

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF  
POMPANO BEACH AND THE CITY OF MARGATE TO  
PROVIDE BULK POTABLE WATER DURING TIMES OF  
EMERGENCY**

THIS INTERLOCAL AGREEMENT ("Agreement"), is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between:

CITY OF POMPANO BEACH  
a municipal corporation  
100 W Atlantic Boulevard  
Pompano Beach, Florida 3306  
(hereinafter referred to as "POMPANO") and

CITY OF MARGATE  
a municipal corporation  
5790 Margate Boulevard  
Margate, Florida 33063  
(hereinafter referred to as "MARGATE")

WHEREAS, POMPANO is authorized by law to provide water treatment and distribution services to the public within a geographical area located within the City of Pompano Beach, Florida, the Town of Lauderdale by the Sea, Florida, the Village of Sea Ranch Lakes, Florida and a portion of the City of Lighthouse Point, Florida; and

WHEREAS, MARGATE is authorized by law to provide water treatment and distribution services to the public within all of the geographical area located within the City of Margate, Florida and a portion of the City of Coconut Creek; and

WHEREAS, the geographical area serviced by POMPANO is directly adjacent to the geographical area serviced by MARGATE; and

WHEREAS, POMPANO and MARGATE desire to establish a policy to provide potable water to each other on a temporary, as-needed basis during times of temporary emergencies; and

WHEREAS, it will be beneficial to both parties to construct an interconnect at a mutually agreed location with the costs to be equally divided between POMPANO and MARGATE; and

WHEREAS, the parties desire to enter into this Agreement under the authority of the Florida Interlocal Cooperation Act of 1969, Section 163.01, et al., Florida Statutes; and

WHEREAS, both POMPANO and MARGATE mutually recognize that it is in the best interest of the citizens of POMPANO and MARGATE to have in place a written agreement to be used during times of unexpected emergencies to ensure that the residents of POMPANO and MARGATE have ample potable water.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties expressly covenant and agree as follows:

**SECTION 1.**

The above recitals are true and correct and are incorporated herein.

**SECTION 2. DESCRIPTION OF EMERGENCY SERVICE/RESPONSIBILITIES OF PARTIES**

2.01 Both parties agree to provide each other potable water, treated in accordance with and conforming to the standards of the Florida Department of Environmental Protection, the Florida Department of Health and all other governmental bodies having regulatory jurisdiction over such matters, all consistent with principles and practices governing the operation of existing water treatment plant facilities as needed, during times of temporary emergency and/or crisis.

2.02 "Temporary Emergency" shall be defined as the temporary inability of one party to adequately serve its geographical area due to an unforeseen occurrence that is temporary in nature. Examples of Temporary Emergencies include water pipe breakage, and pump or plant equipment failure and temporary peak demand that threatens firefighting capability or reduces pressures to a level that threatens health and safety from cross connections. The inability to service the geographical area due to lack of planning, inadequacy of facilities, including the infrastructure, or long term inability to provide sufficient potable water are not considered qualified emergencies. The interconnect will remain open only for the duration of the emergency condition unless otherwise agreed to pursuant to a separate written agreement.

2.03 Location of Interconnect: The parties agree that the location of the Interconnect shall be mutually agreed upon by POMPANO and MARGATE utility staff.

2.04 Notification of Emergency: In the event of a Temporary Emergency, the applicable party from the respective party with the Temporary Emergency shall contact the Utilities Director or his designee of the other party to authorize the opening of the Interconnect and the provision of water on an emergency basis. Should the initial contact for a Temporary Emergency be made via oral communication, the party with the Temporary Emergency shall confirm the emergency via email or facsimile to the other party. Prior to opening the Interconnect, a meter reading shall be completed by the party providing the emergency services. Upon conclusion of the Temporary Emergency, a subsequent meter reading shall be completed. Representatives from both parties shall meet at the Interconnection site to open/close valves and take meter readings for verification.

The contact information for notification of a Temporary Emergency is as follows:

POMPANO:	954-942-2202 (telephone) 954-545-7046 (facsimile)
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MARGATE:	954-972-0828 (telephone) 954-978-7349 (facsimile)
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2.05 Maintenance and Repair: Maintenance and repair of the Interconnect shall be assigned as follows:

- (a) The parties acknowledge and agree that each party is responsible to maintain their respective meters and their isolation valves.
- (b) The cost for all repairs related to the Interconnect, except for the meters and the valves indicated above, shall be divided equally between POMPANO and MARGATE. If the Interconnect is installed within the POMPANO service area as shown on the approved plans, POMPANO will maintain the Interconnect, except for meters and isolation valves, and shall submit invoices to MARGATE for 50% of the repair costs to the address provided in Section 12.

### **SECTION 3. TERM OF AGREEMENT**

This Agreement shall become effective upon approval of both parties and remain in effect for a period of five years, with three five-year renewal periods. If the substance of the Agreement does not change during the renewal periods, City administration may renew the Agreement without further City Commission action. The Agreement may be terminated by either party pursuant to Section 7 of this Agreement.

### **SECTION 4. COMPENSATION**

4.01 When either party requires potable water from the other party under this Agreement, the party receiving the potable water agrees to pay the other party a water charge of **\$1.90 per one thousand (1000) gallons of water consumption**. Said charges shall be billed to the user party on a monthly basis, as necessary. Any increase in rate shall be agreed to, in writing, by both parties. The MARGATE City Manager and the POMPANO City Manager shall be authorized to approve an increase in the water charge.

#### **4.02 Construction and Construction Management of Interconnect:**

- (a) The parties agree to design and construct an Interconnect for use during times of Temporary Emergency, hereinafter referred to as the "Project". Each party shall pay fifty percent (50%) of the cost for construction and construction management related to the Project. POMPANO shall be responsible for entering into a contract with the lowest responsible responsive bidder.
- (b) MARGATE and POMPANO acknowledge that the estimated construction cost is **\$135,868.00**, per POMPANO Bid E-16-17, and **\$22,180.00** for Construction Management.
- (c) MARGATE shall reimburse POMPANO for its share of the cost within thirty (30) calendar days of receipt of an invoice from

POMPANO. The invoice shall be submitted to MARGATE's Director of Environmental & Engineering Services at 901 NW 66<sup>th</sup> Avenue, Margate, Florida 33063.

## **SECTION 5. QUALITY OF WATER**

Both parties agree and represent to each other that their respective water treatment plants presently operate and produce water in accordance with existing regulations and standards.

## **SECTION 6. INDEMNIFICATION AND INSURANCE**

6.01 POMPANO agrees, to the extent provided by law, to indemnify and hold harmless MARGATE and all its officers, elected or otherwise, and employees from any loss, damage, or injury to persons or property arising from POMPANO's negligence or POMPANO's failure to comply with all the terms and conditions of this Agreement. If a claim is litigated and names MARGATE as a party defendant and claims negligence on the part of a POMPANO employee, MARGATE shall be held harmless as to all costs and expenses associated with the litigation related to that claim, including but not limited to costs, attorneys' fees, paralegal expenses, attorneys' fees on appeal, monies paid in settlement or monies paid to satisfy any judgment obtained herein. Nothing herein shall be deemed a waiver by POMPANO of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.

6.02 MARGATE agrees, to the extent provided by law, to indemnify and hold harmless POMPANO and all its officers, elected or otherwise, and employees from any loss, damage, or injury to persons or property arising from MARGATE's negligence or MARGATE'S failure to comply with all the terms and conditions of this Agreement. If a claim is litigated and names POMPANO as a party defendant and claims negligence on the part of a MARGATE employee, POMPANO shall be held harmless as to all costs and expenses associated with the litigation, related to that claim, including but not limited to, costs, attorneys' fees, paralegal expenses, attorneys' fees on appeal, monies paid in settlement or monies paid to satisfy any judgment obtained herein. Nothing herein shall be deemed a waiver by MARGATE of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.

6.03 The parties shall each individually maintain throughout the term of this Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing herein is intended to serve as a waiver by either party of sovereign immunity or of Section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either governmental entity to be sued by third parties in any matter arising out of this Agreement.

## **SECTION 7. TERMINATION**

Either party may terminate this Agreement upon sixty (60) calendar days written notice to the other party.

## **SECTION 8. COMPLIANCE WITH LAWS**

MARGATE and POMPANO shall comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida and of any other

public authority which may be applicable.

## **SECTION 9. GOVERNING LAW AND VENUE**

The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Venue for any action to enforce the terms of this Agreement shall be brought in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida.

## **SECTION 10. ENTIRE AGREEMENT**

This Agreement contains the entire understanding of the parties relating to the subject matter hereof superseding all prior communications between the parties whether oral or written, and this Agreement may not be altered, amended, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

## **SECTION 11. SEVERABILITY**

Should any part, term or provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State, the validity of the remaining portions or provisions shall not be affected thereby.

## **SECTION 12. NOTICES**

12.01 All notices and other communications required or permitted under this Agreement shall be in writing and given by:

12.02 hand delivery

12.03 registered or certified mail, return receipt requested;

12.04 overnight courier, or

12.05 facsimile or email to:

POMPANO:

A. Randolph Brown  
Director of Utilities  
1205 NE 5<sup>th</sup> Ave  
Pompano Beach, FL 33060  
Telephone: 954-545-7044  
Facsimile: 954-545-7046

and

MARGATE: Samuel A. May, Interim City Manager  
City of Margate  
5790 Margate Boulevard  
Margate, Florida 33063  
Telephone: 954-935-5300  
Facsimile: 954-935-5304

or to such other address as either party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered:

- (a) on the date delivered if by personal delivery or overnight courier,
- (b) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and
- (c) on the date of transmission with confirmed answer back if by fax.

IN WITNESS WHEREOF, the CITY OF POMPANO BEACH and the CITY OF MARGATE have caused these presents to be executed in their respective names, by the proper officials, the day and year first above written.

**“CITY”:**

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY’S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**CITY OF MARGATE**

\_\_\_\_\_  
Tommy Ruzzano, Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 2017

ATTEST:

\_\_\_\_\_  
Joseph J. Kavanagh, City Clerk

\_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Samuel A. May, Interim City Manager

\_\_\_\_\_ day of \_\_\_\_\_, 2017

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas R. Gonzales, City Attorney

\_\_\_\_\_ day of \_\_\_\_\_, 2017