



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

#20-0759

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

FROM: Alain E. Boileau, City Attorney

DATE: October 6, 2020

TITLE: Motion to Approve Settlement Agreement and Release between the City of
Fort Lauderdale and CFS Funeral Services, Inc. - **(Commission Districts
1, 2, 3 and 4)**

Recommendation

It is recommended that the City Commission approve the Settlement Agreement and Release between the City of Fort Lauderdale, Florida and CFS Funeral Services, Inc., in substantially the form attached.

Background

In 2018, the City of Fort Lauderdale, Florida, ("City") filed a Complaint against the CFS Funeral Services, Inc. ("CFS") seeking to resolve a dispute relating to the cemetery management contract asserting claims of breach of contract and fraud against CFS in the pending lawsuit styled: *City of Ft. Lauderdale v. Carriage Funeral Services, Inc.*, Case No.: 18-CV-62708 pending in the United States District Court for the Southern District of Florida. CFS filed an answer, affirmative defenses, and counterclaims in response to the Complaint. The City and CFS deny the allegations that each has asserted against the other and maintain that they have acted in conformity with their contractual obligations and in accordance with all applicable laws. CFS and the City wish to terminate the lawsuit and to avoid the expense, inconvenience and distraction of further protracted litigation, and do so without any admission of liability whatsoever by either of them.

The Parties reached a settlement agreement that resolves all issues in the referenced matter. The material terms of the settlement are as follows:

1. City agrees to remit a lump sum payment of \$167,000, which represents monies owed and due to CFS prior to the litigation, to the trust account of CFS's counsel (by cashier's check or wire transfer) within thirty (30) days after the effective date of the settlement agreement.
2. CFS and the City will execute a mutual release from any and all past, present or future claims, demands, wages, attorney's fees, liens, obligations, actions, causes of action, rights, damages, costs, loss of services, expenses and

compensation of any nature whatsoever, whether known or unknown, and whether fixed or contingent, which arise from the alleged acts or omissions of City and CFS arising out of the Contract or pleaded in support of the respective claims and counterclaims asserted in the lawsuit.

Resource Impact

There will be a fiscal year impact to the City in the amount of \$167,000 to be paid by the Perpetual Care Trust Fund. These funds are contingent upon approval of the consolidated budget amendment CAM #20-0685.

<i>Funds available as of October 1, 2020</i>					
ACCOUNT NUMBER	INDEX NAME (Program)	CHARACTER CODE/ SUB- OBJECT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
627-CEM020101-3240	Cemetery Perpetual Care	Services & Materials/ Mgmt/Oper Serv	\$75,000	\$75,000	\$55,000
627-CEM020101-3119	Cemetery Perpetual Care	Services & Materials/ Legal Services	\$75,000	\$75,000	\$112,000
TOTAL AMOUNT ►					\$167,000

Attachment

Exhibit 1 – Settlement Agreement and Release

Prepared by: Alain E. Boileau, City Attorney, City Attorney's Office

Charter Officer: Alain E. Boileau, City Attorney, City Attorney's Office