



CITY OF DORAL COUNCIL MEETING MEMORANDUM

ITEM TITLE:

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH WANNEMACHER JENSEN ARCHITECTS, INC. AND KIMLEY-HORN AND ASSOCIATES, INC. RELATING TO LITIGATION ARISING FROM THE DESIGN AND CONSTRUCTION OF A BASEBALL FIELD AT DORAL LEGACY PARK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT AND ALL RELATED DOCUMENTS; AUTHORIZING THE CITY ATTORNEY TO TAKE ALL NECESSARY ACTIONS TO EFFECTUATE THE SETTLEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE

DEPARTMENT RECOMMENDATION:

Approval

BRIEF HISTORY:

The attached Resolution seeks approval of a Settlement Agreement and Mutual Release between the City of Doral, Wannemacher Jensen Architects, Inc. ("WJA"), and Kimley-Horn and Associates, Inc. ("Kimley-Horn") in connection with pending litigation arising from the design and construction of the City's recreational park facility located at 11400 NW 82nd Street, Doral, Florida.

This matter arises out of the case styled *Acosta Tractors, Inc. v. Biltmore Construction Co., Inc., et al.*, Case No. 2018-020135 CA-25, pending in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida. In that litigation, the City asserted claims against WJA and Kimley-Horn relating to architectural, engineering, and design services provided in connection with the Project, including the baseball field component.

After arm's-length negotiations, the parties have reached a proposed settlement intended to fully and finally resolve all claims between the City and the Design Team arising out of or related to the Project, the litigation, and the professional services at issue. Under the proposed agreement, the Design Team will pay the City a total of \$180,000.00, allocated as \$90,000.00 on behalf of WJA and \$90,000.00 on behalf of Kimley-Horn. In exchange, the parties will provide mutual releases of all project-related claims between them, and the City will dismiss with prejudice its claims against WJA and Kimley-Horn.

The proposed settlement also provides that, after receipt of the settlement payment, the parties will execute and file a Joint Stipulation of Dismissal with Prejudice as to the City's claims against WJA and Kimley-Horn. The agreement further contemplates that the parties will jointly seek a court determination that the settlement was entered in good faith pursuant to Section 768.31(5), Florida Statutes, so that the released parties are discharged from contribution claims by others arising from the same subject matter.

In addition to the monetary payment, the Design Team has agreed to provide reasonable cooperation to the City in connection with the continued prosecution and defense of the remaining claims in the litigation. The agreement is expressly structured to preserve the City's rights against non-settling parties while providing finality as between the City and the Design Team.

Approval of this Resolution is in the best interests of the City because it resolves disputed claims without the additional expense, uncertainty, and delay associated with continued litigation against these parties, secures a monetary recovery for the City, and narrows the issues remaining in the underlying case.

It is recommended that the Mayor and City Council approve the Resolution and authorize the City Manager to execute the Settlement Agreement and all related documents, and authorize the City Attorney to take all necessary actions to effectuate the settlement.

LEGISLATIVE ACTION: (IF APPLICABLE)

Date:	Resolution/Ordinance No.	Comments

FINANCIAL INFORMATION: (IF APPLICABLE)

No.	Amount	Account No.	Source of Funds
I.			Settlement
Total:	\$180,000 in expected revenue.		
Fiscal Impact Statement: The proposed item has no fiscal impact.			

STRATEGIC PLAN ALIGNMENT:

This item is aligned with the Public Safety Strategic Goal, as it will assist in continuing to ensure the well-being and security of residents, maintain social order, support economic growth, foster community engagement, and improve the overall quality of life for residents.

ATTACHMENT(S):

- A. Memorandum
- B. Resolution
- C. Exhibit "A" Settlement Agreement