



Broward County

Legislation Text

File #: 21-1592, Version: 1

Broward County Commission Regular Meeting

Director's Name: Andrew J. Meyers

Department: County Attorney

Information

Requested Action

MOTION TO APPROVE settlement agreement in the matter of *Broward County v. Illinois Union Insurance Company*, 17th Judicial Circuit, Court Case No. CACE20-008893(08); and to authorize the Mayor and Clerk to execute same.

Why Action is Necessary

Board approval is required to resolve this pending lawsuit.

What Action Accomplishes

Settlement of pending litigation.

Is this Action Goal Related

No

Previous Action Taken

Summary Explanation/Background

The above-referenced lawsuit arises from an insurance claim to recover the costs of removal and disposal of asbestos-contaminated material at the Trails End Yard site ("TEY") in Dania Beach.

In 2009, Illinois Union Insurance Company ("Insurer") issued a Contractors Pollution Liability Insurance Policy ("Insurance Policy") to the County that, among other things, would cover costs associated with remediating hazardous materials contamination.

Tutor Perini Fort Lauderdale Hollywood Venture ("TPFLHV") performed work on the Terminal 4 Apron Project ("Apron") at Fort Lauderdale-Hollywood International Airport from 2014 to 2019 that included the demolition and removal from the site of an existing concrete apron and other unsuitable material. TPFLHV transported some of these materials off-site to TEY to be sorted and reused.

Towards the end of 2014 or early 2015, it was determined that asbestos-contaminated material originating from the Apron was present in material placed at TEY by TPFLHV and had been commingled with other noncontaminated material. Using an emergency quotation process, the County retained an environmental contractor to dispose of the contaminated material, incurring costs of \$4,357,000. The County submitted a claim to the Insurer requesting coverage and payment for these disposal costs. After initially denying the claim, the Insurer took the position that the policy only

covered costs associated with new contamination. On May 29, 2020, the County filed a lawsuit against the Insurer alleging breach of contract.

The Insurer has agreed to pay the County \$2,800,000 in full settlement of all claims against the Insurer, with the parties exchanging mutual releases of all claims relating to or arising from the asbestos-contaminated material at TEY. The proposed settlement agreement with the Insurer ("Settlement Agreement") is attached hereto as Exhibit 1.

The County retains all of its claims against TPFLHV for the balance of the disposal costs, which will be addressed through dispute procedures specified in the construction agreement between the County and TPFLHV.

The Broward County Aviation Department and the County Attorney's Office recommend approval of the Settlement Agreement.

Source of Additional Information

Alexander J. Williams, Jr., Senior Assistant County Attorney, 954-359-7201

Fiscal Impact

Fiscal Impact/Cost Summary

The County will receive a \$2,800,000 settlement payment from the Insurer.