

RESOLUTION NO. 2022 -074

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE SETTLEMENT AGREEMENT WITH BROWARD COUNTY FOR THE LITIGATION STYLED CITY OF SUNRISE ET. AL. VS. BROWARD COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, First, Broward County (the "County") and several Broward municipalities entered into a Settlement Agreement to settle the litigation styled City of Sunrise et. al. vs. Broward County, 17th Judicial Circuit Court Case No. CACE-013-015660 (the municipalities defined in the Settlement Agreement as the Settling Municipalities shall be collectively referred to herein as the "Settling Municipalities"); and

WHEREAS, Second, on May 14, 2015, the Town Council of the Town of Southwest Ranches (the "Town") adopted Resolution No. 2015-045 authorizing the settlement of the litigation styled City of Sunrise, et. al. vs. Broward County; authorizing the Town Administrator to execute a Settlement Agreement with Broward County; and authorizing the Town Administrator to execute a Settlement Proceeds Distribution Agreement with the settling municipalities; and

WHEREAS, Third, the Settlement Agreement provides for the County and the Settling Municipalities to agree to use their best efforts (and to take all reasonable steps) to sell the parcel of land known as Alpha 250, as further described in the Settlement Agreement ("Alpha 250"); and

WHEREAS, Fourth, on August 11, 2016, the Town Council adopted Resolution No. 2016-052, approving the First Amendment to the Settlement Agreement, to delay the sale of Alpha 250 while a joint independent study is performed regarding the following issues:

- (i) how a 75% County-wide recycling goal may be reached;
- (ii) whether retaining public ownership of Alpha 250 would facilitate the meeting of that recycling goal or would provide other benefits in connection with solid waste disposal within Broward County; and
- (iii) general solid waste disposal issues as determined by the Working Group (as defined in the First Amendment), which may include options regarding flow control and potential governance or contractual structures for collaborative management of solid waste disposal; and

WHEREAS, Fifth, in June 2017, the County retained Arcadis, U.S., Inc., Kessler Consulting, Inc., Total Municipal Solutions, L.L.C., and GMAC Consulting, L.L.C. (collectively,

the "Arcadis Team") to conduct the study (the "Study"), which the Arcadis team commenced in October 2017; and

WHEREAS, Sixth, consistent with the First Amendment to the Settlement Agreement, the County Administrator and six designated mayors (the "Mayors") provided Written Approval of Extension of Sale Delay Period Under First Amendment to Settlement Agreement until October 11, 2018, that further extended the sale delay period until October 11, 2018; and

WHEREAS, Seventh, in August 2018, the Arcadis Team concluded the Study and issued its Solid Waste and Recycling Issues Study Interim Final Report (the "Interim Final Report"), that summarizes the Arcadis Team's findings based on the Study and includes its final evaluations and recommendations; and

WHEREAS, Eighth, on November 15, 2018 the Town Council adopted 2019-008 approving the Second Amendment to the Settlement Agreement which extended the sale date of the Alpha 250 site through October 11, 2022 in order to analyze the Interim Final Report and to address the final evaluations and recommendations presented therein; and

WHEREAS, Ninth, in late 2019 the County, the Settling Municipalities, and other municipalities established a Solid Waste Working Group to develop recommendations for a regional solid waste management system and now the County and the Settling Municipalities desire to further amend the settlement agreement to extend the sale delay period for the Alpha 250 site and allow the Solid Waste Working Group additional time to conduct its work.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. ADOPTION OF RECITALS. The foregoing recitals are true and correct, and are incorporated herein by reference.

Section 2. The Town Council hereby approves the Third Amendment to the Settlement Agreement, attached as Exhibit "A".

Section 3. The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to execute the Second Amendment to the Settlement Agreement with the County, together with such non-substantial changes as are acceptable to the Town Administrator and approved as to form and legal sufficiency by the Town Attorney.

Section 4. EFFECTIVE DATE. This Resolution shall be effective immediately upon its adoption.

[Signatures on Following Page]

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches,
this 11th day of August, 2022, on a motion by Vice Mayor Jablonski, seconded by

Council Member Hartmann

Breitkreuz Yes
Jablonski Yes
Allbritton Yes
Hartmann Yes
Kuczenski Yes

Ayes 5
Nays 0
Absent 0
Abstaining 0

ATTEST:

Russell Muñiz

Russell Muñiz, Assistant Town Administrator/Town Clerk

Steve Breitkreuz

Steve Breitkreuz, Mayor

Approved as to legal Form and Correctness

Keith M. Poliakoff

Keith M. Poliakoff, Esq., Town Attorney
1001.142.01

**THIRD AMENDMENT TO SETTLEMENT AGREEMENT
BETWEEN BROWARD COUNTY AND SETTLING MUNICIPALITIES**

This is a Third Amendment ("Third Amendment") to the Settlement Agreement by and between Broward County, Florida, a political subdivision of the State of Florida ("County"), and the Cities of Sunrise, Weston, Hollywood, Fort Lauderdale, Lauderhill, Lighthouse Point, Tamarac, Plantation, Coconut Creek, Deerfield Beach, Miramar, Margate, Cooper City, North Lauderdale, Coral Springs, and Wilton Manors, and the Towns of Lauderdale-By-The-Sea, Davie, Southwest Ranches, and Hillsboro Beach, and the Village of Sea Ranch Lakes (each individually, a "Settling Municipality"; and collectively, the "Settling Municipalities") (each of the foregoing is sometimes referred to as a "Party" or collectively as the "Parties").

RECITALS

A. In June 2015, the County and the Settling Municipalities entered into a settlement agreement to settle the litigation styled *City of Sunrise, et al. v. Broward County*, 17th Judicial Circuit Court Case No. CACE-013-015660 (the "Original Settlement Agreement").

B. The Original Settlement Agreement provided for the County and the Settling Municipalities to sell the parcel of land known as Alpha 250, as further described in the Original Settlement Agreement ("Alpha 250").

C. The cities of Lauderdale Lakes, West Park, and Oakland Park, and the Town of Pembroke Park, all municipal corporations (each individually, a "Consenting Municipality"; and collectively, the "Consenting Municipalities"), did not join the above-referenced litigation or the Original Settlement Agreement but instead entered into Interlocal Agreements Regarding Distribution of Solid Waste Disposal District Assets with the County, pursuant to which they have received and will receive their respective pro rata shares of proceeds distributed under the terms of the Original Settlement Agreement, including their respective shares from any sale of Alpha 250.

D. Subsequent to the effective date of the Settlement Agreement, the Parties entered into two amendments thereto, extending the sale date of Alpha 250 through and including October 11, 2022 (the Original Settlement Agreement and two amendments thereto are collectively referred to as the "Settlement Agreement").

E. In late 2019, the County, the Settling Municipalities, and other municipalities established a Solid Waste Working Group ("SWWG"), a group of elected municipal and county officials, to jointly develop recommendations for a regional solid waste management system based on shared principles and commitments, including a mutually agreed governance structure.

F. The County and the Settling Municipalities desire to further amend the Settlement Agreement to extend the Sale Delay Period for Alpha 250 and provide the SWWG additional time to conduct its work.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Third Amendment shall retain the meaning ascribed to such terms in the Settlement Agreement.

2. Notwithstanding any provision to the contrary in the Settlement Agreement, the Parties hereby agree to extend the Sale Delay Period (as defined in the Settlement Agreement) until October 11, 2023. The Sale Delay Period may be further extended for up to three (3) additional periods, each for up to one (1) year, provided that any such additional extension be approved in writing by the County Administrator on behalf of County, and the Mayors of the Cities of Coconut Creek, Fort Lauderdale, Hollywood, Miramar, Sunrise, and Weston (collectively, the "Mayors"), on behalf of the Settling Municipalities.

3. This Third Amendment shall be approved by the Parties in the following manner:

a. Once executed by the County Administrator, this Third Amendment shall be presented for approval at public Commission/Council meetings at each of the Settling Municipalities and Consenting Municipalities (County shall communicate this requirement to the Consenting Municipalities).

b. By October 7, 2022, this Third Amendment shall: (1) be approved and executed by all Settling Municipalities; and (2) be consented to by each of the Consenting Municipalities either through a separate written instrument between County (by and through the County Administrator) and each of the Consenting Municipalities in which each of the Consenting Municipalities agrees to the terms of the Third Amendment, or a resolution adopted by the Commissions/Councils of the Consenting Municipalities agreeing to the terms of this Third Amendment.

The October 7, 2022, deadline may be extended by the County Administrator and five (5) of the Mayors listed in paragraph 2 above for: (i) up to an additional twenty-one (21) days for any reason or (ii) up to an additional forty-five (45) days provided at least two-thirds (2/3) of the Settling Municipalities have approved this Third Amendment.

4. This Third Amendment shall be effective on the date of the last approval and execution of this Third Amendment by a Settling Municipality, or the date of the last execution of a written instrument reflecting the consent of a Consenting Municipality, whichever occurs last.

5. Except as otherwise revised in this Third Amendment, the terms and conditions of the Settlement Agreement shall remain in full force and effect. In the event of any conflict or ambiguity between this Third Amendment and the Settlement Agreement, the Parties agree that this Third Amendment shall control. The Settlement Agreement, as amended herein by this Third Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Settlement Agreement as amended in this Third Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

6. The preparation of this Third Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against any Party. In the event a portion of this Third Amendment is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective and the Parties (and all Consenting Municipalities) agree to negotiate in good faith to modify that portion of this Third Amendment in a manner designed to effectuate the original intent of the Parties.

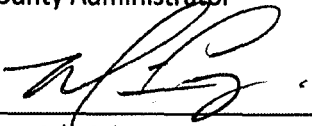
7. This Third Amendment may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties have made and executed this Third Amendment to the Settlement Agreement on the respective dates under each signature: BROWARD COUNTY, signing by and through its County Administrator, duly authorized to execute same by Board action on the 14th day of June, 2022, and each of the Settling Municipalities, signing by and through their respective Mayors or other representatives duly authorized to execute same.

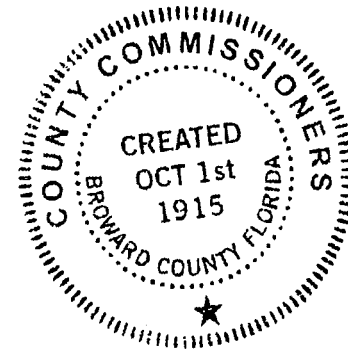
COUNTY

BROWARD COUNTY, by and through
its County Administrator

By 
County Administrator

14th day of June, 2022

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600



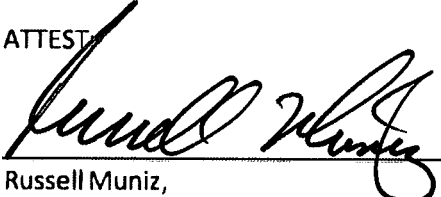
By Matthew Haber Digitally signed by Matthew Haber
Date: 2022.06.16 15:18:04 -04'00'
Matthew Haber (Date)
Assistant County Attorney

MH/tb
Third Amendment to Settlement Agreement
06/01/22

**THIRD AMENDMENT TO SETTLEMENT AGREEMENT
BETWEEN BROWARD COUNTY AND SETTLING MUNICIPALITIES**

SETTLING MUNICIPALITY

ATTEST:



Russell Muniz,
Assistant Town Administrator/Town Clerk

MUNICIPALITY: SOUTHWEST RANCHES

By:



Mayor

Steve Breitkreuz, Mayor

Print Name/Title

11th day of August, 2022

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:



Keith Poliakov, Town Attorney