



Agenda Item Summary

File ID: 19-0834

CNST-12

Meeting Date: 8/27/2019

PLACEMENT: Consent

TITLE:

SETTLEMENT AGREEMENT AND RELEASE BETWEEN MARTIN COUNTY AND EAGLE MARSH GOLF CLUB, LLC REGARDING IRRIGATION QUALITY WATER DEBT

EXECUTIVE SUMMARY:

The Board is asked to consider a settlement agreement and release (the Settlement) resolving an Irrigation Quality Water (IQ Water) billing dispute between Martin County and its Utilities and Solid Waste Department (County) and Eagle Marsh Golf Club, LLC.

DEPARTMENT: Utilities and Solid Waste

PREPARED BY: **Name:** Samuel Amerson, P.E.
Title: Utilities & Solid Waste Director

REQUESTED BY: David Arthur, Senior Assistant County Attorney

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

In 1991, the County and Eagle Marsh's predecessor-in-interest Jensen Beach Land Company, LTD, which was the original developer of the golf club and course, entered into an IQ Water Agreement for the County to provide IQ Water in return for monthly payments. The water was primarily used for irrigating the golf course and the common areas, and residences. Eventually, nearby commercial and residential properties also entered into IQ Water Agreements with the County, whereby the County provided IQ Water from the same IQ Water pond as Eagle Marsh. Consequently, because the properties receiving IQ Water from that source were no longer under one owner, Eagle Marsh became responsible for billing the commercial and residential users and getting reimbursed from them.

Until November 1, 2017, Eagle Marsh was current with its IQ Water bills. After that time, they fell into arrears because the former tenant that managed the golf club and course failed to pay Eagle Marsh for the IQ Water.

Cutting off the IQ Water supply would have not only devastated the Eagle Marsh golf club and course but also would have adversely affected innocent commercial and residential properties because those properties draw the IQ Water from the same pond. Thus, the County refrained from cutting off

the IQ Water but demanded Eagle Marsh pay the full outstanding balance of \$91,420.64.

In response, Eagle Marsh asserted that County overbilled Eagle Marsh by \$32,000.00. Although the County could litigate the overbilling dispute, doing so carries significant costs and risk.

The Settlement would allow Eagle Marsh to pay off the net amount of \$59,420.64 in monthly installment payments of \$5,000 (with the last installment in the amount remaining under \$5,000) while

continuing the supply of IQ Water to the golf course, common areas, and the commercial and residential properties. Additionally, the Utilities and Solid Waste Department has installed additional water meters for the commercial and residential users, which eliminates the need for Eagle Marsh to bill those IQ Water users.

ISSUES:

Whether to approve the Settlement.

LEGAL SUFFICIENCY REVIEW:

This item has been reviewed for legal sufficiency to determine whether it is consistent applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board authorize the Chairman to sign the Settlement.

ALTERNATIVE RECOMMENDATIONS

Pull this item from the Consent Agenda and direct staff.

FISCAL IMPACT:

RECOMMENDATION

The County will receive the amount of \$59,420.64 in settlement of the dispute.

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- | | | |
|------------------------------------------------------|---------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input checked="" type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Resolution | |

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