



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

**#18-0479**

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

**FROM:** Lee R. Feldman, ICMA-CM, City Manager

**DATE:** May 1, 2018

**TITLE:** A Resolution of the City Commission of the City of Fort Lauderdale, Florida  
Appointing the Law Firm of Eisenstein Malanchuk LLP as Special Counsel  
to Represent the City of Fort Lauderdale in Connection with Environmental  
Claims Recovery Services

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**Recommendation**

It is recommended that the City Commission adopt a resolution appointing the Law Firm of Eisenstein Malanchuk LLP as special counsel, to represent the City of Fort Lauderdale in connection with environmental claims recovery services.

**Background**

Section 4.10 of the Charter of the City of Fort Lauderdale, Florida provides, in part, that “[t]he city commission may, by resolution, authorize one (1) or more special counsel to be retained for the purpose of performing such legal duties as may be prescribed by said resolution. Each such resolution shall further prescribe the compensation to be paid the special counsel.”

In November 2007, the City of Fort Lauderdale was named as a defendant in a lawsuit brought by residents of the Durrs Neighborhood and surrounding areas. The lawsuit claimed personal injury, property damage and entitlement to medical monitoring (the cost of periodic medical screening to diagnose the latent diseases expected to arise as a result of an exposure). The claims arise out of alleged exposure to contaminants caused by the operations at the Lincoln Park municipal waste incinerator between the 1920s and 1950s, as well as activities surrounding the demolition of Lincoln Park Elementary School and the construction of the One Stop Shop. The Florida Department of Environmental Protection and the Florida Department of Health have been actively involved at the site. Remediation work has progressed since approximately 2002 in three phases, Lincoln Park, the former school site, and currently the incinerator site and certain offsite residential properties.

There is a present need for the City to retain special counsel with expertise in environmental claims recovery services with regards to identifying any potential insurance coverage the City may have had historically for environmental claims arising from its

operations. Eisenstein Malanchuk LLP provides such expertise in partnership with a Florida licensed attorney. This firm specializes in the recovery of insurance proceeds on older environmental damage claims, which are potentially covered under insurance policies the City may have purchased in the past. The firm members review the City's historical records to determine if any policies exist. If so, they contact the carriers and attempt to negotiate coverage for past environmental claims.

The compensation shall be on a contingency basis at a fee of 35% of all gross recovery on the project, if any. There are no costs and/or expenses incurred by the City for this service.

### **Resource Impact**

This action could result in a positive impact to the City if a recovery is obtained.

### **Strategic Connections**

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Internal Support Cylinder of Excellence, specifically advancing:

- Goal 12: Be a leading government organization, managing our resources wisely and sustainably.
- Objective 1: Ensure sound fiscal management.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are United*.

### **Attachment**

Exhibit 1 – Resolution

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