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RESOLUTION NO. 2021- 24

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE CITY OF FORT LAUDERDALE TO PROVIDE BULK POTABLE WATER DURING TIMES OF EMERGENCY; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Interlocal Agreement between the City of Pompano Beach and the City of Fort Lauderdale to Provide Bulk Potable Water During Times of Emergency, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and the City of Fort Lauderdale.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 10th day of November, 2020.

DocuSigned by:
Rex Hardin
502CB780EB3F480...
REX HARDIN, MAYOR

ATTEST:

DocuSigned by:
Asceleta Hammond
775D4290316A490...
ASCELETA HAMMOND, CITY CLERK

DocuSigned by:

/jrm
10/21/2020
l:reso/2021-36

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INTERLOCAL AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE CITY OF FORT LAUDERDALE TO PROVIDE BULK POTABLE WATER DURING TIMES OF EMERGENCY

THIS INTERLOCAL AGREEMENT ("Agreement"), is made and entered into on this _____ day of _____, 2020 by and between:

CITY OF POMPANO BEACH
a municipal corporation
100 W Atlantic Boulevard
Pompano Beach, Florida 33060
(hereinafter referred to as "POMPANO") and

CITY OF FORT LAUDERDALE
949 N.W. 38TH Street
Fort Lauderdale, FL 33309
United States
(hereinafter referred to as "FORT LAUDERDALE")

WHEREAS, POMPANO is authorized by law to provide water treatment and distribution services to the public within a geographical area located within the City of Pompano Beach, Florida, the Town of Lauderdale by the Sea, Florida, the Village of Sea Ranch Lakes, Florida and a portion of the City of Lighthouse Point, Florida; and

WHEREAS, FORT LAUDERDALE is authorized by law to provide water treatment and distribution services to the public within all of the geographical area located within the City of Fort Lauderdale.

WHEREAS, the geographical area serviced by POMPANO is directly adjacent to the geographical area serviced by FORT LAUDERDALE; and

WHEREAS, POMPANO and FORT LAUDERDALE desire to establish a policy to provide potable water to each other on a temporary, as-needed basis during times of temporary emergencies; and

WHEREAS, it will be beneficial to both parties to construct an interconnect at a mutually agreed location with the costs to be equally divided between POMPANO and FORT LAUDERDALE; and

WHEREAS, the parties desire to enter into this Agreement under the authority of the Florida Interlocal Cooperation Act of 1969, Section 163.01, et al., Florida Statutes; and

WHEREAS, both POMPANO and FORT LAUDERDALE mutually recognize that it is in the best interest of the citizens of POMPANO and FORT LAUDERDALE to have in place a written agreement to be used during times of unexpected emergencies to ensure that the residents of POMPANO and FORT LAUDERDALE have ample potable water.

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NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties expressly covenant and agree as follows:

SECTION 1.

The above recitals are true and correct and are incorporated herein.

SECTION 2. DESCRIPTION OF EMERGENCY SERVICE/RESPONSIBILITIES OF PARTIES

2.01 Both parties agree to provide each other potable water, treated in accordance with and conforming to the standards of the Florida Department of Environmental Protection, the Florida Department of Health and all other governmental bodies having regulatory jurisdiction over such matters, all consistent with principles and practices governing the operation of existing water treatment plant facilities as needed, during times of temporary emergency and/or crisis.

2.02 "Temporary Emergency" shall be defined as the temporary inability of one Party to adequately serve its geographical area due to an unforeseen occurrence that is temporary in nature. Examples of Temporary Emergencies include water pipe breakage, and pump or plant equipment failure and temporary peak demand that threatens firefighting capability or reduces pressures to a level that threatens health and safety from cross connections. The inability to service the geographical area due to lack of planning, inadequacy of facilities, including the infrastructure, or long term inability to provide sufficient potable water are not considered qualified emergencies. The interconnect will remain open only for the duration of the emergency condition unless otherwise agreed to pursuant to a separate written agreement.

2.03 Location of Inerconnect: The Parties agree that the location of the Interconnect shall be mutually agreed upon by POMPANO BEACH and FORT LAUDERDALE utility staff.

2.04 Notification of Emergency: In the event of a Temporary Emergency, the applicable Party with the Temporary Emergency shall contact the Utilities Director or his/her designee of the other Party to authorize the opening of the Interconnect and to provide water on an emergency basis. Should the initial contact for a Temporary Emergency be made via oral communication, the Party with the Temporary Emergency shall confirm the emergency via email to the other Party. Prior to opening the Interconnect, a meter reading shall be completed by both Parties. Upon conclusion of the Temporary Emergency, a subsequent meter reading shall be completed. Representatives from both Parties shall meet at the Interconnection site to open/ close valves and take meter readings for verification.

The contact information for notification of a Temporary Emergency is as follows:

POMPANO BEACH: 954-942-2202 (WTP telephone 24 hr emergency)
FORT LAUDERDALE: 954-828-8000 (24 hr emergency) /Rick Johnson: 954-828-7809

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2.05 Maintenance and Repair: Maintenance and repair of the Interconnect shall be assigned as follows:

(a) The parties acknowledge and agree that each Party is responsible to maintain their respective meters and their isolation valves.

(b) The cost for all repairs related to the Interconnect, except for the meters and the valves indicated above, shall be divided equally between POMPANO BEACH and FORT LAUDERDALE. If the Interconnect is installed within the POMPANO BEACH service area as shown on the approved plans, POMPANO BEACH will maintain the Interconnect, except for meters and isolation valves, and shall submit invoices to FORT LAUDERDALE for 50% of the repair costs to the address provided in Section 12.

SECTION 3. TERM OF AGREEMENT

This Agreement shall become effective upon approval of both Parties and remain in effect for a period of five(5) years, with three five-year renewal periods. If the substance of the Agreement does not change during the renewal periods, City administration may renew the Agreement without further City Commission action. The Agreement may be terminated by either Party pursuant to Section 7 of this Agreement.

SECTION 4. COMPENSATION

4.01 When either Party receives potable water from the other Party under this Agreement, the Party receiving the potable water agrees to pay the other Party a water charge of $1.90 per one thousand (1000) gallons of water consumption. Said charges shall be billed to the user Party on a monthly basis, as necessary Each October 1st the rate shall increase automatically based on the Producer Price Index, this section shall be considered amended without further actions. Notice shall be provided per section 12 below.

4.02 Construction and Construction Management of Interconnect:

(a) The parties agree to design and construct an Interconnect for use during times of Temporary Emergency, hereinafter referred to as the "Project". Each Party shall pay fifty percent (50%) of the cost for construction and construction management related to the Project. POMPANO BEACH shall be responsible for entering into a contract with the lowest responsible responsive bidder.

(b) FORT LAUDERDALE and POMPANO BEACH acknowledge that the estimated construction cost is **$530,000.00** and **$68,910.00** for Construction Management.

(c) FORT LAUDERDALE shall reimburse POMPANO BEACH for its share of cost within thirty (30) calendar days of receipt of an invoice from

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POMPANO BEACH. The invoice shall be submitted to FORT LAUDERDALE's Accounts Payable Department at **acctspayable@fortlauderdale.gov**

SECTION 5. QUALITY OF WATER

Both Parties agree and represent to each other that their respective water treatment plants presently operate and produce water in accordance with existing State and Fedral regulations and standards.

SECTION 6. INDEMNIFICATION AND INSURANCE

6.01 POMPANO BEACH agrees, to the extent provided by law, to indemnify and hold harmless FORT LAUDERDALE and all its officers and employees from any loss, damage, or injury to persons or property arising from POMPANO's negligence or POMPANO BEACH's failure to comply with all the terms and conditions of this Agreement. If a claim is litigated and names FORT LAUDERDALE as a Party defendant and claims negligence on the part of a POMPANO BEACH employee, FORT LAUDERDALE shall be held harmless as to all costs and expenses associated with the litigation related to that claim, including but not limited to costs, attorneys' fees, paralegal expenses, attorneys' fees on appeal, monies paid in settlement or monies paid to satisfy any judgment obtained herein. Nothing herein shall be deemed a waiver by POMPANO BEACH of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.

6.02 FORT LAUDERDALE agrees, to the extent provided by law, to indemnify and hold harmless POMPANO BEACH and all its officers, elected or otherwise, and employees from any loss, damage, or injury to persons or property arising from FORT LAUDERDALE'S negligence or FORT LAUDERDALE 'S failure to comply with all the terms and conditions of this Agreement. If a claim is litigated and names POMPANO BEACH as a Party defendant and claims negligence on the part of a FORT LAUDERDALE employee, POMPANO BEACH shall be held harmless as to all costs and expenses associated with the litigation, related to that claim, including but not limited to, costs, attorneys' fees, paralegal expenses, attorneys' fees on appeal, monies paid in settlement or monies paid to satisfy any judgment obtained herein. Nothing herein shall be deemed a waiver by FORT LAUDERDALE of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.

6.03 The Parties shall each individually maintain throughout the term of this Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing herein is intended to serve as a waiver by either Party of sovereign immunity or of Section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either governmental entity to be sued by third parties in any matter arising out of this Agreement.

SECTION 7. TERMINATION

Either Party may terminate this Agreement upon sixty (60) calendar days written notice to the other Party.

SECTION 8. COMPLIANCE WITH LAWS

FORT LAUDERDALE and POMPANO BEACH shall comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida

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and of any other public authority which may be applicable.

SECTION 9. GOVERNING LAW AND WAIVER OF JURY TRIAL

The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Venue for any action to enforce the terms of this Agreement shall be brought in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida. Both Parties expressively waive a trial by jury of all issues so triable under this agreement.

SECTION 10. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the Parties relating to the subject matter hereof superseding all prior communications between the Parties whether oral or written, and this Agreement may not be altered, amended, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both Parties. The failure of a Party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

SECTION 11. SEVERABILITY

Should any part, term or provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State, the validity of the remaining portions or provisions shall not be affected thereby.

SECTION 12. NOTICES

12.01 All notices and other communications required or permitted under this Agreement shall be in writing and given by:

12.02 hand delivery

12.03 registered or certified mail, return receipt requested;

12.04 overnight courier, or

12.05 email to:

POMPANO BEACH:
A. Randolph Brown
Utilities Director
1205 NE 5th Ave Pompano Beach, FL 33060
Telephone: 954-545-7044 email: randolph.brown@copbfl.com

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FORT LAUDERDALE:

Rick Johnson
Utilities Distribution & Collection Systems Manager or Designee
949 N. W. 38th Street, Fort Lauderdale Florida 33309
Telephone: 954-828-7809 Email: rjohnson@fortlauderdale.gov

or to such other address as either Party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered:

(a) on the date delivered if by personal delivery or overnight courier,

(b) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and

(c) on the date of transmission with confirmed read receipt if by email.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature:

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

DocuSigned by:
Asceleta Hammond
775D4290316A490...
ASCELETA HAMMOND, CITY CLERK

(SEAL)

DocuSigned by:



CITY OF POMPANO BEACH

By: DocuSigned by:
Rex Hardin
502CB780EB3F480...
REX HARDIN, MAYOR

By: DocuSigned by:
Gregory P. Harrison
7052A67F15A44C8...
GREGORY P. HARRISON, CITY MANAGER

APPROVED AS TO FORM:

DocuSigned by:
Mark E. Berman
B4DD5E1CDA804A1...
MARK E. BERMAN, CITY ATTORNEY

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CITY OF FORT LAUDERDALE

Dean J. Trantalis**,** Mayor	Chris Lagerbloom, City Manager
_____ day of _____ 2020	_____ day of _____ 2020

APPROVED AS TO FORM:

Jeffrey A. Modarelli, City Clerk	Rhonda Montoya Hasan, Assistant City Attorney