



**Director of Financial Services**  
*"Committed to Quality"*

**MEMORANDUM**

TO: Fort Pierce City Commission

FROM: Nina B. Penick, CPA *NBP*  
FPUA Director of Financial Services

THROUGH: Clayton W. Lindstrom, P.E. *CWL*  
FPUA Director of Utilities

DATE: December 13, 2016

SUBJECT: City Commission Consent Agenda Request for January 3, 2017 Meeting  
Fra Mar Wagner MSBU Project

I am forwarding for consideration and approval by the City Commission during the January 3, 2017 City Commission meeting an Interlocal Agreement creating a Municipal Services Benefit Unit (MSBU) which will fund the cost of providing potable water to the Fra Mar Wagner neighborhood in unincorporated St. Lucie County.

If you have any questions or are in need of additional information, please feel free to contact me.

cc: City Manager  
City Clerk

**INTERLOCAL AGREEMENT  
FRA MAR/WAGNER MSBU**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between St. Lucie County, a political subdivision of the State of Florida (the "County"), the Fort Pierce Utility Authority, an authority created and established by the City Commission of the City of Fort Pierce, Florida, ("FPUA") and the City of Fort Pierce, a municipality organized under the laws of the State of Florida (the "City").

**WHEREAS**, FPUA is the governing body authorized to enter into agreements relating to providing service from the potable water supply of the City; and,

**WHEREAS**, the County intends to create the Fra Mar/Wagner municipal services benefit unit (the "Fra Mar/Wagner MSBU") to fund the cost of providing potable water to the Fra Mar/Wagner area in unincorporated St. Lucie County. A description of the boundaries of the real property within the proposed MSBU is attached hereto and made a part hereof as Exhibit "A". A list of the current parcel numbers within the proposed MSBU is attached hereto and made a part hereof as Exhibit "B"; and,

**WHEREAS**, The Fra Mar/Wagner MSBU is located within the boundaries of FPUA's Utility Service Area; and,

**WHEREAS**, the parties believe that it is in their mutual best interest to cooperate in providing potable water to Fra Mar/Wagner.

**NOW, THEREFORE**, FPUA, the City, and the County hereby agree and covenant on the terms and conditions hereinafter stated:

1. **GENERAL**. This Agreement is entered into pursuant to Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act. This Agreement embodies the whole understanding of the parties. There are no promises, terms, conditions, or obligations other than those contained therein, and this Agreement shall supersede all previous telecommunications, representations, or agreements, either verbal or written, between the parties hereto.

2. **FPUA RESPONSIBILITIES**. FPUA's responsibilities under this Agreement are as follows:

a. FPUA shall design and install or cause to be designed and installed a system including all pipes, services, mains and appurtenances thereto (the "System") necessary to provide potable water to the Fra Mar/Wagner area. The design and installation of the System shall be done in accordance with all applicable, standard FPUA policies and procedures. The County reserves the right to review and approve the utilities plans and bid documents before inclusion in the bid package.

b. If easements are required, FPUA shall attempt to obtain all necessary easements for installation and maintenance of the System. FPUA shall not be required, however, to condemn any such easements or expend funds for acquisition of same. If appropriate easements satisfactory to FPUA are not obtained, FPUA shall have no further obligation under this Agreement.

c. FPUA shall administer a project to install the System to include but not limited to awarding the contract for design, construction, and inspection during construction, shop drawing approvals, change order approvals, project certification, and production of record drawings.

d. Upon completion of the System and acceptance of ownership of the System by FPUA, FPUA shall be responsible for the operation and maintenance of the System.

e. Prior to the public hearing to be held by the St. Lucie County Board of County Commissioners pursuant to Section 1-13.6-7 of the St. Lucie County Code of Ordinances to adopt a preliminary assessment roll for the Fra Mar/Wagner MSBU, FPUA shall provide an itemized final estimated cost (the "Final Estimated Cost") for the installation of the System to the County. The Final Estimated Cost shall include the cost of testing, permits, surveying, legal, design, construction, contingencies allowance, construction administration, certification, record drawings, and acquisition of easements for the installation of the System and shall be subject to the approval of the County. Any unexpected costs incurred during the construction and installation of the System beyond the Final Estimated Cost shall be the responsibility of FPUA.

f. If the County does not levy a special non-ad valorem assessment as described below, FPUA shall be responsible for the cost of all design or other work done by FPUA related to the System. The County shall use its best efforts to notify FPUA as soon as possible of any decision not to levy an assessment.

g. FPUA shall make a monetary contribution up to \$57,899.45, or the cost necessary to offset any Capital Improvement charges, towards the construction cost of the project.

3. **COUNTY RESPONSIBILITIES.** In the event the County determines at a public hearing to create a MSBU and to levy a non-ad valorem special assessment, the County's responsibilities under this Agreement are as follows:

a. The Board of County Commissioners of St. Lucie County, Florida shall act as the governing body of the Fra Mar/Wagner MSBU and shall levy a non-ad valorem special assessment (the "Assessment") on the landowners within the limits of the MSBU to fund the cost of the installation of the System as required for connection to the FPUA water system.

b. The County shall pay to FPUA an amount not to exceed the Final Estimated Cost for the installation of the System. All other applicable fees and charges for connection to the FPUA water system will be the responsibility of the landowners. The amount of the capital improvement charge shall reflect the current FPUA charges on the date of the submission of the Final Estimated Cost to the County. Payment by the County to FPUA shall be within 30 working days after the County has obtained funds from the issuance of bonds to finance the project and after the approval of the costs by the St. Lucie County Director of Engineering or his designee.

c. Upon the request of FPUA, the County's Property Acquisition Division shall provide staff assistance to FPUA for the acquisition of easements necessary for the installation and maintenance of the System.

4. **TERMINATION.** Unless terminated by the mutual written agreement of all parties, this agreement shall remain in full force and effect until all of its terms and conditions have been met.

5. **NOTICE OF CITY ANNEXATION REQUIREMENT.** The following notice is required by the City and should not be construed in any way as an endorsement of the City's annexation policies by the County.

As a condition precedent for connection to the FPUA water system, FPUA requires all users to sign an annexation agreement whereby the user consents to and requests that his or her property be annexed into the city limits of Fort Pierce whenever such annexation may legally occur and that the FPUA will refuse to allow

connection to its water system unless and until the referenced annexation agreement is signed. This annexation agreement shall be in the form utilized by FPUA, shall be irrevocable and shall be binding on the heirs, successors and assigns of all such users.

6. **CONSENT TO COUNTY MSBU UPON ANNEXATION.** The parties acknowledge that if the Fra Mar/Wagner MSBU is annexed into the City this will result in the existence of a St. Lucie County Municipal Services Benefit Unit within the jurisdictional boundary of the City. Accordingly, the City agrees that if it intends to annex the Fra Mar/Wagner MSBU into the City, it will include within the appropriate annexation ordinance a statement that the City consents to the existence of the Fra Mar/Wagner MSBU within the boundaries of the City pursuant to the provisions of Section 125.01(q), Florida Statutes or other applicable law.

7. **VALIDATION OF BOND AND ASSESSMENT ROLL.** A condition precedent to the effectiveness of this Agreement is the entry of a Final Judgment (and the expiration of the appropriate appeal period) by a court of competent jurisdiction validating the issuance of bonds to finance the System along with the assessment roll adopted by the Board (the "Bond Validation Proceeding"). In the event that either a Final Judgment validating the bonds and assessment roll is not entered or an appellate court reverses the Final Judgment, the Agreement shall automatically terminate and the parties shall have no further responsibilities under the Agreement including but not limited to any payments due to FPUA by the County. Notwithstanding the foregoing, if either a Final Judgment validating the bonds and assessment roll is not entered or an appellate court reverses the Final Judgment, the County reserves the right to be reimbursed by FPUA for all outside counsel legal fees and costs incurred by the County in the Bond Validation Proceeding as well as in any related appeal. The County agrees to consult with FPUA concerning the expenditure of money for outside bond counsel services related to the Bond Validation Proceeding and further agrees that such expenditure shall not exceed five thousand and no/100 dollars (\$5000.00) without the express written consent of FPUA. The County's right to reimbursement shall survive the termination of this Agreement as described in this paragraph.

8. **ADDITIONAL CONNECTIONS.** For so long as any bonds issued by the County to finance the System are outstanding, FPUA shall inform the County in advance of any additional connections to the System proposed for real property not previously included on the assessment roll for the Fra Mar/Wagner MSBU. The County shall then determine whether such additional property should be assessed a pro rata share of the costs associated with the System and the terms and

conditions pursuant to which the Assessment will be collected. At the County's request, FPUA shall obtain a written consent, in a form approved by the County Attorney, from the owners of such property which acknowledges that the property will be assessed and included on the assessment roll for the Fra Mar/Wagner MSBU. Proceeds of the Assessment imposed against such property shall be used to pay debt service on bonds issued by the County to finance construction and acquisition of the System.

9. **SYSTEM RELOCATION.** If within five (5) years after installation of the pipes, mains and appurtenances comprising the System, the County shall require FPUA to relocate any portion thereof, then the County shall be responsible for the costs and expenses, and for obtaining any easements, associated with such relocation so long as the system was installed per County Right-of-Way permit conditions.

10. **NOTICE.** All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person or sent by certified mail return receipt requested and addressed as follows:

**If to County:**

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

**With a copy to:**

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

**With a copy to:**

St. Lucie County Public Works  
Director  
2300 Virginia Avenue, Annex  
Fort Pierce, Florida 34982

**If to FPUA:**

Director of Utilities  
Fort Pierce Utilities Authority  
P.O. Box 3191  
Fort Pierce, Florida 34948

**With a copy to:**

FPUA Attorney  
P.O. Box 3191  
Fort Pierce, Florida 34948

**If to the City:**

City Manager  
City of Fort Pierce  
100 North U.S. One  
Fort Pierce, Florida 34950

**With a copy to:**

Fort Pierce City Attorney  
P.O. Box 3779  
Fort Pierce, Florida 33448

11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter and supersedes all prior verbal or written agreement between the parties with respect hereto. This Agreement may only be amended by written document, properly authorized, executed and delivered by the parties hereto. This Agreement shall be interpreted as a whole unit. All interpretations shall be governed by the laws of the State of Florida.

12. **FILING.** This Agreement and any subsequent amendments thereto shall be filed with the Clerk of Court of St. Lucie County pursuant to Section 163.01(11), Florida Statutes.

IN WITNESS WHEREOF, the parties have caused the execution by their duly authorized officials.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
ST. LUCIE COUNTY, FLORIDA

\_\_\_\_\_  
DEPUTY CLERK

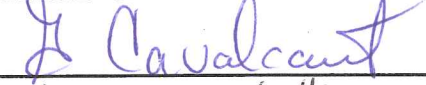
BY: \_\_\_\_\_  
CHAIRPERSON

APPROVED AS TO FORM AND  
CORRECTNESS:

\_\_\_\_\_  
County Attorney

ATTEST:   
\_\_\_\_\_  
Caryl Ann Bey

FORT PIERCE UTILITIES AUTHORITY

BY:   
\_\_\_\_\_  
Chairperson 12-6-16

APPROVED AS TO FORM AND  
CORRECTNESS:

  
\_\_\_\_\_  
Attorney for FPUA

ATTEST:

CITY OF FORT PIERCE

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND  
CORRECTNESS:

\_\_\_\_\_  
City Attorney

## EXHIBIT A

### DESCRIPTION: FRA MAR MSBU

A PARCEL OF LAND LYING IN SECTION 27, T-35-S, R-40-E, ST. LUCIE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLWS;

LOTS 24 THRU 42, BLOCK 2; AND LOTS 5 THRU 41, BLOCK 1 OF WAGNER SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 74 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA;

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL OF LAND LYING IN LOT 166 OF MARAVILLA GARDENS, UNIT THREE AS RECORDED IN PLAT BOOK 6 AT PAGE 62 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA; BEGIN AT THE INTERSECTION OF THE WEST RIGHT OF WAY LINE OF SOUTH 7<sup>TH</sup> STREET AND THE SOUTH RIGHT OF WAY LINE OF WAGNER PLACE; THENCE SOUTH ALONG THE WEST RIGHT OF WAY LINE OF SAID SOUTH 7<sup>TH</sup> STREET A DISTANCE OF 169.43' FEET; THENCE WEST AND PARALLEL WITH THE SOUTH RIGHT OF WAY LINE OF WAGNER PLACE A DISTANCE OF 976.71' FEET TO A POINT ON THE EAST LINE OF LANDS DESCRIBED IN ORB 322 AT PAGE 1643 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA; THENCE NORTH ALONG SAID EAST LINE A DISTANCE OF 169.43' FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF WAGNER PLACE; THENCE EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 979.65' FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT ROAD RIGHT OF WAYS OF RECORD.

## EXHIBIT B

Parcel ID
242770200050007
242770200070001
242770200080008
242770200100005
242770200120009
242770200140003
242770200150000
242770200160007
242770200180001
242770200190008
242770200200008
242770200680006
242770200690003
242770200700003
242770200720007
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242770200740001
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242760100200204
242760100200307
242770200260000
242770200300001
242770200310008
242770200320005
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242770200360003
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