

**INTERLOCAL AGREEMENT BETWEEN
THE VILLAGE OF WELLINGTON
AND THE SCHOOL BOARD OF PALM BEACH COUNTY
FOR THE MUTUAL USE OF RECREATIONAL FACILITIES**

This Interlocal Agreement is made this _____ day of _____, 2021, between the Village of Wellington, a municipal corporation of the State of Florida ("Village") and the School Board of Palm Beach County, Florida, a corporate body politic pursuant to the Constitution of the State of Florida ("Board"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

WITNESSETH

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, as defined therein, to enter into interlocal 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, the Village and Board recognize the benefits to be derived by utilizing each other's facilities thereby minimizing the duplication of facilities; and

WHEREAS, the Village and Board desire the ability to use the facilities of the other; and

WHEREAS, the Parties entered into that certain Interlocal Agreement Between The Village of Wellington and The School Board of Palm Beach County For Funding, Planning, Design, Construction and Maintenance of Capital Improvements For a Sport Complex At the Wellington Community High School and for Modification of **August 7, 2019 Interlocal Agreement and First Amendment dated May 20, 2020** (the "Sport Complex Agreement"); and

WHEREAS, the Parties agree that the terms of the Sports Complex Agreement will continue to govern the Sport Complex Facilities, as that term is defined in the Sport Complex Agreement, as amended.

NOW THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the parties hereby agree as follows:

1. Recitals.

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

2. Purpose.

The purpose of this Agreement is to enable the Board and Village to utilize each other's recreational facilities and provide a procedure for authorizing the use of the Board's recreational facilities by Village-affiliated recreation groups and organizations that have been approved by the parties.

3. Definitions.

A. "Board Facilities" and "Board Facility" mean facilities owned or operated by the Board that are made available for public use by the Board and are used primarily for recreational activities, excluding facilities that are leased, licensed or under the contractual control of others. The terms "Board Facilities" and "Board Facility" shall include gymnasiums, playgrounds, swimming pools, tennis, racquetball and basketball courts, athletic fields and tracks.

B. "Village Facilities" and "Village Facility" mean facilities owned or operated by the Village that are made available for public use by the Village and are used primarily for recreational activities, excluding facilities that are leased, licensed or under the contractual control of others. The terms "Village Facilities" and "Village Facility" shall include, parks, wrestling rooms, gymnasiums, pavilions, community centers, playgrounds, swimming pools, tennis, racquetball and basketball courts, and athletic fields and tracks.

C. "Facilities" means the Board Facilities and Village Facilities.

D. "Priority of Use" means the priority of uses when there are conflicting requests for the use of a Facility.

For Board Facilities, the Priority of Use shall be as follows:

1. Board activities and programs or Board Facility lease agreements;
- and
2. Village or Village Recognized Sports Provider activities and programs.
3. County activities and programs pursuant to the Mutual Use Interlocal Agreement dated October 20, 2015 and First Amendment dated October 18, 2016 between the Board and Palm Beach County.

For Village Facilities, the Priority of Use shall be as follows:

1. Village or Village Recognized Sports Provider activities and programs or Village facility rental agreements; and
2. Board activities and programs pursuant to this Agreement.

E. “Recognized Sports Provider” means an organized youth recreation program conducted by a non-Village organization identified in the attached Exhibit “A”, which may be amended or supplemented from time to time upon the mutual written agreement of the Board’s Chief Operating Officer and the Village’s Parks and Recreation Director without formal amendment hereto. The Village warrants and represents that all Recognized Sports Providers are in good standing with the Secretary of State in which they are incorporated and that they maintain the insurance coverages required in Section 5.B.1 of this Agreement.

4. Use of Facilities by the Parties.

A. The Board agrees to make the Board Facilities available for use by the Village according to the Priority of Use at no cost or expense to the Village, except as otherwise provided for in this Agreement. The Village’s use of the Board Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement, including but not limited to Exhibit “B” which may be amended or supplemented from time to time upon the mutual written agreement of the Board’s Chief Operating Officer and the Village Manager or his or her designee without formal amendment hereto; (ii) the Board’s rules, regulations and policies governing the use of the Board Facilities; (iii) any grant or bond obligations pertaining to the use of any of the Board Facilities; and (iv) all applicable local, state and federal laws.

B. The Village agrees to make available the Village Facilities for use by the Board according to the Priority of Use at no cost or expense to the Board, except as otherwise provided for in this Agreement. The Village is eligible to request use of the Board Facilities at the following public schools pursuant to this Agreement and the following public schools are eligible to request use of Village Facilities pursuant to this Agreement:

- Binks Forest Elementary School
- Elbridge Gale Elementary School
- Equestrian Trails Elementary School
- New Horizons Elementary School
- Wellington Elementary School
- **Panther Run Elementary School (Palm Beach County’s Recognized Sports Providers have priority over the Village of Wellington in the event of conflicts)**
- Emerald Cove Middle School
- Polo Park Middle School
- Wellington Landings Middle School
- Palm Beach Central High School
- Wellington Community High School

The Board’s use of the Village Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the Village’s rules, regulations and policies governing the use of the Village’s Facilities; (iii) any grant or bond obligations pertaining to the use of any of the Village Facilities; and (iv) all applicable local, state and federal laws.

C. The Village and Board shall each be responsible for paying the actual charges incurred by each of them for necessary Facility staff and utilities if all or a portion of the Facility is scheduled to be closed or not normally staffed during the proposed use.

D. The Village shall submit all requests for use of the Board Facilities in writing on the form attached hereto as Exhibit "C" to the Principal responsible for the management of the Board Facility or his or her designee no less than thirty (30) days prior to the date that the Village desires to use the Board Facility. The Board shall be responsible for ensuring that a written response to the request is provided to the Village within fifteen (15) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response. The Board reserves the right to deny use of the Board Facility if that particular Board Facility has been selected to remain closed during the summer.

E. The Board shall submit all requests for use of the Village Facilities in writing on the form attached hereto as Exhibit "C" to the Village Manager or his or her designee, no less than thirty (30) days prior to the date that the Board desires to use the Village Facility. The Village shall be responsible for ensuring that a written response to the request is provided to the Board within fifteen (15) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response.

F. Notwithstanding the requirements set forth in Paragraphs 4.D. and 4.E. above, in the event that a need to use a Facility arises less than thirty (30) days prior to the date the Village or Board Facility is needed, the Village or Board, as applicable, will use reasonable efforts to expedite the review of and accommodate such request to the extent practicable under the circumstances.

G. The Board and Village acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 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. The Board 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.

H. Without waiving the right to sovereign immunity, the parties acknowledge that they are self-insured for commercial general liability and automobile liability in the amounts specified in Florida Statutes Section 768.28, as may be amended from time to time. In the event either party maintains third-party commercial general liability or business automobile liability insurance in lieu of exclusive reliance on self-insurance, the party maintaining the third-party insurance shall maintain limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury or property damage. The parties agree to maintain or to be self-insured for worker's compensation and employer's liability insurance in accordance with Chapter 440, Florida Statutes, as may

be amended from time to time. Each party agrees to provide the other party with an affidavit or certificate of insurance evidencing insurance, self-insurance and/or sovereign immunity status, which the parties agree to recognize as acceptable for the above-referenced coverages. Compliance with the requirements of this paragraph shall not relieve the parties of their liability and obligations under this Agreement.

I. Each party agrees to provide adequate supervision of its own activities to prevent bodily harm to the users and damage to the Facilities, taking into consideration the types of activities planned, when using the other's Facilities. When aquatic facilities will be included in the Facilities to be utilized, the party using the Facility shall provide supervisors certified in Lifeguard Training in addition to any other supervision required hereunder. Notwithstanding the foregoing, the party using the Village's aquatic facilities shall be required to use the Village's lifeguards and will be responsible for the cost of the lifeguards for any use of the facility beyond its normal operating hours.

J. In the event the Facilities are damaged, the party using the Facilities of the other party shall promptly notify the other party in writing of the damage and shall reimburse the other party for the actual costs to repair the damage. Reimbursement shall be made within sixty (60) days of a written request for reimbursement of costs.

K. The Facilities shall be surrendered by the party using them in the same condition as they were accepted and the party using the Facilities shall cause to be removed from the Facilities all waste, garbage and rubbish resulting from such party's use of the Facilities.

L. The Board acknowledges and agrees that the Village may charge a fee for: (1) Village lifeguards at the Aquatic Center in accordance with Paragraph 4.I.; (2) Village staff when Village Facilities are closed; (3) Village staff for preparation of recreational and athletic Facilities for Board use, if field preparation is requested by the Board; (4) Staff and utilities in accordance with Paragraph 4.C. of this Agreement; (5) Use of the Village's Pool, including the water park, for summer and after-school programs; and (6) Use of the Village's picnic pavilions on holidays and weekends.

M. The Village acknowledges and agrees that the Board may charge a fee for: (1) Board staff when Board Facilities are closed; (2) Board staff for preparation of recreational and athletic Facilities for Village use, if field preparation is requested by the Village; and (3) Staff and utilities in accordance with Paragraph 4.C. of this Agreement.

N. The Village may use a Board Facility or other Board-owned and controlled facility for a one-time Village meeting or annual Village-sponsored community event with prior written authorization from the Board's Area Superintendent and the Board's Chief Operating Officer, or designee, provided that the event benefits the community or student population. Such events shall have the same priority as the Village's other uses of the Board Facilities set forth in this Agreement.

O. The Board may use a Village Facility or other Village-owned and controlled facility for a one-time Board meeting or annual Board-sponsored community event with prior written authorization from the Village Manager or designee, provided that the event benefits the community or student population. Such events shall have the same priority as the Board's other uses of the Village Facilities set forth in this Agreement.

5. Use of Board Facilities by Village Recognized Sports Providers.

A. The Board agrees to make the Board Facilities available for use by the Village Recognized Sports Providers according to the Priority of Use, except as otherwise provided for in this Agreement. The Village Recognized Sports Provider shall be responsible for payment of any fees set forth in Paragraph 4.M above directly to the Board. Use of the Board Facilities by the Village Recognized Sports Providers shall depend on availability and shall be subject to and in accordance with: (i) the terms and conditions of this Agreement including but not limited to Exhibit "B"; (ii) the Board's rules, regulations and policies governing the use of Board Facilities; (iii) any bond or grant obligations pertaining to the use of the Board Facilities; and (iv) all applicable local, state and federal laws.

B. The Recognized Sports Provider represents and warrants that it shall be responsible for monitoring and complying with all CDC and OSHA regulations and guidance, and other federal, state and local regulations and guidance for responding to COVID-19 during the event period. This includes, but is not limited to regulations and guidelines related to cleaning and disinfecting during the event, promoting efforts that reduce the spread of COVID-19, providing healthy environments for all persons attending or participating in the event, protecting communal spaces and arranging for food service. The School Board shall not be responsible for any costs associated with the Recognized Sports Provider's duty to comply with COVID-19 regulations and guidelines as mandated by the terms of this Agreement. The School Board shall not be responsible for monitoring or enforcing the Recognized Sports Provider's compliance with CDC and OSHA regulations and guidance, and other federal, state and local regulations and guidance for responding to COVID-19 during the event. The Recognized Sports Provider shall indemnify, defend and hold harmless the School Board for any claims, expenses, liabilities, losses or damages resulting from a failure to comply with CDC and OSHA regulations and guidance, and other federal, state and local regulations and guidance for responding to COVID-19 during the event or as a result of a breach of the terms of this Agreement.

C. Prior to being granted access to any of the Board Facilities, each Village Recognized Sports Provider shall be required to obtain a Facility Use Permit from the Village. The Facility Use Permit shall, at a minimum, require the Village Recognized Sports Provider to: have a current executed Recognized Sports Provider Agreement and meet all of its requirements.

1. Provide proof of insurance in the amounts listed below or as required by the Board's Director of Employee Benefits and Risk Management:

COMMERCIAL GENERAL LIABILITY: Village Recognized Sports Provider shall procure and maintain, for the life of the contract, Commercial General Liability Insurance. This policy shall provide coverage for death, bodily injury, personal injury, products and completed operations liability and property damage that could arise directly or indirectly

from the use of the Board Facilities. It must be an occurrence form policy. **THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR COMMERCIAL GENERAL LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$1,000,000 Combined Single Limit for Bodily Injury Liability and Property Damage Liability.

Required Endorsements:

- Additional Insured – CG 20 26 or CG 20 10 and CG 20 37 or their equivalents.

Note: CG 20 10 or CG 2026 must be accompanied by CG 20 37 to include products/completed operations.

- Waiver of Transfer Rights of Recovery – CG 24 04 or its equivalent.
- Primary and noncontributory – CG 20 01 or its equivalent.

Note: If blanket endorsements are being submitted, please include the entire endorsement and applicable policy number.

WORKERS' COMPENSATION: Village Recognized Sports Provider must comply with Section 440, Florida Statutes, Workers' Compensation and Employers' Liability Insurance with minimum statutory limits or elective exemptions as defined in Florida Statute 440 will be considered on a case by case basis.

Required Endorsements:

- Waiver of Subrogation – WC 0003 13 or its equivalent

(Required if employees provide work in conjunction with the facility use.)

BUSINESS AUTOMOBILE LIABILITY: Village Recognized Sports Provider shall procure and maintain, for the life of the contract, Business Automobile Liability Insurance. **THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR BUSINESS AUTOMOBILE LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$500,000 Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This coverage shall be an "Any Auto" form policy. The insurance must be an occurrence form policy.

In the event the Village Recognized Sports Provider does not own any vehicles, the School District will accept hired and non-owned coverage in the amounts listed above. In addition, the School District will require an affidavit signed by the awarded proposer indicating the following:

_____ (Company Name) does not own any vehicles. In the event the company acquires any vehicles throughout the term of the contract, _____ (Company Name) agrees to purchase "Any Auto" coverage as of the date of acquisition.

Participant Accident Coverage

\$25,000

(Required if Village Recognized Sports Provider utilizes Board facilities for any type of athletic activities. Examples are: team sports like soccer, football, tennis, tournaments, practice, swim and gymnastic meets, dance/cheer competitions, karate, dance recitals, and fitness class. This also includes games, camps or practice.)

In the event of loss, damage or injury to the Village Recognized Sports Provider's property, the Village Recognized Sports Provider shall look solely to any insurance in its favor without making any claim against the Board. The Village shall require the Recognized Sports Provider to waive any right of subrogation against the Board, for loss, damage or injury within the scope of the Village Recognized Sports Provider's insurance, and on behalf of itself and its insurer, waives all such claims against the Board;

2. Protect, defend, reimburse, indemnify and hold the Board, its agents, employees and elected officers harmless from and against all claims, liability, expenses, costs, damages and causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising from or in any way connected to the Village Recognized Sports Provider's use of the Board Facilities;

3. Provide adequate supervision of its own activities to prevent bodily harm to the users or damage to the facilities, taking into consideration the types of activities planned;

4. Return the Board Facilities in the same condition as they were accepted and to remove all waste, garbage and rubbish resulting from the Village Recognized Sports Provider's use of the Board Facilities;

5. Notify the Board and the Village Manager or his designee of any damage to the Board Facilities resulting from the Village Recognized Sports Provider's use of the Board Facilities and reimburse the Board for the actual costs to repair the damage; and

6. Notify the Board of any dangerous conditions existing on the Board's Facilities.

D. The Facility Use Permit issued by the Village shall also indicate that the Facility Use Permit may be revoked or suspended by the Village and the Board may deny access to the Board Facilities for failure to comply with the terms and conditions of the Facility Use Permit.

E. The Village Recognized Sports Providers shall be required to submit all requests for use of the Board Facilities in writing in the form attached hereto as Exhibit "C" to the Village Manager or his or her designee, no less than forty-five (45) days prior to the date the Village Recognized Sports Provider desires to use the Board Facility. The Village Manager or his designee shall coordinate scheduling of the use of the Board Facility with the Principal responsible for the management of the Board Facility or his or her designee. The Board shall be responsible for ensuring that a written response to the request is provided to the Village Manager or his or her designee within fifteen (15) days of the date of the Village Manager's, or his or her designee's request. In the event a request is denied, the reason for denial shall be stated in the written response.

F. Notwithstanding any provision of this Agreement to the contrary, the Board shall not be obligated to make the Board Facilities available for use for summer camps, tournaments, travel team practices or games or any events where admission, vendor fees and or charges will be collected or imposed by the Village or Village Recognized Sports Provider. These events shall require the parties to enter into a lease for use of the Board Facility and the payment of all fees, all in accordance with Board Policy 7.18.

G. To the extent that the Board's aquatic facilities are included within the term Board Facilities, as defined in Section 3.A. of this Agreement, the Board's aquatic facilities may only be utilized under this Agreement for aquatic programs and competitive activities such as swimming, diving, water polo practices and competitions and shall not be utilized for leisure activities such as pool parties and/or open swims. The Village acknowledges and agrees the Board may charge a fee for use of the Board's aquatic facilities, which shall be consistent with Board Policy 7.18.

6. Maintenance/Repair of Facilities.

The parties acknowledge and agree that either party may deny a request for use of a Facility to perform maintenance or repairs to the Facility.

7. Notification of Responsibilities under Agreement.

The Board agrees to notify the Board's Principals of the terms and conditions of this Agreement and the Board's commitment to make the Board Facilities available to the Village and Village Recognized Sports Providers in accordance with the Priority of Use.

8. Dispute Resolution.

In the event an issue arises that cannot be resolved between the Board's Principal and the Village's Director of Parks and Recreation or his or her designee regarding the use or availability of a Facility, the dispute shall be referred to the Board's Chief Operating Officer and the Village Manager who shall both make a good faith effort to resolve the dispute. If the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation before resorting to litigation.

9. Acceptance of Facilities.

Neither party shall be required to make any improvements or repairs to the Facilities as a condition of use of the Facilities by the other party or Village Recognized Sports Providers. The parties and Village Recognized Sports Providers shall accept the Facilities in their "As Is", "Where Is" condition. The parties acknowledge and agree that neither party has made any warranties or representations to the other party regarding the Facilities, including, but not limited to, any representations or warranties regarding the suitability of the Facilities for use by the other party or Village Recognized Sports Providers.

10. License.

Notwithstanding any provision of this Agreement to the contrary, the use the Facilities by either of the parties or the Village Recognized Sports Providers shall only amount to a license to use the Facilities on a non-exclusive basis, which license shall be revocable by the party licensing the use for any reason whatsoever. The parties agree

that nothing in this Agreement shall be construed as granting either party or the Village Recognized Sports Providers any title, interest or estate in the Facilities.

11. Default.

The parties agree that, in the event either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days written notice to cure the default. In the event the defaulting party fails to cure the default within the thirty (30) day cure period, the non-defaulting party shall be entitled to seek any remedy available to it at law or equity, including, but not limited to, the right to terminate this Agreement and seek damages, if any.

12. Termination.

Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by either party: (i) without cause upon thirty (30) days prior written notice to the other party or (ii) with cause upon the expiration of the thirty (30) day cure period provided for in Paragraph 11 above.

13. Annual Appropriation.

Each party's performance and obligations under this Agreement shall be contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.

14. Notice.

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

IF TO Village:

Village of Wellington
ATTN: Village Manager
12300 Forest Hill Blvd.
Wellington, FL 33414

With a copy to:

Village Attorney
12300 Forest Hill Blvd.
Wellington, FL 33414

IF TO BOARD:

Director of Planning and Intergovernmental Relations
3661 Interstate Park Road N, Suite 200
Riviera Beach, FL 33404

15. Governing Law and Venue.

This Agreement shall be construed by and governed by the laws of the State of Florida. The parties agree that any controversies or legal disputes arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Fifteenth Judicial Circuit of Palm Beach County, Florida. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, each party shall be responsible for their own attorney's fees and costs incurred.

16. Subordination to Bond and Grant Obligations

The parties acknowledge that certain Facilities may be subject to bond covenants and restrictions or grant obligations and agree that this Agreement shall be subject and subordinate to any such covenants, restrictions and obligations. Notwithstanding any provision of this Agreement to the contrary, the parties shall not be obligated to make any Facility available for use by the other party or Village Recognized Sports Providers in a manner which either party has determined, in its sole discretion, would be contrary to any of its bond or grant obligations, including, but not limited to, making any of the Facilities available at no cost when such an action would be contrary to either party's bond or grant obligations. Each party agrees to provide timely notice to the other party in the event this provision makes a Facility unavailable for use.

17. Equal Opportunity Provision.

The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender, gender identity or expression be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

18. Captions.

The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

19. Severability.

In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

20. Entirety of Agreement.

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement. This Agreement shall not supersede or modify any provision of that certain Interlocal Agreement between the parties for Funding, Planning, Design, Construction and Maintenance of Capital Improvements for a Sport Complex at the Wellington Community High School dated August 7, 2019, as amended from time to time.

21. Incorporation by Reference.

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

22. Amendment.

Except as otherwise provided for in this Agreement, this Agreement may be modified and amended only by written instrument executed by the parties hereto.

23. Waiver.

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

24. Construction.

Neither party shall be considered the author of this Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.

25. Filing.

A copy of this Agreement shall be recorded with the Clerk of the Circuit Court in and for Palm Beach County pursuant to Section 163.01(11), Florida Statutes.

26. Effective Date/Term.

This Agreement shall become effective when signed by both parties, and recorded with the Clerk of the Circuit Court in and for Palm Beach County. The term of this Agreement shall be for a period of one (1) year and shall be automatically renewed up to four (4) additional consecutive one (1) year terms, unless either party provides a written notice of intent to terminate the Agreement to the other party pursuant to Paragraph 12.

27. Prohibition Against Alcohol, Tobacco and Drones.

The manufacture, distribution, dispensation, possession, consumption or use of alcohol, tobacco products of any kind, e-cigarettes or controlled substances on Village or School Board-owned property is strictly prohibited and violation of this provision shall be a material breach of this Agreement. No unmanned aerial vehicles of any kind, also known as drones, shall be permitted on or about Village or School Board-owned property. Violation of this provision by any person associated with a Board, Village or Village Recognized Sports Provider program or activity shall be just cause for termination of the violating entity's (i.e. the Board, Village or Village Recognized Sports Provider, as applicable) privilege to use any Board or Village Facility for its respective program or activities in the future.

28. Inspector General.

The Village agrees and understands that the School Board's Office of Inspector General ("School Board's Inspector General") shall have immediate, complete and unrestricted access to all papers, books, records, documents, information, personnel, processes (including meetings), data, computer hard drives, emails, instant messages,

facilities or other assets owned, borrowed or used by the Village with regard to this Agreement. The Village employees, vendors, officers and agents shall furnish the School Board's Inspector General with requested information and records within their custody for the purposes of conducting an investigation or audit, as well as provide reasonable assistance to the School Board's Inspector General in locating assets and obtaining records and documents as needed for investigation or audit relating to this Agreement. Furthermore, the Village understands, acknowledges and agrees to abide by School Board Policy 1.092(4) (d).

Similarly, in accordance with Palm Beach County ordinance number 2011-009, the School Board acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The School Board has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

29. No Third Party Beneficiaries.

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 Village and/or Board.

30. Liens.

Each party's respective interest in the Facilities shall not be subject to liens arising from the others or the Village Recognized Sports Provider's use of the Facilities, or exercise of the rights granted hereunder. Each party shall promptly cause any lien imposed against the Facility of the other party relating to the use of Facilities under this Agreement to be discharged or transferred to bond.

31. No Agency Relationship.

Neither party is an agent or servant of the other. No person employed by either party to this Agreement, shall in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law or otherwise, except through and against the party by whom they are employed.

32. Records.

Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

33. Survival.

Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement, shall so survive.

34. Waiver of Jury Trial.

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

35. Each Person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the day and year first above written.

**VILLAGE OF WELLINGTON
FLORIDA**

**SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA**

By: _____
Anne Gerwig, Mayor

By: _____
Frank A. Barbieri, Jr., Chairman

ATTEST:

ATTEST:

Chevelle D. Addie, MMC
Village Clerk

Donald E. Fennoy II, Ed.D.
Superintendent

Date: _____

Date: _____

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Village Attorney

School Board Attorney

Village Council Meeting Date

School Board Meeting Date

EXHIBIT “A”

Village Youth Recognized Program and Village Recognized Sports Providers

(All programs are limited to youth sports activities only)

1. [Wellington Wrestling Club](#)
2. [Western Communities Football League](#)
 3. [Wellington Lacrosse](#)
 4. [Wellington Soccer Club](#)
 5. [Wellington Roller Hockey](#)
 6. [Wellington Wolves Basketball](#)
 7. [Wellington Colts Baseball Inc.](#)
 8. [Wellington Wizards Rugby](#)

EXHIBIT "B"

EXHIBIT "C"

The Village of Wellington and The School Board of Palm Beach County
INTER-LOCAL FACILITY REQUEST FORM

Date Contact Person School Name (if applicable)

Phone Number Fax Number Other Contact Number

Address Village State/ZIP

FACILITY REQUEST:

Choice #1 **Choice #2**

Activity Age Group

Estimated Attendance:
Participants: _____ Spectators: _____ Total: _____

Mark appropriate day(s) facility will be needed:

☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday ☐ Sunday

Date(s): _____

Time(s): From: _____ **am/pm** **To:** _____ **am/pm**

☐ New Request
☐ Repeat Request:
Date and location of previous use: _____

Other pertinent information (as necessary): _____

☐ **Requesting Principal** **Date**
☐ **Director of Recreation Services**

.....
☐ Approve ☐ Disapprove
Reason if disapproved: _____

☐ **Principal** **Date**
☐ **Director of Recreation Services**

EXHIBIT “B”

School Board of Palm Beach County Standard Facility Operating Hours

The Board agrees to make the Board Facilities available for use by the Village according to the Priority of Use, at no cost to the Village and in accordance with the following maximum operational hours for indoor and outdoor facilities.

When School is in session:

Weekdays (Monday through Friday):	From the close of the school day until 9:30 pm
Saturdays:	From 8:00 am to 9:30 pm
Sundays:	From 8:00 am to 1:00 pm

When School is out of session (Summer Break and Spring Break):

Weekdays (Monday through Thursday):	From 8:00 am until 9:30 pm
Fridays, Saturdays, Sundays:	Closed

School Holidays and Winter Break:

The Board Facilities will be closed the day of the school holiday plus any immediately preceding or following weekend days (i.e. the weekend preceding a Monday National Holiday or following Thanksgiving). The Board Facilities will also be closed for the entire Winter Break (traditionally beginning on the Saturday prior to Christmas and extending through the Sunday following New Year's).

The maximum operational hours may be amended from time to time upon the mutual agreement of the Board's Chief Operating Officer and Village Manager or his or her designee.

Village of Wellington Hours of Operation

Village agrees to make the Village Facilities available for use by the Board according to the Priority of Use, at no cost to the Board and in accordance with the following maximum operational hours for indoor and outdoor facilities.

When School is in session:

Monday through Sunday:	From 8:00 am to 9:30 pm
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When School is out of session:

Monday through Sunday:	From 8:00 am to 9:30 pm
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The maximum operational hours may be amended from time to time upon the mutual agreement of the Board's Chief Operating Officer and Village Manager or his or her designee.

Village of Wellington Community Center Hours of Operation

Village agrees to make the Wellington Community Center available for use by the Board according to the Priority of Use, at no cost to the Board only during normal business hours and in accordance with the following maximum operational hours for specific indoor facility use. The Board must provide a minimum of 30 days written notice in order to schedule the facility on Monday through Thursday, and a 30 to 60 day written notice to schedule the facility on a Friday through Sunday.

When School is in session:

Monday through Thursday:

From 8:00 am to 9:00

pm

Friday through Sunday From 8:00 am to 9:00 pm

When School is out of session:

Monday through Thursday:

From 8:00 am to 9:00 pm

Friday through Sunday From 8:00 am to 9:00 pm

The maximum operational hours may be amended from time to time upon the mutual agreement of the Board's Chief Operating Officer and Village Manager or his or her designee.

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