



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#13-1081

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

FROM: Lee Feldman, ICMA-CM, City Manager

DATE: August 20, 2013

TITLE: MOTION - Authorizing Settlement of General Liability Lawsuit for \$25,000

Recommendation

Staff recommends settlement of this general liability lawsuit. The City Commission provided verbal authority for the City's defense counsel to file a proposal of settlement in the amount of \$25,000 at the June 4, 2013 closed door session conducted in accordance with Section 768.28(16) of the Florida Statutes (Public records and sunshine law exemptions). This settlement has been evaluated by the proper City officials and all concur that a payment of \$25,000 to the Bellagio of Fort Lauderdale Condominium Association is in the City's best interest.

Background

The Bellagio Condominium Association filed a breach of contract and specific performance lawsuit against the City of Fort Lauderdale on June 15, 2012.

The contract in question allowed the City to obtain easement rights to a 10-foot strip of Bellagio's property that the Fire Rescue Department was able to use as a driveway to gain access to NE 51st Street. In exchange for the easement, the City agreed to install landscaping within the adjacent 10-foot wide strip owned by Bellagio. Additionally, the City agreed to provide 18 diagonal parking spaces on City right-of-way adjacent to the landscaped strip, install two street lights, and install an irrigation system.

The City did not complete the subject improvements within the contract allotted period of time, despite repeated demands from Bellagio's legal counsel. Bellagio is now contractually entitled to attorney's fees. In addition to the recovery of its attorney fees, Bellagio is also seeking damages for the loss of use of eight parking spaces along the swale to the south of NE 51st Street, which it had been using to park its tenants' vehicles.

The case was mediated on October 16, 2012 and it ended in an impasse. As of May 27, 2013, the plaintiff alleged damages in the amount of \$296,400 and legal fees and costs in excess of \$32,500.

The plaintiff is represented by Barry T. Shevlin from the law firm of Shevlin & Atkins, Attorneys at Law. Mr. Shevlin has indicated that his client is now willing to accept the \$25,000 that was offered in the City's proposal of settlement. This would represent a settlement for any and all claims associated with this litigation.

Per the City's defense counsel, there is no viable legal defense to the plaintiff's claim for breach of contract. Therefore, Bellagio will be the prevailing party in this litigation and thereby entitled to fees and costs, in addition to at least nominal damages.

Resource Impact

There is fiscal impact to the City in the amount of \$25,000.

FY Year	FUND	SUB FUND	FUND NAME	INDEX #	INDEX NAME	SUB OBJECT #	SUBOBJECT NAME	AMOUNT
2013	543	01	City Insurance	INS010101	Self-Insurance Claims	5113	General Liability Claims	\$25,000.00
							TOTAL	\$25,000.00

Prepared by: James W. Kelly

Department Director: Averill Dorsett