

**LIFT STATION AGREEMENT
(Construction)**

THIS LIFT STATION AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2024 (“Effective Date”) by and between the ST. LUCIE COUNTY FIRE DISTRICT, an Independent Special Taxing District (“DISTRICT”), the PORT ST. LUCIE GOVERNMENTAL FINANCE CORPORATION, a not-for-profit corporation (“GFC”), and the City of Port St. Lucie, a Florida municipal corporation (“CITY”). DISTRICT, CITY and GFC are each sometimes referred to as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, the DISTRICT owns a parcel of land legally described as Parcel 2 of Southern Grove Plat No. 40, as recorded in Plat Book 102, Page 39, of the Public Records of St. Lucie County, Florida (hereinafter the “District Parcel”); and

WHEREAS, the GFC owns property adjacent to the District Parcel, legally described as Parcel 3 of Southern Grove Plat No. 40, as recorded in Plat Book 102, Page 39, of the Public Records of St. Lucie County, Florida (“GFC Parcels”); and

WHEREAS, the District Parcel is intended to be developed as a fire station, which shall include a wastewater lift station (“Lift Station”) to service the District Parcel and the GFC Parcels; and

WHEREAS, in conjunction with the design and construction of the fire station, the DISTRICT requests the ability to design and construct the Lift Station and related improvements, including but not limited to, gravity sewer mains, manholes and fiber optic communication cable (“Lift Station Construction”), as more particularly set forth on **Exhibit “A”** attached hereto and made a part hereof (collectively the “Plans”); and

WHEREAS, GFC and the CITY desire to allow the DISTRICT to complete the Lift Station Construction, with GFC reimbursing the DISTRICT for GFC’s share of the cost of the Lift Station Construction, as described below in more detail; and

WHEREAS, the CITY, GFC and the DISTRICT desire to establish their respective rights and obligations regarding the Lift Station and the Lift Station Construction.

NOW THEREFORE, in consideration of ten dollars (\$10.00), the foregoing premises, the undertakings and mutual agreements herein contained and assumed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

1. **Recitals:** The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Lift Station Construction:

A. DISTRICT agrees to perform the Lift Station Construction in accordance with the Plans. DISTRICT shall commence the Lift Station Construction within ninety (90) days of issuance of a wastewater system construction permit for the Fire Station project ("Lift Station Construction Commencement"). DISTRICT shall complete the Lift Station Construction prior to issuance of the certificate of occupancy for the Fire Station project, but no later than six hundred and seventy (670) days from the Effective Date.

B. DISTRICT'S cost of the Lift Station Construction shall not exceed \$50,000. GFC agrees to reimburse DISTRICT for the balance of the remaining total cost as GFC'S share of the cost of the Lift Station Construction.

C. Reimbursement to the DISTRICT will be made upon receipt of a final invoice and within forty-five (45) days of Final Completion (as defined below) or following the DISTRICT'S conveyance of the Utility Easement (as defined below), whichever occurs later.

D. GFC agrees that the Lift Station will be designed to handle a flow of 1,648 GPD from the DISTRICT. The remaining design flow will be available to service the GFC Parcels.

E. GFC agrees to reimburse the DISTRICT in the amount of \$35,940 within sixty (60) days of full execution of this Agreement for the additional design services for a regional lift station. **(Exhibit "A")**.

E. DISTRICT shall be responsible for obtaining all necessary permits and approvals to complete the Lift Station Construction.

3. Conditions to Commencement of Lift Station Construction. Prior to the Lift Station Commencement, DISTRICT shall provide the CITY with: (a) a bond in a form and content acceptable to the CITY, in an amount equal to 120% of the total estimated cost of the Lift Station Construction (the "Bond"); (b) evidence that all necessary permits and approvals have been obtained; and (c) a copy of the construction and design contracts for the Lift Station Construction.

4. Compliance with Applicable Laws, Codes and Regulations: DISTRICT shall abide by and follow any and all rules and requirements of the regulatory agencies that have jurisdiction over the subject matter of this Agreement as well as all applicable federal and state laws, regulations, and ordinances, as amended from time to time.

5. Construction and Design Plans: DISTRICT shall furnish to GFC a complete set of design and construction drawings, plans, specifications, and other necessary engineering data for the proposed Lift Station Construction ("Design Plans") within sixty (60) days of the Effective Date. After commencement of the Lift Station Construction, if there is either: (i) a cessation of construction activity where there have been no documented inspections by the CITY for a period of twelve (12) months; or (ii) an expiration of the associated permit(s), whichever occurs first, then GFC reserves the right to require the resubmittal of the Design Plans and further payment of

applicable review fees upon DISTRICT's resubmission of said documents for approval. Approval by the GFC or the CITY of the Design Plans for the Lift Station Construction shall not act as a waiver of DISTRICT's responsibility to perform the Lift Station Construction in accordance with all applicable state, county, federal or municipal laws, rules and regulations and such approval by the GFC or the CITY shall not relieve DISTRICT of such obligations.

6. Completion of Lift Station Construction: DISTRICT shall provide written notice to the CITY and GFC of its completion of the Lift Station Construction and within seven (7) business days after delivery of such notice, CITY shall make a final inspection to confirm that the Lift Station Construction has been completed in substantial compliance with the Design Plans and any applicable building codes and regulations. Upon receipt of notice from the CITY that the Lift Station Construction has passed the forgoing inspection, and at a mutually agreeable time thereafter, DISTRICT shall deliver to the CITY a bill of sale (if applicable) and a signed assignment of warranties, in a form mutually acceptable to the Parties, assigning to the CITY all of DISTRICT's rights and interest in and to all third party warranties pertaining to the Lift Station Construction, to the extent assignable (the "Assignment of Warranties"). Upon the foregoing occurrences, the CITY shall deliver to DISTRICT written acceptance of the Lift Station Construction ("Certificate of Completion"). Upon issuance of the Certificate of Completion, the CITY shall be solely responsible for all ongoing maintenance, repair, operation and replacement of the Lift Station and DISTRICT shall have no responsibility or obligation related to the same, absent additional agreements being entered into.

For purposes of this Agreement, the "Final Completion" of construction of the Lift Station shall not be deemed to have occurred until such time as the CITY has issued the Certificate of Completion (as defined above).

7. Conveyance of Easement: Prior to Final Completion, DISTRICT shall convey a utility easement to the CITY in substantially the same form as attached hereto and incorporated herein as **Exhibit "B"** ("Utility Easement"). DISTRICT shall obtain a sketch and legal description of the Easement Premises (as defined in the Utility Easement) which shall be attached to and incorporated into the Utility Easement. DISTRICT agrees to convey any other access and utility easements as may be reasonably necessary for the Lift Station to serve the GFC parcels and for the proper functioning of the Lift Station.

8. Qualified Contractor: DISTRICT shall cause the work under this Agreement to be supervised and directed by a contractor licensed in the State of Florida, applying such skills and expertise as is necessary to perform the work in accordance with the applicable approved plans.

9. Default:

A. With respect to any event of default and/or breach under this Agreement ("Event of Default"), neither Party shall be deemed in default and/or breach unless:

i. the Party alleging such default and/or breach shall have provided written notice of the alleged default and/or breach to the other Party;

ii. the alleged defaulting and/or breaching Party shall have failed within a period of thirty (30) days after receipt of such notice to commence such action as is reasonably necessary to cure said default and/or breach and thereafter diligently pursue to cure such default within a reasonable time; and

iii. the alleging Party is in compliance with the provisions of this Agreement.

B. Subject to the right to cure set forth above, in the event of a default and/or breach by:

i. DISTRICT. If DISTRICT defaults/breaches by failing to comply with any of its obligations under this Agreement, the CITY and GFC may pursue the following (or both options): (a) call the Bond; (b) pursue all remedies in equity or law.

ii. GFC or CITY. If GFC or the CITY defaults/breaches under this Agreement, DISTRICT may pursue all remedies in equity or law.

10. Force Majeure; Weather Days: The deadlines set forth herein, are subject to extensions by any Party for a Force Majeure Event (as herein defined). As used herein, a "Force Majeure Event" shall include governmental moratorium or unavailability of essential supplies or utilities (e.g., power or water) through no fault of the requesting Party, fire (including wildfires), explosion or similar casualty, sabotage, theft, vandalism, riot or civil commotion, pandemic, hurricane, tropical storm, tornado, or flooding. Any extension of any deadline set forth in this Agreement due to a Force Majeure Event shall be only for delay in performance that actually results from such Force Majeure Event. In the event that any Party claims a delay for a Force Majeure Event, the requesting Party shall make a claim for an extension in writing to the other Party within fifteen (15) business days after the occurrence of a Force Majeure Event for which such claim is being made. The claim shall clearly state the reason, provide a detailed explanation given as to why the event is a Force Majeure Event and provide sufficient documentation to support such claim. If no written objection to such claim for extension is received from the other Party within fifteen (15) business days from the date of the written extension request, such extension shall be deemed given. If a written objection is made, the Parties shall meet and confer within fifteen (15) business days to address their differences and may not take legal action prior to such conferral taking place.

11. Notices: All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person (including by any over-night delivery service) or sent by certified mail, return receipt requested, and addressed as follows or to such other Party or address as may be designated by one Party to the other.

If to GFC:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie Florida 34984
Attention: City Manager

With copy to:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie Florida 34984
Attention: City Attorney

If to CITY:

With copy to:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie Florida 34984
Attention: City Manager

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie Florida 34984
Attention: City Attorney

If to DISTRICT:

With copy to:

12. Indulgence Not Waiver: The indulgence of any Party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time of the breach or failure occurs, or at any time throughout the term of this Agreement.

13. Entire Agreement; Amendment: This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements between the Parties. This Agreement may be amended only by written document executed by all Parties.

14. Interpretation; Venue: This Agreement shall be interpreted as a whole unit, and section headings are for convenience only. All interpretations shall be governed by the laws of the State of Florida. In the event it is necessary for any Party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida, for claims under state law, and in the Southern District of Florida for claims justiciable in federal court. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, ALL PARTIES HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.

15. Time of the Essence: Time is of the essence with regard to this Agreement.

16. Counterparts: This Agreement may be executed in multiple counterparts, each of which individually shall be deemed an original, but when taken together shall be deemed to be one and the same Agreement.

17. Sovereign Immunity: Nothing in this Agreement shall be considered to increase or waive any limits of liability or waive any immunity afforded to the Parties by Florida Statutes, case law, or any other source of law.

18. Assignability: Except as otherwise permitted elsewhere in this Agreement, the rights and obligations of the DISTRICT and GFC under this Agreement may not be assigned in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned.

19. Invalid Provisions: In the event any term or provision of this Agreement is held illegal, unenforceable, or inoperative as a matter of law, the remaining terms and provisions will not be

affected thereby but will be valid and remain in full force and effect to fullest extent possible. If any provision of this Agreement may be construed in two or more ways, one of which would render the provision invalid or otherwise voidable or unenforceable and another of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

20. Authority to Sign: Each individual signing this Agreement directly and expressly warrants that such individual has been given and received and accepted authority to sign and execute the documents on behalf of the Party for whom it is indicated such individual has signed, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of such Party with respect to the matters concerned herein and stated herein.

21. Further Assurances: In addition to the acts recited herein and contemplated to be performed, executed and/or delivered by all Parties, all Parties agree to execute and deliver, but without any obligation to incur any additional liability, responsibility, charge or expense, such additional documentation as may be reasonably necessary to consummate the transactions contemplated hereby.

22. Waiver of Consequential Damages: Notwithstanding anything contained in this Agreement to the contrary, each Party hereby waives the right to pursue any other Party, and such other Party shall not be liable, for any special, indirect, consequential, incidental, or punitive damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement.

[Signatures and acknowledgments appear on the following page(s)]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the day and year first above written.

GFC:

PORT ST. LUCIE GOVERNMENTAL FINANCE CORPORATION, a not-for-profit corporation

Witnesses:

Printed Name: _____

Printed Name: _____

By: _____
Printed Name: _____
Title: _____

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 202_, by _____, as _____ of the Port St. Luce Governmental Finance Corporation, a not for profit corporation, and on behalf of the Port St. Lucie Governmental Finance Corporation, who is [X] personally known to me, or who has [] produced the following identification

Signature of Notary Public

Name: _____

Notary Public, State of Florida
My Commission expires _____

NOTARY SEAL/STAMP

CITY:

CITY OF PORT ST. LUCIE, a Florida municipal corporation

Witnesses:

Printed Name: _____

Printed Name: _____

By: _____
Printed Name: _____
Title: _____

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 202_, by _____, as _____ of the City of Port St. Luce, a Florida municipal corporation, and on behalf of the City of Port St. Lucie, who is [X] personally known to me, or who has [] produced the following identification _____.

Signature of Notary Public

Name: _____

NOTARY SEAL/STAMP

Notary Public, State of Florida
My Commission expires _____

Witnesses:

Kim Sabol
Print Name: Kim Sabol

Brian Gonzalez
Print Name: Brian Gonzalez

DISTRICT:

ST. LUCIE COUNTY FIRE DISTRICT, an independent Special Taxing District

By: [Signature]
Printed Name: Jeff Lee
Its:

STATE OF FLORIDA
COUNTY OF St. Lucie

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 20th day of December 2023 by Jeff Lee, as Fire Chief of the St. Lucie County Fire District, an Independent Special Taxing District and on behalf of the St. Lucie County Fire District, who is [X] personally known to me, or who has [] produced the following identification



Vicki J. Echazabal
Signature of Notary Public

Name: Vicki J. Echazabal

Notary Public, State of Florida
My Commission expires 4/13/2025