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MEMORANDUM

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TO: JERRY A. BENTROTT, CITY MANAGER  
THRU: ROGER G. ORR, CITY ATTORNEY   
FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY   
DATE: JANUARY 4, 2012  
SUBJECT: MIDWAY ROAD INTERLOCAL AGREEMENT

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Attached for review and approval by the Port St. Lucie City Council is the final draft of the Midway Road Interlocal Agreement. It has been approved by the City and County Engineers. Upon approval by Council and the County Board, it will be executed.

Please place this Contract on the Consent Agenda for the January 9, 2012 City Council Meeting. If you should you have any questions or need additional information, please do not hesitate to contact me at ext. 6332.

SB/bb

c: Jesus A. Merejo, Director, Utility Systems Department (via email)  
Laney Southerly, P.E., Utility Engineering Manager (via email)

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**RECEIVED**

JAN 04 2012

City Manager's Office

January 4, 2012

Final Draft  
01/04/12

**INTERLOCAL AGREEMENT  
RELOCATION OF UTILITIES ALONG MIDWAY ROAD**

**THIS AGREEMENT** dated this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between **CITY OF PORT ST. LUCIE**, a Florida municipal corporation, hereinafter referred to as the "City" and **ST. LUCIE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as the "County".

**WHEREAS**, the County is in the process of designing and constructing improvements to Midway Road between South 25<sup>th</sup> Street and Selvitz Road (hereinafter referred to as the "Project"); and

**WHEREAS**, the City has requested that the County include the City's utility relocation as part of the County's project, governed by Florida Statute; and,

**WHEREAS**, the County has agreed to include the City's proposed utility relocation as part of the County's project subject to the terms of this Agreement, including reimbursement.

**NOW, THEREFORE, IT IS AGREED** as follows:

1. **General.** This Agreement is entered into pursuant to Section 163.01, Florida Statutes, Florida Interlocal Cooperation Act.
2. **Project Construction.** The County agrees to construct the project, including the City's utility relocation, contingent upon the County acquiring all the necessary strips and/or parcels of land required to construction the project and relocations within the proposed new right of way. If the County is not successful in acquiring all strips and/or parcels, both parties will be responsible for redesigning their portion of the project. The County further agrees the City's existing easement at SW corner of South 25<sup>th</sup> Street and Midway Road will need to be expanded to accommodate the relocation of the PSLUSD/FPUA interconnect, and said easement will be provided for in a separate executed agreement, mutually agreed to by both parties.
3. **Utility Relocation Plans Prepared by City.** The plans, drawings, and specifications for the City's utility relocation prepared by the City or its consultant shall be subject to the review and approval of the County within ten (10) business days from receipt of plans. Specifications for construction shall be in compliance with St. Lucie County, Port St. Lucie Utility Systems Department, State of Florida Department of Environmental Protection and State of Florida Department of Transportation Standards and Specifications and all other appropriate regulatory standards. The City agrees to provide a reproducible copy of the approved utility relocation plans and specifications to the County. Similarly, the County will provide the City with 60%, 90% and 100% Project Design Drawing releases in an electronic AutoCad format.
4. **Contract Award.** The County intends to bid the construction of the project, including the City's utility relocation, and award the bid to a single contractor who is the lowest responsible bidder as determined by the County in accordance with the County's bid documents. The County agrees to include the City's utility relocation as a separate bid alternate in the County's bid documents so that the cost of the City's relocation will be separately identified. The County agrees that the award of the contract for the bid alternate for the City's utility relocation is subject to the approval of the City. The City shall provide written notification to the County within ten (10) days after receipt of the price of the bid alternate from the lowest responsible bidder of the City's decision regarding whether the price for the bid alternate is acceptable to the City. If the bid alternate is not acceptable to the City, then the City will be responsible for retaining a contractor to perform the utility relocation within (120) days of notifying the County of the City's determination to not accept the bid alternated from the County, and shall

construct said relocations concurrent with the County's project within a timeline for completion mutually agreed to by both parties. If the City's utilities are not relocated within the time established then the City may be held responsible for delay damages incurred by the County's Contractor.

5. **Contract Administration.** In the event of bid award and approval of the contract including the utility relocation, the parties agree that the County shall be the contracting agency and shall be responsible for administration of the contract. The County shall perform the contract administration. The City agrees to reimburse the County for the cost of constructing the City's utility relocation. Additional expenditures for the utility relocation shall be subject to approval by the County and the City. In processing requests for reimbursement, the County shall forward copies to the City of all invoices received from the County's contractor in sufficient detail for audit purposes. The City shall reimburse the County within thirty (30) days of receipt of incremental requests for reimbursement which reimbursement shall include an additional ten percent (10%) not to exceed one hundred thousand dollars (\$100,000.00) to reimburse the County for contracted construction engineering services, and final request for reimbursement upon receipt of all Invoicing, Approved Utility As-builts, Assignment of Warranty for said Utility Work, and a Bill of Sale consistent with the invoiced quantities and as-builts.

6. **Contract Inspection.** The parties agree that the County shall perform the construction inspection of the project to determine whether the Contractor has properly constructed the project in accordance with the approved plans. The parties agree that the City shall be notified of all dates and times of all utility inspections and shall be present for said inspection, and that the City may perform incremental inspections as deemed necessary, and shall report to the County and/or their agents any observed deficiencies as work progresses. The parties agree that the County shall provide all utility-related construction inspection reports and shop drawings to the City. The City and the County shall provide a representative with authority to authorize field changes. The parties agree that any field changes to the utility relocation plans shall be subject to the approval of the City and the County within forty-eight (48) hours from the date that written notice of any proposed change is received. For the purpose of this Agreement, construction inspection shall include resident project services, contract administration, engineering services during construction, utility coordination, and certification by all appropriate agencies.

7. **Amendment.** This Agreement may only be amended by a written document signed by both parties and filed with the Clerk of the Circuit Court of St. Lucie County, Florida.

8. **Notices.** All notices, requests, consents, and other communications required or permitted under this Agreement shall be in writing (including telex and telegraphic communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier services, telecommunicated, or mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested, addressed to:

**As to the COUNTY:**

St. Lucie County Administrator  
2300 Virginia Avenue  
Administration Annex  
Fort Pierce, Florida 34982

**With a copy to:**

St. Lucie County Attorney  
2300 Virginia Avenue  
Administration Annex  
Fort Pierce, Florida 34982

**As to the CITY:**

Port St. Lucie City Manager  
Port St. Lucie City Hall  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, Florida 34984

**With a copy to:**

Port St. Lucie City Attorney  
Port St. Lucie City Hall  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, Florida 34984

or to such other address as any party may designate by notice complying the terms of this Section. Each notice shall be deemed delivered: (a) on the date delivered if by personal delivery, (b) on the date telecommunicated if by

telegraph, (c) on the date of transmission with confirmed answer back if by telex, and (d) 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.

9. **Filing; Effective Date.** This Agreement shall be filed with the Clerk of the Circuit Court of St. Lucie County, Florida, prior to its effectiveness. This Agreement is effective upon execution.

**IN WITNESS WHEREOF**, the parties hereto have caused the execution hereof by their duly authorized officials on the dates stated below.

**BOARD OF COUNTY COMMISSIONERS  
ST. LUCIE COUNTY**

**ATTEST:**

\_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairman

**APPROVED AS TO FORM AND  
CORRECTNESS:**

BY: \_\_\_\_\_  
County Attorney

**CITY OF PORT ST. LUCIE, a Florida municipal corporation**

**ATTEST:**

\_\_\_\_\_  
Karen A. Phillips, City Clerk

BY: \_\_\_\_\_  
JoAnn M. Faiella, Mayor

**APPROVED AS TO FORM AND  
CORRECTNESS**

BY: \_\_\_\_\_  
Roger, G. Orr, City Attorney