



THE SUNRISE CITY
FORT PIERCE
CITY ATTORNEY'S OFFICE *Florida*

TO : KAITLYN BALLARD, ADMINISTRATIVE ASSISTANT

THROUGH: Nicholas C. Mimms, P.E., City Manager *NCM*

FROM : James M. Messer, City Attorney *JM*

RE : Interlocal Agreement between Fort Pierce and FPUA for Iroquois/Navajo MSBU

DATE : August 17th, 2018

The proposed Interlocal agreement is approved for form and correctness.

Received
AUG 17 2018
City of Fort Pierce
City Manager's Office



CITY ATTORNEY USE ONLY

Date Received:	8/17/18
Assigned To:	Shane
File:	
Due Date:	
Hours:	

REQUEST FOR LEGAL SERVICES

To: CITY ATTORNEY

SUBMITTED BY: KAITLYN BALLARD, ADMINISTRATIVE ASSISTANT *KMB*

CITY MANAGER AUTHORIZATION: NICHOLAS C. MIMMS, P.E., CITY MANAGER *NCM*

RE: INTERLOCAL AGREEMENT BETWEEN FORT PIERCE AND FPUA FOR IROQUOIS / NAVAJO MSBU

DATE: AUGUST 17, 2018

Service Required: (please circle or underline)

<u>Review Documents</u>	Draft Document	Written Opinion Requested
Attend Meetings	Advise	Other: _____

Upon review and/or "Approval as to Form and Correctness," the Department submitting the RLS is responsible for placement of any related item on a Commission or Board Agenda.

- Brief statement of the nature of the request or problem:** This interlocal agreement was presented by the FPUA. Please review as to form and correctness.
- Discussion of the implications and the possible impact if not apparent from preceding information:** (Discuss any issues related to the underlying matter to assist with the City Attorney's analysis.)
- Time considerations and their significance:** Please review this agreement at your earliest convenience.
- Are City funds required? If so, list approvals obtained for expenditure of funds:** City funds are not required for this agreement.
- Factual background:** (Outline the facts related to the underlying matter to provide context for the request.)
 - Location
 - Phase of Construction
 - Parties Involved

6. List and/or attach all related documents and known authorities (e.g., statute, ordinance, resolution, administrative code, legal case, RFP, bidder's response, contract, lease, letter, memorandum, prior legal opinion, deed, etc.):

INTERLOCAL AGREEMENT BETWEEN FORT PIERCE AND FPUA FOR IROQUOIS / NAVAJO MSBU

7. Identify prior legal assistance on this or a related matter and the attorney who handled it:

8. If this is a request for review of a contract, provide the following:

- a. List of individuals who have read and approved the business terms and conditions of the contract and confirmed the ability to carry out the terms of the contract as they apply to the City: (This office is not responsible for reviewing either the accuracy or value of the business terms and conditions or product specifications of the contract as agreed upon between the department and contractor. However, this office is available to negotiate the terms as desired by the City upon request.)
- b. Insurance requirements that differ from the City's template insurance terms: (The department should consult with the Risk Manager for each contract to determine whether there are any special insurance requirements.)

CITY ATTORNEY USE ONLY			
Routed for Review	Date	Response Deadline	Response

**INTERLOCAL AGREEMENT
IROQUOIS/NAVAJO MSBU**

THIS AGREEMENT made and entered into this _____ day of _____, 2018, 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 Iroquois/Navajo municipal services benefit unit (the "Iroquois/Navajo MSBU") to fund the cost of providing potable water to the Iroquois/Navajo 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 Iroquois/Navajo 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 Iroquois/Navajo.

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 Iroquois/Navajo 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 40 - 100 of the St. Lucie County Code of Ordinances to adopt a preliminary assessment roll for the Iroquois/Navajo 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 \$60,753 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 Iroquois/Navajo 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 Iroquois/Navajo 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 Iroquois/Navajo MSBU into the City, it will include within the appropriate annexation ordinance a statement that the City consents to the existence of the Iroquois/Navajo 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 Iroquois/Navajo 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 Iroquois/Navajo 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:

With a copy to:

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

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

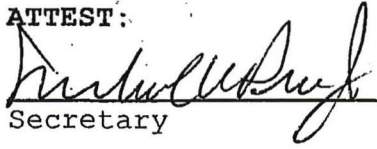
DEPUTY CLERK

BY: _____
CHAIRPERSON

APPROVED AS TO FORM AND
CORRECTNESS:

County Attorney

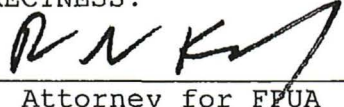
ATTEST:


Secretary

FORT PIERCE UTILITIES AUTHORITY

BY: 
Chairperson 8/17/18

APPROVED AS TO FORM AND
CORRECTNESS:



Attorney for FPUA

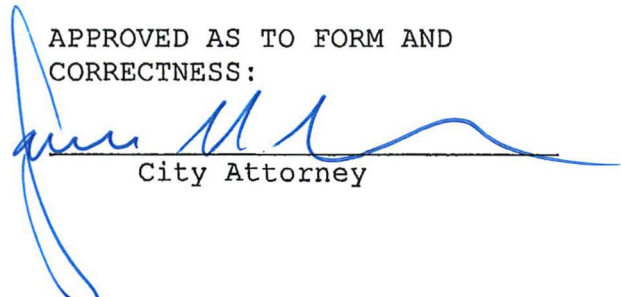
ATTEST:

City Clerk

CITY OF FORT PIERCE

BY: _____
Mayor

APPROVED AS TO FORM AND
CORRECTNESS:



City Attorney

EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION: IROQUOIS MSBU

A PARCEL OF LAND LYING WITHIN SECTION 28, T-34-S, R-40-E AND ALSO BEING A PORTION OF BLOCKS 55 AND 56 OF SAN LUCIE PLAZA, UNIT ONE AS RECORDED IN PLAT BOOK 5 AT PAGE 57 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 AND 35, BLOCK 55 OF SAN LUCIE PLAZA UNIT ONE; TOGETHER WITH LOTS 9,10,11,12,13,14,15,16,17,18,19 AND 20, BLOCK 56 OF SAN LUCIE PLAZA UNIT ONE.

H:\msbu\IROQUOIS

NOVEMBER 15, 2011

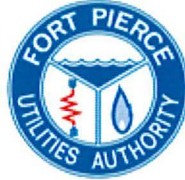
RON HARRIS
COUNTY SURVEYOR

EXHIBIT B

PARCEL IDs

1428-702-1212-000-8
1428-702-0362-000-7
1428-702-0364-000-1
1428-702-0366-000-5
1428-702-0388-000-5
1428-702-0389-000-2
1428-702-0391-000-9
1428-702-0393-000-3
1428-702-0437-000-4
1428-702-0438-000-1
1428-702-0441-000-5
1428-702-0443-000-9
1428-702-0445-000-3
1428-702-0447-000-7
1428-702-0449-000-1
1428-702-0452-000-5
1428-702-0453-000-2
1428-702-0455-000-6
1428-702-0458-000-7
1428-702-0943-000-4
1428-702-0946-000-5
1428-702-0948-000-9
1428-702-0950-000-6
1428-702-0952-000-0
1428-702-0954-000-4
1428-702-0991-000-5
1428-702-0993-000-9
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1428-702-1177-000-0
1428-702-1197-000-6
1428-702-1198-000-3


1428-702-1200-000-1
1428-702-1201-000-8
1428-702-1203-000-2
1428-702-1204-000-9
1428-702-1206-000-3
1428-702-1207-000-0
1428-702-1210-000-4
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1428-702-1229-000-0
1428-702-1232-000-4
1428-702-1233-000-1
1428-702-1242-000-7
1428-702-1244-000-1
1428-702-1246-000-5
1428-702-1250-000-6
1428-702-1252-000-0
1428-702-1255-000-1
1428-702-1256-000-8
1428-702-1258-000-2
1428-702-1259-000-9
1428-702-1261-000-6
1428-702-1262-000-3
1428-702-1264-000-7
1428-702-1265-000-4




Department of Finance
"Committed to Quality"

MEMORANDUM

TO: Fort Pierce City Commission

FROM: Josh Gang, J.D. 
FPUA Risk Program Manager

THROUGH: John Tompeck, P.E. 
FPUA Director of Utilities

DATE: August 15, 2018

SUBJECT: City Commission Consent Agenda Request for September 4, 2018 Meeting
Iroquois/Navajo MSBU Project

I am forwarding, for consideration and approval by the City Commission during the September 4, 2018 City Commission meeting, an Interlocal Agreement creating a Municipal Services Benefit Unit (MSBU), which will fund the cost of providing potable water to the Iroquois/Navajo area in unincorporated St. Lucie County.

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

cc: City Manager
City Clerk

From: Florinda Mazzearella <fmazzearella@fpu.com>
To: Linda Cox <lcox@city-ftpierce.com>
Cc: Joshua Gang <jgang@fpu.com>, James Carnes <jcarnes@fpu.com>, "Bo Hutchinson" <bhutchinson@fpu.com>, Nina Penick <npenick@fpu.com>, "John Tompeck" <jtompeck@fpu.com>, "NMimms@City-FtPierce.Com" <NMimms@City-FtPierce.Com>, Jennifer - City of Fort Pierce <jrobinson@city-ftpierce.com>

Date: Wednesday, August 15, 2018 08:33AM
Subject: Consent Agenda Request for September 4 City Commission Meeting

Good morning Linda,

Attached is a memo and the Iroquois/Navajo MSBU Interlocal Agreement for the September 4th City Commission Consent Agenda. James Carnes will be available at the City Commission meeting to answer any questions. Let me know if you need additional information. Thanks, Florinda

Florinda Mazzearella
Executive Assistant
Fort Pierce Utilities Authority
Director of Utilities
206 South 6th Street
Fort Pierce, FL 34950
Telephone (772) 466-1600, Ext. 3201
Fax (772) 468-2412
E-mail: fmazzearella@fpu.com<<mailto:fmazzearella@fpu.com>>

Please note: Florida has a very broad public records law. Most written communications to or from Fort Pierce Utilities Authority employees regarding government business are public records, available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

(For additional information, go to http://www.fpu.com/important_information/privacy.php)

Attachments:

Iroquois-Navajo MSBU Interlocal Agrm.pdf

City Memo - Iroquois Navajo MSBU.pdf