

RESOLUTION NO. R-2004-08

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF HOLLYWOOD FOR THE BULK SALE OF POTABLE WATER TO BROWARD COUNTY.

WHEREAS, Broward County and the City of Hollywood entered into an Interlocal Agreement for the Bulk Sale of Potable Water dated October 15, 1996; and

WHEREAS, the agreement provides for the purchase by Broward County of water at different price levels which were to begin at the occurrence of certain events; and

WHEREAS, the Agreement specified amounts of water to be purchased by Broward County through the year 2000 but not beyond; and

WHEREAS, both Broward County and the City of Hollywood have engaged in negotiations and discussions in an effort to resolve all claims and issues which have arisen since the inception of this Agreement; and

WHEREAS, the negotiated terms and conditions as outlined in the First Amendment to Interlocal Agreement are mutually acceptable to both parties;

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

Section 1: That it hereby approves and authorizes the execution, by the appropriate City Officials, of the attached First Amendment to Interlocal Agreement between Broward County and the City of Hollywood for the bulk sale of potable water, 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.

RESOLUTION TO EXECUTE THE FIRST AMENDMENT TO INTERLOCAL
AGREEMENT FOR THE BULK SALE OF POTABLE WATER BETWEEN BROWARD
COUNTY AND THE CITY OF HOLLYWOOD

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

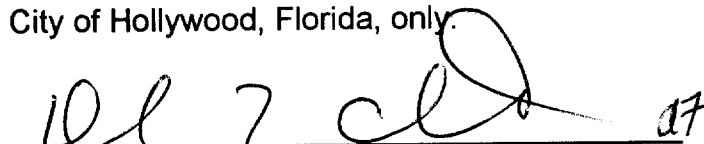
PASSED AND ADOPTED this 7 day of Jan, 2004.


MARA GIULIANTI, 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.


DANIEL L. ABBOTT, CITY ATTORNEY

FIRST AMENDMENT TO INTERLOCAL AGREEMENT

FOR THE BULK SALE OF POTABLE WATER

BETWEEN

BROWARD COUNTY, FLORIDA

AND

THE CITY OF HOLLYWOOD, FLORIDA

FIRST AMENDMENT TO INTERLOCAL AGREEMENT
FOR THE BULK SALE OF POTABLE WATER BETWEEN
BROWARD COUNTY, FLORIDA AND
THE CITY OF HOLLYWOOD, FLORIDA

This is a First Amendment to the Interlocal Agreement for the Bulk Sale of Potable Water between BROWARD COUNTY, a political subdivision of the state of Florida, its successors and assigns, hereinafter referred to as "COUNTY," through its Board of County Commissioners,

AND

CITY OF HOLLYWOOD, a municipal corporation located in Broward County, Florida, and organized and existing under the laws of the state of Florida, its successors and assigns, hereinafter referred to as "CITY";

WHEREAS, COUNTY and CITY entered into an Interlocal Agreement for the Bulk Sale of Potable Water, dated October 15, 1996, for the Bulk Sale of Potable Water; and

WHEREAS, the Agreement provided for the purchase of water at different price levels which were to begin at the occurrence of certain events. Many of the events did not occur at the times originally contemplated by the parties. In addition, the Agreement specified amounts of water to be purchased by COUNTY through the year 2000 but not beyond. All of which has caused administrative disagreements as to the rights and obligations of the parties under the original terms of the Agreement; and

WHEREAS, the Parties have engaged in negotiations and discussions in an effort to resolve all claims and matters which have arisen since the inception of this Agreement and have agreed to release the other from any and all claims, demands, damages, causes of action, actions and losses of every kind and nature; NOW THEREFORE

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

1. Each and every Whereas clause set forth above is a true and correct recital and representation and is incorporated herein as if set forth fully.
2. Section 2, OBLIGATIONS OF CITY/COUNTY FOR CONNECTIONS, is hereby amended to read as follows:
 - a. It shall be the City's obligation at its sole cost and expense, to design and construct facilities to the 3A plant site Point of Connection (Exhibit ~~Consolidated Water and Wastewater System~~ "C-1"). It shall be the obligation of County, at its sole cost and expense, to design, construct and install connection, appurtenances and master meters to physically connect County's system to City's regional water

transmissions system at locations shown on Exhibit C-1", attached hereto and made a part hereof, in accordance with plans, specifications and engineering data as prepared, certified and submitted by a registered professional engineer in the State of Florida, and as approved by the appropriate regulatory agencies and the City's Public Utilities Director or authorized representative. As used in this Agreement, the term "Point of Connection" means any location(s) shown on Exhibit C-1" where County's system is physically connected to the City's system by a master meter(s).

b. County shall at its expense retain the services of the same registered professional engineer who prepared the plans and specifications during construction for the purpose of providing the necessary inspections and supervision of the construction work, hereinafter referred to as "Work" for those facilities described in Exhibit C-1".

. . .

3. Section 4, CITY OBLIGATIONS TO MAINTAIN APPURTENANCES, is hereby amended as follows:

4. CITY OBLIGATIONS TO MAINTAIN APPURTENANCES: Upon completion of the Work by County or County's contractor, and acceptance of the Work by City, City shall thereafter, at its expense, own, operate, and maintain all facilities on the City's side of the Point of Connection (s) as shown on Exhibit C-1", which includes but is not limited to the master meter(s), connection piping and appurtenances within those easements granted to City for such purposes.

4. Section 9, COUNTY TO PAY FOR COST OF WATER SUPPLIED, is hereby amended as follows:

9. COUNTY TO PAY FOR COST OF WATER SUPPLIED:

a. County shall pay City the prevailing City rate for bulk water service, as set from time to time by the City Commission after an appropriate public hearing, and after written notice to County of any proposed changes. Said water rate shall be based on the volume of water passing through the meter locations described in Exhibit C. The initial rate for bulk service shall be as follows:

1. Until October 1, 1996, the rate shall be \$0.78 per one thousand gallons of water delivered through the meter locations indicated on Exhibit C.

2. Until April 1, 1997, or such time as the District 3A water treatment plant no longer treats water for potable purposes, whichever occurs last, the rate shall be \$0.84 per one thousand gallons of water delivered through the meter locations indicated on Exhibit C.

3. At such time as the District 3A water treatment plant no longer treats water for potable purposes, or April 1, 1997 whichever occurs last, the rate shall be \$0.92 per one thousand gallons of water delivered through the meter locations indicated on Exhibit C (except as provided in (2) above).

4. From January 1, 2003 through December 31, 2003, the rate shall be \$0.97 per one thousand gallons of water delivered through the meter locations indicated on Exhibit "C-1".

b. Thereafter, beginning after December 31, 2003, the rate payable by COUNTY, per one thousand (1,000) gallons of potable water delivered through the meters located in Exhibit "C-1", shall be based upon a formula of a Base Rate plus the Rate charged for Large Users of the County's Regional Raw Water System (including the Improvement, Repair and Replacement surcharge), and any Annual Adjustment subsequently attributed to the Regional Raw Water Rate. The Base Rate shall be set and shall only be adjusted as follows:

1. Upon the execution of this Agreement by County, the Base Rate shall be Zero and 99/100 Dollars (\$0.99).

2. On October 1, 2004, the Base Rate shall be One and 01/100 Dollars (\$1.01).

3. Beginning on October 1, 2005, and annually thereafter, City may increase the Base Rate by an amount not to exceed the percentage of increase enacted for City's retail customers, which increase shall be deemed appropriate by a competent rate consulting professional. The "percentage of increase enacted for City's retail customers," phrase shall be determined by the percentage difference found from a comparison of the total of all retail water revenues, projected over all retail water user classes, when identical volumetric, unit and meter bases are used. All such increases enacted by City under this paragraph shall not be approved by City unless Forty-five (45) days written notice of such proposed change has been provided to County.

~~No Increase beyond \$0.92 per one thousand gallons shall occur Prior to October 15, 1997. Any increase in the usage rate charged to County thereafter shall not exceed the percentage of increase enacted for City's retail customers, and as deemed appropriate by a rate study conducted by a competent rate consulting professional. "The percentage of increase enacted for City's retail customers," as used to define any rate increases contemplated under this Agreement, shall be determined by the percentage difference found from a comparison of the total of all retail water revenues, projected over all retail water user classes, when identical volumetric, unit and meter bases are used. No increase shall be approved by City without 45 days' written notice to County of said proposed increase.~~

bc. All said bulk water rates shall be nondiscriminatory and shall be the same for all like users on the system.

ed. City shall bill County on a monthly basis for the amount of water used on the meters. The bill shall be considered delinquent if unpaid within 45 days after rendering to County by City.

de. The sale of water by City to County shall occur on County's side of the meters, at the Points of Connection, to be located as shown in Exhibit C.

5. Section 10, CITY TO HAVE EXCLUSIVE RIGHT TO PROVIDE SERVICE, is hereby amended as follows:

10. CITY TO HAVE EXCLUSIVE RIGHT TO PROVIDE SERVICE: City shall have the exclusive right to furnish water service to County customers within the areas covered by this Agreement (see Exhibits A "A-1," and B "B-1"). However, City's exclusive right to furnish water to District 3 customers shall not include customers at the North Perry Airport. From time to time County and City may modify the exclusive right to serve certain customers through the mutual agreement of the City's and County's contract administrators. Notification as set forth in Section 26 "NOTICES" will be given by either party to initiate modification, and if no exception is taken within 30 days, the noted exceptions shall become permanent. County shall have the right to sell any portion of District 3, but only to the municipality within which the portion exists. Consummation of such a sale shall terminate this Agreement for the area purchased only, provided that the parties hereto agree to review and amend this Agreement to reflect the revised service area and flow projections.

6. Section 18, COUNTY FLOWS, is hereby amended as follows:

18. COUNTY FLOWS: Until December 31, 2003, County expects water demands for District 3 to be as shown on Exhibits D and "D-1", attached hereto and made a part hereof. Thereafter, as of January 1, 2004, COUNTY shall annually review its needs for potable water demands and project its future needs expressed in both average daily flow and maximum daily flow, to the best of its knowledge and ability. The projections shall be made on an annual basis. These projections shall serve as a reasonable estimate of the future needs of the COUNTY. CITY shall use these annual projections for purposes of this Agreement and for planning, expansion, construction, modification, or alteration of CITY facilities. COUNTY will furnish each annual projection to CITY no later than the first day of June each year.

City agrees to provide water in such quantities to meet these demands at a more or less constant rate of flow. County agrees to maintain adequate storage facilities to meet peak demands for District 3. Maximum daily demands on the system shall not

exceed 1.34 times the maximum daily demands shown on Exhibit D, "D-1" and thereafter as projected by County as specified above , without permission of City. Should County consistently exceed these amounts, City may impose a surcharge of up to twenty-five (25) percent on the excess water utilized, if directed by the City Commission.

7. Section 22, CITY TO SUPPLY WATER TO COUNTY, is hereby amended as follows:

22. CITY TO SUPPLY WATER TO COUNTY: City agrees to make every effort to provide water to County in the quantities specified in Exhibit D and "D-1", and as thereafter projected by County as specified in Section 18, in a manner similar to that of its retail customers.

8. Section 23, EMERGENCY INTERCONNECTS, is hereby amended as follows:

23. EMERGENCY INTERCONNECTS: No water from CITY's water system is to be used or disbursed by COUNTY or its agents outside the indicated service area to be served as shown in EXHIBITS "A" "A-1 and "B-1", attached hereto and made a part hereof except as provided by emergency interconnects with neighboring public systems not to be activated without the prior concurrence of CITY. CITY shall not be responsible for providing adequate pressure or flow through COUNTY's emergency interconnects to other public systems. From time to time, through County's and City's contract administrator, either may initiate modification of the emergency interconnects by providing written notification as set forth in Section 26 "NOTICES" and if no exception is taken within 30 days the noted modification shall become permanent.

9. The Parties do respectively release each other from all claims, demands, damages, causes of action, actions and losses of every kind and nature, whether known or unknown arising out of or related to this Agreement from the inception of this Agreement until the date of execution of this First Amendment. Further, the Parties mutually release and forever discharge each other and acknowledge, agree, and covenant for each of themselves and their respective successors and assigns, and irrevocably bind themselves from making any claim or demand or to commence, cause, or permit to be prosecuted any claim or action in law or in equity against the other or any of them on account of or in any way relating to the this Agreement from the inception of the Agreement until the date of execution of this First Amendment. The Parties acknowledge and agree that each is releasing certain rights and assuming certain duties and obligations which, but for this First Amendment to the Agreement, would not have been released or assumed. Accordingly, the Parties agree that this First Amendment to the Agreement is fully and adequately supported by consideration and is fair and reasonable, that the Parties have had the opportunity to consult with and have in fact consulted with such experts of their choice as they may have desired, and that they have had the opportunity to discuss this matter with counsel of their choice.

10. Exhibit "A" of the Agreement is hereby deleted in its entirety and replaced by Exhibit "A-1" attached hereto and made a part hereof.

11. Exhibit "B" of the Agreement is hereby deleted in its entirety and replaced by Exhibit "B-1" attached hereto and made a part hereof.

12. Exhibit "C" of the Agreement is hereby deleted in its entirety and replaced by Exhibit "C-1" attached hereto and made a part hereof.

13. Exhibit "D" of the Agreement is hereby supplemented by Exhibit "D-1" attached hereto and made a part hereof.

14. Except as otherwise specifically amended herein, the terms and conditions of the Agreement shall remain unchanged and in full force and effect and shall govern all rights and obligations of the parties. In the event of any conflict between the terms of this First Amendment and the Agreement, the parties hereby agree that this document shall control.

THIS SPACE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same and CITY OF HOLLYWOOD, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its
BOARD OF COUNTY COMMISSIONERS

Broward County Administrator, as
Ex-officio Clerk of the Broward
County Board of County Commissioners

By _____
Mayor

____ day of _____, 20____.

Approved as to Insurance
Requirements by
RISK MANAGEMENT DIVISION

By _____
Director

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

By _____
Pamela M. Kane
Assistant County Attorney

FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR THE BULK SALE OF
POTABLE WATER BETWEEN BROWARD COUNTY, FLORIDA AND THE CITY OF
HOLLYWOOD, FLORIDA

WITNESSES:

CITY OF HOLLYWOOD

By _____
Mayor

____ day of _____, 2003.

ATTEST:

By _____
City Clerk

City Manager

____ day of _____, 2003.

(CORPORATE SEAL)

APPROVED AS TO FORM:

By _____
City Attorney

PMK

December 15, 2003

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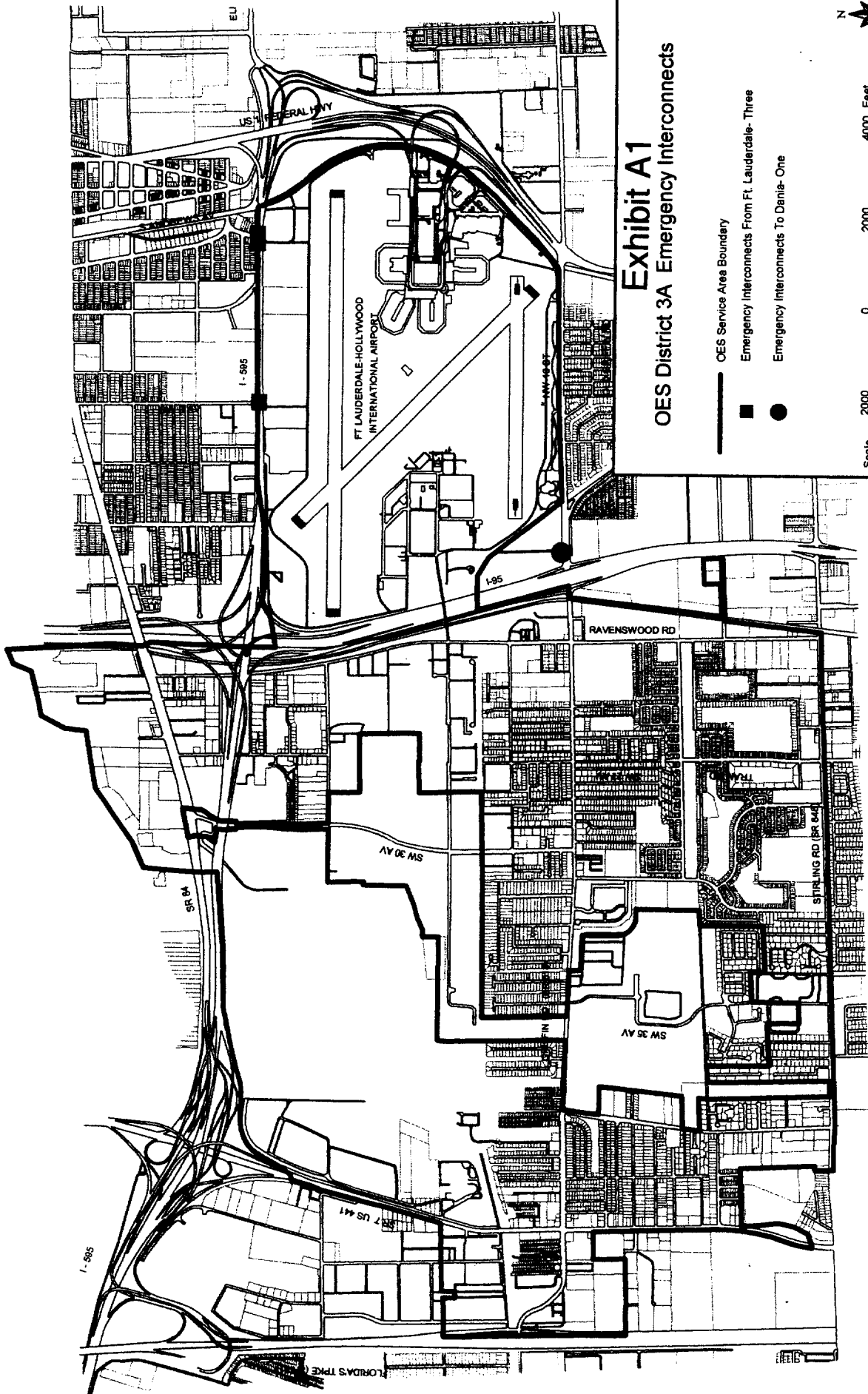


Exhibit A1

OES District 3A Emergency Interconnects

- OES Service Area Boundary
- Emergency Interconnects From Ft. Lauderdale-Three
- Emergency Interconnects To Dania-One

Scale 2000 0 2000 4000 Feet

Prepared By OES - December, 2003
PP031008

Exhibit B1 (pg 1)

OES District 3BC Water Service Area Map and Points of Connection

OES Service Area Boundary

Primary Points of Connection From Hollywood - Two

Proposed Additional Primary Point of Connection From Hollywood - One

OES Points of Connection From Pembroke Pines - Two

Control Valve

Portion of North Perry Airport Served By Pembroke Pines



Scale 2000 0 2000 4000 Feet

Prepared By OES -- December, 2003
PP031006

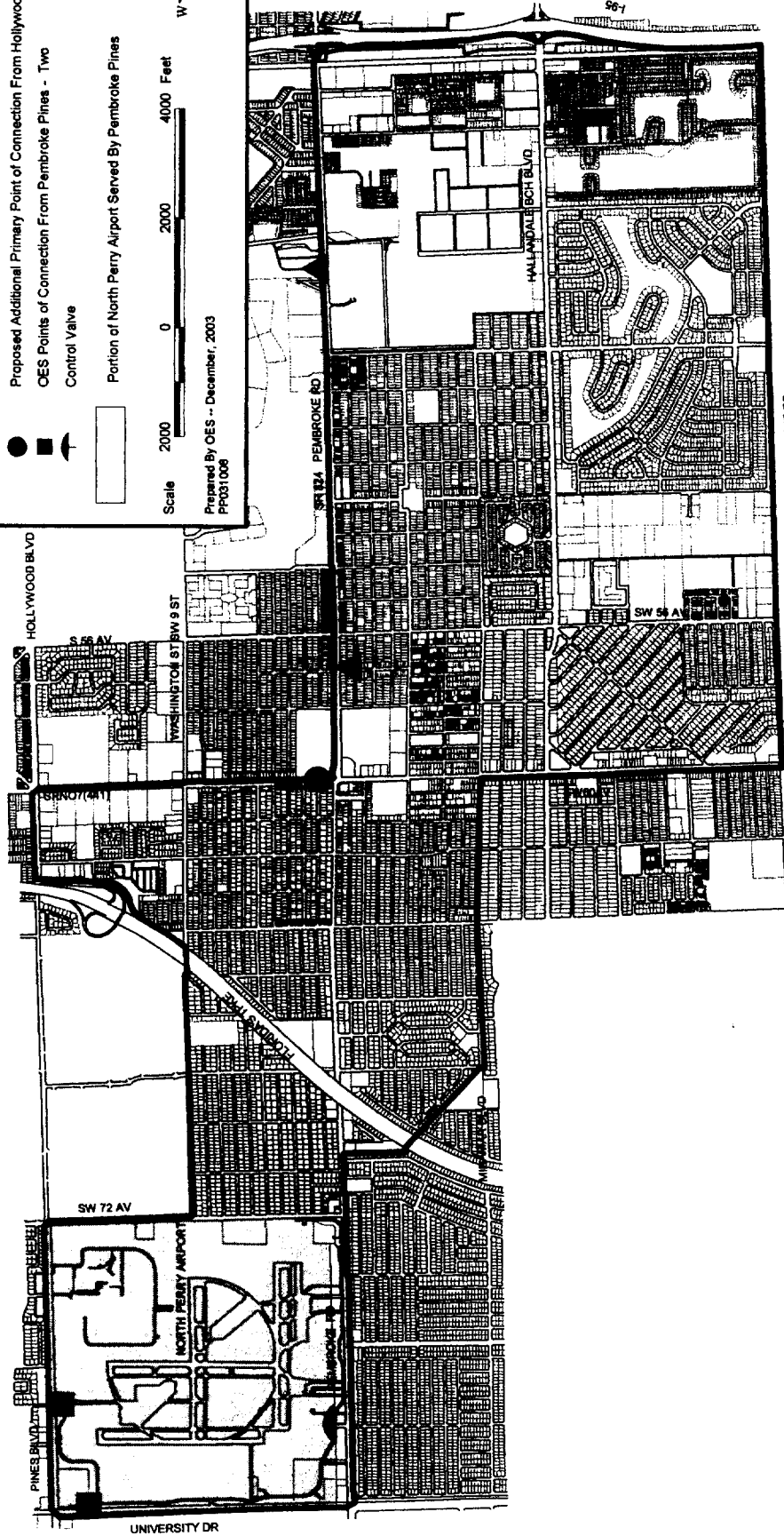


Exhibit B1 (pg 2)

OES District 3BC Emergency Interconnects

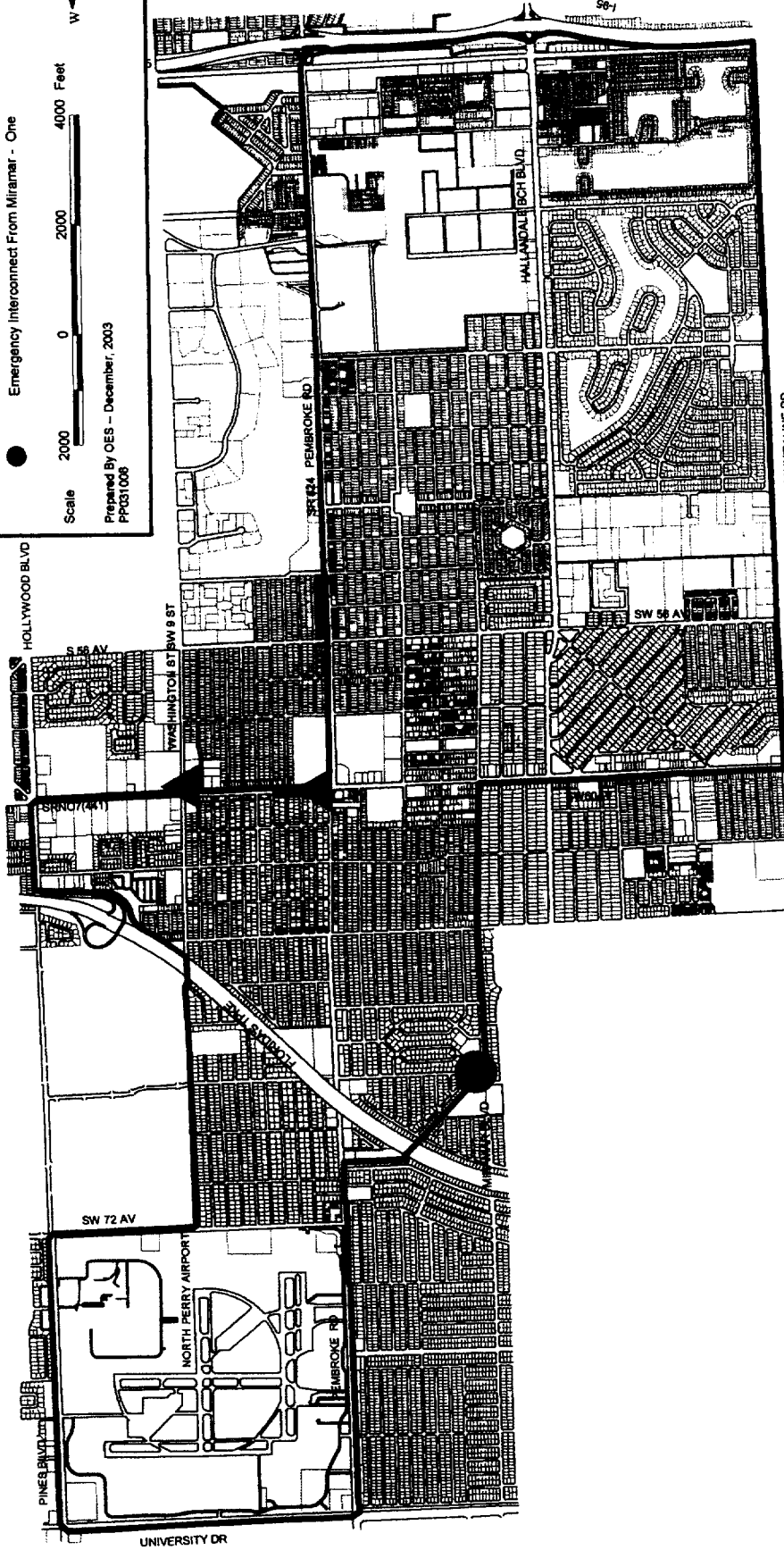
— OES Service Area Boundary

▲ Emergency Interconnects From Hollywood - Two

● Emergency Interconnect From Miramar - One

Scale 2000 0 2000 4000 Feet

Prepared By OES - December, 2003
PP031006



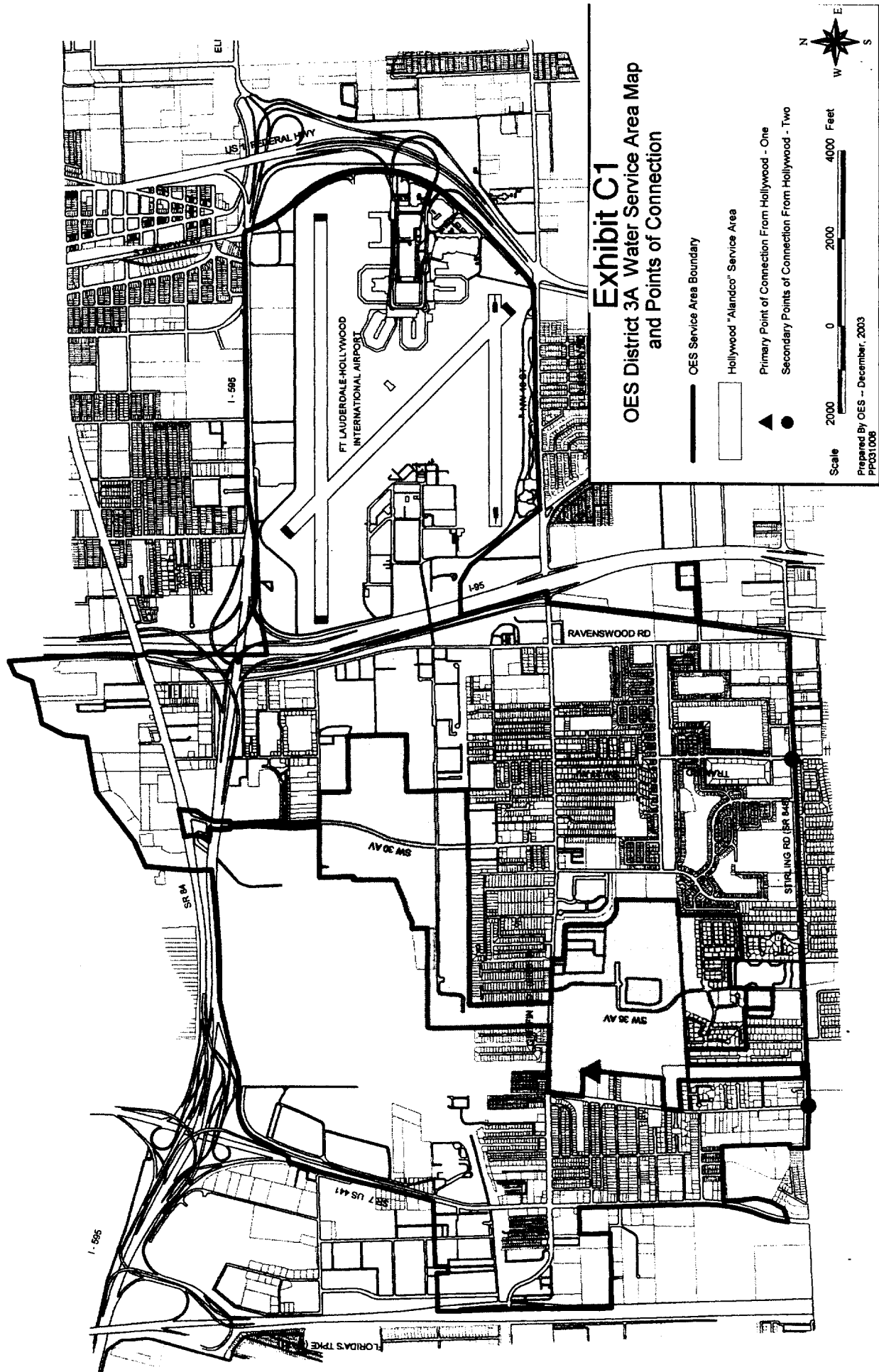


Exhibit C1
OES District 3A Water Service Area Map
and Points of Connection

Exhibit D-1

FUTURE FLOWS

Year	District 3A		District 3BC		Total	
	ADF	MDF	ADF	MDF	ADF	MDF
2005	3.6	4.8	3.9	5.6	7.5	10.4
2010	4.1	5.4	4.1	5.9	8.2	11.3
2015	4.7	6.2	4.6	6.6	9.3	12.8
2020	5.6	7.4	5.0	7.2	10.6	14.6
2025	6.6	8.7	5.3	7.6	11.9	16.3

ADF is average day flow in million gallons per day

MDF is maximum day flow in million gallons per day

District 3A does not include flow for Alandco.