

**RESOLUTION 2004 - 113**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN INTERLOCAL AGREEMENT WITH THE CITY OF PEMBROKE PINES FOR THE LOCATION, ENERGY COSTS, REPAIR AND MAINTENANCE OF THE STREET LIGHTING ASSOCIATED WITH THE SHERIDAN STREET WIDENING PROJECT; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

**WHEREAS**, the design for widening Sheridan Street to four lanes, from 172 Avenue to 196 Avenue, is 60% completed; and

**WHEREAS**, the Town initially took the position that it did not want any street lights associated with this project; and

**WHEREAS**, the City of Pembroke Pines has taken the position that the street lights are necessary to safely provide the required illumination; and

**WHEREAS**, the County has committed to provide total funding for the design and installation of the complete street lighting system; and

**WHEREAS**, the Town Administrator and the City Manager have met to create a solution to the differences of opinion; and

**WHEREAS**, the Town and the City wish to formalize their understanding in writing and have determined that an Interlocal Agreement is mutually beneficial and that it is in the best interest of the public.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1.** The above referenced recitals are true and correct and are incorporated herein by reference.

**Section 2.** The Town Council hereby approves the Interlocal Agreement, in substantially the same form as that attached hereto as Exhibit "A", between the Town of Southwest Ranches and the City of Pembroke Pines for the location, energy costs, repair, and maintenance of the street lighting associated with the Sheridan Street Widening Project.

**Section 3.** The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into the Interlocal Agreement, in substantially the same form as that attached hereto as Exhibit "A", and to make such modifications, additions and or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

**Section 4.** That this Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 9<sup>th</sup> day of September 2004, on a motion by Vice Mayor Knight and seconded by Council Member Maines.

Fink            Y    

Ayes            5    

Knight         Y    

Nays            0    

Blanton        Y    

Absent or

Maines         Y    

Abstaining     0    


Nelson         Y    

  
\_\_\_\_\_  
Mecca Fink, Mayor

ATTEST:

  
\_\_\_\_\_  
Shari Canada, Town Clerk

Approved as to Form and Correctness:

  
\_\_\_\_\_  
Gary A. Poliakoff, J.D., Town Attorney  
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**INTERLOCAL AGREEMENT FOR  
THE REPAIR, MAINTENANCE, AND PAYMENT OF ALL ENERGY  
COSTS FOR THE STREET LIGHTING SYSTEM ON  
SHERIDAN STREET FROM 172 AVENUE WEST TO 196 AVENUE**

This is an Interlocal Agreement, made and entered into this 20 day of October, 2004, by and between:

CITY OF PEMBROKE PINES, a municipal corporation existing under the laws of the state of Florida, hereinafter referred to as "CITY,"

and

TOWN OF SOUTHWEST RANCHES, a municipal corporation existing under the laws of the state of Florida, hereinafter referred to as "TOWN."

**WITNESSETH:**

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

WHEREAS, Sheridan Street from 172 Avenue west to 196 Avenue is a public roadway and is classified as a County Road; and

WHEREAS, the design for the widening of Sheridan Street from 172 Avenue west to 196 Avenue is nearing completion, the Project being referred to as Broward County Project BC 5238; and

WHEREAS, a component of BC 5238 is the design and installation of the street lighting system, which will be of benefit to residents of the CITY and TOWN; and

WHEREAS, it has been determined that it is not feasible or possible to install street lighting on the south side of Sheridan Street under a single-sided lighting system, but that such a single-sided street lighting system on the north side of Sheridan Avenue is possible; and

WHEREAS, the northern right-of-way line of Sheridan Street is located mostly outside of the CITY limits and within the TOWN limits; and

WHEREAS, while all electrical lines and poles, and other lighting system facilities will be installed under BC 5238 within public road right-of-way dedicated to Broward County, many of the street light poles will be installed within the City limits of the TOWN; and

WHEREAS, TOWN has agreed to the proposed street lighting plan under BC 5238, provided that CITY agrees to pay all costs for the repair and maintenance of the street lighting facilities on Sheridan Street from 172 Avenue west to 196 Avenue, and provided that the CITY provide funding for all energy costs associated with such street lighting; and

WHEREAS, CITY has entered into an Agreement with Broward County for Traffic Beautification and Illumination for Sheridan Street from Southwest 196 Avenue to Southwest 172 Avenue under BC5238 ("Broward County Agreement"), a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, pursuant to the Broward County Agreement, Broward County will complete the lighting component of BC 5238, with the City being responsible for all costs of repairs and maintenance of the street lighting facilities upon completion and acceptance of the Project;

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

#### **ARTICLE I - RECITALS**

- 1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

#### **ARTICLE 2 - RESPONSIBILITIES OF CITY**

- 2.1 Upon completion of Project and acceptance of the implemented and constructed Street Lighting Plan of the Project by CITY, CITY shall be responsible for the regular maintenance and repair of the street lighting facilities installed and shall be responsible for all energy costs associated with the operation of said street lighting facilities along Sheridan Street from 172 Avenue west to 196 Avenue.

### **ARTICLE 3 - RESPONSIBILITIES OF TOWN**

- 3.1 TOWN grants to CITY, its officers, employees, and agents, an easement over property more particularly described in the attached Exhibit "A" for the purposes of repairing, replacing, and maintaining any street lighting facilities constructed and installed within TOWN boundaries pursuant to the Street Lighting Plan of BC 5238. This easement shall continue until such time as this Agreement is terminated or the Broward County Agreement is terminated, whichever occurs first.

### **ARTICLE 4 - TERM OF AGREEMENT**

- 4.1 This Agreement shall be deemed to have commenced on the date it is fully executed by both parties and shall terminate as provided in Sections 4.2 through 4.5 hereinbelow.
- 4.2 This Agreement may be terminated for cause by either party, upon thirty (30) days written notice given by the terminating party to the other party setting forth the breach. If the breaching party corrects the breach within thirty (30) days after written notice of same, to the satisfaction of the terminating party, the Agreement shall remain in full force and effect. If such breach is not corrected and improved within thirty (30) days of receipt of notice of breach, the terminating party may terminate the Agreement.
- 4.3 Termination of this Agreement for cause shall include, but not be limited to: failure of the parties to suitably perform the services required under this agreement, failure of the CITY to maintain and repair the street lighting facilities pursuant to the terms of this agreement, and failure of the parties to continuously perform the services required by the terms and conditions of this Agreement in a manner calculate to meet or accomplish the objectives set forth herein, notwithstanding whether any such breach was previously waived or cured.
- 4.4 The Agreement may be terminated upon the mutual agreement of CITY AND TOWN.
- 4.5 Notice of termination shall be provided in accordance with Article 6, "NOTICES," herein.

### **ARTICLE 5 - GOVERNMENTAL IMMUNITY; INDEMNIFICATION**

- 5.1 CITY and TOWN are state agencies as defined in Chapter 768.28, Florida Statutes. Each agrees to be fully responsible for acts and omissions of their agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any 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 6 - NOTICES

- 7.1 Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided for in this article. For the present, the parties designated the following:

### TO CITY OF PEMBROKE PINES:

City Manager  
10100 Pines Boulevard  
Pembroke Pines, Florida 33026

With copy to:

City Attorney  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard  
Suite 200  
Fort Lauderdale, FL 33308

### TO TOWN OF SOUTHWEST RANCHES:

Town Manager  
6589 SW 160 Avenue  
Southwest Ranches, Florida 33331

## ARTICLE 7 - MISCELLANEOUS PROVISIONS


- 7.1 **ASSIGNMENT:** The parties to the Agreement shall have NO right to assign, transfer, or otherwise encumber this Agreement, without the express consent of the other party.
- 7.2 **WAIVER:** The waiver by any party to this Agreement of any failure on the part of another party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.
- 7.3 **THIRD PARTY BENEFICIARIES:** Neither CITY nor TOWN intend to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based on this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

- 7.4 SEVERABILITY: The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 7.5 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, agreements 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.
- 7.6 JOINT PREPARATION: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations here and that the preparation of this Agreement has been a joint effort. The language agreed to expresses their mutual intent and their resulting documents shall not, solely, as a matter of judicial construction, be construed more severally against one of the parties than the other.
- 7.7 APPLICABLE LAW AND VENUE: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Court of the 17<sup>th</sup> Judicial Circuit of Broward County, Florida, the venue site 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 trial by jury of any such litigation.
- 7.8 AMENDMENTS: No modification, amendment, or alteration of 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 both parties.
- 7.9 MULTIPLE ORIGINALS: This Agreement may be fully executed in \_\_\_\_ copies by all parties, each of which, bearing original signatures, shall have the force and affect of an original document.
- 7.10 RECORDATION: This Agreement may be recorded by the CITY in the public records of Broward County, Florida, at CITY's expense.

IN WITNESS WHEREOF, the parties hereto have made and executed this Interlocal Agreement between CITY and TOWN on the respective dates under each signature: CITY, signing by and through its Mayor, authorized to execute same by Commission action on the 20 day of October, 2004 (date) and the TOWN, signing by and through its \_\_\_\_\_, authorized to execute same by Commission action on the \_\_\_\_ day of \_\_\_\_\_, 2004 (date).

**CITY OF PEMBROKE PINES**

Attest:

  
Eileen Tesh, City Clerk

CITY OF PEMBROKE PINES

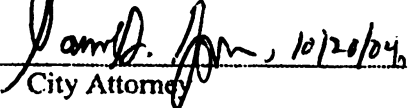
By   
Frank C. Ortis, Mayor

26 day of October, 2004 (date)

By   
Charles F. Dodge, City Manager

27 day of October, 2004 (date)

APPROVED AS TO FORM:

By , 10/20/04  
City Attorney



**TOWN OF SOUTHWEST RANCHES**

Attest:

Shawn Canada  
Town Clerk

TOWN OF SOUTHWEST RANCHES

By Mecca Fink  
Mayor

9 day of September, 2004 (date)

By John Canada  
Town Manager

9 day of September, 2004 (date)

APPROVED AS TO FORM:

By [Signature]  
Town Attorney

MJP:cle  
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**EXHIBIT "A"**  
**EASEMENT AREA**

**The Portion of the Sheridan Street right-of-way, located north of the section line, between the centerline of S.W. 172 Avenue and the centerline of S.W. 196 Avenue and lying and being in the Town of Southwest Ranches.**