

**FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN PALM
BEACH COUNTY AND THE SOUTH INDIAN RIVER WATER CONTROL DISTRICT
AGREEMENT (R2013-1773) DATED DECEMBER 17, 2013**

This First Amendment to the Interlocal Agreement with the South Indian River Water Control District dated December 17, 2013, (R2013-1773), hereinafter "**AGREEMENT**", by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter "**COUNTY**" and the South Indian River Water Control District, a water control district organized and existing under Chapter 298, Florida Statutes, hereinafter "**DISTRICT**", (individually "Party" and collectively "Parties"), is entered into on the date shown below.

WITNESSETH

WHEREAS, on December 17, 2013, the **DISTRICT** and **COUNTY** entered into the **AGREEMENT** for maintenance of various **COUNTY ROADS** located within the boundaries of the **DISTRICT**; and

WHEREAS, the **COUNTY** and **DISTRICT** mutually agree to redefine the limits of the **ROADS** to be maintained by the **DISTRICT**; and

WHEREAS, the **COUNTY** and **DISTRICT** agree to modify the payment amounts to the **DISTRICT** for maintaining the **ROADS**.

NOW, THEREFORE, in consideration of the mutual benefits covenants, promises, and agreements herein contained, the Parties agree as follows:

1. The above recitations are true and correct and incorporated herein.
2. Section 1 of the Agreement is hereby deleted in its entirety and replaced with the following:

1. SERVICES

The **DISTRICT'S** responsibility under this **AGREEMENT** is to provide mowing and grading services herein after "**MAINTENANCE**" on **COUNTY ROADS** located within the boundaries of the **DISTRICT**, as more specifically set forth in detail in Exhibit "A" dated February, 2019.

3. Sections 3A. and 3B. of the **AGREEMENT** are hereby deleted in their entirety and replaced with the following:

3. PAYMENTS TO DISTRICT

A. The **COUNTY** shall pay the **DISTRICT** a yearly amount not to exceed THIRTY-SEVEN THOUSAND and 00/100 DOLLARS (\$37,000) on a quarterly basis in FOUR equal installments of NINE THOUSAND TWO HUNDRED AND FIFTY and 00/100 DOLLARS (\$9,250) for all such work satisfactorily performed and upon submission of acceptable documentation needed to substantiate **DISTRICT'S** cost of the maintenance. This amount shall include all costs relating to the mowing of such

road rights-of-way and grading, including but not limited to, equipment, labor, fuel, and maintenance of the equipment.

B. The **DISTRICT** shall invoice the **COUNTY** on a quarterly basis in a not to exceed amount of NINE THOUSAND TWO HUNDRED FIFTY and 00/100 DOLLARS (\$9,250) for **MAINTENANCE** satisfactorily performed by the **DISTRICT** pursuant to the terms and conditions of this **AGREEMENT**. All invoices shall be submitted to the **COUNTY** with sufficient clarity to enable Palm Beach County Clerk & Comptroller to perform her pre-audit functions.

4. Section 7 of the **AGREEMENT** is hereby deleted in its entirety and replaced with the following:

7. **INSURANCE**

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

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

Should **DISTRICT** purchase excess liability coverage, **DISTRICT** agrees to include **COUNTY** as an Additional Insured.

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

Should **DISTRICT** contract with a third-party (Contractor) to perform any service related to the **AGREEMENT**, **DISTRICT** 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 **DISTRICT** and **COUNTY** as Additional Insureds. **DISTRICT** 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 which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

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

Compliance with the foregoing requirement shall not relieve the **DISTRICT** of its liability and obligations under this **AGREEMENT**.

5. Section 8 of the **AGREEMENT** is hereby deleted in its entirety and replaced with the following:

8. INDEMNIFICATION

DISTRICT shall protect, defend, reimburse, indemnify and hold the **COUNTY**, its agents, employees and elected officers free and harmless from and against any and all claims, liability, expenses, losses, costs, fines and damages or causes of action of every kind or character including attorney's fee, whether at trial or appellate levels or otherwise arising during or as a result of the **DISTRICT'S** performance of the terms of this **AGREEMENT**, or due to the acts or omissions of the **DISTRICT**. The **DISTRICT'S** aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing, nothing set forth in this paragraph shall constitute a waiver of sovereign immunity beyond the limits set forth at Section 768.28, Florida Statutes. This paragraph shall survive the expiration or termination of this **AGREEMENT**.

6. Sections 12F. and 12K. of the **AGREEMENT** are hereby deleted in their entirety and replaced with the following:

12. MISCELLANEOUS PROVISIONS

F. NONDISCRIMINATION

The Parties agree to comply with the **COUNTY'S** Nondiscrimination Policy, as described in Resolution 2017-1770, as amended, and that neither Party conducts business with nor appropriates funds to any entity that practices discrimination on the basis of race, color, national origin, disability, religion, ancestry, sex, age, familia status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. The **DISTRICT** understands and agrees that a material violation of this clause shall be considered a material breach and default of the **AGREEMENT**. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

K. INDEPENDENT CONTRACTOR RELATIONSHIP

The **DISTRICT** is, and shall be, in the performance of all work, services and activities under this **AGREEMENT**, an independent contractor and not an employee, agent or servant of the **COUNTY**. All persons engaged in any of the work or services performed pursuant to the **AGREEMENT** shall at all times in all places be subject to the **DISTRICT'S** sole direction, supervision, and control. The **DISTRICT** shall exercise control over the means and manner in which its employees, agents or contractors perform the work in all respects. The **DISTRICT'S** relationship and the relationship of its employees, agents or contractors to the **COUNTY** shall be that of an independent contractor and not as employees or agents of the **COUNTY**.

7. Section 12J. of the **AGREEMENT** is hereby deleted in its entirety.
8. Section 12P. of the **AGREEMENT** is hereby deleted in its entirety.
9. Section 12V. is hereby added to the **AGREEMENT**:

V. LAWS AND REGULATIONS

The **DISTRICT** shall abide by applicable federal, state and local laws, orders, rules and regulations when performing under this **AGREEMENT**. The **DISTRICT** further agrees to include this provision in all contracts issued as a result of this **AGREEMENT**.

10. It is the intent of the Parties hereto that this First Amendment shall not become binding until the date executed by the **COUNTY**.
11. Except as hereby amended, changed or modified, all other terms, conditions and obligations of this **AGREEMENT**, dated December 17, 2013 (R2013-1773) shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties have caused this First Amendment to the AGREEMENT (R2013-1773) to be executed and sealed this _____ day of _____, 2019.

Palm Beach County, Florida, a
Political Subdivision of the
State of Florida

THE SOUTH INDIAN RIVER WATER
CONTROL DISTRICT

BOARD OF COUNTY COMMISSIONERS

BY: _____
Mack Bernard, Mayor

BY: Stephen Hinkle, Pres.
(Print Name and Title)

[Signature]
(Signature)

S E A L

ATTEST:
Sharon R. Bock, Clerk & Comptroller
Circuit Court

C O R P O R A T E S E A L

BY: _____
(Print Name)

WITNESS:

BY: Holly Rigsby
(Print Name)

(Signature)

[Signature]
(Signature)

APPROVED AS TO TERMS
AND CONDITIONS:

BY: [Signature]

BY: Michael Dixon
(Print Name)

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

[Signature]
(Signature)

ybh
Yelizaveta Herman, Assistant County Attorney

EXHIBIT "A"
(FEBRUARY 2019)

ROADS TO BE MAINTAINED

1. Randolph Siding Road (N/S portion, from Randolph Siding to Sandy Run)
2. Randolph Siding Road from 134th Terrace North to 110th Avenue North (Randolph Siding Rd.)
3. Jupiter Farms Road from 150th Court North to 159th Court North
4. 69th Drive from Donald Ross Rd. north to 155th Place North
5. 155th Place North from 89th Avenue North to 69th Drive North
6. 150th Place North from 89th Avenue North to 69th Drive North
7. 64th Drive from Donald Ross Rd. North to 143rd Street North
8. 143rd Street North from 69th Drive North to 64th Way North
9. 146th Road North from 69th Drive North to 64th Way North
10. 75th Avenue North from 155th Place North to Canal C
11. Bridle Lane from Cul de sac to SIRWCD Canal #1
12. Bridle Court from Cul de sac to SIRWCD Canal #1
13. Brian Way from 169th Court North to SIRWCD Canal #1
14. 169th Court North from Brian Way to 130th Avenue North
15. 130th Avenue North from Randolph Siding to SIRWCD Canal #1
16. 133rd Terrace North from 150th Court North to Randolph Siding Road
17. 156th Street North from 133rd Terrace North to SIRWCD Canal #13
18. Mellen Lane from Randolph Siding Road North to SIRWCD Canal #1
19. Alexander Run from Sandy Run Road to SIRWCD Canal #1
20. 174th Court North from Alexander Run to Haynie Lane
21. 169th Court North from Alexander Run to Haynie Lane
22. 164th Court North from Alexander Run to Haynie Lane
23. Sandy Run Road from 129th Place North to Jupiter Farms Road
24. Old Indiantown Road from 129th Drive North to Mack Dairy Road