

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CONSIDERING THE REQUEST OF THE CITY OF DANIA BEACH, FLORIDA, TO TOLL ALL LIMITATIONS PERIOD ASSOCIATED WITH DANIA BEACH'S ABILITY TO SUE THE CITY OF HOLLYWOOD FOR ISSUES PERTAINING TO THE LARGE USER AGREEMENTS AS LITIGATED IN THE BROWARD CIRCUIT COURT CASE STYLED *CITY OF PEMBROKE PINES v. CITY OF HOLLYWOOD*.

WHEREAS, the City of Hollywood provides wastewater services to several "large users," including the Cities of Pembroke Pines ("Pines"), Dania Beach, Hallandale Beach, Miramar, and Broward County, pursuant to agreements that were negotiated and have been in place since the 1990s, called the "Large User Agreements"; and

WHEREAS, Pines later sued Hollywood in actions consolidated in Broward Circuit Court Case Number CACE 18-015330, asserting, among other things, that Hollywood had improperly calculated true-up payments under the Large User Agreements; and

WHEREAS, a trial was concluded in 2023, resulting in a Final Judgment in favor of Hollywood on a number of issues, and in favor of Pines on a number of issues ("2023 Litigation"); and

WHEREAS, both Pines and Hollywood have appealed the Final Judgment, and the appeals remain pending; and

WHEREAS, as Dania Beach did not join Pines in the 2023 Litigation, the Final Judgment neither applies to nor inures to the benefit of Dania Beach; and

WHEREAS, Dania Beach has requested that Hollywood agree to toll the statute of limitations for Dania Beach to potentially bring action against Hollywood on the Large User Agreement if Pines prevails on appeal on some or all of the issues in the Final Judgment, as those issues could potentially affect Dania Beach; and

WHEREAS, Dania Beach may request, if Hollywood agrees to the requested tolling, that the courts take judicial notice of its claim based upon allegedly identical facts and circumstances as was litigated with Pines, and if the courts agreed, would then only be required to establish any damages that Dania Beach asserts it may have suffered, payable by Hollywood; and

WHEREAS, should Hollywood not agree to toll the limitations period pending the outcome of the Pines' appeal as requested by Dania Beach, then Dania Beach will be

required to presently sue Hollywood and assert its potential claims based under the Large User Agreement as applied to Dania Beach; and

WHEREAS, the City Attorney does not have the authority to grant Dania Beach's request, and thus, this Resolution is presented for the City Commission's consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA.

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That the City Commission [grants Dania Beach's request to toll all applicable limitations periods related to the 2023 Litigation pending final determination of Hollywood's appeal of the Final Judgment in the 2023 Litigation, and [authorizes the City Attorney to negotiate and execute a tolling agreement with Dania Beach] [denies Dania Beach's request to toll all applicable limitations periods related to the 2023 Litigation].

Section 3: That this Resolution does not supplant the requirements of Chapter 164, Florida Statutes, which will apply if Dania Beach determines to initiate a dispute with Hollywood over the Large User Agreements.

Section 4: That This Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2024.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM:

DOUGLAS R. GONZALES
CITY ATTORNEY