



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#13-0745

TO: Honorable Mayor & Members
Fort Lauderdale City Commission

FROM: Lee Feldman, ICMA-CM, City Manager

DATE: May 21, 2013

TITLE: Motion Accepting Settlement and Remediation Agreement between the City and Fort Lauderdale Country Club (FLCC).

Recommendation

It is recommended that the City Commission:

1. Approve the Remedial Action Plan (RAP) as approved by Broward County and explore the feasibility of complete source removal of soils above the residential Soil Cleanup Target Level (SCTL) of 2.1 mg/kg.
2. Authorize the proper city officials to execute a settlement and remediation agreement with FLCC to provide for implementation and funding of the enhanced RAP.
3. Acquire title for the City from FLCC to areas which City water infrastructure encroaches upon FLCC owned properties (based on the sketches attached) and
4. Authorize the proper City officials to execute an easement to FLCC for golf course purposes on such property.
5. Authorize the proper City officials to execute an easement agreement granting to FLCC an easement for ingress and egress over certain City property for access to Wells 4, 24, 8, and 9, as well as easements for installation of irrigation systems, operations of the Wells and maintenance and other matters for the purpose of irrigating the Golf Course and the conveyance of such property to FLCC contingent upon FLCC acquiring a consumptive use permit pursuant to section 8.04 of the City Charter.

Approval of items 2, 3, 4 and 5 above is contingent upon the City receiving a release of the mortgage from FLCC's Lender for the property being purchased by the City.

Background

The City operates the Peele-Dixie Wellfield located in Plantation within property owned by both the City and FLCC.

This project is necessary to remediate parameters above clean-up target levels in the Peele-Dixie Wellfield and is the culmination of lengthy negotiations between Broward County and the Fort Lauderdale Country Club.

FLCC obtained an Environmental Assessment and Remediation (EAR) License on June 8, 2007 and submitted a Site Assessment Report (SAR) on April 22, 2008 with additional addendums on July 3, 2008 and September 9, 2008 to Broward County due to sample results above clean-up target levels.

The FLCC originally proposed monitoring only in the form of a Natural Attenuation Monitoring Plan (NAMP) as remediation. Staff was not comfortable with that plan without any source removal to enhance the natural attenuation. Broward County required the City's consent to any RAP because the City owns portions of the maintenance facility site within the FLCC.

The City has been in discussions and negotiations with FLCC and Broward County since 2009 to come to an agreed upon RAP. An agreement was reached to implement an enhanced RAP which addresses the City's concerns by providing source soil removal to commercial cleanup target levels. Broward County approved the RAP on April 12, 2012.

In addition, the City is seeking further opportunities for complete source removal to residential SCTL (2.1 mg/kg) vs. commercial SCTL (12.0 mg/kg). This would not require the RAP to be modified. The City will pay the added costs to bring the complete source removal of soils above the residential Soil Cleanup Target Level (SCTL) of 2.1 mg/kg. That added cost is expected to be approximately \$225,000.

City staff and FLCC have now come to a proposed agreement on funding for the approved enhanced RAP as follows:

1. The Parties will jointly fund the implementation of the Broward County approved RAP for the Maintenance Facility Site.
2. The cost for implementation of the RAP shall include an estimate of \$800,000 for remediation costs and services.
3. The Parties agree to each pay for 50% of the RAP implementation costs (est. \$400,000 City, \$400,000 FLCC). The City will fund FLCC's 50% portion of each funding draw request up to a maximum of \$200,000 and FLCC will make annual reimbursement payments in increments of \$40,000 to the City over five years.
4. The City will acquire fee title via quit claim deed to any areas where City utility improvements encroach on to FLCC owned properties for \$120,000, and the City in turn will grant an easement to FLCC for golf course use.
5. The City will pay the prior engineering and consultant expenses totaling \$36,914.
6. The Parties agree to cooperate in reducing/controlling costs associated with the RAP implementation, and to avoid costs overruns, to the extent reasonable and feasible. In the event that costs for implementation of the RAP exceed the anticipated budget, then the Parties will jointly fund the cost overruns at 50% per each. Party and City agrees to increase available funding amount accordingly.

7. The City will agree to record the required declarations to achieve a conditional closure for the Maintenance Facility Site as long as it provides for continued use of the City's active and future wells at the permitted rate.
8. The City will consent to declarations as may be required by Broward County, to achieve a conditional closure for the remaining FLCC owned properties as long as it provides for continued use of the City's active and future wells at the permitted rate.
9. The City and FLCC will also execute an easement agreement (Exhibit 2) in which City will grant FLCC easements for ingress and egress over City owned areas for access to Wells 4, 24, 8, and 9, as well as easements for installation of irrigation systems, operations of the Wells and maintenance and other matters for the purpose of irrigating the Golf Course.
10. FLCC will not be allowed to use any of the Wells (4, 24, 8, and 9) for irrigation purposes until a consumptive use permit is granted. Once a consumptive use permit is obtained, and upon request by FLCC, title to the well properties will be conveyed to the FLCC and the easement for access shall continue. Pursuant to Section 8.4 (f) of the City Charter, City of Fort Lauderdale shall have the right to exchange, deed or convey portions of publicly owned lands, to private persons, in consummating a transaction whereby City of Fort Lauderdale acquires property needed in connection with a public improvement or a public use. The transaction is in order for the City to acquire the property needed for its wellfield pursuant to the settlement and remediation agreement.

Resource Impact

There will be a fiscal impact to the City in the amount of 1,002,914.00 which includes:

1. \$400,000 - the City's portion of the Remedial Action Plan implementation
2. \$200,000 - the Fort Lauderdale Country Club's 50% portion which the City has agreed to fund and FLCC will make annual reimbursement payments to the City over five years.
3. \$121,000 - the property purchase plus the closing costs
4. \$20,000 - monitoring and oversight of the project to ensure it is being implemented effectively and efficiently and to represent the interests of the City
5. \$225,000 – estimated extra source removal cost for the clean-up to obtain the residential Soil Cleanup Target Level of 2.1 mg/kg.
6. \$36,914 – prior engineering and consultant expenses

On December 4, 2012 the City Commission approved amending the budget to fund \$741,000 of this cost, reference Commission Agenda Memo 12-2466. On April 2, 2013 the City Commission approved amending the budget to fund an additional \$261,914 for the additional source removal and prior FLCC engineering and consulting expenses, reference

Commission Agenda Memo 13-0384, ITEM C.

FUNDS AVAILABILITY LOCATION:

FY	FUND	SUB FUND	FUND NAME	INDEX #	INDEX NAME	SUB OBJ #	SUBJECT NAME	AMOUNT
2013	454	01	Water & Sewer General Capital Projects	P11877.454	Fort Lauderdale Country Club Remediation Action Plan	N965	Reimbursement Projects	\$ 200,000
TOTAL REVENUE								\$ 200,000

2013	454	01	Water & Sewer General Capital Projects	P11877.454	Fort Lauderdale Country Club Remediation Action Plan	6534	Engineering Fees	\$ 20,000
2013	454	01	Water & Sewer General Capital Projects	P11877.454	Fort Lauderdale Country Club Remediation Action Plan	6599	Construction	\$ 861,914
2013	454	01	Water & Sewer General Capital Projects	P11877.454	Fort Lauderdale Country Club Remediation Action Plan	6504	Land Acquisition	\$ 121,000
TOTAL EXPENSE								\$1,002,914

Attachment(s)

- 1) Exhibit 1 - Settlement and Remediation Agreement
- 2) Exhibit 2- Easement Agreement for Wells

Prepared By: Todd Hiteshow, Environmental Services Manager
 Acting Department Director: Hardeep Anand, P.E. Public Works