

**CITY OF OAKLAND PARK, FLORIDA
CITY COMMISSION AGENDA ITEM REPORT**

AGENDA ITEM NO. 7

MEETING DATE: 4/3/2019

PREPARED BY: Albert J Carbon III, PE **DEPARTMENT HEAD** PUBLIC WORKS
Public Works Director **APPROVAL:**

SUBJECT:

Professional Service Agreement with The Goldstein Environmental Law Firm, P.A. for Services related to the preparation and filing of a Brownfield Site Rehabilitation Agreement (BSRA) for the property located at 3855 N. Dixie Highway

1. BACKGROUND/HISTORY

Issue Statement: On February 7, 2018, the City Commission designated the City owned property at 3855 North Dixie Highway as a Brownfield Area. Subsequent to the designation and as part of the developer's due diligence process, environmental testing was conducted. Because the designation is now in place, the City is able to enter into a Brownfield Site Rehabilitation Agreement (BSRA) with Broward County and access financial and regulatory incentives, including but not limited to Voluntary Cleanup Tax Credits which will allow the City to recapture at least 67.5% of all costs spent on addressing contamination in connection with the project. This recapture is effectuated by selling the state corporate income tax credits on the secondary market. The Goldstein Environmental Law Firm will assist the City in preparing, negotiating, and entering into the BSRA with Broward County.

Recommended Action: Staff recommends the City Commission adopt a resolution authorizing the proper City Official to execute an agreement between the City and The Goldstein Environmental Law Firm, P.A. to assist the City in preparing and entering into a Brownfield Site Rehabilitation Agreement (BSRA) for an amount not to exceed \$25,000.

Background: This next phase of the Brownfield Act is to enter into the Brownfield Site Rehabilitation Agreement (BSRA) process. This process requires the assistance of an experienced firm to prepare the required documentation to ensure the City can take advantage of available financial and regulatory incentives. These incentives, which are only available upon execution of a BSRA, could include, among other incentives, a state corporate income tax credit for eligible contamination assessment and response costs (including all legal fees associated with this task) and state liability protection against any third-party claims for contamination at the Subject Property. The Goldstein Environmental Law Firm, P.A. is known as one of the preeminent experts in South Florida in this highly specialized field. Principal Michael Goldstein has more than 25 years of experience in Brownfields designations and implementation.

2. CURRENT ACTIVITY

The City has been working with Langan Engineering, in partnership with Integra, the project developer, to complete the environmental testing and establish a site remediation plan. To date, Langan has completed the initial testing necessary to confirm the type of contaminants that exist on the site and confirm the location of said contaminants. Additional sampling and testing was also performed on the southern parcel. With this sampling complete, Langan is now in the process of creating a plan with estimated costs and scope of work and timeline necessary to implement the environmental cleanup.

The Goldstein Environmental Law Firm, P.A. (Goldstein) will assist the City in preparing and entering into a Brownfield Site Rehabilitation Agreement (BSRA) with Broward County for this property. Through the BSRA process, the City and future property owners will be eligible to receive the following:

- State corporate income tax credit for eligible contamination assessment and response costs; and
- State liability protection against third-party claims for contamination at the property.

Goldstein will perform the following activities as part of this Scope of Services:

- Demonstrate the City's eligibility to enter a BSRA to Broward County Environmental Protection and Growth Management Department (EPGMD);
- Draft the BSRA and assemble all supporting documents to be included in the BSRA for review by the City and Broward County EPGMD;
- Negotiate the BSRA with Broward County EPGMD technical staff and the Office of the County Attorney;
- Secure full execution of the BSRA by all signatories; and
- Ensure that draft and fully executed versions of BSRA are timely transmitted to the Brownfields Advisory Committee.

3. FINANCIAL IMPACT

As indicated on the attached Engagement Letter provided by Goldstein Environmental Law Firm, P.A, the fees are set at fixed amount totaling \$15,000. These fees will be eligible for Voluntary Cleanup Tax Credits under the BSRA, which by selling them on the secondary market for 90 cents on the dollar, will likely result in a cash recapture to the City of at least 67.5% of the cost.

The City previously entered into an agreement with Goldstein to designate the property as a Brownfield Area (green Reuse Area) and the consultant has continued to assist in the reviewing the environmental reports and current sampling and testing for these West Dixie properties (a portion of which will also be eligible for cash recapture to the City through Voluntary Cleanup Tax Credits). City Commission authorization is required in this instance because expenditures are expected to exceed \$25,000 (\$24,500 already incurred from the first contract plus additional expenditures moving forward).

The estimated cost of \$15,000 for the services of Goldstein Environmental Law Firm, P.A, in preparing and entering into a BSRA, as shown in the attached proposed agreement, is not included in the FY 19 budget. However, the present budget within the professional fees account within the Storm Water Division will be re-allocated to provide funding for the foregoing service. The proposed expense is as follows:

Proposed Expenditure

Approval of Professional Service Agreement with The Goldstein Environmental Law Firm, P.A.

Account Name & Number	Available Budget	Proposed Expenditure	Remaining Available
Professional Services 40575538.431300	\$ 69,860	\$ 15,000	\$ 54,860

4. RECOMMENDATION

Staff recommends the City Commission adopt a resolution authorizing the property City Official to execute the agreement between the City and with The Goldstein Environmental Law Firm, P.A. to assist the City in preparing and entering into a Brownfield Site Rehabilitation Agreement (BSRA) for an amount not to exceed \$25,000.

ATTACHMENTS:

[Resolution](#)

[Agreement](#)

[Proposal/ Scope of Services](#)

[October 2018 Commission Report](#)

[Site Map](#)