

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into on _____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (“County”) and Village of Wellington, a municipal corporation of the State of Florida (“Village”).

WITNESSETH

WHEREAS, the County and the Village are continually identifying more effective service delivery methods which result in overall savings to the taxpayers of the County and the Village;

WHEREAS, the County and the Village have determined it to be beneficial to both parties for the Village to purchase fuel services from the County;

WHEREAS, the County has available a Fuel Pump Control/Reader which the Village desires to use and lease from the County;

WHEREAS, Section 163.01, Florida Statutes, permits public agencies to enter into Agreements to jointly exercise any power, privilege or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the County and the Village have the ability to lawfully enter into this Agreement.

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

SECTION 1: PURPOSE

The purpose of this Agreement is to provide the terms and conditions by which the County will provide comprehensive fuel services to the Village and the schedule and method of payment to the County for such services. Fuel services generally include: 1) lease one (1), E.J. Ward fuel pump control reader, including key pad, card reader and software (“Equipment”), to interface with the County’s fleet management computer, 2) provide and encode data cards for village personnel and 3). Preventative maintenance and corrective repairs to the Equipment.

The services that the Village has elected to participate in are described in the sections below.

SECTION 2: EQUIPMENT AND SERVICES TO BE FURNISHED BY THE COUNTY

2.01 The County leases one (1) E.J. Ward Fuel Control Reader, including key pad, card reader and software that interfaces with the County’s Fleet Management computer.

2.02 Upon execution of this Agreement, the Village will inform the County of the number of fuel cards required and the information necessary to code all Village employees, vehicles and

equipment into the County's automated fuel management systems. Within twenty-one (21) days, the County will provide the Village with the requested cards. Procedures for requesting additional new and replacement cards will be established after execution of this Agreement. It is the Village's sole responsibility to ensure that the fuel cards are issued and used for authorized and lawful public purposes. The fuel cards will allow the Village to fuel at its fuel site.

2.03 The County will provide the Village with detailed monthly fuel consumption reports for the fuel control reader in the same format it uses for County purposes. The Village acknowledges and agrees that sample reports have been provided to the Village and that they are acceptable. The reports shall also indicate usage by the Palm Beach County Sheriff's Department. Additionally, the County will provide the Sheriff with a copy of the Sheriff's Department usage report.

2.04 The County will manage, maintain and repair the EJ Ward Fuel Control Reader ("Routine Services") during the term of this Agreement. "Routine Services" shall include all services and repairs required in the usual course of business including repairs necessitated by accidents, vandalism, acts of God, etc., at the Village's request and sole expense if the necessary parts are in stock in the County's inventory.

2.05 The County will make all reasonable efforts to respond promptly to requests for maintenance and repairs after notice is provided by the Village, normally within two (2) hours during normal business hours. Response time may be greater during non-business hours and holidays, but an on-call contact is provided for non-business hours and holidays.

SECTION 3: VILLAGE RESPONSIBILITIES

3.01 Village shall be responsible for providing a suitable, covered location approved by the County for the Equipment and for its installation therein. Village shall provide, at its expense, a dedicated telephone line connecting the Equipment to the fleet management computer and all electricity needed to operate the Equipment. Relocation of the Equipment shall be made only upon written approval of the County

3.02 Village shall allow the Sheriff's Office to use the Equipment and the accompanying Village fuel pumps. The Village may deny access to the Village's fuel pumps by the Sheriff due to an emergency on a temporary basis upon notice to the Sheriff and County.

3.03 Village shall pay the County \$304 per month for Routine Services, due and payable in advance on the first date of each month for the term of the Agreement. The Village shall make the payments to the County as provided in Section 6.

3.04 Upon request, the Village will authorize use of the Village's Fuel pumps by other County Departments in emergency situations; subject to appropriate arrangements being established for payment of consumed fuel.

3.05 Village represents that its fueling facility is operated in compliance with all applicable environmental regulations and that the County and the Sheriff assume no responsibility for proper management of these facilities pursuant to this Agreement.

SECTION 4: IDENTIFICATION AND OWNERSHIP

The Equipment will be clearly tagged or marked as the property of Palm Beach County with an asset/serial number. Village shall not remove or cover said identification. The Equipment shall at all times remain the sole property of Palm Beach County. Village shall not loan, sell, assign or mortgage the Equipment or permit it to be subject to any legal process.

SECTION 5: RISK OF LOSS, DAMAGE AND LIABILITY

5.01 Village agrees to return the Equipment in the same condition, less reasonable wear and tear, as when delivered hereunder. The current replacement value of the Equipment is \$11,000. In the event of loss or damages to the Equipment from any cause whatsoever (other than willful action of the County or County employees), including without limitation; fire, flood, theft, vandalism, acts of God and damage through willful or negligent acts of others, Village shall promptly repair or replace the Equipment. At its option, Village may within 30 days of the damage, pay the County the depreciated value of the Equipment and this Agreement shall be terminated.

5.02 Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the Village shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the Village's negligence in connection with this Agreement, and County shall indemnify, defend and hold harmless the Village against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other for such other party's negligent, willful or intentional acts or omissions.

5.03 The terms and conditions of this Interlocal Agreement incorporate all the rights, responsibilities, and obligations of the parties to each other. The remedies provided herein are exclusive. The County and Village waive all remedies, including, but not limited to, consequential and incidental damages.

SECTION 6: BILLING SCHEDULE

6.01 Village shall pay to the County for the lease of the Equipment and other services to be provided hereunder in the sum three hundred and four dollars (\$304.00) each month, payable in advance on the 1st day of each month. Payment will be due to the County within thirty (30) days of receipt of the invoice. Payments shall be sent to:

Board of County Commissioners
Special Receivables Section - Finance
P.O. Box 3977, Fund 5000
West Palm Beach, FL 33402-3977

6.02 At any time, the Village may request information concerning its fuel services from the Fleet Division of FDO.

SECTION 7: LIABILITY

The Parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions and negligence of the other party. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the County or Village pursuant to §768.28, Florida Statutes. Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the Village shall indemnify, defend, save and hold the County harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to or destruction of property arising from or out of any act, error or omission of the Village in connection with its performance of this Agreement. In the event the County shall be made a party to litigation commenced against the Village or by the Village against a third party, then the Village shall protect and hold harmless and pay all costs and attorneys' fees incurred by the County in connection with such litigation and any appeals thereof. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute an agreement by either party to indemnify the other party for its own negligence, willful or intentional acts. The provisions of this section shall survive the termination or expiration of this Agreement.

SECTION 7A: INSURANCE

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the Village represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If Village is not self-insured, Village shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should Village purchase excess liability coverage, Village agrees to include County as an Additional Insured.

The Village agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should Village contract with a third-party (Contractor) to perform any service related to the Agreement, Village shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include Village and County as Additional Insureds. Village shall also require that the Contractor include a Waiver of Subrogation against County.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and

Village of Wellington/Fleet Agreement

which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the Village shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the Village of its liability and obligations under this Agreement.

SECTION 8: TERM OF AGREEMENT

8.01 The initial term of this Agreement is for five (5) years and shall commence immediately upon full execution of this Agreement.

8.02 This Agreement may be renewed for two (2) additional terms of five (5) years each. At least eight (8) months prior to the expiration of this Agreement's term, the Village shall provide the County with a request to renew this Agreement. If agreed upon by the parties, within two (2) months of the receipt of the request, the County shall process an Amendment to this Agreement which shall be executed by both the Village and the County.

SECTION 9: AMENDMENTS TO THIS AGREEMENT

This Agreement may be amended from time to time via written amendment executed by both the Board of County Commissioners and the Village.

SECTION 10: TERMINATION

This Agreement may be terminated by either party, with or without cause. Any termination shall take effect thirty (30) days from the receipt of notice. In the event of termination by either the County or the Village, the County may, without further notice or other action, enter upon the Village property for the purpose of removing the equipment.

SECTION 11: ANNUAL BUDGET APPROPRIATIONS

Pursuant to state law, this Agreement is subject to the annual budget appropriations of the Village and the County.

SECTION 12: NOTICES

Any notice given pursuant to the terms of this Agreement shall be in writing and done by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

Village of Wellington/Fleet Agreement

As to the County:

County Administrator
301 North Olive Avenue
West Palm Beach, FL 33401

Director, Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, FL 33411

With a copy to:

Director, Fleet Management Division
2633 Vista Parkway
West Palm Beach, FL 33411

County Attorney's Office
301 North Olive Avenue
West Palm Beach, FL 33401

As to the Village:

Bruce Wagner, Director
Public Works Department
14001 Pierson Road
Wellington, FL 33414

With a Copy to:

Village Attorney
12300 Forest Hill Boulevard
Wellington, FL 33414

SECTION 13: APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida.

SECTION 14: FILING

A copy of this Agreement shall be filed with the Clerk & Comptroller of Palm Beach County.

SECTION 15: DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of constitutional or statutory duties.

**SECTION 16: PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL
AUDIT REQUIREMENTS**

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 is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a 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.

SECTION 17: 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 Village.

SECTION 18: 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 warrants and 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.

SECTION 19: ASSIGNMENT

Village may not assign, mortgage, pledge, or encumber this Agreement in whole or in part, without prior written consent of County, which may be granted or withheld at the County's absolute discretion. This provision shall be construed to include a prohibition against an assignment, mortgage, pledge, encumbrance or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

SECTION 20: SEVERABILITY

If any term of the Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

SECTION 21: COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

SECTION 22: EFFECTIVE DATE

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all Parties and approved by the Palm Beach County Board of County Commissioners.

SECTION 23: TAXES

In addition to the payments under Section 6, hereof, Village shall pay upon demand any and all taxes, charges for licenses, permits or other charges imposed by any governmental authority on this lease, the lease payments or the Equipment and services provided by the County hereunder.

SECTION 24: PERFORMANCE AND DELAYS

The County will make all reasonable efforts to promptly respond to requests for maintenance and repair service, normally within two (2) hours. However, the County is providing the Equipment and services hereunder as a convenience to Village, the County shall not be in default and assumes no liability to Village for failure of the Equipment to perform, delays in maintenance due to shortage of parts, or for any other cause beyond the control of the County; including, but not limited to acts of God, natural or public health emergencies, labor disputes, freight embargos, abnormally severe or unusual weather conditions.

When the Equipment is out of service, Village will maintain manual records, copies of which will be provided to the County for data entry into the computerized records and consumption reports.

SECTION 25: WARRANTY

The County warrants that it has good title to the Equipment. ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED.

SECTION 26: E-VERIFY – EMPLOYMENT ELIGIBILITY

26.01 Village warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the Village'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.

26.02 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.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed their authorized representatives, as of the day and year first above written.

ATTEST:

**JOSEPH ABRUZZO
CLERK & COMPTROLLER**

**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

**APPROVED AS TO
LEGAL SUFFICIENCY:**

**APPROVED AS TO TERMS AND
CONDITIONS:**

By: _____
Assistant County Attorney

By: _____
Isami Ayala-Collazo, Director
Facilities Development & Operations

ATTEST:

VILLAGE OF WELLINGTON, Florida:

By: _____
Chevelle D. Hall, Village Clerk

By: _____
Michael J. Napoleone, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Village Attorney