AND  
WALTER E. PLATT AND CARLYN P. PLATT AS  
TRUSTEES OF THE WALTER E. PLATT AND  
CARLYN P. PLATT TRUST AGREEMENT DATED  
NOVEMBER 9, 1999; RICHARD M. HAMMER;  
RHONDA J. HAMMER; DOUGLAS W. HARRISON,  
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,  
Brevard County Tax Collector, and ALL PARTIES  
CLAIMING INTEREST BY, THROUGH, UNDER OR  
AGAINST THE NAMED DEFENDANTS; and if any of  
the Defendants or all Defendants are deceased, THE  
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEEES,  
CREDITORS, LIENORS, OR OTHER PARTIES  
CLAIMING BY, THROUGH, UNDER, OR AGAINST  
ANY SUCH DECEASED DEFENDANT OR  
DEFENDANTS IF ALIVE AND IF DEAD THEIR  
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,  
GRANTEEES, CREDITORS, LIENORS, OR OTHER  
PARTIES CLAIMING BY, THROUGH, UNDER OR  
AGAINST ANY SUCH DECEASED DEFENDANT OR  
DEFENDANTS,

Respondents/Defendants.

**STIPULATED PARTIAL FINAL JUDGMENT**  
**AS TO COSTS**

THIS CAUSE having come on upon joint motion for the entry of a Stipulated Partial Final Judgment as to Attorney Fees and Costs made by the Petitioner, BREVARD COUNTY, FLORIDA, and Respondents RICHARD M. HAMMER, RHONDA J. HAMMER, 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 Stipulated Order of Taking for Parcels 102.1 and 102.2 entered February 13, 2014, and recorded in Official Records Book 7107 at Page 105 on April 16, 2014, in the Official Records of Brevard County, Florida, vested in the Petitioner. Subsequently, on June 12, 2015, Respondents Richard M. Hammer and Rhonda Hammer accepted the Offer of Judgment as to Parcel 102.2.

ORDERED and ADJUDGED that the Respondents, RICHARD M. HAMMER, RHONDA J. HAMMER, shall have and recover from the Petitioner the sum of Four Thousand Nine Hundred Seventy Two Dollars and No Cents (\$4,972.00) in full payment for the expert witness fees and costs for Parcel 102.2 with the exception of the payment to the appraiser, Richard Dreggors, of the firm Calhoun, Dreggors and Associates, Inc.

ORDERED, that upon payment of the monies and satisfaction of the obligations described herein, the Respondents, RHONDA J. HAMMER shall have no further claims of any nature against the Petitioner, BREVARD COUNTY, FLORIDA, as a result of this action except for the payment to the appraiser Richard Dreggors of the firm of Calhoun, Dreggors and Associates, Inc. .

ORDERED that upon entry of this Stipulated Partial Final Judgment as to Costs, the Petitioner shall pay Four Thousand Nine Hundred Seventy Two Dollars and No Cents (\$4,972.00) to Gray|Robinson, P.A. c/o Jack A. Kirschenbaum, Esq., the sum of and mail such check to: Gray|Robinson, P.A., P.O. Box 1870, Melbourne, Florida 32901-1870 for proper disbursement on behalf of Respondents, RICHARD M. HAMMER and RHONDA J. HAMMER to the experts Allen Engineering, Inc. \$2,287.50; Rahenkamp Engineering Inc. \$1,772.50 and \$912 to Tipton and Associates, Inc.

ORDERED AND ADJUDGED that the court specifically reserves jurisdiction to address and award an expert witness fee to Richard Dreggors of Calhoun, Dreggors and Associates, Inc.

ORDERED AND ADJUDGED FURTHER upon receipt of the monies referenced above, RICHARD M. HAMMER, RHONDA J. HAMMER shall file a Satisfaction of Judgment in this cause.

DONE AND ORDERED in Chambers at the Harry T. & Harriette V. Moore Justice Center, Viera, Brevard County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
George W. Maxwell  
Circuit Judge

I hereby certify that a conformed copy of the above has been furnished by U.S. Mail to Jack A. Kirschenbaum, Esq., P. O. Box 1870, Melbourne, Florida 32902 and Eden Bentley, Deputy County Attorney, Brevard County Attorney Office MS #89, 2725 Judge Fran Jamieson Way, C-308, Viera, FL 32940, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Judicial Assistant