

**INTERLOCAL AGREEMENT BETWEEN THE VILLAGE OF WELLINGTON
AND PINE TREE WATER CONTROL DISTRICT FOR THE PROVISION OF
ROAD MAINTENANCE SERVICES WITHIN THE PINE TREE WATER
CONTROL DISTRICT**

This Interlocal Agreement ("Agreement") is made this 28th day of June, 2024, by and between the Village of Wellington ("Wellington"), a Florida municipal corporation, and Pine Tree Water Control District ("Pine Tree"), an independent special water control district operating in accordance with Chapter 298 Florida Statutes (collectively the "Parties").

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 on the basis of mutual advantage; and

WHEREAS, the Parties entered into an interlocal agreement on May 25, 2004, through which Wellington provided certain governmental services to Pine Tree. The services provided to Pine Tree by Wellington pursuant to the interlocal agreement ended on July 23, 2017, with the exception of roadway maintenance services, which were extended by way of an amendment to the interlocal agreement until September 30, 2017; and

WHEREAS, thereafter, a dispute arose between the Parties as to who was responsible to maintain the following roadways within Pine Tree: Rustic Road, Cotton Tail Drive, Hollow Tree Lane, Deer Path Lane, Skipiks Way, and Norris Road (collectively the "Rustic Ranches roads"); and

WHEREAS, Pine Tree is the entity responsible for the maintenance of the Rustic Ranches roads, as determined by the Court in *Village of Wellington v. Pine Tree Water Control District*, Case No. 2019-CA-006485. In that case, the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida issued a permanent injunction and writ of mandamus directing Pine Tree to comply with its obligations to maintain the Rustic Ranches roads pursuant to its Water Control Plan and South Florida Water Management District Permit No. 50-00485-R/S/W. The Fourth District Court of Appeal affirmed the decision in *Pine Tree Water Control District v. Village of Wellington*, Case No. 4D21-2749; and

WHEREAS, in *Village of Wellington v. Pine Tree Water Control District, et al.*, Case No. 2021-CA-005867, the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida entered final judgment in favor of

Wellington and against Pine Tree, finding that Pine Tree imposed invalid special assessments against Wellington for its Section 24 property and that Wellington is entitled to a refund from Pine Tree of the assessments improperly collected. The final judgment enjoins Pine Tree from imposing special assessments against Wellington, and further finds that Pine Tree violated the Florida Public Records Act, Chapter 119, Florida Statutes, that Pine Tree failed to participate in good faith in the governmental conflict resolution procedures set forth in Chapter 164, Florida Statutes, and that Wellington is entitled to recover its attorney's fees and costs pursuant to Chapters 119 and 164, Florida Statutes; and

WHEREAS, pursuant to Chapter 2023-330 Laws of Florida (House Bill 943), the Florida Legislature added the lands commonly known as the Wellington Preserve at the Marjory Stoneman Douglas Everglades Habitat and the Moncada Property as more particularly described therein (collectively "Section 24") to the jurisdictional boundaries of the Acme Improvement District, a dependent district of Wellington, and removed Section 24 from the jurisdictional boundaries of Pine Tree; and

WHEREAS, Pine Tree now desires for Wellington to maintain the Rustic Ranches roads; and

WHEREAS, as inducement for Wellington to enter into this Agreement and maintain the Rustic Ranches roads, Pine Tree agrees to pay Wellington the final judgment amount in Case No. 2021-CA-005867, including additional interest in accordance with the final judgment, plus Wellington's reasonable attorneys' fees and costs. Pine Tree further agrees to waive any and all rights to appeal the final judgment in Case No. 2021-CA-005867; and

WHEREAS, Pine Tree desires for and Wellington has agreed to include the Rustic Ranches roads on its gas tax map, which enables Wellington to collect gas tax revenues pursuant to the Interlocal Agreements with Palm Beach County and the various municipalities within Palm Beach County for the collection and distribution of gas tax revenues; and

WHEREAS, it is the intent of Wellington to utilize the proportionate annual funding received from any gas tax collection for the Rustic Ranches roads toward the maintenance of said roads. The cost of any maintenance or repairs to the Rustic Ranches roads deemed necessary to bring the roads up to Wellington's standards, or to maintain them at Wellington's standards, that exceeds the annual gas tax funding to Wellington for the Rustic Ranches roads shall be the sole financial responsibility of Pine Tree.

WHEREAS, the Rustic Ranches roads within Pine Tree are open to the public for travel; and

WHEREAS, Pine Tree is located wholly within the municipal boundaries of Wellington and thus, the landowners and residents of Pine Tree are also residents of Wellington; and

WHEREAS, the Wellington Village Council and the Pine Tree Board of Supervisors are desirous of efficiently providing governmental services to their shared residents and property owners and do not want such residents to overpay for such services; and

WHEREAS, Wellington has the capability to efficiently and effectively maintain the Rustic Ranches roads within Pine Tree, which are open to public travel.

NOW THEREFORE, the Parties, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Term.** The term of this Agreement shall begin on October 1, 2024 and ~~shall continue until terminated in accordance with the requirements of paragraph 10 below, end on September 30, 2029, unless terminated sooner as set forth herein. Any extensions of this Agreement beyond the initial five (5) year term must be by written amendment executed by the Parties.~~
3. **Payment Due to Wellington.** Pine Tree shall pay to Wellington the sum of \$255,000.35, which amount includes the \$80,424.15 owed to Wellington pursuant to the final judgment in Case No. 2021-CA-005867, plus additional interest at the statutory rate through and including June 25, 2024, plus Wellington's attorney's fees and costs in the matter in the amount of \$173,464.89. Pine Tree's failure to pay Wellington the full amount of \$255,000.35 by 12:00 p.m. on ~~July~~^{June} ~~30~~¹, 2024, shall result in the immediate termination of this Agreement without further notice.
4. **Services Provided by Wellington.** Provided that timely payment is received by Wellington in accordance with paragraph 3, and subject to the annual proportionate funding received by Wellington from any gas tax collection for the Rustic Ranches roads toward the maintenance of said roads pursuant to paragraph 6, Wellington shall maintain the following Rustic Ranches roads during the term of this Agreement, keeping them in a condition equal to or better than they exist on September 30, 2024.
 - a. Rustic Road

- b. Cotton Tail Drive
- c. Hollow Tree Lane
- d. Deer Path Lane
- e. Skipiks Way
- f. Norris Road

5. **Level of Service.** Wellington shall maintain the Rustic Ranches roads at a level of service equal to Wellington's maintenance of other shell rock roads within Wellington, in Wellington's sole and exclusive discretion. This includes dragging the Rustic Ranches roads with a tractor, grading the Rustic Ranches roads with a grader, and inspecting the roads. Through the inspections, Wellington will also determine whether and when to add shell rock material to the Rustic Ranches roads. Wellington shall provide the necessary equipment and manpower for this purpose. No other services shall be performed by Wellington.
6. **Limitation on Maintenance Obligation.** Notwithstanding the level of service set forth in paragraph 5 above, Wellington's obligation to maintain the Rustic Ranches roads shall not exceed the gas tax revenues distributed by Palm Beach County to Wellington that are directly attributable to the Rustic Ranches roads. The cost of any maintenance or repairs to the Rustic Ranches roads deemed necessary to bring the roads up to Wellington's standards, or to maintain them at Wellington's standards, that exceeds the annual gas tax funding to Wellington for the Rustic Ranches roads shall be the sole financial responsibility of Pine Tree. Additionally, if at any point during the term of this Agreement, Wellington is no longer eligible to collect gas tax revenues for the Rustic Ranches roads, the costs of all maintenance or repairs to the Rustic Ranches roads contemplated by this Agreement shall be the sole financial responsibility of Pine Tree.
7. **Notices.** All notices required or permitted hereunder shall be deemed duly given if sent by certified mail, postage prepaid, or via Federal Express or UPS Next Day Air, addressed to the Parties as follows:

To Wellington:

Village of Wellington
12300 Forest Hill Boulevard
Wellington, FL 33414
Attn: Jim Barnes, Village Manager

With a copy to:

Wellington Village Attorney
12300 Forest Hill Boulevard
Wellington, FL 33414

To Pine Tree:

Pine Tree Water Control District
P.O. Box 2811
Clewiston, Florida 33440
Attn: Kerry Hitt, President

8. **Gas Tax Revenues.** Wellington is authorized to list the Rustic Ranches roads maintained pursuant to this Agreement on any gas tax map and collect any gas tax revenues associated with the maintenance of such roads. If at any point during the term of this Agreement, Wellington is no longer eligible to collect gas tax revenues for the Rustic Ranches roads, the costs of all maintenance or repairs to the Rustic Ranches roads contemplated by this Agreement shall be the sole financial responsibility of Pine Tree.
9. **Force Majeure.** No Party shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event that results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, storms, lightning, epidemic, pandemic, war, riots, civil disturbance, sabotage, and governmental actions. Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an Uncontrollable Force, give written notice to the other party describing the circumstances and Uncontrollable Forces preventing continued performance of the obligations of this Agreement. The terms of this paragraph do not apply to Pine Tree's obligation to pay Wellington as set forth in paragraph 3 of this Agreement.
10. **Termination.** In addition to the termination of this Agreement that will occur immediately and automatically if Pine Tree does not meet the deadline to pay Wellington as set forth in paragraph 3 of this Agreement, this Agreement may be terminated by Wellington or Pine Tree upon providing one hundred eighty (180) days prior written notice to the other Party.
11. **Applicable Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of Florida. Should any dispute

arise from this Agreement, venue shall lie in Palm Beach County, Florida.

12. **Construing the Agreement.** This Agreement shall not be construed against the party who drafted the same as all Parties to this Agreement have had legal and business experts review the adequacy of the same.
13. **Binding Effect.** This Agreement is binding upon the Parties hereto, their heirs, successors, and assigns.
14. **Waiver.** A waiver by either Party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach. Further, a written waiver in part shall not constitute a waiver of any other part of this Agreement.
15. **Severability.** The invalidity, illegality, unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to reform this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.
16. **Entire Agreement.** The Parties agree that this Agreement sets forth the entire agreement between the Parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the Parties pertaining to the subject matter of this Agreement, whether written or oral. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.

17. **Amendments.** This Agreement may not be modified unless such modifications are evidenced in writing, signed by both Parties. Such modifications shall be in the form of a written amendment executed by both Parties. Any purported oral modifications are void.
18. **Assignment.** This Agreement cannot be assigned in whole or in part without the express written consent of the other party.
19. **Recording.** In accordance with Florida Statutes Section 163.01(11), upon full execution of this Agreement by the Parties, Wellington shall file this Agreement with the Clerk of the Circuit Court of Palm Beach County.

IN WITNESS WHEREOF, the Parties to this Agreement have caused this Agreement to be executed by the proper officers thereof and have caused their seals to be affixed hereto and attested by the proper officers thereof all as of the date first above written.

**PINE TREE WATER CONTROL DISTRICT,
By its President**

By: _____
Kerry Hitt, President

ATTEST:

By: _____
Betty Camplin, Records Custodian

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Jon Derrevere, District Attorney

**VILLAGE OF WELLINGTON,
By its Mayor**

By: _____
Michael J. Napoleone, Mayor

ATTEST:

By: _____
Chevelle D. Hall, Village Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Laurie Cohen, Village Attorney