

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Capital Expenditures	\$1,500,000	0	0	0	0
Operating Costs	0	0	0	0	0
External Revenues	(\$1,500,000)	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match County	0	0	0	0	0
NET FISCAL IMPACT	\$0	0	0	0	0
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

Budget Account No.: Fund 1164 Dept 760 Unit 506F Object 4900

Is Item Included in Current Budget? Yes No

Is this Item using Federal Funds? Yes No

Is this Item using State Funds? Yes No

Reporting Category N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Up to \$1,500,000 of the project is funded by ARPA Response Replacement Funds.

C. Department Fiscal Review: Joony Sareman GE

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Lora Muth 4/11/24
OFMB PA 4/10
4/10

Brenda Mack 4/12/24
Contract Development and Control
4/12/24

B. Legal Sufficiency:

[Signature] 4/16/24
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE
VILLAGE OF PALM SPRINGS REGARDING CONGRESS AVENUE
SANITARY SEWER IMPROVEMENTS**

THIS AGREEMENT made and entered into this 7th day of May, 2024, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), and the **VILLAGE OF PALM SPRINGS**, a municipal corporation of the State of Florida, ("Village"), collectively referred to as the Parties.

W I T N E S S E T H

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the Parties desire to work cooperatively together to encourage economic development by promoting the efficient delivery of sanitary sewer services through the expansion and improvement of sewer infrastructure; and

WHEREAS, the commercial properties along Congress Avenue between Forest Hill Boulevard and Summit Avenue, as depicted in **Exhibit "A"** attached hereto ("Properties"), are located in unincorporated Palm Beach County, contiguous and adjacent to the corporate limits of the Village of Palm Springs, and in close proximity to Palm Beach International Airport; and

WHEREAS, the Properties are located within the County water and sewer service area but are not currently served by the sewer system; and

WHEREAS, due to the lack of sanitary sewer service, the Properties remain underdeveloped despite their prime location near the airport; and

WHEREAS, in order to provide service to the Properties through the County's system, it will be necessary to increase the force main capacity to accommodate the additional tie-ins; and

WHEREAS, the Parties therefore desire to work cooperatively to provide the infrastructure improvements necessary to extend service to the area in which the Properties are located ("Project"); and

WHEREAS, the Parties will share equally in the Project costs up to \$3 Million, after which the Village will be responsible for all Project costs subject to the budget and appropriation provision set forth herein; and

WHEREAS, the Village will procure contracts for the design and construction of the Project, and may piggyback on existing County contracts, and will oversee the design and construction of the Project; and

WHEREAS, the County and Village find that cooperative efforts set forth herein serve a public purpose.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, the sufficiency of which is acknowledged by both parties, the County and Village hereby covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference.
2. Term/Effective Date. This Agreement shall become effective upon approval by both Parties and continue until the completion of all obligations set forth herein. The Effective Date of this Agreement shall be the date this Agreement is approved by the Palm Beach County Board of County Commissioners (“Effective Date”). This Agreement shall terminate upon completion of the Project and all related close-out requirements of the Project and this Agreement and the County’s reimbursement of its share of the design and construction costs to the Village.
3. Obligations of County. The Village shall be responsible for contracting for the design and construction services for the Project and for managing the design and construction process. The Village may utilize piggyback contracts to engage contractors hired in accordance with the County’s bidding process for any duties associated with the construction of the Project.
 - a. The County will provide dedicated sanitary sewage capacity reservation to accommodate the increased force main capacity associated with the Project. The capacity reservation shall be the projected wastewater flow from the Properties plus a service capacity buffer of 25 %. Peak hour delivery rate shall be 4.0 times the average daily flow as was assumed in the Basis of Designs Report (BODR) prepared by Holtz Consulting Engineers, dated August 14, 2023.
 - b. The County will notify the Village each time one of the Properties ties into the system.
 - c. The County shall reimburse the Village for fifty percent (50%) of the design and construction costs up to a total Project cost of \$3 Million as more fully described in Sections 4 and 5 below.
 - d. Any fees charged by any agency, including the County and the Village, will be included in total projects costs to be shared by the Parties.
4. Obligations of Parties.
 - a. The Village and the County shall share equally in all costs of the Project, with the Village fronting one hundred percent (100%) of the costs and invoicing the County for reimbursement of its fifty percent (50%) share of up to a total Project cost of \$3 Million as set forth herein and in Section 5 below. The Village is responsible for one hundred percent (100%) of Project costs over \$3 million, subject to the budget and appropriation provision set forth herein.
 - b. The Village and the County have each incurred costs in the initial design of the Project, which costs are set forth in **Exhibit “B”** hereto (“Initial Design Costs”). The Initial Design Costs shall be deducted from each party’s obligation to pay fifty (50%) of the total Project cost of \$3 Million with each party’s remaining obligation shown in **Exhibit “B”**.
 - c. The Parties will agree on the final scope of the Project prior to the Village entering into

construction contracts. Any changes to the scope of the Project that require a change order after construction commences shall be reviewed and approved by the Authorized Designee of both parties subject to the budget and appropriation provision in Section 6 below.

- d. Village shall provide a bill of sale and easements for the completed Project to the County, and any other reasonably necessary Project close-out documentation required by the County, in a form reasonably acceptable to the County and the Village.

5. Payment. During the design and construction of the Project, Village shall invoice the County based on Village-approved pay applications submitted to the Village. Except with regards to the Initial Design Costs, each pay application will include a five percent (5%) administrative mark-up to cover the Village's administrative services, which administrative mark-up will be included in total Project costs to be shared by the Parties. County will, within ten (10) business days after receipt of each invoice, either by non-response indicate agreement to pay Village or return the invoice to Village indicating in writing County's reasonable reasons for refusing to make payment due. Where accepted, Village shall provide County with a final invoice, and, unless returned to the Village in accordance with the above procedure, payment shall be made by County within thirty (30) days of receipt of final invoice from the Village. For any refused invoice that is returned to the Village by the County, the Village may resubmit the invoice and the same review process shall be adhered to until the invoice is resolved for payment. In all circumstances, County's payment of an invoice shall not be unreasonably withheld, delayed or conditioned. If invoice disputes cannot be resolved through staff communication, the parties agree to attempt to resolve any disputes through a meeting of the Authorized Designees set forth in Section 7 prior to any legal action.

6. Budget and Appropriation. All provisions of this Agreement calling for the expenditure of funds by either Party prior to the time the Parties agree on the final scope of the Project as set forth in Section 4(c) above are subject to annual budgetary funding of each Party. Each Party's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by their respective governing bodies. However, once the Parties agree on the final scope of the Project as set forth in Section 4(c) above, unless this Agreement is terminated as provided in Section 8 below, the Village shall prosecute the Project to completion and each Party shall be responsible for their funding obligations as set forth herein.

7. Authorized Designees. The County Authorized Designee shall be the County Administrator or his/her designee. The Village Authorized Designee shall be the Village Manager or his/her designee. Both parties covenant and agree that their respective Authorized Designee is authorized to take the actions set forth herein and that such actions shall have the same force and effect as if approved and executed by the governing bodies of the County and the Village.

8. Termination.

- a. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default thirty (30) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Failure to cure said default within thirty (30) days following notice may be grounds for termination of this Agreement. Termination of this Agreement by either party shall require thirty (30) days prior written notice to the other party prior to the

termination date. The Parties may mutually agree to extend the time for cure and/or termination.

- b. If the Village has incurred any design or construction costs prior to the date of termination, the County shall reimburse the Village for its share of those costs consistent with the terms of this Agreement.

9. No Transfer of Powers. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to provide services as authorized in Florida Statutes, Chapter 163. The governing bodies for County and Village shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability; exemption from laws, ordinances, and rules; and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

10. Indemnification County and Village acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. County and Village agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The Parties acknowledge that the foregoing shall not constitute an agreement by either Party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the Parties may have under such statute, nor as consent to be sued by third parties.

11. Force Majeure In the event that the performance of this Agreement by either Party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or water plan failures and water main breaks, neither Party shall be liable for such non-performance.

12. Remedies. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred 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 now or hereafter.

13. Successors and Assigns. County and Village each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this

Agreement. Neither County nor Village shall assign, sublet, convey or transfer its interest in this Agreement without prior written consent of the other.

14. Waiver. The failure of either Party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said Party may have to any subsequent breach, default, or non-performance, and said Party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

15. Severability If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

16. Notice. All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to Village, shall be mailed or delivered to Village at:

Village of Palm Springs
226 Cypress Lane
Palm Springs, FL 33461
Attn: Village Manager

with a copy not to constitute notice to

Christy Goddeau, Village Attorney
Torcivia, Goddeau, Donlan & Rubin, P.A.
701 Northpoint Parkway, Suite 209
West Palm Beach, FL 33407

And if to County, shall be mailed or delivered to:

Palm Beach County Water Utilities Department
8100 Forest Hill Boulevard
West Palm Beach, FL 33416-6097
Attn: Department Director

with a copy not to constitute notice to:

Palm Beach County Attorney's Office
301 North Olive Ave.
Suite 601
West Palm Beach, FL 33401
Attn: Water Utilities Attorney

17. Filing. This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach

County.

18. Amendment and Modification. This Agreement may only be amended, modified, changed, supplemented, or discharged by an instrument in writing signed by the parties hereto.

19. Entirety of Agreement. County and Village agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are not promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the Parties.

20. Palm Beach County Office of the Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

21. No Third Party Beneficiary. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Village.

22. Non-discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Village represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

23. E-Verify - Employment Eligibility. Village warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended. Village shall: (1) register with and use the E-Verify System (E-Verify.gov), to electronically verify the employment eligibility of all newly hired workers; and (2) verify that all of the Authority's contractors and subcontractors performing any duties and obligations under this Agreement are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

County shall terminate this Agreement if it has a good faith belief that Village has knowingly violated Section 448.09(1), Florida Statutes as may be amended.

IN WITNESS WHEREOF, County and Village have executed or have caused this Agreement to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

Joseph Abruzzo, Clerk of the Circuit Court & Comptroller, Palm Beach County

PALM BEACH COUNTY, BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

(SEAL)

APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature]
County Attorney

By: [Signature]
Ali Bayat, Director Water Utilities

ATTEST:

VILLAGE OF PALM SPRINGS, FLORIDA

By: [Signature]
Kimberly Wynn, Village Clerk

By: [Signature]
Beverly Smith, Mayor (16:00 EDT)

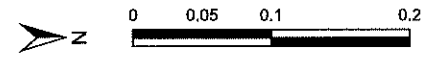
APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
Christy Goddeau, Village Attorney

Exhibit A
Depiction of Properties



- Legend**
- ⊗ Proposed Valve
 - ← Existing Force Main
 - ⋯ Existing Gravity Main
 - ← Proposed Force Main
 - ⋯ Oxygen Properties
 - ▒ Current PBCWUD Customers
 - ▒ Parcels with Wastewater Service Availability after PH 1 Project
 - ▒ Parcels without Wastewater Service Availability



Village of Palm Springs
Congress Ave Force Main

Phase 1 Wastewater System
Improvements and
Wastewater Service Availability

HOLTZ CONSULTING ENGINEERS, INC.
 270 S. CENTRAL BLVD, SUITE 207
 JUPITER, FLORIDA 34894
 PH. (772) 919-4905

EXHIBIT A

Exhibit B
(Initial Design Costs)

The County has incurred \$206,012.57 in Initial Design Costs. Subject to the Budget and Appropriation provision in Section 6 of the Agreement, the County's remaining obligation under this Agreement is \$1,293,987.43.

The Village has incurred \$167,704.00 in Initial Design Costs. Subject to the Budget and Appropriation provision in Section 6 of the Agreement, the Village's remaining obligation under this Agreement is \$1,332,296.00

ATTACHMENT 2

