

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF PORT ST. LUCIE  
AND THE TREASURE COAST REGIONAL PLANNING COUNCIL**

This Interlocal Agreement (herein referred to as “Agreement”) is entered in this \_\_\_\_ day of \_\_\_\_\_ 2019 by and among City of Port St. Lucie, a Florida municipal corporation (herein referred to as “City”), and Treasure Coast Regional Planning Council (herein referred to as “TCRPC”), each constituting a public agency as defined in Part I of Chapter 163, Florida Statutes, collectively referred to herein as the “Parties”.

**WITNESSETH:**

**WHEREAS**, Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969”, authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other public agencies on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the need and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into Interlocal Agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, the TCRPC is permitted to provide services to the City as it is established by the state of Florida and considered a public agency in accordance with state law; and

**WHEREAS**, the City desires to develop a master plan to guide the development of approximately 1,150 acres located within the Southern Grove Development of Regional Impact in a market driven context sensitive manner that is focused on creating a mixed use employment corridor and overall sense of place (the “Southern Grove Master Plan and Market Analysis”); and

**WHEREAS**, the City considers the Southern Grove Master Plan and Market Analysis as a critical project in the City of Port St. Lucie Strategic Plan which contributes to a diverse economy and employment opportunities; and

**WHEREAS**, the City believes it is in the best interest of its residents to develop the Southern Grove Master Plan and Market Analysis and desires to enter into this agreement with the TCRPC to provide those services.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and representations herein, the parties hereto agree as follows:

**SECTION 1. PURPOSE**

- A. The purpose of this Interlocal Agreement is to memorialize the terms under which the TCRPC will assist the City with preparing the Southern Grove Master Plan and Market Analysis.

- B. The City and TCRPC agree to act in a spirit of mutual cooperation and good faith in the implementation of the Agreement and its purpose.

## **SECTION 2. EFFECTIVE DATE**

This Agreement shall become effective upon its approval by the City of Port St. Lucie City Council, and the Treasure Coast Regional Planning Council, the due execution thereof by the proper officer of the City, and the TCRPC, and the filing of a certified copy hereof with the Clerk of the Circuit Court of St. Lucie County, Florida.

## **SECTION 3. SCOPE OF SERVICES**

- A. TCRPC shall fully perform the work which has been requested by the City and which is specified in the scope of work contained in **Attachment A** of this Agreement in accordance with general industry standards and best practices.
- B. The City agrees to:
  - 1. Provide all files, data, and information that are available as requested by the TCRPC.
  - 2. Provide any public notice required by Florida Statutes or local ordinance.
  - 3. Provide venues for any public workshops or meetings.
  - 4. Process all requests for reimbursement in a timely manner.
- C. The City and TCRPC agree to be governed by applicable local, state and federal laws, rules and regulations in the performance of their respective obligations under this Agreement.
- D. Modifications to this Agreement may be requested by either party. Changes which are mutually agreed upon shall be valid only when reduced to writing, duly signed by each party, and attached to the original Agreement.

## **SECTION 4. FUNDING/CONSIDERATION**

- A. This is a fixed fee Agreement based on the scope of work as identified in **Attachment A**. As consideration for performance of work rendered under this Agreement, the City agrees to pay TCRPC a fixed fee not to exceed the fee schedule and allowances provided for in **Attachment A**, including travel, attendance at all required public meetings and workshops, out-of-pocket expenses (printing and reproduction costs), film processing, mail, couriers, and other costs related to the services provided. The amount to be paid by the City may be reduced by funding provided by other agencies; however, no such reduction is assured.
- B. The satisfactory completion of deliverables by TCRPC in accordance with general industry standards and best practices shall be considered TCRPC's request for payment according to the schedule contained in **Attachment A**.

## **SECTION 5. TERM; TERMINATION**

- A. Term. This agreement shall commence on the Effective Date and shall remain in full force and effect until all deliverables are complete as identified in the scope of work and schedule contained in **Attachment A**, and accepted by the City, unless terminated earlier.

B. Termination. This Agreement may be cancelled by the TCRPC upon thirty (30) days prior written notice to the City's representative in the event of substantial failure by the City to perform in accordance with the terms of this Agreement through no fault of the TCRPC; provided the City shall fail to cure same within that thirty (30) day period. It may also be terminated, in whole or in part, by the TCRPC without cause upon thirty (30) days prior written notice to the City's representative. It may also be terminated, in whole or in part, by the City, with or without cause, immediately upon written notice to the TCRPC. The TCRPC shall be paid for services rendered in accordance with the requirements of this Agreement through the date of termination. After receipt of a Termination Notice, and except as otherwise directed by the City, the TCRPC shall:

1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3. Transfer all work in progress, completed work, and other materials related to the terminated work to the City.
4. Continue and complete all parts of the work that have not been terminated.

#### **SECTION 6. PERSONNEL**

The TCRPC represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement except as otherwise noted in the scope of services. Such personnel shall not be employees of or have any contractual relationship with the City.

All of the services required hereunder shall be performed by the TCRPC or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The TCRPC agrees that it is responsible to the City, to the maximum amounts set forth by Sec. 768.28, *Florida Statutes*, for the negligent acts and omissions of subcontractors and of persons either directly or indirectly employed by the TCRPC. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

#### **SECTION 7. INSURANCE**

- A. Prior to the execution of this Agreement by the City, the TCRPC shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.
- B. TCRPC shall procure and maintain in force, at its own expense, during the term of this Agreement and any extension thereof, General Liability Insurance, including third party bodily injury liability insurance coverage, as in accordance with Section 768.28, *Florida Statutes*. Such insurance coverage shall be adequate to protect against liability for claims resulting from the negligent acts or omissions of TCRPC relating to this Agreement. The policy shall clearly state that coverage required by TCRPC has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as an Additional Insureds added to its General Liability and Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read "City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and shall reference the Interlocal Agreement Between the Treasure Coast Regional Planning Council and the City of Port St. Lucie." The Policy shall be specifically endorsed to provide thirty (30) day written

notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. The policy shall respond as primary. A waiver of subrogation shall be provided in favor of the City for all policies. Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance and provided to the City annually. All deductible amounts shall be paid for and be the responsibility of TCRPC for any and all claims under this Agreement.

- C. TCRPC is responsible for ensuring that all contractors or subcontractors performing work relating to this Agreement have policies of insurance reflecting the coverage set forth in **Attachment B** to this Agreement.

#### **SECTION 8. REMEDIES**

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

#### **SECTION 9. CHOICE OF LAW; VENUE**

This Agreement shall be governed by the laws of the State of Florida. Venue for any action arising to enforce the terms of this Agreement shall be in St. Lucie County, Florida.

#### **SECTION 10. INDEMNIFICATION**

The Parties to this Agreement agree, to the extent permitted by law, to save, defend, reimburse, indemnify, and hold harmless the other parties, and the other parties respective officers, employees, servants or agents from each party's own negligence from any and all claims, demands, damages, liabilities, causes of actions, legal or administrative proceeds, judgments, interest, attorney's fees, costs and expenses arising in any manner directly or indirectly in connection with or incidental to the performance of this Agreement. These indemnities shall be limited to the scope specified in Section 768.28, Florida Statutes. The Parties do not alter, extend or waive any defense of sovereign immunity to which they may be entitled under the Florida Constitution, section 768.28, Florida Statutes, or as otherwise provided by law.

#### **SECTION 11. DELAYS AND EXTENSIONS OF TIME**

The TCRPC shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the TCRPC or its subcontractors and without their fault or negligence. Such causes include but are not limited to: acts of god; natural or public health emergencies; labor disputes; negligence or intentional acts of the City including its officers and employees; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the TCRPC's request, the City shall consider the facts and extent of any failure to perform the work and, if the TCRPC's failure to perform was without its or its subcontractors fault or negligence the Agreement Schedule and/or any other affected provision of this Agreement shall

be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time.

## **SECTION 12. REPRESENTATION AND NOTICE**

In carrying out the terms of this Agreement, as more fully set forth in **Attachment A**, the City representative shall be the City Manager. TCRPC representatives and/or employees shall report to the City's Community Redevelopment Agency Director and Planning and Zoning Director for day to day reporting.

All notices provided under or pursuant to the Agreement shall be in writing, delivered either by hand, overnight express mail, or by first class, certified mail, return receipt requested, to the representatives identified below at the address set forth below:

### **For the City:**

City Manager, City of Port St. Lucie  
121 SE Port St. Lucie Blvd, Port St. Lucie, FL 34958

Copies to:  
City Attorney, City of Port St. Lucie  
121 SE Port St. Lucie Blvd, Port St. Lucie, FL 34958

### **For The TCRPC:**

Executive Director – Thomas Lanahan  
421 SW Camden Avenue, Stuart, FL 34994

## **SECTION 13. RECORD KEEPING**

- A. All records submitted by the TCRPC shall be kept for three years after the termination of this Agreement and shall be sufficient and complete to verify compliance with the requirements of this Agreement.
- B. The TCRPC shall allow access to its records during normal business hours and upon reasonable and advance requests of the City, its employees and agents.

## **SECTION 14. PUBLIC RECORDS**

TCRPC shall comply with Florida's Public Records Act, and specifically section 119.0701, Florida Statutes, by agreeing to:

- A. Keep and maintain all public records required by the City to perform the services under this agreement.
- B. Upon request from the City custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the TCRPC does not transfer the records to the City.
- D. Upon completion of the contract, transfer, at no cost, to the City all said public records in possession of the TCRPC or keep and maintain public records required by the City to perform the service. If the TCRPC transfers all public records to the City upon completion of the contract, the TCRPC shall destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. If the TCRPC keeps and maintains public records upon completion of the contract, the TCRPC shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE TCRPC HAS A QUESTION REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, RELATING TO THE TCRPC DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, Karen Phillips, City Clerk, 772-871-7325, karenp@cityofpsl.com.

#### **SECTION 15. DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The TCRPC shall deliver to the City's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City under this Agreement.

All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Agreement for or at the City's expense shall be and remain the City's property and may be reproduced and reused at the discretion of the City.

The City and the TCRPC shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations, made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

#### **SECTION 16. INDEPENDENT CONTRACTOR RELATIONSHIP**

The TCRPC is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the TCRPC's sole direction, supervision, and control. The TCRPC shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the TCRPC's relationship and the relationship of its employees to the City shall be that of an Independent Contractor and not as employees or agents of the City.

The TCRPC does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

## **SECTION 17. CONTINGENT FEES**

The TCRPC warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the TCRPC, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the TCRPC, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## **SECTION 18. NON-DISCRIMINATION**

The TCRPC warrants and represents that all of its employees are treated equally during employment without regard to race, color, creed, religion, sex, national origin, political affiliation, age, marital status, family status, pregnancy, disability, sexual orientation, gender identity, or any other category provided by law and it shall not discriminate or permit discrimination against any employee or applicant for employment on such basis. TCRPC and City agree that no person shall be excluded from participation, be denied the benefits of, or otherwise be subjected to discrimination or retaliation on the basis of race, color, creed, religion, sex, national origin, political affiliation, age, marital status, family status, pregnancy, disability, sexual orientation, or gender identity under any activity or program carried out in the performance of this Agreement.

## **SECTION 19. SEVERABILITY**

Should any provision of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the same shall be deemed stricken here from and all other terms and conditions of this Interlocal Agreement shall continue in full force and effect as if such invalid provision had never been made a part of the Interlocal Agreement.

## **SECTION 20. ENTIRETY OF AGREEMENT**

This Agreement represents the entire understanding between the Parties. This Agreement may be modified and amended only by written instrument executed by Parties hereto.

## **SECTION 21. VENUE**

To the extent allowed by law, the venue for any action arising from this Agreement shall be in Saint Lucie County, Florida.

## **SECTION 22. ATTORNEY'S FEES**

Any costs or expense (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective Parties, however, this clause pertains only to the Parties to this Agreement.

## **SECTION 23. DELEGATION OF DUTY**

Nothing contained herein shall deem to authorize the delegation of the constitutional or statutory duties of the officers of the City or the TCRPC.

## **SECTION 24. FILING**

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

**SECTION 25. RIGHT OF ENTRY AGREEMENT**

Prior to entry upon any portion of the approximately 1,150 acres located within the Southern Grove Development of Regional Impact that is the subject of this Agreement, TCRPC shall execute an agreement with the Port St. Lucie Governmental Finance Corporation, the fee simple owner of the involved land, in substantially the same form as attached hereto as **Attachment C**.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]  
[SIGNATURES ARE ON THE FOLLOWING PAGE]



**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date set forth above.

**ATTEST:**

By: \_\_\_\_\_  
Karen Phillips  
City Clerk

**City of Port St. Lucie**

By: \_\_\_\_\_

**Approved as to form:**

By: \_\_\_\_\_  
James D. Stokes  
City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Phyllis Castro  
Accounting Manager

**Treasure Coast Regional Planning Council**

By: \_\_\_\_\_  
Thomas J. Lanahan,  
Executive Director

**Approved as to form:**

By: \_\_\_\_\_  
Keith W. Davis  
General Counsel