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**INTERLOCAL AGREEMENT RELATING TO THE CONSTRUCTION
OF GOMEZ/PETTWAY POTABLE WATER MAINS INSTALLATION
PROJECT**

By and Between

Martin County, Florida

and

Town of Jupiter Island, Florida

Dated as of _____, 2024

THIS INTERLOCAL AGREEMENT is made and entered into as of ____, 2024, by and between Martin County, Florida (the "**COUNTY**") and the Town of Jupiter Island, Florida (the "**TOWN**" and together with the County the "**PARTIES**").

W I T N E S S E T H:

WHEREAS, § 163.01, Fla. Stat., known as the "Florida Interlocal Cooperation Act of 1969" (the "**Act**"), provides a method for governmental entities to cooperate with each other on a basis of mutual advantage to provide services and facilities in a manner that will accord best with the factors influencing the needs and development of local communities; and

WHEREAS; The Department of Health, over a period of several years, have documented water quality issues in several private potable wells in the Gomez/Pettway community of Hobe Sound (the "**Community**"); and

WHEREAS the Community is located within unincorporated area of the COUNTY and lies within the potable water utility service area of the TOWN; and

WHEREAS the PARTIES want to cooperate to perform a potable water distribution mains project within the Community as a single joint project ("**PROJECT**"); and

WHEREAS, providing potable water distribution mains infrastructure improvements in the Community will help the Parties protect the health, safety and welfare of the unincorporated County residents in those areas; and

WHEREAS the County has secured substantial state funding in the amount of \$940,000 to support the installation of potable water distribution mains infrastructure in the Community; and

WHEREAS the Parties recognize that it would be most efficient for the TOWN to procure the design and permitting of the Project, and for the COUNTY to procure construction of the PROJECT pursuant to which (1) the COUNTY shall utilize local funds to reimburse the TOWN for the design and permitting of the Project, and for the COUNTY to bear all remaining funds for the PROJECT construction costs within the agreed limits of the PROJECT, and (2) the COUNTY will construct the PROJECT in accordance with the construction standards set forth in the TOWN's Uniform Policies & Procedures, and upon completion of the Project, transfer ownership of the PROJECT potable water distribution mains facilities to the TOWN for the TOWN's ownership, operation and maintenance; and

WHEREAS, in accordance with all applicable Federal, State and County requirements, the COUNTY will obtain construction bids, utilizing a unit price and

quantity bid Contract, for the goods and services required for the construction of the PROJECT; and

NOW THEREFORE, in consideration of the mutual promises, covenants, obligations, duties and benefits herein set forth, and other valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

SECTION 1. AUTHORITY FOR INTERLOCAL AGREEMENT. This Interlocal Agreement is adopted pursuant to the provisions of the Act and other applicable provisions of law.

SECTION 2. DEFINITIONS. The following definitions shall govern the interpretation of this Interlocal Agreement:

"ACT" means Part I of Chapter 163, Florida Statutes, as amended.

"CAPITAL COST" means all or any portion of the expenses that are properly attributable to the acquisition, design, engineering, construction, and installation of the components of the potable water distribution system, including but not limited to, inspection fees and other similar fees and charges, if any, under generally accepted accounting principles.

"COUNTY" means Martin County, a political subdivision of the State of Florida.

"GOMEZ/PETTWAY POTABLE WATER DISTRIBUTION MAIN PROJECT AREA" means the area depicted in **Exhibits A, B and C** attached hereto.

"FISCAL YEAR" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be determined by mutual agreement of the TOWN and the COUNTY.

"INTERLOCAL AGREEMENT" means this Interlocal Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

"SMRU" means South Martin Regional Utility, the water, wastewater and irrigation quality water utility enterprise fund of the TOWN.

"TOWN" means the Town of Jupiter Island, a municipal corporation of the State of Florida.

"UTILITY SYSTEM" means the water and wastewater system facilities owned and/or operated by SMRU for the TOWN, used to provide water, wastewater and irrigation quality water service to the TOWN utility service area.

SECTION 3. INTERPRETATION. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall

include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the effective date of this Agreement; and the term "hereafter" shall mean after the effective date of this Agreement. This Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Agreement.

SECTION 4. CAPITAL COST. The estimated Capital Cost for the design, permitting, and construction inspection services of the Project is \$122,430.00, and the estimated Capital Cost for construction of the PROJECT is \$1,880,000. In the event that the COUNTY determines prior to the bid award for construction of the PROJECT, in its sole discretion, that the actual Capital Cost for construction of the Project will exceed this estimate by an amount that is not acceptable to the COUNTY, the COUNTY may terminate this Agreement by providing written notice of such termination to the TOWN, in which event the COUNTY will reimburse the TOWN for the cost of the design and permitting services incurred by the TOWN to the date of termination. In the event that the design and construction services exceed \$122,430, the TOWN shall provide notice to the COUNTY of the proposed increase and allow adequate time for the COUNTY to review and approve the increase.

SECTION 5. FUNDING.

(A) State appropriation funding in the amount of \$940,000 has been acquired, and \$300,000 in COUNTY Community Redevelopment Area TIF funds have also been budgeted for the PROJECT. The PARTIES shall continue to seek additional funding and property owner contributions to accomplish the full scope of the PROJECT. Phasing may be required if additional funding avenues are not identified, which phasing must be agreed upon by the COUNTY and the TOWN, absent which either party may terminate this Agreement.

(B) The COUNTY shall promptly review and provide TOWN a copy for timely review and approval, of any and all the Contractor's invoices submitted in connection with the project and either approve or disapprove in accordance with the Local Government Prompt Payment Act, §218.70 et. seq Fla. Stat, allowing for ten (10) business days after such approval or disapproval for the TOWN to issue or object to payments as appropriate. Upon approval of the invoices by both parties, the COUNTY will issue payment to the Contractor.

SECTION 6. DESIGN. The TOWN agrees to procure the design for the PROJECT from a utility design engineer ("ENGINEER") and obtain all necessary permits

and regulatory approvals for the project. The COUNTY agrees to provide funding for these services.

SECTION 7. CONSTRUCTION BID – BID DOCUMENTS, ADVERTISEMENT, REVIEW, AND AWARD. The TOWN agrees to cause the ENGINEER to develop construction plans and technical specifications for the COUNTY PROJECT construction bid documents, for review and comment by the COUNTY. Subject to the provisions for termination by the COUNTY set forth above after construction bids are received, the COUNTY will procure the PROJECT with the construction plans and technical specifications following the procurement requirements and procedures of the COUNTY. Should the PROJECT be phased, the COUNTY reserves the right to utilize a continuing service contract rather than bid out the remainder of the PROJECT. Subject to Sections 4 and 5(A) above, the COUNTY will review the bids, receive comments from the TOWN on the bids, award, and enter into a contract with the Contractor who provides the best value, as determined by the COUNTY in its sole discretion, for the PROJECT.

SECTION 8. CONSTRUCTION OF PROJECT;

(A) The COUNTY agrees to construct the project in accordance with design and regulatory approvals. The COUNTY will manage the construction contract and will be responsible for ensuring that the construction of the project meets all requirements and is completed on schedule in accordance with the contract, and construction documents.

(B) The TOWN agrees to coordinate and interface with the COUNTY, and Contractor to facilitate the timely and satisfactory construction of the PROJECT.

(C) COUNTY will receive for and forward to the TOWN, Contractor Shop Drawings and Technical Submittals for PROJECT potable water service components for TOWN ENGINEER's review and approval. The TOWN will cause the ENGINEER to review and provide approvals or comments on Submittals within 10 calendar days of receipt of a Submittal.

(D) The TOWN agrees to cause the ENGINEER to perform periodic inspections of the work of the Contractor and verify that the PROJECT is being constructed in conformance with the local building codes, construction plans and technical specifications.

(E) In addition to the management and inspection of the work by COUNTY, the ENGINEER will also visit the PROJECT site at least once per week when construction of the PROJECT is in progress and the ENGINEER will inspect the PROJECT for conformance to the Construction Contract Documents. The ENGINEER will notify the COUNTY of any work that is not in conformance with the Contract requirements.

(F) Upon completion of the PROJECT, the ENGINEER shall determine whether the PROJECT was constructed in accordance with the design and regulatory approval

requirements and provide its determination to the COUNTY in writing and if approved, such approval shall constitute acceptance by the TOWN of the PROJECT. If the ENGINEER identifies any deficiencies with the construction, the TOWN shall notify the COUNTY and the COUNTY shall require the Contractor to remedy the deficiency. Upon acceptance of the PROJECT by the ENGINEER, the COUNTY shall transfer ownership of the PROJECT potable water service components to the TOWN by Bill of Sale acceptable to the TOWN and shall transfer the Contractor's and Vendor's warranties related to the PROJECT potable water service components to the TOWN. Upon transfer of ownership of the PROJECT potable water service components to the TOWN, the TOWN shall be solely responsible for the operation, maintenance, repair and replacement of the PROJECT potable water distribution mains components, and the TOWN shall look solely to the Contractor's and Vendor's warranties for remedy of any subsequently identified defects in the construction of the PROJECT potable water distribution mains components.

(G) Upon acceptance of the potable water distribution mains by the TOWN, SMRU will make potable water service available to property owners adjacent to the potable water distribution mains, subject to compliance with the service connection provisions of the SMRU Policies, Procedures and Regulations, application for service and payment of all required fees and charges.

SECTION 9. ROAD RIGHT OF WAY. The COUNTY shall utilize the COUNTY road rights of ways within the PROJECT area for construction, of the PROJECT components, and grant the TOWN use of the rights of way for the completed project and provision of potable water service to customers within the PROJECT area. The TOWN acknowledges that the use of the Right of Way is subject to the provisions of §125.42, Fla. Stat.

SECTION 10. TERM OF INTERLOCAL AGREEMENT. Unless earlier terminated by the parties as provided above, this Interlocal Agreement shall terminate on the date PROJECT infrastructure is transferred by the COUNTY to the TOWN, and any pending disputes between the parties pursuant to Section 13 shall survive termination until finally resolved.

SECTION 11. FILING. A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Martin County, Florida.

SECTION 12. LIMITED LIABILITY. Neither the TOWN nor the COUNTY, or any agent, officer, official or employee of the TOWN or the COUNTY shall be liable for any action taken pursuant to this Interlocal Agreement in good faith or for any omission, except gross negligence, or for any act or omission or commission by the other party hereto and its agents, officers, officials or employees. The terms of this Section 12 shall survive termination or expiration of this Agreement.

SECTION 13. DISPUTE RESOLUTION.

(A) The parties agree to resolve any dispute related to the interpretation or performance of this Interlocal Agreement in the manner described in this Section 13 prior to filing suit against the other party. Any party may initiate the dispute resolution process by providing written notice to the other party. This Section 13 is intended to provide a dispute resolution process in lieu of the process provided in Chapter 164, Florida Statutes.

(B) After transmittal and receipt of a notice specifying the area or areas of disagreement, the parties agree to have their authorized representatives meet at reasonable times and places, as mutually agreed upon, to discuss the issues.

(C) If discussions between the parties authorized representatives fail to resolve the dispute within sixty (60) days of the notice described in subsection (A) above, the parties shall appoint a mutually acceptable neutral third party to act as a mediator. If the parties are unable to agree upon a mediator, the mediators selected by the parties shall, by mutual agreement, select a mediator who is a mediator certified by the Supreme Court of Florida and is a practicing mediator in Indian River, St. Lucie, Martin, or Palm Beach County. The mediation contemplated by this subsection (C) is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-

solving, and exploring settlement alternatives. The mediator's fee shall be paid in equal shares by each party to the mediator.

(D) If the parties are unable to reach a mediated settlement within one hundred twenty (120) days of the mediator's appointment, any party may terminate the settlement discussions by written notice to the other party. In such event, any party may initiate litigation within one hundred twenty (120) days of the notice terminating the settlement discussions. Failure by the party initiating the dispute resolution procedure to commence litigation within the 120-day period shall be deemed to constitute an acceptance of the interpretation or performance of the other party.

(E) In any dispute, each party shall pay the fees, charges and expenses of its own counsel, experts and witnesses.

(F) The terms of this Section 13 shall survive termination or expiration of this Agreement.

SECTION 14. AMENDMENTS. This Interlocal Agreement may be amended in writing at any time by the concurrence of the TOWN and the COUNTY and subsequent ratification by each party's respective governing body.

SECTION 15. PROFESSIONAL FEES AND COSTS. Each party shall pay the fees, charges and expenses of its own legal counsel and professionals in connection with the preparation and enforcement of this Agreement.

SECTION 16. ASSIGNMENT. This Interlocal Agreement may not be assigned, in whole, or in part, by any party at any time.

SECTION 17. NON-WAIVER. The failure of either party to insist upon the other party's compliance with its obligations under this Interlocal Agreement in any one or more instances shall not operate to release such other party from its duties to comply with such obligations in all other instances.

SECTION 18. NOTICES. All notices, certificates, demands, approvals or other communications hereunder shall be sufficiently given and shall be deemed given on the date such written communication is delivered by hand delivery, courier or facsimile transmission or three (3) days after the date mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:

Town: Town of Jupiter Island
2 Bridge Road
Hobe Sound, Florida 33475
Attention: Town Manager

Required Copy to: Town Counsel
Phillip C. Gildan
Greenberg Traurig, P.A.
777 So. Flagler Drive, Suite 300 East
West Palm Beach, FL 33401

County: County Administrator
Martin County Board of County Commissioners
2401 Monterey Road
Stuart, FL 34996

Required Copy to: County Attorney
Martin County Board of County Commissioners
2401 SE Monterey Road
Stuart, FL 34996

SECTION 19. EXECUTION IN COUNTERPARTS. This Interlocal Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 20. SEVERABILITY. In the event that any provision of this Interlocal Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this Interlocal Agreement shall remain in full force and effect.

SECTION 21. ENTIRE AGREEMENT. This Interlocal Agreement and the exhibit attached hereto constitute the entire agreement between the parties pertaining to subject matter hereof and may not be modified orally or otherwise except by written amendments executed by each party hereto.

SECTION 22. BINDING EFFECT. The obligations and covenants of this Interlocal Agreement shall bind and benefit the successors of the parties hereto.

SECTION 23. APPLICABLE LAW. This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 24. EFFECTIVE DATE. This Interlocal Agreement shall become effective on the later of (A) the dated date hereof, or (B) the date the last party hereto executes this Interlocal Agreement and the filing requirements of Section 11 hereof are satisfied.

[Signature pages follow]

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the County by its Chairman, its seal affixed hereto, as attested by its Clerk as of the __ day of _____, 2024.

**BOARD OF COUNTY COMMISSIONERS
OF MARTIN COUNTY, FLORIDA**

(SEAL)

ATTEST:

By: _____
Harold Jenkins, Chairman

By: _____
Carolyn Timmann, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Sarah Woods, County Attorney

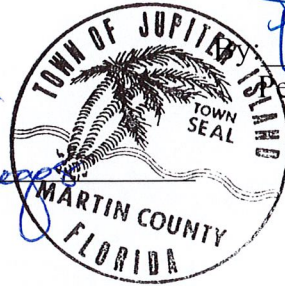
IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Town by its Mayor, its seal affixed hereto, as attested by its Clerk all as of the 15th day of September 2024.

TOWN OF JUPITER ISLAND, FLORIDA

(SEAL)

ATTEST:

By: Kimberly Leggs
Town Clerk



Penelope D. Townsend
Penelope D. Townsend, Mayor

EXHIBIT A

DESCRIPTION OF PROJECT COMPONENTS

The COMPONENTS of the project consist of the installation of the water main system including the following (subject to the final design presented):

- 29 gate valves
- Approximately 6,900 linear feet of 8" HDD force main via directional drill
- Approximately 1,300 linear feet of 6" HDD force main via directional drill
- One 8x6 wet tap
- Seventeen Fire Hydrant Assemblies including 6" Valve
- Approximately 150 linear feet of 8" HDD force main via directional drill under US1
- One 8" Insertion Valve
- 114 Water services including both short and long
- All associated site restoration, including concrete, roadway, irrigation system, and landscaping disturbed during construction of these components.

EXHIBIT B

SE KINGSWAY STREET PROJECT AREA

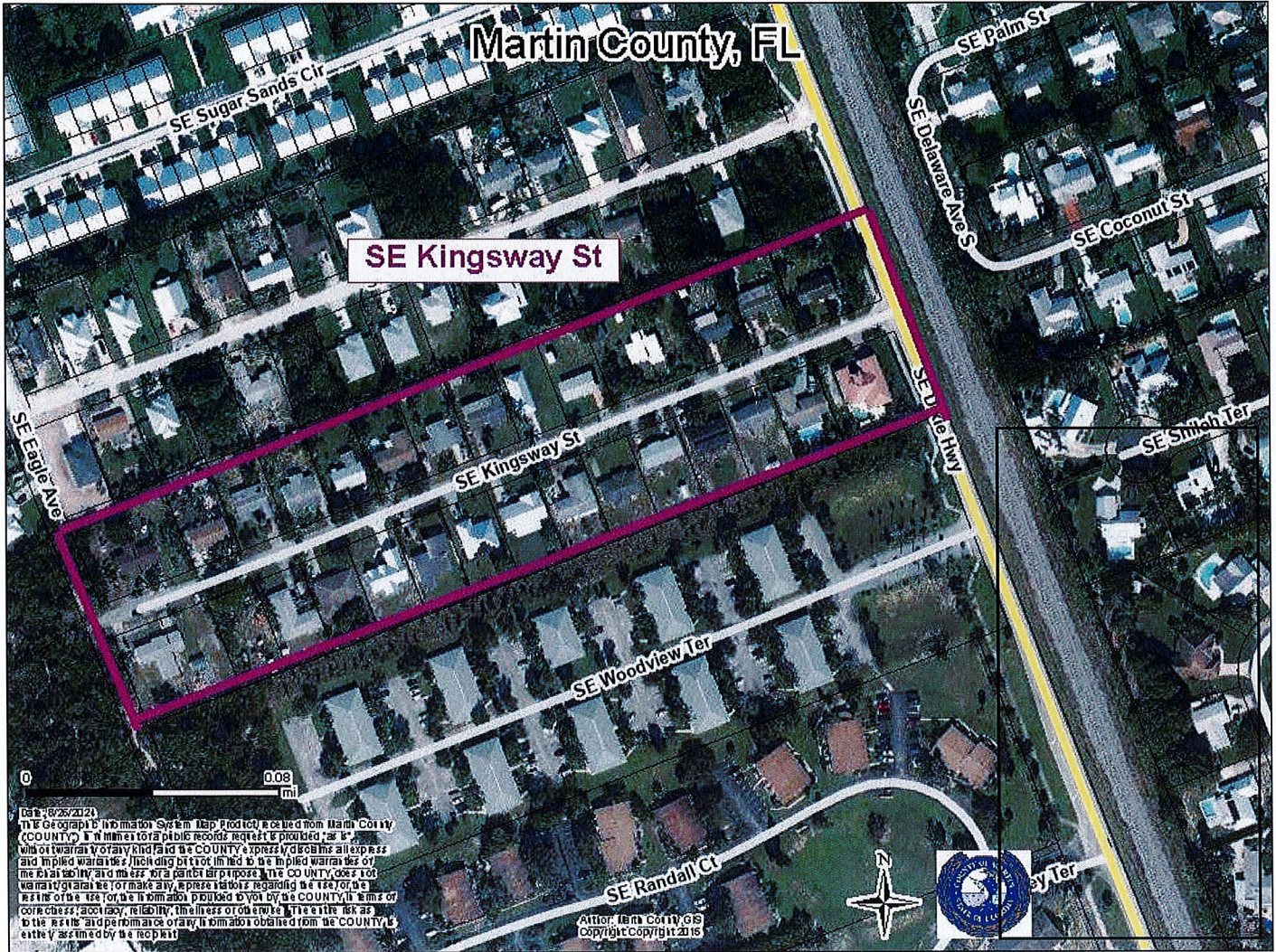


EXHIBIT C

SE PETTWAY PROJECT AREA

