

RESOLUTION NO. 2016-052

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE THE FIRST AMENDMENT TO THE SETTLEMENT AGREEMENT WITH BROWARD COUNTY REGARDING THE RESOURCE RECOVERY BOARD TO ALLOW FOR THE DELAY IN THE SALE OF THE PARCEL OF LAND KNOWN AS ALPHA 250; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches (the "Town") was a party to the November 1986 Interlocal Agreement with Broward County (the "County") for Solid Waste Disposal Service, as amended (the "Interlocal Agreement"); and

WHEREAS, the Interlocal Agreement provided for the creation of the Broward Solid Waste Disposal District (the "District") and required the participating governmental entities to send the solid waste generated within their boundaries to be transported, delivered and disposed of at designated District waste disposal facilities; and

WHEREAS, the participating governmental entities directed solid waste generated within their boundaries to be disposed of at the designated District waste disposal facilities; and

WHEREAS, the Interlocal Agreement expired on July 2, 2013; and

WHEREAS, Section 15.2 of the Interlocal Agreement provided for the equitable distribution of the assets and liabilities of the District to the participating governmental entities and the County upon the expiration of the Interlocal Agreement; and

WHEREAS, the participating governmental entities and the County disagreed as to the identification and distribution of the assets and liabilities of the District; and

WHEREAS, the Town, together with seventeen other participating governmental entities, are plaintiffs (the "Plaintiff Municipalities") in the litigation styled *City of Sunrise et. al. v Broward County*, 17th Judicial Circuit Court Case No. CACE-013-015660 (the "Litigation"), which sought a declaration regarding the assets and liabilities subject to equitable distribution; and

WHEREAS, the Plaintiff Municipalities and the County negotiated a Settlement Agreement to settle the Litigation under the terms and conditions set forth in the Settlement Agreement; and

WHEREAS, in order to implement the Settlement Agreement, the Town approved and executed the Settlement Agreement which contained a Settlement Proceeds Distribution Agreement, to provide for the pro rata allocation of expenses and pro rata distribution of Trust Account Funds under the terms and conditions set forth in the Settlement Agreement on May 14, 2015; and

WHEREAS, the Settlement Agreement provides for the County and the "settling municipalities" to sell the parcel of land known as Alpha 250; and

WHEREAS, the County and the settling municipalities now wish to delay the sale of Alpha 250 for one year from the Amendment Effective Date (as specified in Exhibit A) to allow for a study to be conducted to evaluate how a 75% County-wide recycling goal may be reached; whether retaining public ownership of Alpha 250 would facilitate the meeting of that recycling goal; and other general solid waste disposal issues; and

WHEREAS, in order for this amendment to take effect all "settling municipalities" must approve and execute the amendment attached hereto as "Exhibit A."

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: The foregoing recitals contained in the preamble to this Resolution are incorporated by reference herein.

Section 2: The Mayor, Town Administrator, and Town Attorney are authorized to execute the First Amendment to the Settlement Agreement with Broward County, attached as Exhibit "A," 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 3: The appropriate Town officials are authorized to execute all necessary documents and to take any necessary action to effectuate the settlement authorized in this Resolution and the intent of this Resolution.

Section 4: This Resolution shall take effect upon its adoption.

[Signatures on Following Page]

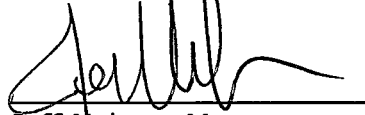
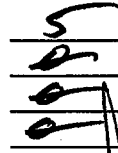
PASSED AND ADOPTED by the Town Council of the Town of Southwest

Ranches, Florida, this 11th day of August, 2016.

Nelson
McKay
Breitkreuz
Fisikelli
Jablonski



Ayes
Nays
Absent
Abstaining




Jeff Nelson, Mayor

ATTEST:



Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to form:



Keith M. Poliakoff, Town Attorney

113415582.1

EXHIBIT A

FIRST AMENDMENT TO SETTLEMENT AGREEMENT

THIS FIRST AMENDMENT (the "Amendment") to the Settlement Agreement (the "Settlement Agreement") by and between Broward County, Florida, a political subdivision of the State of Florida, (the "County") and the City of Sunrise, the City of Weston, the City of Hollywood, the City of Fort Lauderdale, the City of Lauderhill, the Town of Lauderdale-By-The-Sea, the City of Lighthouse Point, the City of Tamarac, the Town of Davie, the City of Plantation, the City of Coconut Creek, the City of Deerfield Beach, the City of Miramar, the City of Margate, the City of Cooper City, the City of North Lauderdale, the City of Coral Springs, the Town of Southwest Ranches, the City of Wilton Manors, the Town of Hillsboro Beach, and the Village of Sea Ranch Lakes, all political subdivisions of the State of Florida, (individually, each is a "Settling Municipality"; collectively, the "Settling Municipalities") is made and entered into as of the Amendment Effective Date (as defined below).

RECITALS

A. 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.

B. 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").

C. The County and the Settling Municipalities desire to amend the Settlement Agreement to delay the sale of Alpha 250 under the terms and conditions stated herein.

D. The City of Lauderdale Lakes, the City of West Park, the City of Oakland Park, and the Town of Pembroke Park, all political subdivisions of the State of Florida (individually, each is a "Consenting Municipality"; collectively, the "Consenting Municipalities"), did not join the 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 Settlement Agreement, including their respective shares from any sale of Alpha 250.

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

1. The above-stated recitals are true and correct and are incorporated into this Amendment by this reference.
2. Notwithstanding any provision to the contrary in the Settlement Agreement, the County and the Settling Municipalities agree that the sale of Alpha 250 shall be delayed for a period of one year from the Amendment Effective Date (the "Sale Delay Period"). The Sale Delay Period may be further extended for an additional period of up to one year upon written approval of the

County Administrator and the Mayors of Coconut Creek, Fort Lauderdale, Hollywood, Miramar, Sunrise, and Weston (collectively, the "Mayors").

3. During the Sale Delay Period, the County shall procure a study (the "Study") in an amount not to exceed two hundred thousand dollars (\$200,000), which shall be paid for as described in paragraph 7 below. The Study shall evaluate and provide recommendations regarding the following general areas:

- a. How a 75% County-wide recycling goal may be reached;
- b. 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
- c. General solid waste disposal issues as determined by the Working Group (as defined below), which may include options regarding flow control and potential governance or contractual structures for collaborative management of solid waste disposal.

4. A more detailed scope of the Study will be developed within the above-referenced budgeted amount by a working group (the "Working Group") consisting of:

- a. Three (3) municipal staff members selected by the Mayors; and
- b. Three (3) County staff members selected by the County Administrator.

5. The Working Group and its individual members shall also interact with the consultant during the course of the Study to ensure a balanced and independent study of the stated issues.

6. The Study consultant shall be selected in a manner consistent with the County's Procurement Code. The Mayors, directly and through their Working Group members, shall have input into this procurement process, and shall appoint one person to serve on the County's committee that will evaluate the responses submitted by interested consultants.

7. The County shall pay the up-front cost of the Study, and shall recover fifty percent (50%) of the cost of the Study (the "Municipal Share") as follows if either of the following circumstances occur: (a) if Alpha 250 is sold to a third party with the closing of the sale occurring within five (5) years after the Study completion date, the County shall deduct the Municipal Share from the Alpha 250 sales proceeds before the County deposits the net proceeds of the sale into the trust account described in Section 4D of the Settlement Agreement; or (b) if the County, within five (5) years after the Study completion date, exercises its right under the Settlement Agreement to pay the net sales amount and retain Alpha 250, the County shall deduct the Municipal Share from the net sales amount the County deposits into the trust account described in Section 4D of the Settlement Agreement.

8. Based upon the results of the Study, the parties may agree to further amend the Settlement Agreement.

9. Amendment Approval Process.

- a. Once approved by the County Commission, this Amendment shall be presented for approval at public Commission/Council meetings at each of the Settling Municipalities and the Consenting Municipalities (the County shall communicate this requirement to the Consenting Municipalities).
- b. To be effective, this Amendment must, within one hundred twenty (120) days after approval by the County Commission: (1) be approved and executed by all Settling Municipalities, with notice attaching true copies thereof provided to the County; and (2) be consented to by each of the Consenting Municipalities through a separate written instrument between the 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 Amendment generally, and specifically to the payment for the Municipal Share of the Study as described above in paragraph 7.

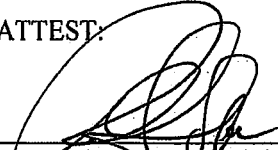
10. *Effective Date.* The date of the last approval and execution of this Amendment by a Settling Municipality, or the date of the last execution of a written instrument reflecting the consent of a Consenting Municipality, whichever is last, is the "Amendment Effective Date."

11. Except as otherwise revised in this Amendment, the terms and conditions of the original Settlement Agreement shall remain in full force and effect. The preparation of this Amendment has been a joint effort of the parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against any party hereto. In the event a portion of this Amendment is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective and the parties agree to negotiate in good faith to modify that portion of this Amendment in a manner designed to effectuate the original intent of the parties. This Amendment may be executed in counterparts.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY, signing by and through its Mayor or Vice-Mayor, duly authorized to execute same by Board action on the 14th day of June, 2016, and the SETTLING MUNICIPALITIES, signing by and through their respective Mayors, duly authorized to execute same.

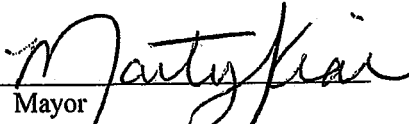
BROWARD COUNTY

ATTEST:



For Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

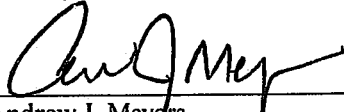
BROWARD COUNTY, by and through
its Board of County Commissioners

By 

Mayor
5th day of ~~June~~^{July}, 2016



Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: 

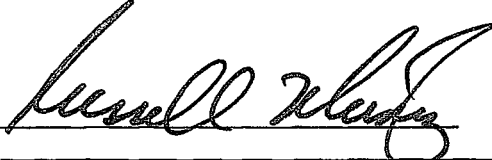
Andrew J. Meyers
Chief Deputy County Attorney

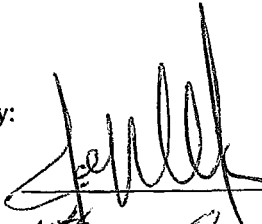
9th day of June, 2016

[NAME OF MUNICIPALITY]

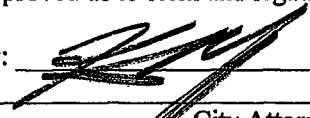
Town OF Southwest Ranches

ATTEST:


_____, City Clerk

By: , Mayor
11th day of August, 2016

Approved as to form and legality:

By: 
_____, City Attorney
28th day of August, 2016

By: _____, City Manager
11th day of August, 2016
August,