

RESOLUTION NO. R-2020-084

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY TO PROVIDE COST SHARE SUPPORT OF A NATURESCAPE IRRIGATION SERVICE AND OVERSIGHT OF THE RESIDENT IRRIGATION REBATE PROGRAM IN A TOTAL AMOUNT NOT TO EXCEED \$102,982.47 OVER A FIVE YEAR PERIOD; APPROVING AN AMENDMENT TO THE FISCAL YEAR 2020 CAPITAL IMPROVEMENT PROGRAM.

WHEREAS, the City owns and operates several drinking water wells located within two distinctive coastal aquifers, the Biscayne Aquifer and the Floridan Aquifer; and

WHEREAS, a high quality and adequate water supply is key to the current and continued support of urban and natural systems in Broward County; and

WHEREAS, consumptive use water supply allocations are limited through South Florida Water Management District's ("SFWMD") adoption of Restricted Allocation Areas; and

WHEREAS, Rule 40E-2. 321 of the Florida Administrative Code and the SFWMD'S Applicant Handbook require that public water supply utilities develop and implement standard water conservation plans; and

WHEREAS, in 2015, Broward County entered into various interlocal agreements to share the cost of the County's NatureScape Irrigation Service, which are set to expire in 2020; and

WHEREAS, in addition to the NatureScape Irrigation Service, the County has established an optional Residential Irrigation Rebate Program under which the County will facilitate rebates to residents within participating NatureScape Irrigation Services Partners' water service area; and

WHEREAS, services provided by the NatureScape Irrigation Services and Residential Irrigation Rebate Program directly support a number of measures within these conservation plans demonstrating increases in water use efficiency achieved through water conservation, which includes local municipalities and water utilities within Broward County; and

WHEREAS, the Department of Public Utilities considers that the services provided by the NatureScape Irrigation Services and Residential Irrigation Rebate Program also directly support a number of water quality objectives that comply with regional and state regulatory programs and successful implementation of the Integrated Water Resource Plan as a strategy for minimizing the impacts of climate change while protecting the quality and quantity of local water resources, but such support is dependent upon community wide participation; and

WHEREAS, in order to share the benefits of the results from the evaluation, all the municipalities involved will divide the estimated cost of the program, and each of the municipalities, including the City of Hollywood, must enter into an Interlocal Agreement with Broward County; and

WHEREAS, the overall cost-sharing support cost for the NatureScape Irrigation Service ("NIS") and Residential Irrigation Rebate Program is in the estimated amount of \$102,982.47 over a five year period as more specifically set forth in the attached Exhibits "B" and "C" of the agreement, with the cost broken down as follows: (1) Rebate Program in an annual amount not to exceed \$11,002.04; and (2) Landscape and Irrigation evaluations in an annual amount not to exceed \$11,817.84; and

WHEREAS, the Department of Public Utilities recommends that the City Commission approve and authorize the appropriate City officials to execute the attached Interlocal Agreement for the cost share support of a NatureScape Irrigation Service and Residential Irrigation Rebate Program within the Water Utility Service Area, as more specifically set forth in the attached Interlocal Agreement; and

WHEREAS, it is necessary to amend the approved FY 2020 Capital Improvements Program as set forth in the attached Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION 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 it approves and authorizes the execution, by the appropriate City officials, of the attached Interlocal Agreement with Broward County, together with such non-material changes as may be subsequently agreed to by the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 3: That it approves and authorizes an amendment to the approved FY 2020 Capital Improvement Program, as more specifically set forth in the attached Exhibit "A".

A RESOLUTION TO EXECUTE AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY TO PROVIDE COST SHARE SUPPORT OF A NATURESCAPE IRRIGATION SERVICE AND OVERSEE THE RESIDENT IRRIGATION REBATE PROGRAM IN A TOTAL AMOUNT NOT TO EXCEED \$102,982.47 OVER A FIVE YEAR PERIOD.

Section 4: That the Department of Financial Services is authorized to establish such line item accounts as may be necessary to properly monitor and track appropriations.

Section 5: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 22 day of April, 2020.



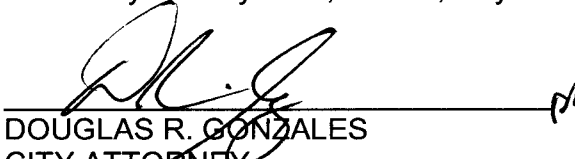
JOSH LEVY, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida, only.



DOUGLAS R. GONZALES
CITY ATTORNEY

Exhibit A: Amendments / Transfers / Reallocations
Water & Sewer Enterprise Fund

Reallocating funding available from an existing project to fund the Interlocal Agreement for the cost share support of a NatureScape Irrigation Service and Residential Irrigation Rebate Program

Transfer From:

Description	Account Number	Amount
SOFTWARE/HARDWARE-GIS DATABASE IMP R14356	442.409901.53600.564410.000215.000.000	102,983

Transfer To:

Description	Account Number	Amount
3063-WTR CON PH3	442.409901.53600.552010.000739.000.000	102,983

**Agreement between Broward County and City of Hollywood to Provide Cost Share Support of
a NatureScape Irrigation Service Within the Water Utility Service Area and Authorize
Broward County to Conduct Specific Technical Activities as Part of Landscape Irrigation
System Evaluations.**

This Agreement ("Agreement") is made and entered by and between Broward County, a political subdivision of the State of Florida ("County"), and the City of Hollywood, a municipal corporation of the State of Florida ("NIS Partner") (collectively referred to as the "Parties").

RECITALS

- A. In 2015, County entered into various interlocal agreements to share the costs of County's NatureScape Irrigation Service ("NIS"). The NIS is intended to conserve water by providing detailed site evaluations and recommendations for producing water savings and water quality improvements through modification in landscape and irrigation system design, maintenance, and operation.
- B. The 2015 interlocal agreements are set to terminate in 2020, and the Parties seek to enter into new, five (5) year cost sharing agreements.
- C. In addition to providing for cost-sharing, County has established an optional Residential Irrigation Rebate Program ("RIR Program") through which County will facilitate rebates to residents within participating NIS Partners' water service area.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.2. **City Manager** means the manager or administrator, whichever is applicable, that is the chief executive officer of NIS Partner.
- 1.3. **Contract Administrator** means the Director of the Broward County Environmental Planning and Community Resilience Division, or such other person designated by same in writing.
- 1.4. **Services** mean all work required under this Agreement, including, without limitation, all deliverables, consulting, training, project management, or other Services specified in Exhibit A.

ARTICLE 2. SCOPE OF SERVICES

- 2.1. County shall perform all County obligations identified in this Agreement including, without limitation, County Responsibilities specified in Exhibit A (the "Scope of Services"), except

that County shall have no obligation to perform any Services under the RIR Program if NIS Partner does not elect to participate in the RIR Program or if NIS Partner withdraws from the RIR Program after having previously agreed to participate in it.

2.2. NIS Partner agrees to perform all NIS Partner obligations identified in this Agreement including, without limitation, the NIS Partner Responsibilities specified in the Scope of Services outlined in Exhibit A, except that NIS Partner shall have no obligation to perform any Services under the RIR Program if NIS Partner does not elect to participate in the RIR Program or if NIS Partner withdraws from the RIR Program after having agreed to participate in it.

2.3. The Scope of Services is a description of the Parties' obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by either party impractical, illogical, or unconscionable.

2.4. RIR Program. NIS Partner may optionally participate in the RIR Program. The Services to be provided as part of the RIR Program are further identified in Exhibit A of this Agreement under the heading RIR PROGRAM.

2.4.1. Unless the amount provided in Exhibit C is zero dollars (\$0), NIS Partner agrees to participate in the RIR Program. If the amount in Exhibit C is zero dollars (\$0), NIS Partner may later elect to participate in the RIR program. To participate, City Manager shall submit to County, in the manner required by the NOTICES section, a statement that NIS Partner wishes to participate in the RIR Program and the NIS Partner's desired not-to-exceed amount. Such not-to-exceed amount shall include at least \$4,000 for the base fee and such amount NIS Partner wishes to offer in rebates. County may, through its Contract Administrator, provide written notice of its refusal to perform under the RIR Program within thirty (30) days after receipt of the participation request. County's refusal shall not terminate the remainder of this Agreement.

2.4.2. NIS Partner may change the not-to-exceed amount (whether that amount is established by Exhibit C or a subsequent notice under Section 2.4.1) for rebates with at least thirty (30) days' notice to County before the change becomes effective. If such notice reduces the not-to-exceed amount for rebates, County shall cease to accept applications from NIS Partner residents seeking to participate in the RIR Program if the residents' participation would be in excess of the new not-to-exceed amount. However, decreasing the number of rebates shall not relieve NIS Partner of its obligation to compensate County for any rebates actually provided prior to the effective date of termination of this Agreement or prior to any notice of change pursuant to this section.

2.4.3. By participating in the RIR Program, NIS Partner acknowledges that County is responsible for administering the program. County shall make good faith efforts to consult with NIS Partner regarding the promotion and administration of the RIR Program. Except as otherwise provided, all decisions, including, without limitation, whether to offer a rebate on an individual basis, the manner by which County promotes the RIR Program,

what rebates to offer, and the amount of the rebate shall be made in County's sole discretion.

2.5. NIS Partner acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement except as expressly set forth in this Agreement or, to the extent applicable, set forth in the Broward County Procurement Code.

2.6. NIS Program Brand. County, in consultation with all NIS Partners, shall develop a single brand for use in promoting the programs covered under this Agreement (the "NIS Program Brand"). Upon its approval by the Contract Administrator, the NIS Program Brand shall be the brand used on all materials, including websites, promotional materials, and correspondence associated with this Agreement, including the RIR Program, if applicable.

2.6.1. County shall own the NIS Program Brand and all derivatives. County shall register the NIS Program Brand as a trademark, tradename, fictitious name, or service mark, as applicable.

2.6.2. Once approved, NIS Partner shall have a nonexclusive license to use the NIS Program Brand and derivatives on materials governed by this Agreement, including websites, promotional materials, and correspondence for the duration of this Agreement.

2.6.3. Nothing in this subpart shall be interpreted to prohibit either party from using their own logos and brand on matters and materials not covered by this Agreement.

ARTICLE 3. TERM AND TIME OF PERFORMANCE

3.1. Term. The term of this Agreement shall begin on April 13, 2020 ("Effective Date") and shall end at 11:59 p.m. on April 12, 2025 ("Initial Term"). All site selections, duties, obligations, and responsibilities of the Parties required by this Agreement shall be completed no later than 11:59 p.m. on April 12, 2025.

3.2. Fiscal Year. The continuation of this Agreement beyond the end of either Party's fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapters 129 and 166, Florida Statutes, whichever is applicable.

ARTICLE 4. COMPENSATION

4.1. County and NIS Partner agree to perform the NIS Program Services set forth in Section 2.1. and 2.2. at a cost to NIS Partner of the total yearly amount specified in Exhibit B. County shall have the option to refuse to perform any additional evaluations and may notify NIS Partner in writing of this fact. If County elects to not perform an additional evaluation, NIS Partner shall not be invoiced for that additional evaluation.

4.2. If NIS Partner elects to participate in the RIR Program, County will make a good faith effort to distribute as many rebates as possible within the designated amount identified in Exhibit C or

in the amount contained in NIS Partner's written notice to County pursuant to Section 2.4.1 of this Agreement, whichever is applicable. NIS Partner shall be invoiced for the actual amount of money distributed as rebates within NIS Partner's water service area. NIS Partner acknowledges that since rebate amounts vary per program guidelines, the number of rebates provided will depend on the amount of each rebate actually given per program guidelines.

4.3. County may submit invoices on an annual basis starting one (1) year following the effective date of this agreement for work actually performed and, if NIS Partner participates in the RIR Program, for the final amount distributed as rebates. NIS Partner shall pay County within forty-five (45) days following receipt of County's invoice and as otherwise provided by Chapter 218, Florida Statutes. County may submit the final invoice up to sixty (60) days following the Initial Term of this Agreement.

4.4. Payments shall be made to County at:

NatureScape Irrigation Services
Broward County Environmental Planning and Community Resilience Division
115 S Andrews Ave. Room 329H
Fort Lauderdale, FL 33324

ARTICLE 5. INSURANCE

5.1. The Parties are entities subject to Section 768.28, Florida Statutes, and shall furnish the other party with written verification of liability protection in accordance with state law upon request by a party subject to this Agreement.

ARTICLE 6. EEO COMPLIANCE

6.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, gender identity and expression, or veteran or service member status in the performance of this Agreement. Failure by any party to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit the other party to terminate this Agreement or to exercise any other remedy provided under applicable law, all such remedies being cumulative.

ARTICLE 7. TERMINATION

7.1. This Agreement may be terminated for cause by an aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Parties' respective boards or commissions. Termination for convenience shall be effective on the termination date stated in the written notice provided pursuant to the NOTICES section, which termination date shall be not less than thirty (30) days after the date of such written notice.

This Agreement may also be terminated by the County Administrator or the City Manager upon such notice as the County Administrator or the City Manager deems appropriate under the circumstances in the event the County Administrator or the City Manager determines that termination is necessary to protect the public health, safety, or welfare. If County or NIS Partner erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination is provided.

7.2. Notice of termination shall be provided in accordance with the NOTICES section of this Agreement except that notice of termination by the County Administrator or the City Manager, which the County Administrator or City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the NOTICES section of this Agreement.

7.3. In the event this Agreement is terminated for convenience by County or NIS Partner, any Services properly performed under the Agreement through the termination date specified in the written notice of termination shall be paid. County and NIS Partner acknowledge that each has received good, valuable, and sufficient consideration from the other Party, in exchange for the right to terminate this Agreement for convenience.

7.4. Either party may withdraw from the RIR Program without terminating the remainder of this Agreement by providing notice of its intent in accordance with the NOTICES section of this Agreement. Such notice shall take effect not later than thirty (30) days after the date of such written notice. In the event either party withdraws from the RIR Program, any Services performed by County under the RIR Program prior to the notice's effective date shall be included in County's annual invoice as set forth in Section 4.3 of this Agreement.

ARTICLE 8. MISCELLANEOUS

8.1. Rights in Documents and Work. Any and all reports, photographs, surveys, and documents created by County in connection with performing Services under this Agreement shall be owned by County. If a copyright, trademark, service mark, or similar claim of rights is claimed by County, County grants NIS Partner a non-exclusive license to use the copyrighted item(s) to prepare derivative works and to make and distribute copies to the public. In the event of termination of this Agreement, any reports photographs, surveys, and other documents prepared by County, whether finished or unfinished, shall remain County's property, and, if in the possession of NIS Partner, shall be delivered by NIS Partner to the Contract Administrator within seven (7) days after termination of this Agreement by either party.

8.2. Public Records. The Parties are public agencies subject to Chapter 119, Florida Statutes. To the extent subcontractors are used in the performance of this Agreement, the subcontractor agreement shall contain language pursuant to Section 119.0701, Florida Statutes.

8.3. Independent Contractor. The Parties are independent contractors under this Agreement. In providing Services under this Agreement, neither party nor its agents shall act as officers,

servants, employees, or agents of the other party. Neither of the Parties shall have the right to bind the other party to any obligation not expressly undertaken under this Agreement.

8.4. Regulatory Capacity. Notwithstanding the fact that the Parties are political subdivisions and/or municipal corporations with certain regulatory authority, the Parties' performance under this Agreement is as a party to this Agreement. In the event the Parties exercise their regulatory authority, the exercise of such authority and the enforcement of any rules, regulation, laws, and ordinances shall have occurred pursuant to Parties' regulatory authority as governmental bodies separate and apart from this Agreement, and shall not be attributable in any manner to County or NIS Partner as a party to this Agreement.

8.5. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of the Parties' sovereign immunity nor shall anything included herein be construed as consent by the Parties to be sued by third parties in any matter arising out of this Agreement. Parties are political subdivisions as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of their respective employees pursuant to Section 768.28, Florida Statutes, as amended. This section shall survive the termination of all performance or obligation under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

8.6. Third-Party Beneficiaries. Neither NIS Partner nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

8.7. Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing, hand delivery, or commercial overnight delivery (provided the contemporaneous e-mail is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Environmental Planning and Community Resilience
Attn: Stefanie Chicko
Governmental Center, Room 329H
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email address: schicko@broward.org

FOR NIS Partner:

City Manager

2600 Hollywood Blvd., Rm. 421

Hollywood Blvd. Hollywood, Florida 33020

With copy to:

City Attorney

2600 Hollywood Blvd. Rm 407

Hollywood, Florida 33020

8.8. **Assignment.** All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator and NIS Partner's City Manager. Except for subcontracting approved by County and NIS Manager in advance, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered without the prior written consent of the Parties. If any party violates this provision, any other party shall have the right to immediately terminate this Agreement.

8.9. **Materiality and Waiver of Breach.** Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. Each of the Parties' failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

8.10. **Compliance with Laws.** The Parties shall comply with all applicable federal, State of Florida, and local laws, codes, ordinances, rules, and regulations in performing their duties, responsibilities, and obligations pursuant to this Agreement.

8.11. **Severability.** In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

8.12. **Joint Preparation.** This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either party.

8.13. **Interpretation.** The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context

otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

8.14. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 8 of this Agreement, the provisions contained in Articles 1 through 8 shall prevail and be given effect.

8.15. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THE PARTIES MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

8.16. Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by County and NIS Partner or others delegated authority or otherwise authorized to execute same on their behalf.

8.17. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

8.18. Payable Interest

8.18.1. Payment of Interest. Each of the Parties shall not be liable to pay any interest to the other Party for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof each of the Parties waive, reject, disclaim, and surrender any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

8.18.2. Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by either of the Parties under this Agreement, whether as prejudgment

interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

8.19. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

8.20. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

8.21. Use of Parties' Logo. NIS Partner shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County. This section does not limit NIS Partner's use of the NIS Program Brand pursuant to Sections 2.6 and 8.1. County shall not use NIS Partner's city seal or official city logo except as permitted in writing by NIS Partner or applicable city ordinance.

8.22. Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

8.23. Contingency Fee. Each of the Parties represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for a party, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

8.24. Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the other party. This section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the ____ day of _____, 20__, and NIS Partner, signing by and through its Mayor duly authorized to execute same.

COUNTY

ATTEST:

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____
____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____
Joseph K. Jarone (Date)
Assistant County Attorney

By: _____
Michael C. Owens (Date)
Senior County Attorney

ABC/wp
_____.doc
6/1/2018
#____

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF HOLLYWOOD TO PROVIDE COST
SHARE SUPPORT OF A NATURESCAPE IRRIGATION SERVICE WITHIN THE WATER UTILITY SERVICE
AREA AND AUTHORIZE BROWARD COUNTY TO CONDUCT SPECIFIC TECHNICAL ACTIVITIES AS
PART OF LANDSCAPE AND IRRIGATION SYSTEM EVALUATIONS

NIS PARTNER
CITY OF HOLLYWOOD

CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida

ATTEST:

By: _____
Josh Levy, Mayor

Patricia A. Cerny, MMC
City Clerk

APPROVED AS TO FORM & LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida, only.

Douglas R. Gonzales
City Attorney

Exhibit A

SCOPE OF SERVICES

Broward County

NatureScape Irrigation Services and Residential Irrigation Rebate Program

1. INTRODUCTION

Water plays a critical role in South Florida and will continue to directly influence the future sustainability of Broward County's economy, environment, and quality of life. Future water demands will continue to be influenced by population growth, rates of per capita consumption, and variable climatologic conditions.

In 2005, Broward County and twenty-two (22) municipal and water utility partners collaborated in the launching of a NatureScape Irrigation Service ("NIS"), a local variation of a Mobile Irrigation Laboratory ("MIL") designed to provide users with a detailed site evaluation and recommendations for achieving water savings and water quality improvements through modifications in landscape and irrigation system design, maintenance, and operation. The initial program has continued on five-year cycles to the present with minor variation in partner participation. The NIS has helped local partners to achieve more than 1.6 billion gallons in water savings since 2005.

The overall objective of the NIS Program is to further water conservation strategies in support of consumptive use permit requirements and achieve water quality improvements as part of the United States Environmental Protection Agency's National Pollutant Discharge Elimination System permitting program. As with similar programs, NIS seeks to encourage municipalities, residents, and businesses in Broward County to adopt an enduring water conservation ethic that supports long-term water resource sustainability and to achieve permanent and measurable water savings through repair and upgrade of irrigation system components and through proper management of those systems.

There are two (2) principal components to this Scope:

- Irrigation system efficiency inspections on larger municipal and commercial sites as identified by partner agencies ("NIS Partners") or the Broward County ("County") ("NIS Program"). NIS program staff to identify operational efficiencies, maintenance concerns and potential upgrades of system components to achieve increased water use efficiency.
- Residential Irrigation Rebate Program ("RIR Program") that provides irrigation system efficiency inspections and water conservation education to residents of partner municipalities and offers rebates to offset initial costs incurred in upgrading specified

water-efficient irrigation system components. The RIR Program is optional and will only be activated with express consent of NIS Partner and County.

The two principal components of the Scope shall be referred to as the "Program"

2. SCOPE OF SERVICES

The Scope of Services in support of this Partnership Agreement is undertaken through the following series of tasks.

2.1 COUNTY RESPONSIBILITIES

A. ADMINISTRATION OF THE PROGRAM

1. Provide overall administration of the Agreement. Except as otherwise provided, administration of the Program will be left to the sole discretion of County.
2. Coordinate at least one (1) meeting annually with NIS Partner and other partners (those entities listed in Exhibit B) to present annual program achievements, review administrative or logistical program issues, and consider new program promotions and opportunities for improvement.
3. Provide reports to NIS Partner and other partners as requested on inspection results, rebate expenditures, and water savings. An annual report will outline the performance of the Program and the status of goals and objectives. The report will include a list of sites inspected and water savings. The report will also address any unanticipated delays and issues that necessitate modification of the Program. County will provide the annual report within 30 days following the completion of each Program year (from April 13 through April 12 of the subsequent year).
4. Optionally seek additional funds and support from local, state, and national sources including, but not limited to, SFWMD's Local Cooperative Funding Program, Water Sense Partnership (EPA), and local groups. In addition, County may solicit support from sponsors through County's Advantage Marketing program. Funds obtained from additional sources may be used to provide additional inspections or rebates, or to offset other costs at County's discretion.

B. NIS PROGRAM

1. Perform at least six (6) evaluations, which include three (3) original and three (3) follow up, per year on properties selected in coordination with NIS Partner and located within the water service area of NIS Partner. If

Exhibit B states that NIS Partner shall receive additional evaluations, County shall perform such additional evaluations. An additional evaluation shall be either an original (i.e., initial) or follow-up evaluation, at NIS Partner's election.

2. Evaluations will be performed by a County staff person with training in irrigation system design and operation, expertise in landscape best management practices, and with permission and participation of the property owner/manager. The initial evaluation will serve to assess current rates of water consumption as a function of existing landscape design and maintenance and be based on the existing irrigation system's condition and standard operation.
3. Provide, following the initial evaluation, the property owner/manager with specific written recommendations for reducing total irrigation demands and increasing irrigation system efficiency through appropriate modifications in the landscape design, as well as irrigation system maintenance and operation. County will provide the property owner/manager a summary of the results of the evaluation in a site report and include the results in the annual program report. The site report will include a description of the irrigation system and site, a list of recommended improvements, and a summary of current water consumption, potential water savings, and water savings realized as a result of the initial evaluation.
4. Conduct follow up evaluations of sites inspected no more than three (3) months after the initial evaluation. Follow up evaluations will consist of an assessment of the degree to which the site-specific recommendations have been implemented and quantification of the water savings achieved as a result of the recommended improvements.
5. Identify and coordinate property owners/managers interested in pursuing NatureScape Certification as part of the NIS evaluation. For interested property owners/managers, County will provide expert assistance in developing a Florida Friendly Landscape™ in order to meet the NatureScape Broward certification criteria. Properties implementing an NIS evaluation and Florida Friendly Landscape recommendations are eligible for certification as NatureScape properties.
6. Conduct additional NIS site evaluations within each service area for NIS Partners that have elected to fund them. These additional NIS evaluation sites may be selected at the discretion of County in coordination with NIS Partner.

7. Prepare a five-year summary of the program accomplishments prior to conclusion of the five-year term, including:
 - a. Total number and location of properties evaluated;
 - b. Analysis of potential versus actual water savings achieved as a result of the NIS Program;
 - c. Discussion of achieved improvements in landscape practices with consideration of water quality implications;
 - d. Identification of properties certified as meeting NatureScape Broward criteria a result of the NIS Program; and
 - e. Assessment of the overall performance of the NIS Program.

C. RIR PROGRAM

1. Issue rebates, as funded by NIS Partner, to residents that purchase and install specified water-saving measures including, but not limited to, adjustment of irrigation timing, zoning, head type and/or placement; and upgrades to irrigation system components such as valves, heads, timers, and sensing devices.
2. Maintain a list of currently approved cost-saving measures along with the rebate amount being offered and provide the current, accurate list to NIS Partner upon request.
3. Periodically assess available water-saving measures to be used for rebates to ensure the RIR Program stays current with technology and standards.
4. Adopt forms and documentation for use by residents who wish to request a rebate. County will design such forms in consultation with NIS Partner, but approval of such forms shall be at the discretion of County.
5. Periodically make a good faith effort to communicate the availability of the rebate program to residents within NIS Partner's water service area, including all necessary qualifications. This will include at a minimum, one (1) promotional campaign within NIS Partner's water service area per RIR Program year.
6. In any RIR Program year in which rebate funds are exhausted before the final quarter, County will submit notice to NIS Partner and cease performance on the RIR Program until additional funds become available.

2.2 NIS PARTNER RESPONSIBILITIES:

A. ADMINISTRATION OF THE PROGRAM

1. Provide one Point of Contact to coordinate with County on matters pertaining to this Agreement and inform County in writing within thirty (30) days after a change in Point of Contact.
2. Participate in Program meetings and provide comments within thirty (30) days after request on programmatic matters. Following such thirty (30) day period, County may assume NIS Partner has no comments if none have been provided.
3. Provide County with a list of at least three (3) properties within its water service area to be potential targets for the NIS Program and coordinate with County to identify appropriate properties within thirty (30) days of the start of each program year under this agreement.
4. Coordinate with County to:
 - A. Identify and contact site managers of properties to be inspected under the NIS Program.
 - B. Coordinate access to properties to be inspected under the NIS Program.
 - C. Follow up with site managers to encourage improvements and repairs as identified in the inspection report.
 - D. Promote the NIS Program and, if participating, the RIR Program.
5. Inform County in writing no later than the start of the fourth (4th) quarter of each Program year of any increases or decreases in the amount of additional NIS Program inspections and/or RIR Program rebates for the upcoming program year.

Exhibit B – Cost Schedule

NIS Partner	Initial	Follow up	Base Cost	Additional Evaluations ⁺	Total Year 1*	Total Year 2*	Total Year 3*	Total Year 4*	Total Year 5*
Coconut Creek	3	3	\$3,000.00	1	\$4,250.00	\$4,377.50	\$4,508.83	\$4,644.09	\$4,783.41
Cooper City	3	3	\$3,000.00	0	\$3,000.00	\$3,090.00	\$3,182.70	\$3,278.18	\$3,376.53
Coral Springs	3	3	\$3,000.00	3	\$6,750.00	\$6,952.50	\$7,161.08	\$7,375.91	\$7,597.18
Coral Springs Improvement District	3	3	\$3,000.00	0	\$3,000.00	\$3,090.00	\$3,182.70	\$3,278.18	\$3,376.53
Dania Beach	3	3	\$3,000.00	1	\$4,250.00	\$4,377.50	\$4,508.83	\$4,644.09	\$4,783.41
Davie	3	3	\$3,000.00	1	\$4,250.00	\$4,377.50	\$4,508.83	\$4,644.09	\$4,783.41
Deerfield Beach	3	3	\$3,000.00	2	\$5,500.00	\$5,665.00	\$5,834.95	\$6,010.00	\$6,190.30
Fort Lauderdale	3	3	\$3,000.00	9	\$13,350.00	\$13,750.50	\$14,163.02	\$14,587.91	\$15,025.54
Hallandale Beach	3	3	\$3,000.00	0	\$3,000.00	\$3,090.00	\$3,182.70	\$3,278.18	\$3,376.53
Hollywood	3	3	\$3,000.00	6	\$10,500.00	\$10,815.00	\$11,139.45	\$11,473.63	\$11,817.84
Margate	3	3	\$3,000.00	2	\$5,500.00	\$5,665.00	\$5,834.95	\$6,010.00	\$6,190.30
Miramar	3	3	\$3,000.00	4	\$8,000.00	\$8,240.00	\$8,487.20	\$8,741.82	\$9,004.07
North Lauderdale	3	3	\$3,000.00	2	\$5,500.00	\$5,665.00	\$5,834.95	\$6,010.00	\$6,190.30
Oakland Park	3	3	\$3,000.00	1	\$4,250.00	\$4,377.50	\$4,508.83	\$4,644.09	\$4,783.41
Pembroke Pines	3	3	\$3,000.00	6	\$10,500.00	\$10,815.00	\$11,139.45	\$11,473.63	\$11,817.84
Plantation	3	3	\$3,000.00	4	\$8,000.00	\$8,240.00	\$8,487.20	\$8,741.82	\$9,004.07
Pompano Beach	3	3	\$3,000.00	4	\$8,000.00	\$8,240.00	\$8,487.20	\$8,741.82	\$9,004.07
Sunrise	3	3	\$3,000.00	5	\$9,250.00	\$9,527.50	\$9,813.33	\$10,107.72	\$10,410.96

*The totals include the \$3,000 base cost plus an additional \$1,250 per each additional evaluation. Years 2-5 include a 3% cost escalator per year.

⁺Additional Evaluations may be either an initial evaluation or follow-up evaluation.

The total amount of the NIS program over the five years of this agreement for the City of Hollywood is \$55,745.92.

Exhibit C –Cost Schedule

Residential Irrigation Rebate Program							
NIS Partner	Base Cost	Rebates	Total Year 1	Total Year 2*	Total Year 3*	Total Year 4*	Total Year 5*
Coconut Creek	\$4,000.00	\$4,500.00	\$4,000.00	\$8,620.00	\$8,743.60	\$8,870.91	\$9,002.04
Cooper City	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Coral Springs	\$4,000.00	\$4,500.00	\$4,000.00	\$8,620.00	\$8,743.60	\$8,870.91	\$9,002.04
Coral Springs Improvement District	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Dania Beach	\$4,000.00	\$3,500.00	\$4,000.00	\$5,120.00	\$5,243.60	\$5,370.91	\$5,502.04
Davie	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Deerfield Beach	\$4,000.00	\$4,500.00	\$4,000.00	\$8,620.00	\$8,743.60	\$8,870.91	\$9,002.04
Fort Lauderdale	\$4,000.00	\$7,500.00	\$4,000.00	\$11,620.00	\$11,743.60	\$11,870.91	\$12,002.04
Hallandale Beach	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Hollywood	\$4,000.00	\$6,500.00	\$4,000.00	\$10,620.00	\$10,743.60	\$10,870.91	\$11,002.04
Margate	\$4,000.00	\$4,500.00	\$4,000.00	\$8,620.00	\$8,743.60	\$8,870.91	\$9,002.04
Miramar	\$4,000.00	\$5,500.00	\$4,000.00	\$9,620.00	\$9,743.60	\$9,870.91	\$10,002.04
North Lauderdale	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Oakland Park	\$4,000.00	\$3,500.00	\$4,000.00	\$7,620.00	\$7,743.60	\$7,870.91	\$8,002.04
Pembroke Pines	\$4,000.00	\$6,500.00	\$4,000.00	\$10,620.00	\$10,743.60	\$10,870.91	\$11,002.04
Plantation	\$4,000.00	\$5,500.00	\$4,000.00	\$9,620.00	\$9,743.60	\$9,870.91	\$10,002.04
Pompano Beach	\$4,000.00	\$5,500.00	\$4,000.00	\$9,620.00	\$9,743.60	\$9,870.91	\$10,002.04
Sunrise	\$4,000.00	\$5,000.00	\$4,000.00	\$9,120.00	\$9,243.60	\$9,370.91	\$9,502.04

*Includes a 3% per year cost escalator for the base costs.

The total not-to-exceed amount of the RIR program over the five years of this agreement for the City of Hollywood is \$47,236.55.