

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 PERIODS ASSOCIATED WITH DANIA BEACH'S ABILITY TO SUE THE CITY OF HOLLYWOOD FOR THE ISSUES PERTAINING TO THE LARGE USER AGREEMENTS AS LITIGATED IN THE BROWARD COUNTY CIRCUIT COURT CASE STYLED CITY OF PEMBROKE PINES v. CITY OF HOLLYWOOD; AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A TOLLING AGREEMENT.

WHEREAS, the City provides wastewater services to several "large users," including the cities of Pembroke Pines ("Pines"), Dania Beach, Hallandale Beach, and Miramar, as well as Broward County, pursuant to agreements that were negotiated and have been in place since the late 1990s resulting from a settlement concerning amounts due from Hollywood to Pines under prior agreements, called the "large user wastewater agreements"; and

WHEREAS, Pines later sued Hollywood in three different actions, consolidated in Broward Circuit Court Case Number CACE 18-015330, asserting among other things that Hollywood improperly paid certain settlement funds due to Pines from funds that were owned and due to Pines ("Issue 1"), and that Hollywood had improperly calculated sewer rates due by Pines pursuant to the negotiated settlements in the 1990s ("Issue 2"); and

WHEREAS, trial of all issues was concluded in December 2022, resulting in the Court's issuance of Findings of Fact and Conclusions of Law ("Final Order") on August 17, 2023, finding for Hollywood as to Issue 1 and in part for Pines and in part for Hollywood as to Issue 2 ("Pines Litigation"); and

WHEREAS, both Hollywood and Pines appealed the Final Order against them, and that appeal remains pending; and

WHEREAS, Dania Beach did not join with Pines as a party to the Pines Litigation, and thus, the Final Order does not apply to nor inure to the benefit of Dania Beach; and

WHEREAS, on July 26, 2024, demand was made by Dania Beach's City Manager that the parties commence Chapter 164 dispute resolution proceedings as to the same issues that were raised in the Pines litigation; and

WHEREAS, on August 20, 2024, the City Managers, City Attorneys and outside counsel, as well as relevant staff met at the Dania Beach City Hall to commence discussions as to Dania Beach's claims; and

WHEREAS, early in those discussions, it was determined that, in an effort to reduce ongoing attorney's fees and costs that will be incurred in the Chapter 164 process and any resultant lawsuit, it would be preferable to both parties that an agreement be made to toll the time period for Dania Beach to bring an action against Hollywood and to toll the time period for continuation of the deadlines associated with the Chapter 164 process and resultant suit until after the current appeals of the Final Order have been finalized; and

WHEREAS, Dania Beach has requested that Hollywood agree to toll the statute of limitations for Dania Beach to bring action against Hollywood based upon the same facts as litigated in the Pines Litigation; and

WHEREAS, the pertinent date under which Dania Beach may seek damages has now been established as July 26, 2019, and regardless of whether tolling occurs or not, that is the date that will apply to the matters going forward; and

WHEREAS, should Hollywood not agree to toll the limitations period as requested by Dania Beach, then Dania Beach will be required to sue Hollywood and assert its claims based upon the facts and circumstances of the negotiated large user wastewater agreements as applied to Dania Beach, which may unnecessarily cause both cities to expend litigation fees and costs that may be obviated, in whole or in part, by a final decision on the appeals; and

WHEREAS, the City Attorney does not have authority to grant Dania Beach's request but believes that it is prudent to defer further payment of fees and costs until the appeals have been decided, and therefore, recommends approval of this Resolution.

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 authorizes the City Attorney to enter into a tolling agreement that grants Dania Beach's request to toll all applicable limitations periods related to the Pines Litigation.

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Section 3: 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