



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#15-0286

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Cynthia A. Everett, City Attorney

DATE: March 3, 2015

TITLE: *City of Sunrise et al. v Broward County, 17th Judicial Circuit Court Case No. CACE-013-015660* – Resolution to Accept Settlement Agreement with Broward County and Accept Agreement with Plaintiff Municipalities For Settlement Proceeds Distribution.

Recommendation

It is recommended that the City Commission adopt a Resolution authorizing settlement of the Resource Recovery Board (“RRB”) Litigation with Broward County and authorizing agreement with the Plaintiff Municipalities for distribution of settlement proceeds.

Background

The Plaintiff Municipalities were parties to the November 1986 Interlocal Agreement with the County for Solid Waste Disposal Service, as amended (the “ILA”). The ILA provided for the creation of the Broward Solid Waste Disposal District (the “District”) and required the participating governmental entities to send the solid waste generated within their boundaries to be transported, delivered and disposed of at designated District waste disposal facilities. Section 15.2 of the ILA provided for equitable distribution of the assets and liabilities of the District to the participating governmental entities and the County upon the expiration of the ILA. The ILA expired on July 2, 2013. The participating governmental entities and the County disagreed as to the identification and distribution of the assets and liabilities of the District. On June 28, 2013, the Plaintiff Municipalities filed a lawsuit against the County in the litigation styled *City of Sunrise et. al., v. Broward County, 17th Judicial Circuit Court Case No. CACE-013-015660* (the “Litigation”), which sought a declaration regarding the assets and liabilities subject to equitable distribution.

On January 17, 2014, the parties to the Litigation held a joint public meeting of elected official pursuant to Chapter 164, Fla. Stat., and agreed to proceed with mediation. The Plaintiff Municipalities and the County participated in the mediation process and initially reached an impasse. Thereafter, representatives of the parties to the Litigation entered into negotiations regarding the terms of a possible settlement. The negotiations resulted in a Settlement Agreement.

The Settlement Agreement stipulates that the County shall pay thirty-two million dollars (\$32 million) minus the applicable deductions to the ILA Communities and deposit same into a Trust Account within 30 days of the Settlement Agreement's Effective Date. There are four (4) properties to the Agreement, namely: BIC Landfill, which the Plaintiff Municipalities permit the County to retain for ten (10) years from the Effective Date for the benefit of the residents of the County; Alpha 250, which, within forty-five (45) days of the Effective Date the County shall remove the recent deed restrictions and sell to the highest responsive and responsible bidder and the net proceeds distributed at a pro-rata share to the Settling Municipalities; and Ash Monofill and Mitigation Properties, which the County retains.

The Settlement Agreement is to be presented for approval at the public Commission Meetings held by Fort Lauderdale, Hollywood, Miramar, Sunrise and West Park, which shall be voted on by March 20, 2015. Within thirty (30) days of the County depositing the Cash Amount into the Trust Account, each Settling Municipality shall receive a distribution from the Trust Account equal to the Settling Municipality's pro rata share allocation of the Cash Amount deposited, based on the 2012 Tonnage Schedule, minus each Settling Municipality's pro rata share of the costs and expenses, plus a credit to a Settling Municipality for all of such costs and expenses previously paid by it. The City of Fort Lauderdale's 2012 Tonnage percentage of tons is 16.4268%, which amounts to \$5,256,576, minus the amount of the City of Fort Lauderdale pro rata share of the costs and expenses, plus credits owed. Additionally the Alpha 250 Property Sale Proceeds shall be distributed from the Trust Account equal to each Settling Municipality's pro-rata share minus any unpaid expenses, if any.

Resource Impact

There will be a positive fiscal impact to the City in the amount of \$5,256,576, plus future proceeds from the sale of the Alpha 250 Property.

Attachments

- Exhibit 1 – Settlement Agreement
- Exhibit 2 – Settlement Proceeds Distribution Agreement
- Exhibit 3 – Resolution
- Exhibit 4 – Background Letter from Weiss, Serota, Helfman, Cole, Bierman & Popok, P.L.

Prepared by: Cole J. Copertino, Assistant City Attorney

Charter Officer: Cynthia A. Everett, City Attorney