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Sarah Woods, Esq.
County Attorney's Office
Martin County, Florida
2401 S.E. Monterey Road
Stuart, Florida 34996

(Space reserved for Clerk of Court)

**INTERLOCAL AGREEMENT RELATING TO THE CONSTRUCTION
OF WASTEWATER COLLECTION FACILITIES IN THE TOWN OF
SEWALL'S POINT, FLORIDA**

By and Between

Martin County, Florida

and

Town of Sewall's Point, Florida

Dated as of October , 2017

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**INTERLOCAL AGREEMENT RELATING TO THE CONSTRUCTION
OF WASTEWATER COLLECTION FACILITIES IN THE TOWN OF
SEWALL'S POINT, FLORIDA**

THIS INTERLOCAL AGREEMENT ("Interlocal Agreement") is made and entered into as of October , 2017, by and between Martin County, Florida (the "County") and the Town of Sewall's Point, Florida (the "Town" and together with the County the "Parties") and amends and restates in its entirety that certain Interlocal Agreement for Wastewater Service, dated March 8, 1994 entered into between the Parties for similar purposes for those purposes described herein.

W I T N E S S E T H:

WHEREAS, the Town does not currently own or operate a central wastewater collection and treatment system service; and

WHEREAS, the County currently owns and operates a central wastewater collection and treatment system service which already provides service to certain properties located within the Town (the "Utility System"); and

WHEREAS, certain property owners in the Town currently rely on septic tank systems for wastewater disposal and may in the future request that the County provide central wastewater collection and treatment system service to their property; and

WHEREAS, replacement of the existing septic tanks with connection to the Utility System may help the Parties protect the health, safety and welfare of its residents; and

WHEREAS, Part I of Chapter 163, Florida Statutes (the "Act"), permits the Town and the County, as public agencies under the Act, to enter into interlocal agreements with each other to jointly exercise any power, privilege or authority which they share in common and which each might exercise separately, permitting the Town and the County to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual benefit and thereby provide services and facilities in a manner and pursuant to forms of government organization that will best serve geographic, economic, population and other factors influencing the needs and development of the Town and the County; and

WHEREAS, this Interlocal Agreement is intended to (1) facilitate the installation by the County of Wastewater Collection Facilities (as defined herein) from time to time to serve those properties located within the Town that desire such wastewater collection and treatment service, and (2) set forth the Town's consent for the County to proceed with the notice of intent process described in the Uniform Assessment Collection Act (as defined herein), for purposes of complying with the requirements set forth therein for any future imposition of special assessments on properties within the Town; and

WHEREAS, pursuant to the requirement of Section 125.01(q), Florida Statutes, and the procedures of Section 166.041, Florida Statutes, the Town will consider adoption of Ordinance No. _____ consenting to the inclusion of Town property in proposed wastewater MSBUs for the purposes described herein; 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. PRIOR AGREEMENTS. This Interlocal Agreement amends and restates in its entirety the Interlocal Agreement for Wastewater Service, dated March 8, 1994, between the County and the Town.

SECTION 3. 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 (including demolition, environmental mitigation and relocation) of the Wastewater Collection Facilities, including but not limited to, inspection fees and other similar fees and charges, if any, under generally accepted accounting principles; and including reimbursement to the County for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

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

"Interlocal Agreement" means this Interlocal Agreement Relating to the Construction of Wastewater Collection Facilities in the Town of Sewall's Point, including

any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

"Parties" means the County and the Town and any successors or assigns.

"Project" has the meaning set forth in Section 5(B) hereof.

"Proposed MSBU Parcels" means those parcels of property provided a special benefit from certain proposed Wastewater Collection Facilities as described in Section 5(B) hereof.

"Town" means the Town of Sewall's Point, a municipal corporation of the State of Florida.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Utility System" means the facilities owned and/or operated by the County including, but not limited to, wastewater collection, treatment, irrigation quality water (IQ water), and storage facilities, currently and in the future, used to provide wastewater collection, treatment and disposal service to the service area of the Utility System.

"Wastewater Collection Facilities" means the facilities required by the County to provide wastewater collection service to those properties provided a special benefit and provided notice in accordance with the procedures described in Section 5 hereof and the Uniform Assessment Collection Act.

SECTION 4. 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 Interlocal Agreement; the term "heretofore" shall mean before the effective date of this Interlocal Agreement; and the term "hereafter" shall mean after the effective date of this Interlocal Agreement. This Interlocal Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Interlocal Agreement.

SECTION 5. SPECIAL ASSESSMENT PROCESS. The County and the Town shall utilize the following special assessment process to determine whether a

particular area of the Town will be designated and provided access to Wastewater Collection Facilities constructed by the County.

(A) Town property owners who seek to connect to the proposed Wastewater Collection Facilities may submit petitions to the County, who will provide copies of such petitions to the Town.

(B) The County will prepare estimates of the Capital Cost for construction of the proposed Wastewater Collection Facilities for each project and the resulting annual special assessment for each parcel and provide ballots to the owners of the properties to be served by the proposed Wastewater Collection Facilities (collectively, the "Proposed MSBU Parcels").

(C) County staff will provide mailed notice of a meeting to the owners of the Proposed MSBU Parcels and meet with such owners before ballots are due to explain the Capital Cost estimate for construction of the proposed Wastewater Collection Facilities.

(D) The County Supervisor of Elections Office will tally all ballots received by a set deadline and the County will notify the Town of the results.

(E) If the ballots indicate a 50% + 1 vote in support of the construction of the proposed Wastewater Collection Facilities and resulting special assessments, the Town will consider adoption of a resolution (1) authorizing the County to proceed with the Project and to impose special assessments on the Proposed MSBU Parcels, and (2) designating the maximum amount of annual special assessment that may be imposed on the Proposed MSBU Parcels.

(F) After adoption of the resolution described in Section 5(E) above, the County will consult with the Town Commission, at a public meeting, regarding the design of each project. After said consultation, the County will design, permit and competitively bid each Project.

(G) If the bids for the Capital Cost of the proposed Wastewater Collection Facilities result in annual special assessments that exceed the maximum amount permitted by the Town's resolution described in Section 5(E) hereof, the County will either immediately terminate the Project or, at the request of the Town, restart the above described process starting with Section 5(B) above.

(H) County staff will provide mailed notice of a meeting to the owners of the Proposed MSBU Parcels and meet with such owners to explain the final Capital Cost estimate for construction of the proposed Wastewater Collection Facilities based on the bid results.

(I) The County will proceed with its typical special assessment process described in Chapter 71, Article 3 of the Martin County Code, and in accordance with the Uniform Assessment Collection Act, by considering adoption of an initial assessment resolution, mailing notice of the proposed special assessments and the maximum annual special assessment to each Proposed MSBU Parcel and considering adoption of a final assessment resolution after holding a public hearing for the owners of the Proposed MSBU Parcels.

(J) Upon completion of construction of the Wastewater Collection Facilities, the owners of the Proposed MSBU Parcels will receive an assessment invoice which provides the option to prepay the special assessment in full. If not paid at that time, the owner will pay annual installments on their ad valorem tax bill each year for the term of the special assessment unless they choose to pay-off the remaining balance at some future date.

SECTION 6. UNIFORM ASSESSMENT COLLECTION ACT. For purposes of complying with the notice of intent process described in the Uniform Assessment Collection Act, the Town hereby consents to the County including the jurisdictional boundaries of the Town described in EXHIBIT A attached hereto for purposes of the notice of intent publications and resolution; provided, however, assessments may only be imposed pursuant to the process described in Section 5 hereof including, not but not limited to, the Town's adoption of the resolution described in Section 5(E) above. The County shall be responsible for all published notices and notices to property owners required under the Uniform Assessment Collection Act.

SECTION 7. REGULATION OF UTILITY RATE CHARGES. The Town shall not have the right or authority to regulate any of the duly adopted rates and charges imposed by the County for wastewater services. However, the County shall treat all Town property owners who are provided wastewater service now or in the future the same as other customers of the Utility System. The County agrees to charge the Town property owners the same rates and charges that the County charges other users of the Utility System.

SECTION 8. EXERCISE OF DUE CARE. The County shall exercise due care in the operation of the Utility System so as not to create any obstructions or conditions which are or may become dangerous to the public. The County's use of the streets, avenues, alleys and other easements shall be done in such manner so as to not unreasonably obstruct, interfere, or interrupt with the public's right of travel. The County shall use due diligence in making excavations or other repairs and after the completion of

all such work shall restore such streets, avenues, alleys and easements to their former condition, including landscaping.

SECTION 9. DISPUTE RESOLUTION. Disputes under this Interlocal Agreement may be resolved by the representatives of the Parties. If such representatives are unable to reach a resolution and the Parties agree that the issue is of sufficient merit, the Parties may select a mediator mutually acceptable to both Parties to conduct a mediation of the issues involved and make a recommendation to both Parties. The Parties agree to be responsible for their respective costs and fees incurred during the mediation and that the mediator's fees and costs shall be paid in equal amounts by each Party.

SECTION 10. TERM OF INTERLOCAL AGREEMENT. This Interlocal Agreement shall remain in effect for so long as the County operates the Utility System or such other term as may be agreed by both Parties. This Interlocal Agreement may be amended from time to time as provided in Section 13 hereof.

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

SECTION 12. LIMITED LIABILITY. Neither the County nor the Town, or any agent, officer, official or employee of the County or the Town 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 of 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 Interlocal Agreement.

SECTION 13. AMENDMENTS. This Interlocal Agreement may be amended in writing at any time by the concurrence of the County and the Town and subsequent ratification by each party's respective governing body.

SECTION 14. PROFESSIONAL FEES AND COSTS. Each party shall pay the fees, charges and expenses of its own counsel and professionals in connection with the preparation and implementation of this Interlocal Agreement.

SECTION 15. PUBLIC RECORDS. Each party shall allow the public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the party in conjunction with this Interlocal Agreement.

SECTION 16. ASSIGNMENT. This Interlocal Agreement may be assigned, in whole or in part, by any party at any time with the prior written consent of the other party hereto, which consent shall not unreasonably be withheld.

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 or other communications hereunder shall be sufficiently given and shall be deemed given on the date such notice is delivered by courier or facsimile transmission or three days after the date mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:

County: Martin County 2401
 S.E. Monterey Road
 Stuart, Florida 34995
 ATTENTION: County Administrator
 Phone: (772) 221-2360
 Facsimile: (772) 288-5548

With a copy to:

Martin County Utilities
2378 S.E. Ocean Boulevard
Stuart, Florida 34996
ATTENTION: Utilities Director
Phone: (772) 223-7942
Facsimile: _____

Town: Town of Sewall's Point
 One South Sewall's Point Road
 Stuart, Florida 34996
 ATTENTION: Town Manager
 Phone: (772) 287-2455
 Facsimile: _____

With a copy to:

Glen J. Torcivia, Town Attorney
Town of Sewall's Point
701 Northpoint Parkway, Suite 209
West Palm Beach, Florida 33407
Phone: (561) 686-8700
Facsimile: (561) 686-8764

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 the Wastewater Collection Facilities and the 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, personal representatives, heirs and permitted assigns 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 October, 2017.

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

(SEAL)

ATTEST:

By: _____
Doug Smith, Chairman

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

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Sarah Woods, County Attorney

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this _____ day of October, 2017, by Doug Smith, Chairman of the Board of County Commissioners of Martin County, Florida, who is personally known to me/has produced _____ as identification.

(SEAL)

Printed/Typed Name: _____
Notary Public-State of Florida
Commission Number:

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 _____ day of October, 2017.

TOWN OF SEWALL'S POINT, FLORIDA

(SEAL)

ATTEST:

By: _____
James W. Campo, Mayor

By: _____
Lakisha Q. Burch, Town Clerk

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this _____ day of October, 2017, by James W. Campo, the Mayor of the Town of Sewall's Point, Florida, who is personally known to me/has produced _____ as identification.

(SEAL)

Printed/Typed Name: _____
Notary Public-State of Florida
Commission Number:

EXHIBIT A

DESCRIPTION OF JURISDICTIONAL BOUNDARIES

Generally described as being bounded on the North by the northern limits of the Town of Sewall's Point (excluding those properties with existing County sewer service), on the East by the Intracoastal Waterway, on the west by the St. Lucie River and on the South by the north line of the plat of Melody Hill as recorded in plat book 3, page 135, public records of Martin County, Florida, and the north line of 8 So. Sewall's Point Road.