

## SETTLEMENT PROCEEDS DISTRIBUTION AGREEMENT

**THIS AGREEMENT** ("Agreement") is made and entered into as of the Effective Date (as defined below), by and among 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, and the Town of Southwest Ranches, all political subdivisions of the State of Florida, (individually each is a "Plaintiff Municipality," collectively, the "Plaintiff Municipalities") and any non-plaintiff municipalities that were party to the November 1986 Interlocal Agreement with Broward County for Solid Waste Disposal Services, as amended, (the "Interlocal Agreement") the Settlement Agreement with the County regarding the Litigation concerning equitable distribution under the Interlocal Agreement and approve and execute this Agreement (individually each is a "Non-Plaintiff ILA Municipality," collectively, the "Non-Plaintiff ILA Municipalities") (collectively, the Plaintiff Municipalities and Non-Plaintiff ILA Municipalities are the "Settling Municipalities").

### **WITNESS:**

**WHEREAS**, the Settling Municipalities and Broward County (the "County") were parties to the Interlocal Agreement, which provided for the creation of the Broward Solid Waste Disposal District ("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 Settling Municipalities directed solid waste generated within their boundaries to be disposed of at the designated District waste disposal facilities; and

**WHEREAS**, the tonnage directed to District waste disposal facilities in 2012 by the parties to the Interlocal Agreement is reflected in the 2012 Tonnage Schedule, attached and incorporated into this Agreement by this reference as Exhibit "A" (the "2012 Tonnage Schedule"); 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 Settling Municipalities and the County upon the expiration of the Interlocal Agreement; and

**WHEREAS**, the Plaintiff Municipalities and the County disagreed as to the identification and distribution of the assets and liabilities of the District; and

**WHEREAS**, on June 28, 2013, the Plaintiff Municipalities filed a lawsuit against the County 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 Settling Municipalities and the County entered into a Settlement Agreement (the "Settlement Agreement") to settle the Litigation, which provides for the County to make certain payments into a trust account designated by the Plaintiff Municipalities, which is hereby designated to be the Weiss Serota Helfman Cole Bierman & Popok, P.L. Attorney IOTA Trust (the "Trust Account"); and

**WHEREAS**, pursuant to the Settlement Agreement, funds deposited into the Trust Account by the County (the "Trust Account Funds") are to be distributed to the Settling Municipalities pursuant to this Agreement among the Settling Municipalities that provides for pro rata allocation of expenses and pro rata distribution of funds based upon the 2012 Tonnage Schedule; and

**WHEREAS**, the Settling Municipalities desire to enter into this 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 herein.

**NOW, THEREFORE**, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged and agreed upon, the parties agree as follows:

**1. Recitals**: The above recitals are true and correct and are incorporated into this Agreement by this reference.

**2. Cash Payment to Settling Municipalities**: Within 30 days after the County deposits the Cash Amount (as defined in the Settlement Agreement) into the Trust Account, each Settling Municipality shall receive a distribution from the Trust Account (each is a "Settlement Payment") equal to each Settling Municipality's pro rata share allocation of the Cash Amount deposited, based on the 2012 Tonnage Schedule, minus each Settling Municipality's pro rata share of the costs and expenses set forth in this Section 2, based on the 2012 Tonnage Schedule, plus a credit to a Settling Municipality for all of such costs and expenses previously paid by it:

A. \$119,736.08, which shall be paid to the City of Fort Lauderdale for the services of its internal auditor provided to, and approved by, the governing board of the District (the "RRB") but never paid by the County;

- B. \$14,104.00, which shall be paid to plaintiffs' counsel for the legal analysis provided to, and approved by, the RRB but never paid by the County;
- C. \$294,955.69, which has been paid or is due from the Plaintiff Municipalities for litigation expenses, including attorney fees, expert fees and costs to be reimbursed to the Plaintiff Municipalities; and
- D. \$75,000.00 to plaintiffs' counsel to be held in the Trust Account to be used to pay for attorneys' fees and costs incurred after December 31, 2014, including those related to passage and implementation of the Settlement Agreement and this Agreement, and to ensure compliance in the future. Any funds remaining from the \$75,000.00 held in the Trust Account after the Alpha 250 sale shall be distributed pro rata to the Settling Municipalities based upon 2012 tonnage (and if there are insufficient funds they will be deducted from the Alpha 250 sales proceeds prior to distribution).

**3. Alpha 250 Property Sale Proceeds:**

- A. *Sale of Alpha 250.* Under the Settlement Agreement, the County and the Settling Municipalities agree to use their best efforts (and to take all reasonable steps) to sell the Alpha 250 site, as set forth in Section 2(A)(4) and Exhibit "E" of the Settlement Agreement ("Alpha 250").
- B. *Payment of Alpha 250 Sales Proceeds.* Within 30 days after the County deposits the net Alpha 250 sales proceeds (as defined in, and subject to the deductions provided in, the Settlement Agreement) into the Trust Account (the "Alpha 250 Sales Proceeds"), each Settling Municipality shall receive a distribution from the Trust Account (each is a "Alpha 250 Payment") equal to each Settling Municipality's pro rata share allocation of the deposited Alpha 250 Sales Proceeds (minus unpaid expenses, if any) based on the 2012 Tonnage Schedule.

**4. Conditions Precedent; Effective Date:**

- A. *Conditions Precedent.* To be effective, this Agreement is subject to (i) the Settlement Agreement becoming effective, and (b) this Agreement being approved and executed by all of the Plaintiff Municipalities.
- B. *Effective Date.* The date of the last approval and execution of this Agreement by a Settling Municipality is the "Effective Date" of this Agreement.

5. **Entire Agreement:** This Agreement, and the Settlement Agreement, constitute the entire Agreement between the parties and supersedes and cancels any other Agreement, representation, or communication, whether oral or written, between the parties, relating to the transactions contemplated in it.

6. **Headings:** The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretations of this Agreement.

7. **Governing Law:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida.

8. **Counterparts:** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. **Venue:** If litigation shall be instituted between the parties regarding the provisions of this Agreement, venue shall be in Broward County, Florida.

10. **Joint Preparation:** The preparation of this Agreement 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 one of the parties than the other.

11. **Severability:** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective, and the parties agree to voluntarily amend any portion of this Agreement as necessary to comply with a Court order.

12. **Further Assurances:** At any time, and from time to time, after the Effective Date of this Agreement, each party will execute such additional instruments and take such action as may be reasonably requested by the other party, to confirm or otherwise to carry out the intent and purpose of this Agreement.

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**AGREEMENT AMONG THE SETTLING MUNICIPALITIES RELATING TO THE DISTRIBUTION OF THE RESOURCE RECOVERY BOARD ASSET LITIGATION SETTLEMENT PROCEEDS**

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: the SETTLING MUNICIPALITIES, signing by and through their respective Mayors, duly authorized to execute same.

CITY OF

CITY OF \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

\_\_\_ day of \_\_\_\_\_, 2015

Approved as to form and legality:

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager

\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_ day of \_\_\_\_\_, 2015

WITNESSES

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2015, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, Florida, a political subdivision of the state of Florida, who is personally known to me or who has produced \_\_\_\_\_, as identification and did (did not) take an oath.

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC  
State of Florida at Large

\_\_\_\_\_  
PRINTED Name of Notary

EXHIBIT "A"

2012 TONNAGE SCHEDULE

City	FY 2012 Tonnage	% Tons
Coconut Creek	31,870.03	3.4187%
Cooper City	20,927.66	2.2449%
Coral Springs	84,043.66	9.0153%
Davie	74,625.55	8.0050%
Deerfield Beach	50,789.52	5.4482%
Fort Lauderdale	153,135.43	16.4268%
Hillsboro Beach	1,402.61	0.1505%
Hollywood	79,751.81	8.5549%
Lauderdale by the Sea	7,130.07	0.7648%
Lauderdale Lakes	18,848.58	2.0219%
Lauderhill	37,278.44	3.9988%
Lazy Lake	-	0.0000%
Lighthouse Point	7,741.42	0.8304%
Margate	31,122.46	3.3385%
Miramar	63,928.20	6.8575%
North Lauderdale	23,328.83	2.5025%
Oakland Park	32,619.62	3.4991%
Pembroke Park	4,184.14	0.4488%
Plantation	48,241.40	5.1748%
Sea Ranch Lakes	502.40	0.0539%
South West Ranches	8,251.03	0.8851%
Sunrise	62,516.66	6.7061%
Tamarac	28,868.59	3.0967%
Unincorporated	11,998.80	1.2871%
West Park	5,650.36	0.6061%
Weston	33,132.94	3.5542%
Wilton Manors	10,340.98	1.1093%
	932,231.18	100.0000%