

RESOLUTION NO. 18-12-3

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA, APPROVING THE SECOND AMENDMENT TO THE SETTLEMENT AGREEMENT WITH BROWARD COUNTY FOR THE LITIGATION STYLED CITY OF SUNRISE ET. AL. VS. BROWARD COUNTY.

WHEREAS, 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, on April 28, 2015, the City Commission of the City of Cooper City (the "City") adopted Resolution No. 15-4-4 authorizing the settlement of the litigation styled City of Sunrise, et. al. vs. Broward County; authorizing the City Manager to execute a Settlement Agreement with Broward County; and authorizing the City Manager to execute a Settlement Proceeds Distribution Agreement with the settling municipalities; and

WHEREAS, 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, on August 16, 2016, the City Commission adopted Resolution No. 16-8-1, 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, 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, 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, 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, in order to analyze the Interim Final Report and address the final evaluations and recommendations presented therein, the County and the Settling

Municipalities desire to amend the Settlement Agreement to further extend the Sale Delay Period until October 11, 2019, which period may be further extended for up to three additional periods, provided that any such additional extension be approved in writing by the County Administrator and the Mayors.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:

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

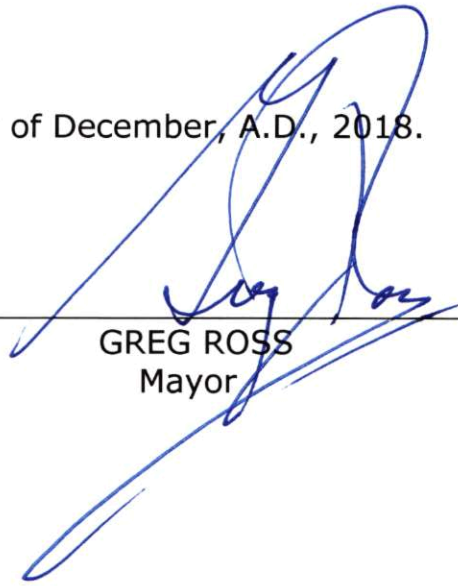
Section 2: The City Commission approves the Second Amendment to the Settlement Agreement, attached as Exhibit "A".

Section 3: The City Manager is authorized to execute the Second Amendment to the Settlement Agreement with the County, together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4: The appropriate City officials are authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this Resolution.


Section 5: This Resolution shall be in force and take full effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 18th day of December, A.D., 2018.



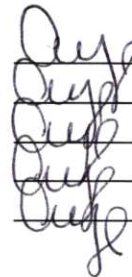
GREG ROSS
Mayor

ATTEST:



KATHRYN SIMS
City Clerk

Roll Call
Mayor Ross
Commissioner Curran
Commissioner Green
Commissioner Meltzer
Commissioner Pulcini





SECOND AMENDMENT TO SETTLEMENT AGREEMENT

This Second Amendment ("Second 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 Lauderdale, 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 Second Amendment Effective Date (as defined below).

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.

B. The Settlement Agreement provides for the County and the Settling Municipalities 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 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 above-referenced litigation or 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.

D. In an amendment to the Settlement Agreement, dated June 9, 2016 (the "First Amendment"), the County and the Settling Municipalities agreed to delay the sale of Alpha 250 for one year from the effective date of the First Amendment (the "Sale Delay Period") to allow the County to procure a study (the "Study") for an evaluation and recommendations regarding how to reach a 75% County-wide recycling goal, what impact retaining public ownership of Alpha 250 would have on that recycling goal and County-wide solid waste disposal, and other general solid waste disposal issues that might be identified through the Study. The First Amendment provided that the Settlement Agreement may be further amended based upon the results of the Study. In addition, the First Amendment allowed the County and the Settling Municipalities to further extend the Sale Delay Period 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").

E. 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, which the Arcadis Team commenced in October 2017.

F. Thereafter, consistent with the First Amendment, the County Administrator and the Mayors provided Written Approval of Extension of Sale Delay Period Under First Amendment to Settlement Agreement Until October 11, 2018 (the "Written Approval of Extension"), which further extended the Sale Delay Period until October 11, 2018.

G. 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"), which summarizes the Arcadis Team's findings based on the Study and includes its final evaluations and recommendations.

H. In order to analyze the Interim Final Report and address the final evaluations and recommendations presented therein, the County and the Settling Municipalities desire to amend the Settlement Agreement to further extend the Sale Delay Period under the terms and conditions stated herein.

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

1. The foregoing recitals are true and correct, and are incorporated herein by reference.
2. Notwithstanding any provision to the contrary in the Settlement Agreement, the First Amendment, or the Written Approval of Extension, the County and the Settling Municipalities agree to extend the Sale Delay Period until October 11, 2019. The Sale Delay Period may be further extended for up to three additional periods, each for up to one year, provided that any such additional extension be approved in writing by the County Administrator and the Mayors.
3. Amendment Approval Process.
 - a. Once approved by the County Commission, this Second Amendment shall be presented for approval at public Commission/Council meetings at each of the Settling Municipalities and Consenting Municipalities (the County shall communicate this requirement to the Consenting Municipalities).
 - b. To be effective, this Second Amendment must, within one hundred twenty (120) days after approval by the County Commission: (1) be approved and executed by all Settling Municipalities, with concurrent 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 Second Amendment.

4. **Effective Date.** The date of the last approval and execution of this Second 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 "Second Amendment Effective Date."

5. Except as otherwise revised in this Second Amendment, the terms and conditions of the original Settlement Agreement as modified by the First Amendment shall remain in full force and effect. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Settlement Agreement or the First Amendment. The preparation of this Second 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 Second 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 Second Amendment in a manner designed to effectuate the original intent of the parties.

6. This Second Amendment may be executed in multiple originals, and may be executed in counterparts, 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 hereto have made and executed this Second Amendment to the Settlement 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 13th day of September, 2018, and the SETTLING MUNICIPALITIES, signing by and through their respective Mayors or other representatives duly authorized to execute same.

BROWARD COUNTY

ATTEST:


Bertha P. ...
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

20th day of September, 2018




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

By  08/29/18
Keoki M. Baron (Date)
Assistant County Attorney

[NAME OF MUNICIPALITY]

ATTEST:

_____ OF _____

 City Clerk

BY: _____
Mayor

_____ day of _____, 2018

Approved as to form and legality:

By: _____
City Attorney

BY: _____
City Manager

7 day of January, 2018⁹

_____ day of _____, 2018



**Cooper City Commission Meeting
Agenda Item Request Form**

Commission Meeting/Workshop Date: December 18, 2018

Requesting Department: Administration/Mayor Ross

Subject: Extension of Time to Sell Alpha 250 Site

Section:

Presentation

Consent

Regular

Discussion

Background and Recommendation (attach backup material to Item Request Form):

The Solid Waste & Recycling Working Group has reviewed the County's approved and executed Second Amendment to the Settlement Agreement. This agreement extends any sale of the Alpha 250 site until October 11, 2019 as well as furthers the ability to extend the sale for up to three one year extensions. In order for the amendment to become effective, all settling and consenting municipalities need to approve it no later than January 11, 2019. Please advise me of the date your municipality intends to consider the Second Amendment.

Staff is requesting Commission approval of the attached Resolution 18-12-3 which provides agreement for the approval of the extension of sale of the Alpha 250 site until October 11, 2019 as well as furthers the ability to extend the sale for up to three one year extensions. After approval the City must forward a copy of the Commission's action to the Broward League of Cities.

General Ledger Account Number(s) and Amount(s):

not applicable

Attachments:

Resolution
Extension of Time to Sell Alpha 250 Site

Approvals:

Finance Director _____

City Manager

City Clerk _____