

**RESOLUTION NO. 2022-53**

**A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL  
AUTHORIZING THE MAYOR AND VILLAGE CLERK TO  
EXECUTE AN INTERLOCAL AGREEMENT WITH ACME  
IMPROVEMENT DISTRICT, A DEPENDENT SPECIAL  
DISTRICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 95-496, Laws of Florida, the Charter of the Village, converted Acme from an independent special district to a dependent special district of the Village; and

**WHEREAS**, Chapter 163, Part I, Florida Statutes, authorizes the joint exercise of any power, privilege, or authority, which each Party shares in common and which each might exercise separately; and

**WHEREAS**, both Wellington and Acme possess certain governmental powers, including approval of plats, procurement of goods and services, execution of contracts, establishment of charges and fees, acquisition and disposal of property, effectuation of regulatory compliance, and defense and prosecution of court and administrative actions; and

**WHEREAS**, it would be beneficial to both Parties and to the residents of the Wellington and Acme if Wellington and Acme were to enter into the herein authorized Interlocal Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S COUNCIL** that:

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2.** The Wellington Council hereby accepts and approves the Interlocal Agreement with Acme Improvement District in the form attached hereto as Exhibit A and hereby authorizes the Mayor and Village Clerk to execute the Agreement.

**SECTION 3.** This Resolution shall be governed by the laws of the State of Florida.

**SECTION 4.** This Resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED** this 6th day of September, 2022.

**ATTEST:**

**VILLAGE OF WELLINGTON**

By: \_\_\_\_\_  
Chevelle D. Addie, Village Clerk

By: \_\_\_\_\_  
Anne Gerwig, Mayor

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney

## EXHIBIT A

### INTERLOCAL AGREEMENT

This Interlocal Agreement (this "Agreement") is entered into this 6th day of September, 2022, by and between Acme Improvement District (the "District"), a dependent special district of Wellington of Wellington, and Village of Wellington, Florida ("Wellington"), a municipality of the State of Florida.

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, Part I of Chapter 163, Florida Statutes, permits public agencies to enter into Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, pursuant to Resolution AC2022-08, the District has approved a Plan of Improvements and Report of Engineer for its Unit of Development 50th Street for the purpose of making certain improvements to 50th Street located in Wellington (the "Project"); and

WHEREAS, the District expects to incur debt for the purpose of obtaining funds to pay the Project costs and Wellington agrees to pay such debt to the extent that special assessments levied by the District are insufficient for such purpose.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do mutually agree as follows:

**Section 1.** Pursuant to Resolution No. AC2022-10, adopted by the District on September 6, 2022, as the same may be supplemented from time to time (the "Bond Resolution"), the District may issue "Bonds" as defined in the Bond Resolution.

**Section 2.** Wellington will pay to the District, but only from the source hereinafter described, such amounts on such dates as are sufficient to enable the District to timely make all required payments of principal, premium, if any, and interest on the Bonds as the same shall come due.

**Section 3.** The payment obligations of Wellington pursuant to Section 2 hereof shall be payable solely from Non-Ad Valorem Revenues.

**Section 4.** Wellington covenants that, so long as any Bond shall be outstanding, it will appropriate in its annual budget, by amendment, if required, from Non-Ad Valorem Revenues, amounts sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds as the same shall become due to the extent the same is not paid from the Drainage Taxes (as defined in the Bond Resolution). In the event that the amount previously budgeted for such purpose is at any time insufficient to pay such amounts, Wellington covenants to take immediate action to amend

its budget so as to budget and appropriate an amount from Non-Ad Valorem Revenues sufficient to pay such amounts to the Owners.

Notwithstanding the foregoing, Wellington does not covenant to maintain any services or programs now provided or maintained by Wellington that generate Non-Ad Valorem Revenues.

Such covenants to budget and appropriate do not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor do they preclude Wellington from pledging in the future such Non-Ad Valorem Revenues, nor do they require Wellington to levy and collect any particular Non-Ad Valorem Revenues. Such covenants to budget and appropriate are subject in all respects to the payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the debt service on bonds and other obligations). However, the covenants to budget and appropriate in its general annual budget or amendments thereto for the purposes and in the manner stated herein shall have the effect of making available for payment of the Bonds the Non-Ad Valorem Revenues of Wellington, and of placing on Wellington a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder.

After the issuance of the first series of the Bonds, Wellington shall not incur any indebtedness payable from or secured by any of the Non-Ad Valorem Revenues (such indebtedness being referred to herein as "Included Debt"), unless the amount of Non-Ad Valorem Revenues during the Fiscal Year of Wellington most recently concluded prior to the incurrence of such Included Indebtedness and for which audited financial statements of Wellington are available equals or exceeds 150% of the Maximum Annual Debt Service on all Bonds and Included Indebtedness, including the proposed debt.

Terms used in this Section 4 in capitalized form that are not otherwise defined in this Agreement have the following meanings:

"Balloon Indebtedness" means indebtedness 25% or more of the total principal payments of which are due in a single Fiscal Year and which indebtedness is not required to be paid over its term on a substantially level debt service basis (calculated using the same assumption for Variable Rate Included Debt set forth in the definition of "Debt Service Requirement") on a Fiscal Year basis.

"Debt Service Requirement" for any Fiscal Year means the aggregate amount of principal and interest becoming due on the Bonds and Included Debt during such Fiscal Year. For purposes of this definition, the interest due on any Variable Rate Included Debt shall be assumed to be the greater of (a) 110% of the daily average interest rate on such Variable Rate Included Debt during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Variable Rate Included Debt shall have been outstanding, (b) the actual rate of interest borne by such Variable Rate Included Debt on the date of calculation and (c) 4% per annum.

In determining the amount of principal and interest becoming due on the Bonds and any Included Debt in any Fiscal Year, the following rule shall apply:

With respect to Balloon Indebtedness, the principal and interest becoming due shall be calculated based upon the assumption that the amount of principal and interest which will be payable in a given period is equal to the amount which would be payable on such Balloon Indebtedness if such Balloon Indebtedness were amortized on a level annual debt service basis, calculated on a Fiscal

Year basis, (i) from the date of such calculation over a period equal to twenty years, if such Balloon Indebtedness matures twenty or more years from the date of such calculation, or (ii) if the period from the date of such calculation to the final maturity of such Balloon Indebtedness is less than twenty years, then the actual number of years to maturity shall be used, at an interest rate, if such Balloon Indebtedness bears interest at a fixed interest rate for its entire term, equal to the actual interest rate on such Balloon Indebtedness, and if such Balloon Indebtedness does not bear interest at a fixed rate for its entire term, bearing interest at a rate calculated in accordance with the methodology established above for Variable Rate Included Debt.

"Fiscal Year" means the fiscal year of Wellington.

"Maximum Annual Debt Service" means the maximum Debt Service Requirement in the then current or any future Fiscal Year of Wellington.

"Non-Ad Valorem Revenues" means all revenues of Wellington not derived from ad valorem taxation and which are lawfully available to be used to pay the obligations of Wellington hereunder.

"Variable Rate Included Debt" means Included Debt that bears interest at a rate which is not fixed at one or more stated percentages for the entire term of such Included Debt, provided that for this purpose a potential adjustment to the interest rate that results solely from the occurrence of a default or a change in the federal income tax status of the interest on such Included Indebtedness, or both, shall be disregarded.

**Section 5.** This Agreement is governed by the laws of the State of Florida.

**Section 6.** This Agreement may be terminated by either party if no Bonds are Outstanding (as defined in the Bond Resolution, but otherwise may be amended or terminated only in writing signed by the parties hereto and with the prior written consent of the Owners of at least a majority in aggregate principal amount of the Outstanding Bonds.

IN WITNESS WHEREOF, the District and Wellington have each caused this Agreement to be executed by its duly authorized official as of the date first set forth above.

ATTEST:

VILLAGE OF WELLINGTON, FLORIDA

By: \_\_\_\_\_  
Chevelle Addie, Village Clerk

By: \_\_\_\_\_  
Anne Gerwig, Mayor

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

ACME IMPROVEMENT DISTRICT

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney

By: \_\_\_\_\_  
Anne Gerwig, President