

**AN INTERLOCAL AGREEMENT BETWEEN THE BOARD OF
COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA,
AND THE TOWN OF CALLAHAN REGARDING THE
ALLOCATION OF \$4.5 MILLION OF ELIGIBLE FUNDS AS A
LOCAL MATCH FOR THE CONSTRUCTION OF A WATER
PLANT AT THE CRAWFORD DIAMOND INDUSTRIAL PARK**

THIS INTERLOCAL AGREEMENT ("Interlocal Agreement"), dated this 8th day of December, 2022, is entered into by and between:

NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County"); and

THE TOWN OF CALLAHAN, a municipal corporation (the "Town"), located within Nassau County, Florida.

WITNESSETH:

WHEREAS, Nassau County and the Town of Callahan each represent to the other that it constitutes a "public agency" within the meaning of Section 163.01, Florida Statutes, as amended (the "Interlocal Act"), and is authorized under the Interlocal Act to enter into interlocal agreements providing for the joint exercise of any powers, privilege or authority which each of them could exercise separately; and

WHEREAS, the Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan Act, delivers \$350 billion to state, local, and Tribal governments across the country, with Nassau County securing nearly \$17.2 million in funding; and

WHEREAS, the American Rescue Plan Act provides guidance for uses, restrictions, compliance, and monitoring of expenditures; and

WHEREAS, the County has determined that it incurred a revenue loss due to the COVID-19 public health emergency in excess of the \$17.2 million received and therefore shall have broad discretion to use funds for the provision of government services to the extent of reduction in revenue; and

WHEREAS, the use of funds for government services may include, but not be limited to such items, as public safety and public works salaries, and must be forward looking for costs incurred after March 3, 2021; and

WHEREAS, other such available revenues may be used as determined by the Board of County Commissioners to provide a public purpose such as providing water services; and

WHEREAS, the Board of County Commissioners has made economic development a priority throughout Nassau County; and

WHEREAS, the Crawford Diamond Industrial Park is a 1,814 acre McCallum Sweeney Certified Industrial Park located in Callahan, Florida; and

WHEREAS, Nassau County has actively collaborated with the Town of Callahan, Nassau County Economic Development Board, JaxUSA, and Florida Power and Light to bring high paying manufacturing jobs to the Crawford Diamond Industrial Park; and

WHEREAS, development of the Crawford Diamond Industrial Park will expand and diversify the local tax base and economy which will result in beneficial direct, indirect, and induced impacts; and

WHEREAS, the Crawford Diamond Industrial Park does not currently have the utility infrastructure necessary to support industrial manufacturing and distribution facilities; and

WHEREAS, the completion of a water plant at the Crawford Diamond Industrial Park will provide a substantial public benefit to the County by creating a more sustainable, resilient, and prosperous local economic system where residents can live, work, play, and stay; and

WHEREAS, the Town of Callahan applied for and was awarded a State of Florida Department of Economic Opportunity, Florida Job Growth Public Infrastructure Grant in the amount of \$4 million which includes the requirements for certain matching funds; and

WHEREAS, utilizing both the Grant and local matching funds, the Town of Callahan will be solely responsible for the design and construction of a 3 MM GPD (expandable to 6 MM GPD) water plant at the Crawford Diamond Industrial Park.

NOW, THEREFORE, in consideration of the mutual promises made herein, and for other good and valuable consideration, receipt of which is hereby acknowledged by the County and the Town as having been given and received in full, the County and the Town intend to be legally bound and hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are incorporated herein by reference as a material part of this Agreement.

2. THE COUNTY'S OBLIGATIONS. The County hereby agrees:

- a. to fully comply with the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) final ruling, the American Rescue Plan Act and any applicable local, State or Federal laws, rules, regulations, and guidance; and
- b. to provide a maximum of \$4.5 million in eligible funding as a local match to the Town of Callahan for the construction of a 3 MM GPD (expandable to 6 MM GPD) water plant located at the Crawford Diamond Industrial Park; and
- c. to provide said County match funds to the Town within sixty (60) days of the Town executing a grant agreement with the State of Florida Department of Economic Opportunity for the Florida Job Growth Public Infrastructure Grant in the amount of approximately \$4 million.

3. THE TOWN'S OBLIGATIONS. The Town hereby agrees:

- a. to execute a Grant Award Agreement with the State of Florida Department of Economic Opportunity in the amount of approximately \$4 million; and
- b. to construct a 3 MM GPD (expandable to 6 MM GPD) water plant located at the Crawford Diamond Industrial Park by December 31, 2026; and
- c. to be the sole grantee of the Project and the operator of the fully constructed water plant located at the Crawford Diamond Industrial Park; and
- d. secure from Florida Power and Light full legal title to property of sufficient size to facilitate the water plant at full-build out, i.e. 6 MM GPD. The Town shall provide County with proof, in a form acceptable to the County, of legal title to the referenced property and a correlating site plan demonstrating compliance with this provision; and
- e. secure a Consumptive Use Permit (CPU) in the Town's name, in whole or part, for operation of the water plant. The CPU shall be secured in the Town's name, in whole or part, no later than December 31, 2026.

4. REIMBURSEMENT OF EXCESS REVENUE.

- a. The Town agrees to reimburse the County for any portion of the County's \$4.5 million contribution not otherwise expended as part of

the Crawford Diamond Industrial Park water plant project.

5. FIRST RIGHT OF REFUSAL.

- a. Nassau County shall have first right of refusal to purchase the water plant, land and any improvements thereon if the Town decides to convey the facility to another person or entity.
- b. The Town shall negotiate in good faith with the County as part of the first right refusal to purchase the facility at fair market value.

6. ELIGIBLE COSTS; SUPPORTING DOCUMENTATION; REPORTING REQUIREMENTS.

- a. Subject to the terms of this Agreement, the County shall pay the Town a maximum of Four Million and five hundred thousand Dollars (\$4,500,000) in funds for the construction of a 3 MM GPD (expandable to 6 MM GPD) water plant located at the Crawford Diamond Industrial Park. Said funds are to be used for any eligible and allowable costs as defined in Paragraph 5(b) below. Further, it is understood and agreed upon that any additional funds necessary in connection with the construction of the Crawford Diamond Industrial Park water plant project above and beyond the \$4,500,000 local match provided by the County, are the sole responsibility of the Town.
- b. Eligible and allowable costs are those defined as:
 - i. necessary expenditures incurred for the design and construction of the Crawford Diamond Industrial Park water plant;
 - ii. were incurred on or after March 3, 2021, and/or obligated by December 31, 2024, and expended by December 31, 2026; and
 - iii. are otherwise in accordance with the terms and conditions of this Agreement and any applicable local, State or Federal laws, rules, regulations, and guidance.

Costs that do not satisfy all the required conditions listed in Paragraph 5(b) above, shall be ineligible for use under this Agreement.

- c. The Town's account and financial management system shall be sufficient to permit the preparation of reports required in connection with this Agreement and the tracking of funds to a level of expenditures adequate to establish that such funds have been used pursuant to the terms of this agreement.
- d. Within 60 days of project completion, the Town shall submit a final project

report which shall describe the status/implementation of the project, an accounting of all costs and expenditures incurred during the project and any additional information necessary to ensure the County meets any and all its obligations for the granting of the funds.

7. REMEDIES; FINANCIAL CONSEQUENCES.

- a. If the Town fails to comply with the terms and conditions of this Agreement, including any federal or state statutes, rules, policies, or regulations applicable to this Agreement or fails to deliver a completed project within the time limit specified, the County may demand a refund, either in whole or in part, of the funds provided to the Town under this Agreement for non-compliance. The County shall provide written notice to the Town of any finding of non-compliance. Upon receipt of written notification, the Town shall have sixty (60) days to cure any non-compliance and respond to the County. Upon failure of the Town to cure or respond to County, the Town shall refund and forthwith pay to the County, the amount of money demanded by the County. Such refund shall be due within 90 days of the issuance of the written notification.

8. **EXECUTION OF AGREEMENT.** After approval of this Interlocal Agreement by the respective governing bodies of the County and the Town, and its execution by duly qualified and authorized officers of each of the Parties hereto, the County shall cause this Interlocal Agreement to be filed with the Clerk of the Circuit Court of Nassau County, Florida in accordance with the requirements of Section 163.01(11), Florida Statutes.

9. **LIABILITY.** Each party agrees that it shall be solely responsible for the negligent acts or omissions of its officers, employees, contractors, or agents. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or a waiver of the limitations on liability, claims, or judgements as set forth in section 768.28, Florida Statutes.

10. **ENTIRE AGREEMENT AND PRIOR UNDERSTANDINGS.** This Agreement contains the entire memorialization of mutual assent between the parties and is intended as a final expression of the parties' agreement with respect to all terms included in this Agreement. This Agreement supersedes

any and all prior agreements, negotiations, stipulations, understandings, or representations.

11. **CONSTRUCTION AND APPLICATION.** The section headings or titles in the Agreement are for convenience only and not a part hereof and shall have no effect upon the construction or interpretation of the Agreement. This Agreement shall not be construed against either party as the "drafter" of this Agreement, as the intent of the parties and resulting Agreement is a collaborative effort of both parties.

12. **SEVERABILITY.** Each provision of the Agreement is intended to be severable. If any court of competent jurisdiction determines that any provision of the Agreement is invalid, illegal, or unenforceable in any respect, the rest of the Agreement will remain in force.

13. **AMENDMENT.** Any alterations, amendments, deletions, or waiver of any provisions of this Agreement shall be done in writing and signed by both the Board of County Commissioners and the Town of Callahan. No alteration, amendment, deletion, or waiver of any provision shall become valid or effective until executed in conformity with this paragraph.

14. **TERMINATION.** This Agreement may be terminated by either party upon one hundred and eighty (180) days written notice to the other party. If such cancellation occurs, all funds shall be returned by the Town of Callahan to the County.

IN WITNESS THEREOF, the County and the Town have each caused this Interlocal Agreement to be executed and delivered as of the date indicated above:

[remainder of page intentionally left blank]

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

JEFF GRAY
Its: Chairman

ATTEST AS TO THE CHAIRMAN'S
SIGNATURE:

JOHN A. CRAWFORD
EX-OFFICIO CLERK

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

DENISE C. MAY

TOWN OF CALLAHAN


KENNETH BASS
Its: Council President

ATTEST AS TO THE COUNCIL PRESIDENT'S
SIGNATURE:


SHAWNA GUGLIUZZA
TOWN CLERK

APPROVED AS TO FORM BY THE
TOWN OF CALLAHAN ATTORNEY:

