

## MEMORANDUM

TO: The Board of County Commissioners

THROUGH/From: Richard B. Szyrka, P.E., Public Works Director

DATE: September 1, 2021

SUBJECT: Acquisition of Right-Of-Way from Leonardo and Maria Mandina for Phase II of 66th Avenue Improvements - 69<sup>th</sup> Street west of 66<sup>th</sup> Avenue, Parcel 316

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Leonardo and Maria Mandina (the Mandinas) are the owners of a 9.85 acre improved ranchette home site on the north side of 69<sup>th</sup> Street, lying west of 66<sup>th</sup> Avenue as shown below as *Figure 1*.



*Figure 1. Mandina property aerial photo*

The parcel is zoned A-1, Agricultural up to one residential unit per five acres and lies outside of the Urban Services Boundary. This property is rectangular in shape with 330 feet of frontage along 69<sup>th</sup> street and is 1,300 feet deep. The County needs to acquire approximately 0.53 acres from the Mandinas consisting of the south 70 feet of the parent tract. There are improvements located within the area of take consisting of:

- 261 feet of 3 panel wood fence
- bordering plants and palms adjacent to the fence
- 3 live oak trees

- a decorative custom east fence gate
- concrete circular driveway with connections to the street
- a decorative fountain in the middle of the circular drive
- irrigation equipment, mulch, and drainage improvements

Please see the sketch and legal description attached to the Agreement that is included with this memorandum. The County's appraisal for Parcel 316 was performed by Armfield & Wagner. The appraisal assigned value as follows of \$140,100. A copy of the appraisal is available for review at the Board of County Commissioners Office.

On May 4, 2021, the Board authorized an unconditional settlement offer amount of \$165,000. This amount was not inclusive any business damages claims that would arise from the take. The County, through its outside counsel, filed suit against the Mandinas in eminent domain. Prior to the Order of Take hearing, the parties attended a mediation with Tony Gonzales as the mediator. Mr. Gonzales previously worked as an Assistant County Attorney for Broward County for almost 20 years, heading up its eminent domain section. At mediation the property owners wanted to also discuss settlement of business damages as there is a business on the property. The business, Hacienda Del Sol Andalusians, LLC, breeds Spanish Andalusian horses.

The County is represented by outside eminent domain counsel Bill Doney. The parties reached a Mediated Settlement Agreement through negotiations with the attorneys. This mediated settlement agreement is for settlement of the case in full; business damages, severance damages, payment to the property owner for the area of take, cost to cure for the improvements that are in the area of take, experts costs, and attorney's fees. Staff and the Mandinas agreed on the terms of the Agreement that is attached to this memorandum as Exhibit A. The settlement terms are:

- The County will pay to the Mandinas \$275,000 for right-of-way parcel 316 inclusive of all severance damages, loss of the improvements, and business damages.
- Statutory attorney's fees of \$36,300.
- All costs and expert witness fees of \$33,700.
- County will provide two 20' wide concrete driveway from the new roadway to the new property line.
- County will stake the new ROW, allowing the owner to remove improvements in area of take within 60 days from the taking,
- County will install 2 inlets with pipe 1 on west and 1 on inlet before pipe on east side of property

The total settlement cost to the County is \$345,000.

By accepting the mediated settlement agreement and purchasing the property in advance of filing a lawsuit, staff is attempting to save on expert witness fees incurred by both the

County and the Mandinas. As noted in the past, expert witness fees for both parties often exceed \$100,000 by the time the suit is ready for trial. This does not include legal fees incurred by the Mandinas and the County. Pursuant to state statutes, the County is responsible for reasonable expert witness fees of the Mandinas, as well as attorney's fees for their counsel. The County has incurred significant savings by not having to hire our trial witnesses: appraiser, engineer, landscape architect and land planner.

**STAFF RECOMMENDATION:** Staff recommends the Board approve the Agreement for the Mandina property and authorize the Chairman to execute the document on behalf of the Board.

**FUNDING:** Funding in the amount of \$345,000 is budgeted and available from District 2 Impact Fees/ROW/66<sup>th</sup> Ave, 49<sup>th</sup> Street- 69<sup>th</sup> Street, Account # 10215241-066120-07806.

Attachments: Mediated Settlement Agreement with the sketch and legal description of right-of-way Parcel 316

Copies to: David Halloway, Esq.  
Bill Doney, Esq.