

RESOLUTION NO. R-2010-075

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF HOLLYWOOD FOR DEVELOPMENT OF A SALTWATER INTRUSION MODEL FOR THE SOUTHERN PORTION OF COASTAL BROWARD COUNTY, FLORIDA, IN AN AMOUNT NOT TO EXCEED \$41,666.67.

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

WHEREAS, Saltwater Intrusion is one of the most significant issues negatively impacting the quality of the groundwater contained in the coastal aquifers; and

WHEREAS, the United States Geological Survey (USGS) and the Natural Resources Planning and Management Division of Broward County, Florida, are embarking on a cooperative study which will use numerical models to assist in the management of coastal aquifer resources from the threat of saltwater intrusion; and

WHEREAS, the proposed study involves the development of a saltwater intrusion model for the southern part of Broward County, which includes Dania Beach, City of Hollywood, City of Hallandale Beach and Broward County well fields; and

WHEREAS, the City of Hollywood Department of Public Utilities considers that the cooperative study and the results from the study will provide necessary guidelines for the future development of monitoring strategies and saltwater intrusion models for the City of Hollywood well fields; and

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

WHEREAS, the overall cost to develop the Saltwater Intrusion Model was estimated at \$500,000.00, and the City of Hollywood's share is \$41,666.67; and

WHEREAS, the Administration recommends that the City Commission authorize the appropriate City Officials to execute the attached Interlocal Agreement for the Development of a Saltwater Intrusion Model for the Southern Portion of Broward County, Florida, between Broward County and the City of Hollywood, in an amount not to exceed \$41,666.67; and

WHEREAS, the negotiated terms and conditions as outlined in the Interlocal Agreement between Broward County and the City of Hollywood for Development of a Saltwater Intrusion Model for the Southern Portion of Coastal Broward County, Florida are mutually acceptable to Broward County and the City of Hollywood; and

WHEREAS, the City Commission approved the FY 2010-2014 Capital Improvement Program via Resolution R-2009-306 which includes the funding for the Saltwater Intrusion Model for the Southern Portion of Coastal Broward County, Florida; and

WHEREAS, the account numbers will be established by the Department of Financial Services;

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

Section 1: That it hereby approves and authorizes the execution, by the appropriate City Officials, of the attached Interlocal Agreement between Broward County and the City of Hollywood for Development of a Saltwater Intrusion Model for the Southern Portion of Coastal Broward County, Florida, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.


Section 2: That this resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 7 day of April, 2010.




PETER BOBER, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGALITY
For the use and reliance of the City of
Hollywood, Florida only.



JEFFREY P. SHEFFEL
CITY ATTORNEY

INTERLOCAL AGREEMENT

Between

BROWARD COUNTY

and

CITY OF HOLLYWOOD

for

DEVELOPMENT OF A SALTWATER INTRUSION MODEL FOR THE SOUTHERN
PORTION OF COASTAL BROWARD COUNTY, FLORIDA

INTERLOCAL AGREEMENT

Between

BROWARD COUNTY

and

CITY OF HOLLYWOOD

For

DEVELOPMENT OF A SALTWATER INTRUSION MODEL FOR THE SOUTHERN PORTION OF COASTAL BROWARD COUNTY, FLORIDA

This is an Interlocal Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY",

AND

CITY OF HOLLYWOOD, a municipal corporation of the State of Florida, its successors and assigns, on behalf of its Water Utility, hereinafter referred to as "CITY".

WHEREAS, this Interlocal Agreement is entered into pursuant to §163.01, Florida Statutes, also known as the "Florida Interlocal Cooperation Act of 1969"; and

WHEREAS, COUNTY began a planning process, known as the Broward Countywide Integrated Water Resource Plan, hereinafter known as "IWRP," in 1997 to improve coordination between all water managers in its geographical borders; and

WHEREAS, COUNTY is desirous of entering into interlocal agreements to encourage local water managers to pursue feasibility and preliminary design work for IWRP related projects which will improve the effective and efficient use of local water resources; and

WHEREAS, cost share funding for IWRP projects has been recommended to the Broward County Board of County Commissioners by the Broward County Water Advisory Board and its Technical Advisory Committee;

WHEREAS, CITY has expressed a desire to share the cost of conducting feasibility and preliminary design work pursuant to the terms and conditions hereafter set forth; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and CITY agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

- 1.1 Agreement - means this document, Articles 1 through 10, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 Board - The Broward County Board of County Commissioners.
- 1.3 Contract Administrator - The Broward County Administrator, the Director of the Broward County Natural Resources Planning and Management Division, or the designee of such County Administrator or Director. The primary responsibilities of the Contract Administrator are to coordinate and communicate with CITY and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Interlocal Agreement as set forth herein. In the administration of this Interlocal Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.4 County Administrator – The administrative head of COUNTY pursuant to Sections 3.02 and 3.03 of the Broward County Charter.
- 1.5 County Attorney - The chief legal counsel for COUNTY who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.
- 1.6 Project - The Project consists of the services described in Article 2.
- 1.7 USGS – United States Geological Survey

ARTICLE 2

SCOPE OF SERVICES

- 2.1 CITY shall provide cost sharing for the development of a saltwater intrusion model for the southern portion of coastal Broward County as identified in this Interlocal Agreement and Exhibit "A". The parties agree that the Scope of Services is a description of all work to be performed under this Interlocal Agreement to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks.
- 2.2 It is understood and agreed that COUNTY may enter into a separate agreement with the USGS to perform the services required under this Interlocal Agreement; however, CITY shall not be responsible for any additional costs or expenses associated with said separate agreement with the USGS beyond those agreed to herein.

ARTICLE 3

COMPENSATION

- 3.1 CITY agrees to pay COUNTY, in the manner specified in Section 3.2, Method of Billing and Payment, the total of Forty-One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$41,666.67), which is 8.33% of the total project cost of Five Hundred Thousand Dollars (\$500,000.00), for work actually performed and completed pursuant to this Interlocal Agreement and set forth in Exhibit "A," which amount shall be accepted by COUNTY as full compensation for all such work. It is acknowledged and agreed by COUNTY that this amount is the maximum payable and constitutes a limitation upon CITY's obligation to compensate COUNTY for its services related to this Interlocal Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon COUNTY's obligation to perform all items of work required by the Scope of Services.
- 3.2 METHOD OF BILLING AND PAYMENT
 - 3.2.1 COUNTY may submit quarterly invoices for services completed under this agreement. Invoices must be in the form of one original invoice plus one copy. Invoice shall designate the nature of the services performed and/or the expenses incurred.
 - 3.2.2 Quarterly invoices will be submitted for the first 8 quarters of the agreement in the amount of \$1,041.67 each, and for the remaining 8 quarters in the amount of \$4,166.67.

3.2.3 CITY shall pay COUNTY within thirty (30) calendar days of receipt of COUNTY's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49, as may be amended from time to time). To be deemed proper, all invoices must comply with the requirements set forth in this Interlocal Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.

3.3 Payment shall be made to COUNTY at:

Board of Broward County Commissioners
Jim Steinmuller, Accounting Administrator
Government Center, Room 220
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

ARTICLE 4

TERM AND TIME OF PERFORMANCE OF AGREEMENT

- 4.1 This Interlocal Agreement shall become effective upon execution by COUNTY and shall continue in full force and effect until midnight, forty-eight (48) months following final execution of the Agreement. In addition, the County Administrator is authorized to execute any amendments extending the term of this Interlocal Agreement with the appropriate amendment prepared with the same or similar formality.
- 4.2 All duties, obligations, and responsibilities of COUNTY and CITY required by this Interlocal Agreement shall remain in full force and effect through the termination date or any extended termination date, as set forth above, unless written notice of termination by the COUNTY or the CITY is provided pursuant to Article 9, Notices. Time shall be deemed to be of the essence in performing the duties, obligations and responsibilities required by this Interlocal Agreement.

ARTICLE 5

CHANGE IN SCOPE OF SERVICES

- 5.1 Any change to the Scope of Services must be accomplished by a written amendment, executed by the parties in accordance with Section 10.9 below.

ARTICLE 6

GOVERNMENTAL IMMUNITY

- 6.1 Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Interlocal Agreement or any other contract. CITY and COUNTY are state agencies or political subdivisions as defined in Chapter 768.28, Florida Statutes, and agree to be fully responsible for the acts and omissions of their agents or employees to the extent permitted by law.

ARTICLE 7

INSURANCE

- 7.1 COUNTY and the CITY are entities subject to Section 768.28, Florida Statutes, and both the COUNTY and CITY shall furnish one another with written verification of liability protection in accordance with state law prior to final execution of said Agreement.

ARTICLE 8

TERMINATION

- 8.1 This Interlocal Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach, or for convenience by either party upon not less than thirty (30) days written notice. This Interlocal Agreement may also be terminated by Contract Administrator upon such notice, as Contract Administrator deems appropriate under the circumstances in the event Contract Administrator determines that termination is necessary to protect the public health or safety. An erroneous termination for cause shall be considered a termination for convenience.
- 8.2 Termination of this Interlocal Agreement for cause by CITY or COUNTY shall include, but not be limited to, negligent, intentional, or repeated submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Interlocal Agreement, or multiple breach of this Interlocal Agreement which has a material adverse effect on the efficient administration of the Project notwithstanding whether any such breach was previously waived or cured.

- 8.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Interlocal Agreement except that notice of termination by Contract Administrator which Contract Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Interlocal Agreement.
- 8.4 In the event this Interlocal Agreement is terminated for convenience, COUNTY shall be paid for any services properly performed to the date the Agreement is terminated; however, upon being notified of CITY's election to terminate, COUNTY shall refrain from performing further services or incurring additional expenses under the terms of this Interlocal Agreement. COUNTY acknowledges and agrees that ten dollars (\$10.00) of the compensation to be paid by CITY, the receipt and adequacy of which is hereby acknowledged by COUNTY, is given as specific consideration to COUNTY for CITY's right to terminate this Interlocal Agreement for convenience.

ARTICLE 9

NOTICES

- 9.1 Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY:

Director, Natural Resource Planning and Management Division
1 N. University Drive, Suite 201
Plantation, FL 33324

With copy to:

County Administrator
115 South Andrews Avenue, Suite 409
Fort Lauderdale, Florida 33301

TO CITY:

With copy to:

Jeffrey P. Sheffel, City Attorney
2600 Hollywood, Room 407
Hollywood, Florida 33020

ARTICLE 10

MISCELLANEOUS

10.1 OWNERSHIP OF DOCUMENTS

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Interlocal Agreement are and shall remain the property of COUNTY. In the event of termination of this Interlocal Agreement, any reports, photographs, surveys, and other data and documents prepared by COUNTY, whether finished or unfinished, shall be delivered by COUNTY to the City Contract Administrator within seven (7) days of termination of this Interlocal Agreement by either party. Any compensation due to COUNTY shall be withheld until all documents are received as provided herein.

The CITY shall retain ownership of a copy of reports, photographs, surveys, and other data and documents provided or created in connection with this Interlocal Agreement as defined under Exhibit A as Deliverables. To the extent permitted by law, the City and County shall retain joint ownership of any intellectual property, models, or new technology that result from the execution of this Interlocal Agreement.

10.2 INDEPENDENT CONTRACTOR

COUNTY is an independent contractor under this Interlocal Agreement. Services provided by COUNTY pursuant to this Interlocal Agreement shall be subject to the supervision of COUNTY. In providing such services, neither COUNTY nor its agents shall act as officers, employees, or agents of the CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to COUNTY or COUNTY's agents any authority of any kind to bind CITY in any respect whatsoever.

10.3 MATERIALITY AND WAIVER OF BREACH

COUNTY and CITY agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Interlocal Agreement and, therefore, is a material term hereof.

COUNTY's failure to enforce any provision of this Interlocal Agreement shall not be deemed a waiver of such provision or modification of this Interlocal Agreement. A waiver of any breach of a provision of this Interlocal 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 Interlocal Agreement.

10.4 COMPLIANCE WITH LAWS

COUNTY shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Interlocal Agreement.

10.5 SEVERANCE

In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or CITY elects to terminate this Interlocal Agreement. An election to terminate this Interlocal Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

10.6 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Interlocal Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

10.7 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Interlocal Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 10 of this Interlocal Agreement, the term, statement, requirement, or provision contained in Articles 1 through 10 shall prevail and be given effect.

10.8 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. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. By entering into this Agreement, CITY and COUNTY hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement.

10.9 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 the COUNTY and CITY or others delegated authority to or otherwise authorized to execute same on their behalf.

10.10 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Interlocal Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

10.11 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibit "A" is incorporated into and made a part of this Interlocal Agreement.

10.12 REPRESENTATION OF AUTHORITY

Each individual executing this Interlocal Agreement on behalf of a party hereto does hereby represent and warrant that he or she is, on the date he or she signs this Interlocal Agreement, duly authorized by all necessary and appropriate action to execute this Interlocal Agreement on behalf of such party.

10.13 MULTIPLE ORIGINALS

Multiple copies of this Interlocal Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

10.14 RECORDS

This Interlocal Agreement shall be recorded by the County in the public records of Broward County, in accordance with Section 163.01, F.S. (2008), the Florida Interlocal Cooperation Act of 1969.

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IN WITNESS WHEREOF, the parties hereto have made and executed this Interlocal 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 CITY OF HOLLYWOOD, signing by and through its Mayor, who is duly authorized to execute same by Board action on the ____ day of _____, 20____.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY
COMMISSIONERS

County Administrator and Ex-Officio
Clerk of the Board of
County Commissioners of
Broward County, Florida

By _____
Mayor

____ day of _____, 20____

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form
Office of County Attorney
Broward County, Florida
Jeffrey J. Newton, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
(Date)

By _____
Daphne E. Jones (Date)
Assistant County Attorney

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF HOLLYWOOD FOR DEVELOPMENT OF A SALTWATER INTRUSION MODEL FOR SOUTHERN PORTION OF COASTAL BROWARD COUNTY, FLORIDA TO BE PERFORMED IN PARTNERSHIP WITH U.S. GEOLOGICAL SURVEY.

CITY

WITNESSES:

CITY OF HOLLYWOOD

By _____
Mayor

[Witness Print Name]

_____ day of _____, 20____

By _____
City Manager

[Witness Print Name]

_____ day of _____, 20____

(SEAL)

ATTEST:

By _____
City Clerk

Approved as to form by

_____, City Attorney

City of HOLLYWOOD

2600 Hollywood Blvd

Rm 407

HOLLYWOOD, Florida 33020

Telephone: (954) 921-3435

Telecopier: (954) 921-3081

By _____
Assistant City Attorney