

WATER INTERCONNECTION INTERLOCAL AGREEMENT

THIS WATER INTERCONNECTION INTERLOCAL AGREEMENT made and entered into this 15th day of August, 2005, by and between the CITY OF SARASOTA, Florida, a municipal corporation, hereinafter referred to as "CITY" and the TOWN OF LONGBOAT KEY, a municipal corporation, hereinafter referred to as "TOWN":

WITNESSETH:

WHEREAS, CITY and TOWN each operate a water utility system within their corporate limits; and

WHEREAS, Interconnections between water utility systems are encouraged so as to provide reliable service, including emergency potable supply and fire flows, all in furtherance of the public health, safety, and welfare; and

WHEREAS, CITY and TOWN desire to enter into this Water Interconnection Interlocal Agreement so as to provide for the emergency interconnection and possible bulk transfer interconnection among the respective water utility system.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE COVENANTS HEREINAFTER SET FORTH, IT IS AGREED AS FOLLOWS:

1. Purpose. This Interlocal Agreement among CITY and TOWN is made in accordance with Section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969. The purpose of this Interlocal Agreement is to provide for the construction, operation and maintenance of an interconnection between the water utility systems of CITY and TOWN just south of the New Pass Bridge.

2. Interconnection. TOWN covenants to design and construct an interconnection between CITY's water utility system and TOWN's water utility system for the emergency, and possibly bulk sale, transmission of potable water between TOWN and CITY. TOWN shall be responsible for the design and specifications of a master meter to be located at the point of interconnection as well as the design, permit and construction north of the flange, including, but not limited to the subaqueous crossing of New Pass. The improvements shall remain the asset

and property of TOWN. As such, ongoing maintenance and repairs with regard to all the improvements shall be the sole responsibility of TOWN. Additionally, TOWN covenants to pay CITY for the incremental costs of CITY upsizing its water main in order to facilitate a potable water exchange. The upsizing cost will be based upon increasing from a 10 inch to a 12 inch diameter pipe on John Ringling Parkway from North Washington Drive to the point of interconnection. The pipe upsizing shall be in accordance with the St. Armands to Ken Thompson Park Water Main Evaluation Technical Memorandum dated June 19, 2003 authored by Post, Buckley, Schuh and Jernigan.

3. Term. This Interlocal Agreement shall be effective upon filing of a fully executed copy of this Interlocal Agreement with the Clerks of the Circuit Courts for Sarasota County and Manatee County, Florida pursuant to Section 163.01 (11) Florida Statutes. This Interlocal Agreement shall remain in effect for a period of twenty (20) years and shall be renewed thereafter for subsequent ten (10) year terms provided that both parties agree. TOWN and CITY covenant and agree that this Interlocal Agreement cannot be unilaterally terminated (other than at the conclusion of the initial term or any mutually agreed upon renewal term) absent (a) a material breach of this Agreement by a non-terminating party or (b) the occurrence of one of the contingencies set forth in Section 7 hereof.

4. Use. The interconnection between the water utility systems of CITY and TOWN shall be for emergency use by either party, with notice given to the other party. If the parties mutually agree, the interconnection may also be used for bulk transfer by either party. Emergency use shall be deemed any use required to protect the health, safety or welfare of customers of the using party, which has resulted from any unanticipated reduction in potable services caused by natural disaster, contamination, system (mechanical, electrical, or structural)

failure, or other force majeure. Emergency use shall also include temporary scheduled use necessary to overcome service disruptions resulting from construction activities or maintenance repairs. Oral notice of use shall be given by the user to the other party prior to any use. Written notice of such use shall be provided within two working days of initiating use. This notice shall include reporting of the meter reading at commencement of use. CITY and TOWN acknowledge that neither party shall be compelled by this Interlocal Agreement to supply water to the requesting party. Rather CITY and TOWN will provide water to the other only on an as available basis. The supplying party shall have the sole discretion to determine whether adequate water is available to share with the requesting party. The interconnection is intended to provide reliable service, including emergency potable supply and fire flow in the event that an emergency situation arises which impairs CITY's or TOWN's ability to provide such reliable service. The interconnection may be used for other purposes (i.e. bulk transfer), only with mutual agreement of both parties. If emergency use exceeds two episodes of greater than 15 consecutive days use in any two year period, the using party shall be required to negotiate in good faith a water supply agreement for a corresponding reserve capacity, subject to all appropriate fees. This requirement may be waived by written approval of the provider party in the event of extreme emergency necessitating prolonged use of the emergency interconnection.

5. Charges. Water used by any party pursuant to this Agreement shall be billed by the providing party based upon metered use and the provider party's prevailing standard (or base) commercial quantity retail rate times a multiplier of 1.25. The parties agree that the emergency interconnection does not provide any reserve or guaranteed capacity and is therefore not subject to standard connection, facility investment fees, or monthly readiness to serve charges. The specified multiplier is established to allow for compensation for such capacity charges at time of

use. CITY and TOWN acknowledge that TOWN shall be responsible to place a meter at the point of interconnection so as to determine the flow of water in either direction. The bills submitted for water use pursuant to this Interlocal Agreement shall be for the gallonage of water indicated having flowed from one party to the other pursuant to the meter placed at the point of interconnection. The billing of water use shall be initiated within forty-five (45) days of actual use. Monthly billing shall be initiated if the use will continue for a period of several months. Payment shall be made within sixty (60) days of receipt of a bill.

6. Water Standards. All water flowing through the interconnection shall meet all local, state, federal and American Water Works Association standards for drinking water. The water shall be delivered at a suitable water pressure. CITY and TOWN agree that neither shall have liability to the other or inhabitants or water customers of the other for claims or damages of any nature whatsoever that may result from an interruption in water service, any lowering of pressure within the distribution system, or for reduction in water quality if the same is caused by an act of God, fires, strikes, casualties, accidents to necessary maintenance works, breakdowns of or injuries to machinery, pumps, or pipelines, civil or military authority, insurrection, riot, court order, or any cause beyond the control of CITY or TOWN. Service shall be restored as soon as reasonably possible.

7. Approvals: It is understood and agreed that the interconnection of the water utility systems, as stated in this Interlocal Agreement, is subject to the issuance of permits and the obtaining of approvals from certain regulatory agencies and bodies. If a regulatory agency or body fails to issue a necessary permit or grant a necessary approval, this Interlocal Agreement shall be null and void and of no further force and effect. The parties covenant to cooperate in all respects to secure the necessary permits and approvals.

8. Completion and Maintenance. TOWN covenants that it will maintain the improvements (to include repair and replacement of the meter if and when such becomes necessary) for the purposes of the transfer of water between CITY and TOWN. TOWN covenants and agrees to regularly flush the interconnection system so as to prevent stagnation.

9. Severability. In the event that any provision of this Interlocal Agreement shall for any reason be determined invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of this Interlocal Agreement, or such other appropriate actions as shall, to the maximum extent practicable, in the light of such determination, implement and give affect to the intentions of the parties as reflected herein and the other provisions of this Interlocal Agreement, as amended, modified, supplemented or otherwise affected by such action shall remain in full force and effect.

10. Disclaimer of Joint Venture. CITY and TOWN warrant and represent that by the execution of this Interlocal Agreement it is not the intent of the parties that this Interlocal Agreement be construed or deemed to represent a joint venture or undertaking between CITY and TOWN.

11. Applicable Law. This Interlocal Agreement shall be governed by the laws of the State of Florida. The venue for any litigation resulting out of this Interlocal Agreement shall be Sarasota County, Florida.

12. Waiver. Unless otherwise specifically provided by the terms of this Interlocal agreement, no delay or failure to exercise a right resulting from any breach of this Interlocal Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time as often as may be deemed expedient. Any waiver shall be in writing and shall be signed by the party granting such waiver. If any representation, warranty

or covenant contained in this Interlocal Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Interlocal Agreement.

13. Extent of Interlocal Agreement. This Interlocal Agreement represents the entire and integrated agreement among CITY and TOWN and supersedes all prior negotiations, representations or agreements, either written or oral, pertaining to said interconnection. This Interlocal Agreement may only be amended, supplemented, modified, changed or canceled by a duly executed written instrument.

14. Notices: Notices required by or related to this Interlocal Agreement shall be sent by first class United States mail, postage prepaid.

Notices to CITY shall be sent to:

City of Sarasota Public Works Department
Attention: Director
Post Office Box 1058
Sarasota, FL 34230-1058

Notices to TOWN shall be sent to:

Town of Longboat Key, Public Works Department
Attn: Director
600 General Harris Street
Longboat Key, Florida 34228

DATED this 15th day of August, 2005, by the City of Sarasota,
Florida.

DATED this 11th day of July, 2005, by the Town of Longboat Key,
Florida

IN WITNESS WHEREOF, this Interlocal Agreement has been signed and sealed in duplicate by the respective parties hereto.

City of Sarasota, Florida

By: Mary Anne Servian
Mary Anne Servian, Mayor

Attest:

Billy E. Robinson

City Auditor and Clerk

Town of Longboat Key

By: Ronald A. Johnson
Ronald A. Johnson, Mayor

Attest:

By: Barbara Eisenberg
~~Donna H. Spenser, Town Clerk~~
Barbara Eisenberg, Deputy Town Clerk

Approved as to form and correctness:

Robert M. Fournier
City Attorney

Approved as to form and correctness:

[Signature]
Town Attorney