

**AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF HOLLYWOOD FOR
DRILLING AND WELL COMPLETION OF A SALINITY SAMPLING WELL NEAR TY PARK IN
HOLLYWOOD, FLORIDA**

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

WHEREAS, County adopted the Broward County-wide Integrated Water Resources Plan (IWRP) as the basis for coordinated water resources policy, planning, and management to support regional efficiencies in water resource management and long-term sustainability; and

WHEREAS, regionally coordinated water resource assessment strategies are an important part of informing policy and planning; and

WHEREAS, water provided across Broward County relies upon the Biscayne Aquifer as a primary source of water supply; and

WHEREAS, the Biscayne Aquifer, in general, and 40% of coastal water supply wells in Broward County are vulnerable to saltwater intrusion, a condition that is accelerated by sea level rise; and

WHEREAS, County has been a long supporter in the preservation and maintenance of a regional saltwater intrusion monitoring network to monitor and predict changes in groundwater quality associated with water management activities, land use, climate conditions, and sea level rise; and

WHEREAS, data from these wells is essential to establishment of the regional saltwater intrusion baseline and development of variable-density models used to assess predicted changes, vital to prudent water resource development and planning; and

WHEREAS, although this regional network originally included a total of eighteen (18) wells, the progressive movement of the saltwater front has reduced the total number of active monitoring wells with chloride concentration under 250mg/L or less than a 0.5 log difference between results to just five (5); and

WHEREAS, renewed investment is now required to address gaps in the remaining network and the data needed to properly monitor and model saltwater intrusion needed to support water supply planning and management in our region; and

WHEREAS, the Broward Water Resources Task Force Report recommended expansion and investment in the Broward regional saltwater monitoring network to support climate resiliency planning; and

WHEREAS, to support this effort, a Regional Saltwater Monitoring Network Workshop was held on June 28, 2016, in order to identify priority investment needed to improve saltwater intrusion analyses, address data gaps, and refine data coverage in sensitive areas, in conjunction with forthcoming investments by municipal water providers; and

WHEREAS, the result of this workshop was the identification of three priority reaches for regional investments with recommended installation of additional of saltwater intrusion monitoring wells in central and southern Broward County; and

WHEREAS, to facilitate these investments the County desires to partner with the City as part of a coordinated investment that addresses both regional and local monitoring needs;

WHEREAS, City has similarly expressed a desire and opportunity to expand municipal investments in the saltwater monitoring network with these same objectives, 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, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **Board**. The Board of County Commissioners of Broward County, Florida.
- 1.2 **Contract Administrator**. The Director of the Environmental Planning and Community Resilience Division.
- 1.3 **County Administrator**. The administrative head of County appointed by the Board.
- 1.4 **County Attorney**. The chief legal counsel for County appointed by the Board.
- 1.5 **County Business Enterprise or "CBE."** A small business certified as meeting the requirements of Broward County's CBE Program pursuant to Section 1-81, Broward County Code of Ordinances.
- 1.6 **Services**. All work required by City under this Agreement, including without limitation all deliverables, consulting, training, project management, or other services specified in Exhibit A.
- 1.7 **Subconsultant or Subcontractor**. A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services to County

through City for all or any portion of the Services. The term "Subconsultant" shall include all "Subcontractors" and the term "Subcontractor" shall include all "Subconsultants."

ARTICLE 2. SCOPE OF SERVICES

2.1 City shall, to the satisfaction of County, fully and timely construct and perform all work identified in this Agreement including, without limitation, Exhibit A, the Scope of Services. The Scope of Services stated in this Agreement is a description of City's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by City impractical, illogical, or unconscionable. City shall meet or exceed all applicable federal, state, and local laws, ordinances, codes, rules, and regulations in performing the Services.

2.2 City 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, the Broward County Procurement Code (Chapter 21 of the Broward County Administrative Code).

ARTICLE 3. TERM AND TIME OF PERFORMANCE

3.1 The term of this Agreement shall begin on the date it is fully executed by the Parties (the "Effective Date") and shall end twelve (12) months after the Effective Date ("Initial Term"). The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes.

3.2 Unless otherwise agreed to by the Parties in writing, all duties, obligations, and responsibilities of City and County required by this Agreement shall be completed within the Initial Term unless extended pursuant to Section 3.3. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

3.3 In the event County elects to extend the term of this Agreement beyond the Initial Term, City agrees that it shall continue to provide the Services upon the same terms and conditions as set forth in this Agreement for such extended period, which shall not be more than three (3) months beyond the Initial Term. This option, if elected by County, shall be exercised by County's Purchasing Director upon by written notice stating the duration of the extended period which notice shall be provided to City at least thirty (30) days prior to the end of the Initial Term. No additional money shall be allocated under the Agreement unless the Agreement is amended pursuant to Section 9.18 to add funds.

ARTICLE 4. COMPENSATION

4.1 County will reimburse City under this Agreement up to a maximum amount as follows:

Services/Goods	Not-To-Exceed Amount
Services (see Exhibit A)	\$47,082.00
TOTAL NOT TO EXCEED	\$47,082.00

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Exhibit B, the Payment Schedule, which amount shall be accepted by City as full compensation for all such work, unless additional funding is allocated in accordance with Section 3.3 above. City acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation upon County's obligation to compensate City for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon City's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, City shall not be reimbursed for any expenses it incurs under this Agreement.

4.2 METHOD OF BILLING AND PAYMENT

4.2.1 City may submit an invoice for compensation after the Services have been completed. An original invoice plus one copy are due within sixty (60) days after this Agreement expires or is otherwise terminated. The invoice shall designate the nature of the Services performed and, as applicable, the personnel, hours, tasks, or other detail as requested by the Contract Administrator. Within thirty (30) days after receipt of payment from County, City shall submit a Certification of Payments to Subcontractors and Suppliers (Exhibit C). The certification shall be accompanied by a copy of the notification sent to each Subcontractor and supplier listed on the form, explaining the good cause why payment has not been made.

4.2.2 The invoice submitted by City shall be no more than the amount set forth in Exhibit B for the applicable Services unless additional costs have been approved by County pursuant to the County's procurement code, and shall only be invoiced to County upon completion of all Services under this Agreement.

4.2.3 County shall pay City within thirty (30) calendar days of receipt of City's proper invoice, as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of City to comply with a term, condition, or requirement of this Agreement.

4.2.4 City shall pay its Subcontractors and suppliers within fifteen (15) days following receipt of payment from County for such subcontracted work or supplies. City agrees that if it withholds an amount as retainage from Subcontractors or suppliers, it will release such retainage and pay same within fifteen (15) days following receipt of payment of retained amounts from County. Failure to pay a Subcontractor or supplier

in accordance with this subsection shall be a material breach of this Agreement, unless City demonstrates that such failure to pay results from a bona fide dispute with the Subcontractor or supplier.

4.3 **Subcontractors.** City shall invoice all Subcontractor fees, whether paid on a "lump sum" or other basis, to County with no markup. All Subcontractor fees shall be billed in the actual amount billed by the Subcontractor to City for submittal to County.

4.4 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by County.

4.5 Payment shall be made to City at the address designated in the Notices section.

ARTICLE 5. GOVERNMENTAL IMMUNITY

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 Agreement or any other contract. City is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

ARTICLE 6. INSURANCE

City is an entity subject to Section 768.28, Florida Statutes, and City shall furnish the Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

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 either of the Parties. Termination for convenience by the Board or City shall be effective on the termination date stated in written notice provided to the other party, 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 upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at County's sole election, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

7.2 This Agreement may be terminated for cause for reasons including, but not limited to, City's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if City is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if City provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

7.3 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator 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.

7.4 In the event this Agreement is terminated for convenience by County, City shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. City acknowledges that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are, hereby acknowledged by City, for County's right to terminate this Agreement for convenience.

7.5 In the event this Agreement is terminated for convenience by City, County is not liable for payment on any services not completed in full pursuant to Exhibit A.

7.6 In the event this Agreement is terminated for any reason, any amounts due City shall be withheld by County until all documents are provided to County pursuant to the Rights in Documents and Work section.

ARTICLE 8. EEO AND CBE COMPLIANCE

8.1 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, or gender identity and expression in the performance of this Agreement.

City shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26.

Failure by City to carry out any of the requirements of this Section shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

8.2 Although no CBE goal has been set for this Agreement, County encourages City to give full consideration to the use of CBE firms to perform work under this Agreement.

8.3 By execution of this Agreement, City represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement and recover from City all monies paid by County pursuant to this Agreement, and may result in debarment from County's competitive procurement activities.

ARTICLE 9. MISCELLANEOUS

9.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the joint property of County, and, if a copyright is claimed, City grants to County a non-exclusive license to use the copyrighted item(s) indefinitely, 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 data and documents prepared by City, whether finished or unfinished, shall be the joint property of County and City and copies shall be delivered by City to the Contract Administrator within seven (7) days after termination of this Agreement. Any compensation due to City shall be withheld until all documents are received as provided herein. City shall ensure that the requirements of this Section are included in all agreements with its Subcontractor(s).

9.2 Public Records. To the extent City is acting on behalf of the County as stated in Section 119.0701, Florida Statutes, City shall:

- a. Keep and maintain public records required by County to perform the services under this Agreement;
- b. Upon request from the County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of the Agreement and following completion or termination of the Agreement if the records are not transferred to the County in their entirety; and
- d. Upon completion or termination of the Agreement, transfer to County, at no cost, all public records in possession of City, or keep and maintain public records required by the County to perform the service. If City transfers all public records to the County, City

shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the City keeps and maintains public records under this Agreement, City shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from the County, in a format that is compatible with the information technology systems of County.

The failure of City to comply with the provisions of this Section shall constitute a material breach of this Agreement entitling the County to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement may be made directly to either Party, who will be responsible for responding to any such public records requests. The Parties will provide any requested records to each other to enable timely responses to the public records requests.

Any material submitted to County that City contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCT – TRADE SECRET." In addition, City must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Florida Statutes Section 812.081 and stating the factual basis for same. In the event that a third party submits a request to County for records designated by City as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by City. City shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of any Trade Secret Materials in response to a records request by a third party.

IF THE CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 519-0356, cmaran@broward.org, 115 S. ANDREWS AVE., SUITE 329H, FORT LAUDERDALE, FLORIDA 33301.

9.3 Audit Rights, and Retention of Records. County shall have the right to audit the books, records, and accounts of City and its Subcontractors that are related to this Agreement. City and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of City and its Subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time,

and upon request to do so, City or its Subcontractor, as applicable, shall make same available at no cost to County in written form.

City and its Subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at City's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to County of any nature by the City in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by the City in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to City.

City shall ensure that the requirements of this Section are included in all agreements with its Subcontractor(s).

9.4 Truth-In-Negotiation Representation. City's compensation under this Agreement is based upon representations supplied to County by City, and City certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.

9.5 Public Entity Crime Act. City represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, City further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether City has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to City under this Agreement.

9.6 Independent Contractor. City is an independent contractor under this Agreement. In providing Services under this Agreement, neither City nor its agents shall act as officers,

employees, or agents of County. City shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

9.7 Third Party Beneficiaries. Neither City 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.

9.8 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 with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Section.

FOR COUNTY:

Environmental Planning and Community Resilience Division
Attn: Dr. Jennifer Jurado, Director
Governmental Center, Room 329H
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email address: jjurado@broward.org

FOR CITY:

Steve Joseph, Director
Department of Public Utilities
City of Hollywood
PO Box 229045
Hollywood, FL 33022-9045
Email address: sjoseph@hollywoodfl.org

With copy to:

City Attorney
2600 Hollywood Blvd. Room 407
Hollywood, Florida 33020

9.9 Assignment and Performance. Except for subcontracting approved in writing by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by City without the prior written consent of County. If City violates this provision, County shall have the right to immediately terminate this Agreement. City represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. City agrees that all services under this Agreement shall be performed in a skillful and

respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

9.10 Conflicts. Neither City nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with City's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of City's officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or City is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude City or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event City is permitted pursuant to this Agreement to utilize Subcontractors to perform any services required by this Agreement, City shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as City.

9.11 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. County's 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.

9.12 Compliance with Laws. City shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

9.13 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.

9.14 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.

9.15 Interpretation. The 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.

9.16 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 9 of this Agreement, the provisions contained in Articles 1 through 9 shall prevail and be given effect.

9.17 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, 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. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

9.18 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 Board and City or others delegated authority or otherwise authorized to execute same on their behalf.

9.19 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof 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.

9.20 Payable Interest

9.22.1. Payment of Interest. County shall not be liable to pay any interest to City for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof City waives, rejects, disclaims and surrenders 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.

9.22.2. 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 County 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).

9.21 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, 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 party so affected. This section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.

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

9.23 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.

9.24 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.

9.25 Contingency Fee. City represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for City, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to City. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due

City under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

9.26 Use of County Logo. City 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.

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 _____, 2017, and CITY OF HOLLYWOOD, signing by and through its Mayor, 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 _____, 2017

Insurance requirements approved by Broward
County
Risk Management Division:

By: Tim Crowley
Name: Tim Crowley
Title: Deputy Specialist

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

By: Michael Owens for 7/25/17
Damaris Henlon (Date)
Assistant County Attorney

By: Maite Azcoitia 7/27/17
Maite Azcoitia (Date)
Deputy County Attorney

DYH/ MA
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5/31/17
#17-057.01

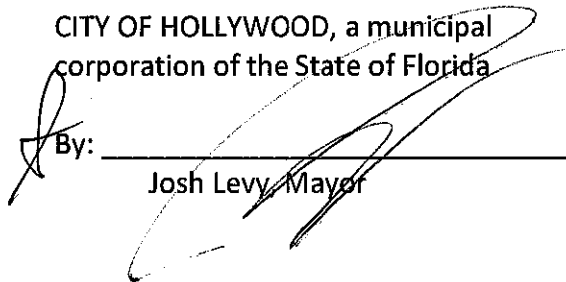
AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF HOLLYWOOD FOR DRILLING AND WELL COMPLETION OF A SALINITY SAMPLING WELL NEAR TY PARK IN HOLLYWOOD, FLORIDA

CITY OF HOLLYWOOD

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

ATTEST:

for Michelle Amodeo, Deputy City Clerk
Patricia A. Cerny, MMC
City Clerk

By: 
Josh Levy, Mayor

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

Alan Fallik *mf*
Alan Fallik, Acting City Attorney

Approved by: 
George Keller, Interim
Director Financial Services

EXHIBIT A – Scope of Services

1. Project Request

The City of Hollywood is responsible for contracting the construction, geologic sample collection, collection of borehole geophysical data, and development and testing of one (1) 2-inch diameter salinity sampling well at Topeekeegee Yugnee Park (“TY Park”), specifically at the NW corner of TY Park off South Park Road (“Well Site”), in Hollywood, Florida. All work is considered to be on a lump sum basis for the installation of one (1) monitoring well.

2. Background

County adopted the Broward County-wide Integrated Water Resources Plan (IWRP) as the basis for coordinated water resources policy, planning, and management to support regional efficiencies in water resource management and long-term sustainability.

The Biscayne Aquifer is the primary source of water supply across Broward County and it is vulnerable to saltwater intrusion, a condition accelerated by sea level rise. For that reason, the County has been a long supporter in the preservation and maintenance of a regional saltwater intrusion monitoring network to monitor and predict changes in groundwater quality associated with water management activities, land use, climate conditions, and sea level rise.

Originally, the regional network included a total of eighteen (18) wells, but the progressive movement of the saltwater front has reduced the total number of active monitoring wells to only five (5). Data from these wells is essential to establishment of the regional saltwater intrusion baseline and development of variable-density models used to assess predicted changes, vital to prudent water resource development and planning. Renewed investment is required to address gaps in the remaining network and the data needed to properly monitor and model saltwater intrusion.

The Broward Water Resources Task Force Report recommended expansion and investment in the Broward regional saltwater monitoring network to support climate resiliency planning, and a Regional Saltwater Monitoring Network Workshop was held to identify priority investment needed to improve saltwater intrusion analyses, address data gaps, and refine data coverage in sensitive areas, in conjunction with forthcoming investments by municipal water providers. This Agreement addresses the need for installing new salinity monitoring wells in one of the recommended locations, as detailed below, in order to improve saltwater intrusion analysis, fill gaps to provide full coverage, and refine complexity in sensitive areas.

3. Project Goals and Objectives

The project goal is to construct, collect geologic sample and borehole geophysical data, develop, and test one (1) 2-inch diameter salinity monitoring well at the Well Site.

The objective of this project is to expand Broward County's Regional Saltwater Monitoring Network in order to monitor salinity levels in well fields and underground infrastructure at risk of contamination by saltwater with increases in sea level, and improve the development of the regional saltwater intrusion baseline.

This project is consistent with the recommendations produced by participants (including water managers, scientists, agency partners, and water providers) who attended in the Regional Saltwater Monitoring Network Workshop, held on June 28, 2016. The location for the new salinity monitoring well was identified at the workshop as a priority area for additional detail and data refinement needed to fill gaps in the existing network. During this workshop, the City also committed to expand its network in order to gather more information about sensitive areas and in support of the regional monitoring of the saltwater front. The monitoring well will be built as part of a total contract of four (4) monitoring wells within the City.

4. Services Description and Technical Requirements

- The monitoring well should be completed with approximately 220 feet of 2-inch diameter Schedule 40 PVC casing and screen, screw together flush joints with O-rings.
- A short screened interval, 5 to 10 feet installed near the base of the aquifer.
- A 5 to 10 foot tail pipe (or long pipe) must be installed below the screen to allow the probe to travel all the way past the well screen.
- The well must be straight so that the logging tool does not become obstructed when being reeled vertically within the well; to this effect non-metal centralizers must be used.
- No metal shall be used in the well construction except the protective casing near the top of the well (i.e., no metal casing components, no metal centralizers or screws are allowed).
- Well construction must include a filter pack to keep fine material from filling the well; and an annular seal above the filter pack that prevents the grout from filling the filter pack.
 - The well annulus shall be grouted from the top of the annular seal up to near land surface.
 - The well construction must include a protective and heavy duty metal casing over the well and locking cap to prevent unauthorized access to the well.
- The depth of the Biscayne aquifer in the areas where the new monitoring well is located ranges from about 160 to 200 feet deep; therefore, completed depth of the proposed well has been established at approximately 220 feet.
 - As the exact depth to the base of the Biscayne Aquifer is variable, the exact depth of the Biscayne Aquifer shall be determined using the services of a knowledgeable Professional Geologist, based on the geologic sample and the borehole geophysical data collected.

- The City must provide a certification signed and sealed by the Professional Geologist attesting that the exact bottom of the Biscayne Aquifer for the monitoring well has been reached.
- The bottom of the Biscayne Aquifer shall be determined by using continuous core samples during the drilling of the well; cuttings will not be allowed.
- The subcontractor shall use temporary casing to block soft sediment from entering or collapsing the borehole to ensure maximum borehole image data is obtained from each borehole.
- The subcontractor must provide a lithologic log prepared by a Professional Geologist.
- The finished well must fully penetrate the Biscayne Aquifer.
- The well shall not be screened below the base of the Biscayne Aquifer.

Project phases, implementation schedule, and necessary equipment will be defined by the City of Hollywood. Project status should be communicated, via email, with the County on a monthly basis, until the Project's full completion.

5. Deliverable Products and Services

As part of the deliverables to be provided by the City to the County under this Agreement, the City shall provide, in whatever form reasonably requested by the County, any supporting documentation utilized as a basis for payment by the County. All work is considered to be on a lump sum basis for the installation of one (1) monitoring well. All Services provided pursuant to this Agreement are subject to written Final Acceptance as determined in the sole discretion of the Contract Administrator.

The required deliverables by the City for the Contract Administrator's determination regarding final acceptance by the County, after project full completion, are listed as follows:

- One (1) completely constructed monitoring well located at the Well Site, with approximately 220 feet of 2-inch diameter Schedule 40 PVC casing and screen, screw together flush joints with O-rings, at a depth of approximately 220 feet, pursuant to the Services Description and Technical Requirements listed above;
- Copies of as-built survey documentation;
- Professional Geologist certified well completion report, including data collected and test results.

EXHIBIT B – Payment Schedule

The rates specified below shall be in effect for the entire term of the Agreement, including any extension term, unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

The City may submit an invoice for payment by the County upon the successful completion of the following Deliverables (as evidenced by written final acceptance by the Contract Administrator), in the amounts shown below. The Services will be completed and delivered within twelve (12) months.

Deliverables Description	Total Deliverable Amount
One (1) completely constructed monitoring well located at the Well Site, with approximately 220 feet of 2-inch diameter Schedule 40 PVC casing and screen, screw together flush joints with O-rings, at a depth of approximately 220 feet, pursuant to the Services Description and Technical Requirements listed above	\$47,082.00 (not-to-exceed)
Copies of as-built survey documentation	
Professional Geologist certified well completion report, including data collected and test results	

Deliverables shall only be invoiced upon satisfactory completion of the applicable Deliverable as evidenced by written approval by the Contract Administrator.

EXHIBIT C
CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS

RLI/Bid/Contract No. _____

Project Title _____

The undersigned City hereby swears under penalty of perjury that:

1. City has paid all subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Section 4.2.4 of the Agreement, except as provided in paragraph 2 below.
2. The following subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of City.

Dated _____, 20__

_____ City

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this ____ day of _____, 20__.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment; printed/typed/stamped)

My commission expires: