

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: July 10, 2019

Presenter's Name and Title: Anthony Collins, Interim Director of Public Works on behalf of Public Works Department

Prepared By: Kristy Gilbert

Temp. Reso. Number: R6989

Item Description: Temp. Reso. #R6989, Approving the First Amendment to the Interlocal Agreement with Broward County for Inspection, Monitoring, and Blasting Related Services to be performed by Broward County Environmental Licensing and Building Permitting Division, authorizing the City Manager to execute the First Amendment to the Interlocal Agreement (*Interim Director of Public Works Anthony Collins*).

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: Public Works kindly requests execution of the Amendment on the dais.

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on _____ in a _____ ad in the _____; by the posting the property on _____ and/or by sending mailed notice to property owners within _____ feet of the property on _____
(fill in all that apply)

Special Voting Requirement – As required by Sec. _____, of the City Code and/or Sec. _____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS: Funds totaling \$5,000 are budgeted in Public Works Administration Account No. 001-50-100-539-000-603190, entitled "Professional Services-Other" subject to City Commission appropriation of funds in FY20 budget.

Content:

- Agenda Item Memo from the City Manager to City Commission
- Resolution TR6989
 - Exhibit A: First Amendment to Interlocal Agreement
- Attachment(s)
 - Attachment 1: Original Interlocal Agreement



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: *copy* Vernon E. Hargray, City Manager *V. Hargray*

BY: Anthony Collins, Interim Director of Public Works

DATE: July 3, 2018

RE: Temp. Reso. No. 6989, approving the First Amendment to the Interlocal Agreement with Broward County for inspection, monitoring, and blasting related services

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. No. 6989, approving the First Amendment to the Interlocal Agreement (the "ILA") with Broward County for inspection, monitoring, and blasting related services to be performed by the Broward County Environmental Licensing and Building Permitting Division.

ISSUE: City Commission approval is required for renewal of agreements initially approved by the City Commission.

BACKGROUND: The blasting being conducted in northwest Miami-Dade County is of tremendous concern to residents of the City of Miramar because of the effect such activities have on people and property within the City. The City banned all blasting within the City in December 1999, however, the effects of blasting performed by mining companies outside the City limits are being felt by residents within the City.

On February 16, 2005, the City Commission initially approved Resolution No. 05-117 to establish an ILA with Broward County for inspection, monitoring, and blasting related services to be performed by the Broward County Environmental Licensing and Building Permitting Division. On February 23, 2016, the City Commission approved Resolution No. 16-68 reauthorizing an ILA for the continued use of Broward County services. Subsequently on July 5, 2017, the Commission adopted Resolution No. 17-158 providing for three additional seismographs and extending the term of the agreement. The current term of the ILA is effective through September 30, 2019.

Seismographs have subsequently been installed at various locations in the western areas of the City. Broward County provides the City with monthly seismographic data from the installed units.

The first amendment to the ILA will extend the term of the agreement for an additional five-year term through September 26, 2024. Broward County will continue to provide monthly seismographic data. The ILA provides a mechanism for independent monitoring of blasting vibrations, and a permanent record for comparison to the levels reported to the State Fire Marshal. The contract manager for the agreement is Anthony Collins, Interim Director of Public Works.

The City Manager recommends that the City Commission approve the First Amendment to the ILA which would commence upon approval by both this Commission and the County Commission and would be effective for a term of five years.

Temp. Reso. No. 6989
6/5/19
6/28/19

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR INSPECTION, MONITORING, AND BLASTING RELATED SERVICES TO BE PERFORMED BY BROWARD COUNTY ENVIRONMENTAL LICENSING AND BUILDING PERMITTING DIVISION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, construction materials mining activities (blasting) that are being conducted in northwest Miami-Dade County are of tremendous concern to the Miramar City Commission, the administration, and residents of the City because of the effects such activities have on people and property within the City; and

WHEREAS, blasting activities conducted in northwest Miami-Dade County continue to impact residents; and

WHEREAS, on February 16, 2005, the City Commission initially approved Resolution No. 05-117 to establish an Interlocal Agreement ("ILA") with Broward County for inspection, monitoring, and blasting related services to be performed by Broward County Environmental Licensing and Building Permitting Division; and

Reso. No. _____

Temp. Reso. No. 6989
6/5/19
6/28/19

WHEREAS, on February 23, 2016, the City Commission approved Resolution No. 16-68 reauthorizing an ILA through May 2018 for the continued use of Broward County services; and

WHEREAS, on July 5, 2017, the Commission adopted Resolution No. 17-158 extending the term of the ILA and providing for three additional seismographs; and

WHEREAS, the current term of the ILA is effective through September 26, 2019; and

WHEREAS, the ILA provides a mechanism for independent monitoring of blasting vibrations, and a permanent record for comparison to the levels reported to the State Fire Marshal; and

WHEREAS, the First Amendment to the ILA shall have a term of five years through September 26, 2024, unless terminated earlier by either party; and

WHEREAS, the City Manager recommends that the City Commission approve the First Amendment to the ILA to commence upon approval by both the City Commission and the County Commission; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the First Amendment to the ILA with Broward County and to authorize the City Manager to execute the appropriate agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Reso. No. _____

Temp. Reso. No. 6989
6/5/19
6/28/19

Section 1: That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2: That the City Commission approves the First Amendment to the ILA with Broward County to commence upon approval by both this Commission and the County Commission, for a term of five years at rates set forth in the ILA.

Section 3: That the City Manager is authorized to execute the First Amendment to the ILA with Broward County, in substantial conformity with Exhibit “A” attached hereto, together with such non-substantial changes as are deemed necessary by the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4: That the appropriate City Officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

Temp. Reso. No. 6989
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Section 5: That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Alexandra P. Davis

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney
Weiss Serota Helfman
Cole & Bierman, P. L.

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Commissioner Yvette Colbourne
Vice Mayor Alexandra P. Davis
Mayor Wayne M. Messam

Voted

Reso. No. _____

Return recorded document to:
Hipolito Cruz, Jr., Director
Building Code Services Division
1 North University Drive
Plantation, FL 33324

Document prepared by:
Maite Azcoitia, Deputy County Attorney
Broward County Attorney's Office
115 South Andrews Avenue, Suite 423
Fort Lauderdale, FL 33301

**FIRST AMENDMENT TO
INTERLOCAL AGREEMENT
FOR INSPECTIONS, MONITORING, AND BLASTING RELATED
SERVICES TO BE PERFORMED BY THE
BUILDING CODE SERVICES DIVISION OF THE
ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT**

This First Amendment to that Interlocal Agreement for Inspections, Monitoring, and Blasting Related Services to be Performed by the Building Code Services Division of the Environmental Protection and Growth Management Department ("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 Miramar, a municipal corporation existing under the laws of the state of Florida, hereinafter referred to as "City," is entered into and effective as of the date this First Amendment is fully executed by the Parties ("Effective Date"). The County and City are hereinafter collectively referred to as the "Parties."

RECITALS

A. On September 26, 2017, County approved and executed the Interlocal Agreement for the provision of inspections, monitoring, and analysis of seismographic data within the municipal boundaries of City.

B. Section 3.1 of the Interlocal Agreement provides for a five (5) year term, commencing upon execution by County.

C. Sections 3.2 and 8.6 of the Interlocal Agreement provide that the term of the Interlocal Agreement may be extended by mutual written agreement of the Parties, executed by the Broward County Administrator and the City Manager.

D. The Parties are desirous of extending the term of the Interlocal Agreement for an additional five (5) years.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth fully hereunder.

2. Section 3.1 is hereby amended to read as follows:

3.1 This Agreement shall commence upon execution by COUNTY and shall continue in full force and effect for ~~two (2) years~~ until September 26, 2024.

3. This First Amendment shall be deemed effective upon execution by the Parties.

4. Except as amended herein, all other terms and conditions of the Interlocal Agreement shall remain in full force and effect.

5. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment and the Interlocal Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment to Interlocal Agreement for Inspections, Monitoring, and Blasting Related Services to be Performed by the Broward County Building Code Services Division of the Environmental Protection and Growth Management Department on the respective dates under each signature: Broward County, signing by and through its County Administrator, authorized to execute same by Board action on the 26th day of September, 2017, and City, signing by and through its City Manager, duly authorized to execute same by Commission action on the ____ day of _____, 20____.

County

Witnesses:

Broward County, through its
County Administrator

Signature

By _____
Bertha Henry, County Administrator

Print/Type Name

____ day of _____ 20____.

Signature

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

Print/Type Name

By _____
Maite Azcoitia
Deputy County Attorney

FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR INSPECTIONS,
MONITORING, AND BLASTING RELATED SERVICES TO BE PERFORMED BY THE
BUILDING CODE SERVICES DIVISION OF THE ENVIRONMENTAL PROTECTION AND
GROWTH MANAGEMENT DEPARTMENT

City

Witnesses:

City of Miramar, through its
City Manager

Signature

By _____
Vernon E. Hargray, City Manager

Print/Type Name

____ day of _____ 20____.

Approved as to form:

Signature

By _____
City Attorney

Print/Type Name

Return recorded document to:
Hipolito Cruz, Jr., Director
Building Code Services Division
1 North University Drive
Plantation, FL 33324

Document prepared by:
Maite Azcoitia, Deputy County Attorney
Broward County Attorney's Office
115 South Andrews Avenue, Suite 423
Fort Lauderdale, FL 33301

**INTERLOCAL AGREEMENT
FOR INSPECTIONS, MONITORING, AND BLASTING RELATED
SERVICES TO BE PERFORMED BY THE
BUILDING CODE SERVICES DIVISION OF THE
ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT**

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 MIRAMAR, a municipal corporation existing under the laws of the state of Florida, hereinafter referred to as "CITY."

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

WHEREAS, COUNTY maintains a Building Code Services Division ("Division") that conducts inspections, monitoring, and other services related to blasting and the use of explosives within Broward County; and

WHEREAS, CITY is desirous of procuring all or some of the services of COUNTY for the performance of inspections, monitoring, and analysis of seismographic data ("Services") within the municipal boundaries of CITY; and

WHEREAS, COUNTY, through said Division, is willing to perform such Services on the terms and conditions hereinafter 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 – SCOPE OF SERVICES

- 1.1 COUNTY shall place additional seismographs at locations agreed upon by CITY and COUNTY's Blasting Official. If the seismographs are to be placed upon private

property, CITY agrees to provide COUNTY with consent from the property owner(s) for placement of the seismographs and access for extracting blasting data from the seismographs.

- 1.2 COUNTY shall provide an inspector to monitor the blasting event number data.
- 1.3 No later than the tenth (10th) day of each month, COUNTY's Blasting Official shall review the seismographic data from the previous month and provide CITY with a vibration analysis, based on the data from the blasting events. COUNTY's analysis shall also include a brief description of the installation of the transducer.
- 1.4 COUNTY shall perform the Services set forth herein through the Division, or any successor division as may be designed by the County Administrator.
- 1.5 Additional services may be provided to CITY upon written amendment to this Agreement, as provided in Section 8.6.

ARTICLE 2 – COMPENSATION

- 2.1 COUNTY shall provide Services set forth in Article 1, Sections 1.1 and 1.2, at the rates as follows:

1st through 3rd seismographs - \$100.00 per hour, includes seismograph rental

Additional seismographs - \$720.00 each for the first complete month, \$625.00 each for the second complete month; \$525.00 each for the third complete month, and \$475.00 each per month thereafter

It is estimated that approximately 1.5 hours of inspector time will be required for the placement of each seismograph and monitoring of each blast. COUNTY shall provide the Services set forth in Article 1, Section 1.3, at the rate of One Hundred and 00/100 Dollars (\$100.00) per hour for each seismograph unit.

- 2.2 COUNTY shall invoice CITY on a monthly basis for actual Services provided to CITY by COUNTY during the preceding month. CITY shall reimburse COUNTY within forty-five (45) days after the date of the invoice. CITY shall be invoiced for fractional portions of an hour in half hour increments to the nearest half hour at the rate set forth herein.

ARTICLE 3 – TERM OF AGREEMENT

- 3.1 This Agreement shall commence upon execution by COUNTY and shall continue in full force and effect for two (2) years.

- 3.2 This Agreement may be extended upon mutual, written agreement by the parties. Such written agreement need not be executed with the same formality and of equal dignity of this Agreement, but must comply with Section 8.6 below.

ARTICLE 4 – GOVERNMENTAL IMMUNITY

CITY is a State agency as defined in Section 768.28, Florida Statutes, and COUNTY is a political subdivision of the State of Florida. Each agrees to be fully responsible for acts and omissions of their agents and employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by either party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a State agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 5 – INSURANCE

COUNTY is self-insured in accordance with the provisions set forth in Section 768.28, Florida Statutes.

ARTICLE 6 – TERMINATION

This Agreement may be terminated by either party, for convenience or for cause, upon thirty (30) days' notice to the other party of such termination pursuant to Article 7, Notices, herein.

ARTICLE 7 – NOTICES

Any and all notice required or given under this Agreement shall be in writing and may be delivered in person or by placing in the United States mail, postage prepaid, first class and certified, return receipt requested, addressed as follows:

To COUNTY:

Director, Broward County Building Code Services Division
One North University Drive
Plantation, FL 33324

With copy to:

Broward County Administrator
Governmental Center, Suite 409
115 South Andrews Avenue
Fort Lauderdale, FL 33301

To CITY:

City Manager, City of Miramar
2300 Civic Center Place
Miramar, FL 33025

With copy to:

Jamie Alan Cole, Esquire
City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, FL 33301

ARTICLE 8 – MISCELLANEOUS PROVISIONS

- 8.1 **ASSIGNMENT:** COUNTY shall perform the selected Services provided for in this Agreement exclusively and solely for the CITY which is a party to this Agreement. Neither party shall have the right to assign this Agreement.
- 8.2 **WAIVER:** The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement cannot be construed as a waiver of any future or continuing similar or dissimilar failure.
- 8.3 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 8.4 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreement, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 8.5 **INDEPENDENT CONTRACTOR:** COUNTY is an independent contractor under this Agreement. Services provided by COUNTY pursuant to this 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 CITY. This Agreement shall not constitute or make the parties a partnership or joint venture.
- 8.6 **MODIFICATION:** It is further agreed that no modifications, amendments, or alterations in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. Amendments extending the term of this Agreement pursuant to Article 3.1 or adding or deleting services to the Scope of Services, including the

performance of additional monitoring services under Article 1, may be approved by the County Administrator for COUNTY and by the City Manager for CITY, provided that such amendment(s), and approval by such officials, are memorialized in writing.

- 8.7 **CHOICE OF LAW; WAIVER OF JURY TRIAL:** Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit in and for Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to a trial by jury of any such litigation.
- 8.8 **DRAFTING:** This Agreement has been negotiated and drafted by all parties hereto and shall not be more strictly construed against any party because of such party's preparation of this Agreement.
- 8.9 **RECORDING:** This Agreement shall be recorded in the Public Records of Broward County, in accordance with the Florida Interlocal Cooperation Act of 1969.
- 8.10 **SUPERSEDING EFFECT:** This Agreement supersedes all prior agreements and understandings between the parties with respect to the transactions contemplated hereby.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have made and executed this Interlocal Agreement between Broward County and the City of Miramar for Inspections, Monitoring, and Blasting Related Services to be Performed by the Building Code Services Division of the Environmental Protection and Growth Management Department 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 by Board action on the 26 day of September, 2017, and CITY OF MIRAMAR, signing by and through its City Manager, duly authorized to execute same.

COUNTY

ATTEST:


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



BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By 
Mayor

26 day of September, 2017

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) 357-6968

By  8/15/17
Maite Azcoitia
Deputy County Attorney

INTERLOCAL AGREEMENT FOR INSPECTIONS, MONITORING, AND BLASTING
RELATED SERVICES TO BE PERFORMED BY THE BUILDING CODE SERVICES
DIVISION OF THE ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT
DEPARTMENT.

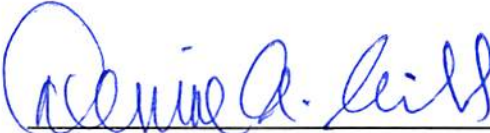
CITY OF MIRAMAR

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be
executed by their respective officials thereunto duly authorized, this the day and year
written.

ATTEST

THE CITY OF MIRAMAR


BB


Denise A. Gibbs, City Clerk

By: 
Kathleen Woods-Richardson
City Manager

Date: 7/18/17

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
USE OF AND RELIANCE BY THE
CITY OF MIRAMAR ONLY:


City Attorney
Weiss Serota Helfman
Cole & Bierman, P.L. ECG