



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2012	2013	2014	2015	20--
Capital					
Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	0	0	0	0	0
<b>No. ADDITIONAL FTE POSITIONS (Cumulative)</b>	0	0	0	0	0

Is Item Included In Current Budget? Yes NA No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Dep't. \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** John Murphy  
 John Murphy, Finance Manager

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

John A. [Signature] 10/30/12  
 OFMB  
 [Handwritten notes: 10/26/12, 10/26/12]

John J. Jacobson 11/27/12  
 Contract Dev. and Control

**B. Legal Sufficiency:**

[Signature] 11/5/12  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**INTERLOCAL AGREEMENT  
FOR THE  
CONSTRUCTION, INSTALLATION, MAINTENANCE AND USE  
OF PALM TRAN BUS SHELTERS/BENCHES  
BETWEEN  
PALM BEACH COUNTY  
AND  
THE TOWN OF MANGONIA PARK**

**THIS INTERLOCAL AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between Palm Beach County, Florida, a political subdivision of the State of Florida, by and through its Board of County Commissioners (referred to hereinafter as "County") and the Town of Mangonia Park, a Florida municipal corporation, by and through its Town Commission (referred to hereinafter as "Town").

**WHEREAS**, the County operates a public transit system (referred to hereinafter as "Palm Tran") with routes situated within the Town's geographical boundaries; and

**WHEREAS**, the County and Town agree that bus passenger amenities, including bus passenger shelters and/or benches, located within the Town's boundaries should be improved and additional bus passenger shelters and/or benches installed within public rights-of-way and easements adjacent to Palm Tran bus stops; and

**WHEREAS**, the County and Town desire to replace existing bus shelters/benches and to construct additional new bus shelters and/or benches with advertising placed thereon (also referred to herein as "advertising shelters/benches"), at appropriate Palm Tran bus stops located within Town; and

**WHEREAS**, the County has third party contracts with independent contractors for the construction, installation, maintenance, cleaning and placement of advertisements upon bus shelters with benches and stand alone benches located within the unincorporated areas of the County and within certain municipalities that have granted to County the right to construct such shelters/benches and place advertisements thereon (such contracts referred to herein as "third party contracts"); and

**WHEREAS**, under the terms of the third party contracts, the contractors are to let advertising space upon advertising shelters and benches and remit to County, on a monthly basis, a sum of money for each advertising shelter/bench constructed and installed, a portion of which County is willing to pass through to Town as provided in this Agreement; and

**WHEREAS**, to encourage the placement of bus shelters and benches at bus stops within the incorporated areas of Palm Beach County and for the purpose of achieving consistency in its bus shelter/bench program, the County is willing to administer a "bus shelter/bench program" overseeing and consisting of the construction, installation, maintenance, cleaning, and placement of advertisements upon advertising shelters and benches located within the Town's jurisdiction; and

**WHEREAS**, the Town wants the County to implement County's bus shelter/bench program within the Town and desires to grant to County the exclusive right to construct, install, maintain, clean and place advertisements upon advertising shelters and benches located at certain Palm Tran bus stops situated within Town's municipal boundaries and to receive from County certain revenue payments resulting from the placement of advertisements upon advertising bus shelters and benches located within Town; and

**WHEREAS**, Town acknowledges that County has and may contract with third parties for the purpose of implementing County's "bus shelter/bench program," (also referred to herein as "Program") and that County may authorize its contractors, their successor(s) or other third party contractors approved by County, to exercise any of the rights granted to County in this Agreement; and

**WHEREAS**, Town acknowledges that any advertising shelters or benches constructed in Town may not be fully amortized on the date a third party contractor's contract with County expires; and

**WHEREAS**, Town has been provided copies (in electronic format) of the County's contracts with its third party contractors and has reviewed and familiarized itself with their terms and conditions including, but not limited to, the fact that all installations are subject to the agreement of the contractors as to the suitability and acceptability of locations, and;

**WHEREAS**, Town has been advised that the County may, from time to time, restructure and modify the Program's scope so as to encompass advertisements placed upon other structures or vehicles (including but not limited to benches and buses) and modify other aspects of the Program and/or initiate a solicitation process to obtain a new or successor third party contractor(s); and

**WHEREAS**, Town has represented to County that the Town will not seek to withdraw from participation in the County's Program as a result of a change in the County's third party contractor(s) or modifications made to the County's Program and that Town will take all reasonable actions needed to enable it to continue to participate in the Program, as the Program may be modified from time to time by County; and

**WHEREAS**, Section 163.01, Florida Statutes, 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.

**NOW, THEREFORE**, in consideration of the foregoing and the other mutual promises and covenants contained herein, the parties agree as follows:

**Section 1. Incorporation of Facts:** The facts set forth above in the preamble to this Agreement are true and correct and incorporated herein by reference.

**Section 2. Representative and Contract Monitor:** The County's representative and contract monitor during the term of this Agreement shall be the Executive Director of Palm Tran whose telephone number is (561) 841-4200. The Town's representative and contract monitor during the term of this Agreement shall be the Town Manager whose telephone number is (561) 848-1235.

**Section 3. Effective Date, Term and Renewal:** This Agreement shall take effect upon the date executed by the County, having previously been executed by Town, and shall remain in full force and effect until terminated as provided herein.

**Section 4. Placement of Bus Shelters/benches:**

**A. Coordination:** The County, through its third party bus shelter/bench program contractors, shall coordinate the placement and installation of advertising shelters/benches at appropriate bus stop locations within Town's geographical boundaries at sites approved by Town's and County's contract representatives or their designees as identified in Exhibit B; provided, that, sufficient right of way exists at each site, the shelter and/or bench can be constructed in accordance with applicable safety standards, site conditions are appropriate for a shelter and/or bench location, the site conditions are acceptable to the County, and the location is acceptable to County's third party contractor. The parties may modify or supplement the list of sites set forth in Exhibit B upon the written authorization of the parties' respective contract representatives or their designees.

**B. Location:** All shelters/benches shall be located within the public rights-of-way or upon other real property which is subject to an easement, substantially in the form attached hereto as Exhibit C, in favor of County for the public transit purposes described in this Agreement. Each bus shelter constructed within the Town's limits will be illuminated and each shelter/bench installed on existing sidewalk or its own concrete foundation in accordance with the applicable building codes of the Town and the County. Each location should also include the addition of such appropriate sidewalk area as is necessary to insure a clear and un-obstructed path from the existing sidewalk to the shelter/bench and from the shelter/bench to the bus loading area. County shall advise its third party bus program shelter/bench contractors (also referred to herein as

"third party contractors" or "Contractors") that shelters/benches should be located so as not to cause any site obstructions with intersections or driveways. In the event the Town or County deems it is necessary to remove or relocate a bus shelter or bench after it has been constructed, the cost of removal and/or movement to another site shall be in accordance with paragraphs C and D below and as otherwise provided in this Agreement.

**C. Relocation or Removal of Shelters/benches:** The County will be responsible for the costs of removing and/or relocating an advertising shelter/bench that is removed or relocated solely as a result of a modification to or discontinuance of a Palm Tran bus route. Removal costs will include the restoration of the right-of-way's landscaping and the installation of grass and landscaping. Should an advertising or non-advertising shelter/bench need to be removed and/or relocated as a result of an action by the Town (e.g., roadway or right-of-way improvements, alterations or abandonments, traffic calming measures, street closure or other action taken by Town, or the termination or non-renewal of this agreement, by either party), all costs of the removal and/or relocation, including but not limited to grass and landscaping, shall be the responsibility of the Town, including but not limited to, all costs which are or would be the responsibility of the County under its third party contract. Should an advertising or non-advertising shelter/bench need to be removed and/or relocated as a result of a new development, the Town shall be responsible for all of the removal and/or relocation costs or it may insure that the costs are paid by the developer. Town may also obtain an easement from the developer, for the benefit of County, and have the developer pay the cost of removal and/or relocation to the new easement site. In either case, the Town shall reimburse or insure that the County is reimbursed for all of the County's costs. The removal and relocation costs of an advertising shelter/bench may also be offset against and deducted from the revenues to be paid to Town, as deemed appropriate by County, from the revenue stream derived from the advertising shelters/benches located within the Town. In the event the advertising revenues are not sufficient to pay all the costs described in this Agreement, the Town will remit payment for any shortage directly to the County within thirty (30) days of its receipt of an invoice for payment. Title to any non-advertising shelter/bench owned by the Town which the County removes and does not relocate to another site in the Town shall become the property of County unless the Town requests, at the time of removal, that title be transferred to or retained by the Town and Town immediately takes physical possession of the shelter/bench.

**D. Non-Advertising Shelters/benches:** The parties acknowledge that the primary purpose of this Agreement is to establish a bus shelter/bench program which utilizes bus shelters/benches upon which advertisements are placed to offset the costs of construction, installation, maintenance, cleaning and repair. The Town further acknowledges that the decision to allow non-advertising bus shelters/benches within the Town under the County's bus shelter/bench program described in this Agreement is vested solely in the County. Accordingly, the County may limit the number of non-

advertising shelters/benches which can be constructed and installed under this Agreement. In the event the Town shall request that non-advertising shelters/benches be installed within the Town, such shelters/benches must be constructed, installed, maintained, cleaned and repaired by County's third party contractor, if so required by County, and the Town shall be responsible for all costs associated with the non-advertising bus shelters/benches, including but not limited to all construction, installation, repair, removal, relocation, maintenance and cleaning costs. The estimated preliminary cost of the construction and installation of a non-advertising shelter/bench shall be remitted to County with the Town's request for the installation of a non-advertising shelter/bench. All other costs (e.g., maintenance, cleaning, repair, removal, relocation, construction, installation costs in excess of the preliminary estimate paid to County, and any unpaid costs of construction and installation of a non-advertising shelter/bench may, in the sole discretion of County, be offset against and deducted from the revenues to be paid to Town from the revenue stream derived from the advertising shelters/benches located within the Town. In the event the revenues are not sufficient to pay all the costs described in this Agreement, the Town will remit payment for any shortage directly to the County within thirty (30) days of its receipt of an invoice for payment.

**Section 5. License Agreement:**

**A. Right to Use:** The Town does hereby grant to County an exclusive and irrevocable right, privilege, license and permit to use the sites identified and listed in Exhibit B, as the list may be modified from time to time by the parties' contract representatives, for the construction, installation, maintenance, repair, removal, relocation, improvement, access and use of a public transit bus shelter/bench boarding and alighting area. Such use may also include, but is not limited to a transit passenger shelter/bench, with seating area, trash receptacles, bike racks, advertising, informational signage, lighting, landscaping and pavers. The shelter/bench sites shall be located within the public rights-of-way which are dedicated to, owned or controlled by the Town or the public, (including such rights-of-way dedicated to, owned or controlled by the Florida Department of Transportation (FDOT) upon which the Town has been authorized, by law or agreement, to install shelters/benches). The sites may also be located within easements granted to County by Town or by a third party. The easements granted to County shall be substantially in the form attached hereto as Exhibit C or the use of the area must be otherwise approved by the County's contract representative or his designee. All bus shelters/benches shall be placed within the public rights-of-way unless a specific easement, permit or license has been granted to County by the Town or a third party, or the easement area is approved for use as provided herein. Any proposed shelter/bench site located outside of a public right-of-way shall require the approval of the County's contract representative.

**B. Interference with Use:** Town shall take no action which interferes or may interfere with County's use of a bus shelter/bench site or would permit a third party to interfere with County's use of a bus shelter/bench site, as contemplated under this

Agreement, the shelter and bench contractors' contracts with County, any successor contractors, or County's bus shelter/bench program. Town shall be responsible for all costs arising out of the removal and/or relocation of any bus shelter/bench including but not limited to, land acquisition, landscaping and utility relocation costs, if any. Town shall be responsible for all costs which are or would be the responsibility of the County under its third party contracts as a result of the Town's revocation of any right, privilege, permit or license granted hereunder, or the termination or non-renewal of this Agreement.

**Section 6. Advertising:** Any advertisements placed upon advertising bus shelters/benches installed within Town's boundaries will comply with the advertising space requirements and standards established in County's contract with its then current third party contractor(s). The advertising standards for the current third party bus program shelter/bench contractors are set forth in the contracts which have been provided to the Town. The Town agrees that it will not allow any advertisements, notices, messages or signage to be placed or installed upon any non-advertising shelter/bench, including the trash receptacle, except for a sign clearly indicating the party responsible for the maintenance and cleaning of the shelter/bench and a telephone number to which complaints may be reported. County may also post or install in all advertising or non-advertising shelters/benches signs, decals, messages, informational displays or notices regarding public transportation services. Town agrees that the rights granted hereunder are exclusive to County and preclude bus benches, shelters, receptacles or any other type or form of street furniture from being constructed, located or installed within one hundred feet (100') of a bus shelter/bench, by any other person or entity. Town further agrees that such restriction is reasonable, appropriate and needed to facilitate the maintenance of the site, to insure safe access to and visibility of the site, to eliminate confusion, visual obstructions and distractions, and to otherwise foster the safety, convenience and comfort of the users of County's public transit system and the health, safety and welfare of the citizens of Town and County.

**Section 7. Maintenance:** Under the terms of the County's current third party contracts, the contractors are responsible for all maintenance, repair and cleaning of all bus shelters/benches, including routine pressure washing. Contractors are currently required to provide garbage pick-up at least once a week with more frequent pick-ups for heavily used sites.

**Section 8. Pass Through to the Town:** The County shall pass through to the Town or County may require its third party contractors to pass through to the Town the net revenues (*i.e.*, received monthly shelter/bench revenues reduced by any advertising and non-advertising shelter/bench expenses for which the Town is responsible and for which payment has not been received) received from County's third party contractors for the construction and installation of bus shelters/benches with advertising which are placed within the Town's boundaries. The monthly shelter/bench revenue to be



generated from each advertising shelter/bench is currently specified in the third party contracts and summarized in Exhibit A. The County shall endeavor to provide or pass through the funds due to the Town, on a monthly basis, within thirty (30) days of County's receipt of funds from a third party contractor. The Town shall be responsible for the same non-advertising shelter/bench expenses that the County is responsible for under its then current third party contract and the costs of relocation and removal of advertising and non-advertising shelters/benches as further described in Section 4 of this Agreement. Town shall fully cooperate with County in any audit that County, its auditor, Inspector General, its Clerk & Comptroller or any other state or federal entity permitted or authorized under any agreement or grant agreement, may perform so as to insure that funds are distributed and paid in accordance with the provisions of this Agreement.

**Section 9. Title:** The Town acknowledges that it does not have title to nor any interest in the advertising and non-advertising shelters/benches constructed and installed under this Agreement, unless the parties' contract representative determine that a non-advertising shelter/bench paid for by Town is to be owned by the Town. Title to the advertising shelters/benches will be vested in County's current third party contractor(s), subject to the interests of County, or with County. Town hereby grants to County title to all non-advertising shelters/benches constructed within the Town, unless the parties' representatives agree that title is vested in the Town. Town acknowledges that the terms and conditions of this Agreement provide sufficient consideration for such conveyance of title. County may sublease or license for use any or all non-advertising shelters/benches to its third party contractor, as deemed appropriate by County.

**Section 10. Reporting:** County or its third party contractors shall provide a monthly report to the Town identifying the number of advertising shelters/benches located within the Town during the previous month for which payments are being made to the Town. The report shall also identify any offsets or deductions and the purposes for which they were made.

**Section 11. Access and Audits:** Each party will maintain adequate records of all bus shelters/benches constructed by its bus shelter/bench contractor(s), all funds received, and other activities under this Agreement for at least five (5) years or such lesser period of time required by County's records custodian for maintenance of public records. Each party will have access to the other's non-confidential and non-exempt books, records, and documents pertaining to this Agreement for the purpose of inspection or audit during normal business hours.

**Section 12. Suspension of Revenue Payments:** Upon the expiration or the termination of the County's contract with a third party contractor, the advertising revenue payments to the Town shall be suspended and no payments shall be due to Town during the months when the payments are suspended. Advertising revenue payments shall not be reinstated until such time as the County has obtained a new third

party bus shelter/bench program contractor(s), who has begun making payments to County. In the event Town shall terminate this Agreement or shall withdraw from or refuse to participate in County's bus shelter/bench program, then Town shall be responsible for all costs associated with the maintenance and/or removal of the shelters/benches and shall reimburse County for all sums paid by County to maintain and/or remove the shelters/benches located within Town's geographical boundaries from the date of said termination, withdrawal or refusal. This obligation shall be in addition to any obligation of the Town under any other provision of this Agreement.

**Section 13. Breach and Opportunity to Cure:** The parties expressly covenant and agree that in the event either party is in default of a material obligation under this Agreement, the party not in default shall provide to the defaulting party ninety (90) days written notice of the default, during which time the defaulting party may cure the breach, except if the default is limited solely to the failure to remit any payments due the non-defaulting party, the non-defaulting party may terminate after forty-five (45) days notice during which time the defaulting party may cure. In the event the defaulting party fails to cure the breach, the non-defaulting party may terminate this Agreement.

**Section 14. Termination:** The County may terminate this Agreement, with or without cause, upon ninety (90) days notice to the Town. The Town may terminate this Agreement after having given ninety (90) days notice of its intent to terminate, to the County, if the County's contracts with its third party bus shelter/bench program contractors have expired or terminated and:

1. The County has failed to obtain new contractors within a reasonable period of time; provided, however, that this period of time shall be extended, if the County is unable to select a replacement contractor(s) as a result of a protest, stay or any other administrative or legal action commenced against the County which affects the County's selection of a vendor or award of a contract(s) under its a bus shelter/bench program, or
2. The terms and conditions of the new contractors' responsibilities are substantially different from the terms and conditions of the current third party contracts (excluding differences arising out of the restructuring, broadening or narrowing of the scope of the Program as contemplated in the Preamble to this Agreement).

Notwithstanding anything contained in this section or any other section of this Agreement, the Town may terminate this Agreement for any reason other than those set forth in (1) or (2) above, after having given ninety (90) days notice of its intent to terminate, to the County. In such event, however, the Town shall be responsible for all costs, including but not limited to, the "cost of construction less depreciation" also referred to as the "unamortized cost," as that term is defined in the third party contracts, which costs are, would or may be found to be, in law or equity, the responsibility of the

County under its third party contracts and which arise out of or relate to the exercise of the Town's rights under this Agreement, the Town's breach of this Agreement, or the County's breach of its contract with a third party contractor if such breach by County arises out of or relates to any act or action taken by the Town or required of County by the Town. Nothing contained in this Agreement shall be construed as or shall act as a waiver, a release, or a transfer of Town's obligations to County as they relate to non-advertising shelters/benches. Town shall be solely responsible for all costs associated with the non-advertising bus shelters/benches, including but not limited to, all construction, installation, land acquisition, utility relocation, repair, removal, relocation, maintenance and cleaning costs, regardless of whether County is in breach of any provision of this Agreement. Nothing contained in this Agreement shall expand County's obligations under its third party contracts, make the County liable for any incident, act or omission which County has not expressly accepted liability for under its contract, or make the Town, its residents or any other person or entity, a third party beneficiary under the County's third party contracts.

**Section 15. Liability:** The parties to this Agreement shall not be deemed to have assumed any liability for the negligent or wrongful acts, or omissions of the other party, or their respective officers, employees, servants or agents. Nothing contained herein shall be construed as a waiver, by either party, of the liability limits established in 768.28, Florida Statutes. This provision shall not be construed so as to limit or prevent the Town from being liable or responsible for all costs which are or would be the responsibility of County under its third party contracts and which arise out of or relate to the exercise of the Town's rights under Section 14 or any other section of this Agreement.

**Section 16. Notice of Complaints or Suits:** The Town will promptly notify County of any citizen complaint, claim, suit, or cause of action threatened or commenced against Town or County which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party or Palm Tran, Inc. is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**Section 17. Non-Assignment:** The Town shall not convey, assign, sublet or transfer, in whole or in part, its rights, title to or any interest in this Agreement, or any advertising shelter/bench acquired, constructed, installed or maintained under this Agreement without first obtaining the prior written consent of the County which consent may be withheld for any reason or no reason at all.

**Section 18. Annual Appropriation:** The parties' respective performance and the fulfillment of their obligations under this Agreement are contingent upon an annual appropriation for the purposes of this Agreement by each party's respective legislative body. Town represents that it has sufficient revenues available from ad valorem and

non ad valorem revenues to fund its responsibilities under this Agreement.

**Section 19. Enforcement Costs:** Any costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties.

**Section 20. No Agency Relationship:** Nothing contained herein shall create an agency relationship between the Town and the County or the Town and Palm Tran, Inc.

**Section 21. Application of Federal Law:** The Town acknowledges that Federal laws, regulations, policies and related administrative practices may be applicable to the County's bus shelter/bench program and to the purposes of this Agreement. The Town agrees that this Agreement may be modified by County upon notice to the Town and without further act of the parties, to conform to Florida statutes or the most recent Federal laws, regulations, policies and related administrative practices made applicable to the County and its third party bus shelter/bench program, as a result of County's status, as a grant recipient of Federal funds from the U.S. Federal Transit Administration.

**Section 22. Modification of County's Third Party Bus Shelter/bench Program:** The Town acknowledges and agrees that County may, from time to time, modify its bus shelter/bench program and/or amend its third party contracts, and that County may enter into contracts with another or successor third party shelter/bench program contractors, and that the terms and conditions of such amendment(s) or successor contract(s) will become applicable to, and revise and/or impact the terms and conditions of this Agreement unless specifically prohibited by County under such amendment(s) or successor contract(s). The Town further acknowledges and agrees that the terms and conditions of such amendment(s) or successor contract(s) shall apply to, affect or determine the terms and provisions of the County's bus shelter/bench program and the revenues to be paid to Town. In addition, the parties agree that this Agreement shall not be construed to nor is it intended to create, transfer or vest in Town any of the County's rights, duties or obligations under the County's contracts with any third party bus shelter/bench program contractor except as maybe expressly provided for in this Agreement. In the event County breaches its contracts with any third party bus shelter/bench program contractor, Town's rights and remedies shall be solely limited to those set forth in this Agreement.

**Section 23. Notice:** All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States Mail, postage prepaid, to the following:

As to the County:  
Executive Director – Palm Tran  
3201 Electronics Way  
West Palm Beach, Fl. 33407

As to the Town:  
Town Manager  
1755 E. Tiffany Drive  
Mangonia Park, Fl. 33407

Either party may change its address upon notice to the other.

**Section 24. Modification and Amendment:** Except as expressly permitted in Sections 4, 21 and 22, and in any other provision of this Agreement to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

**Section 25. Remedies:** This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof

**Section 26. No Waiver:** No waiver of any provision(s) of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

**Section 27. Joint Preparation:** The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial constraint, be construed more severely against one of the parties than the other.

**Section 28. Equal Opportunity:** The County and Town agree that no person shall on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, familial status, gender, gender identity or expression, or sexual orientation be excluded from employment, or the benefits of or be subjected to any form of discrimination under any activity carried out related to the performance of this Agreement.

**Section 29. Office of Inspector General:** The County has established the Office of Inspector General in Palm Beach County Code Sections 2-421 through 2-440, as they may be amended from time to time. The Inspector General's authority includes

but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of contractors, their officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General of interfering with or impeding any investigation shall be a violation of Palm Beach County Code Sections 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor

**Section 30. Captions:** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

**Section 31. Survivability:** Any term, condition or provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term or expiration of this Agreement, shall survive its expiration or earlier termination including but not limited to those terms, conditions and provisions set forth in Sections 4.C and D., 5, 6, 8, 11, 12, 14, 15, 16, 18, 19 and 25.

**Section 32. No Intended Third Party Beneficiaries:** This Agreement is not intended to be a third party beneficiary contract and confers no rights on anyone other than the County or Town. Town further acknowledges and agrees that it is not an intended third party beneficiary under the County's third party contracts.

**Section 33. Severability:** In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**Section 34. Entirety of Agreement:** This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, whether written or oral, relating to this Agreement.

**Section 35. Filing:** A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

(Remainder of Page Intentionally Left Blank)

**IN WITNESS WHEREOF**, the undersigned parties have executed this Interlocal Agreement on the day and year first written above.

ATTEST:

Sharon R. Bock  
Clerk and Comptroller

By: \_\_\_\_\_  
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, by  
its BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_  
Town Clerk

TOWN OF MANGONIA PARK, by its  
TOWN COMMISSION

By: \_\_\_\_\_  
Mayor

Approved as to Form and  
Legal Sufficiency

\_\_\_\_\_  
County Attorney

Approved as to Terms and  
Conditions

\_\_\_\_\_  
Chuck Cohen, Executive Director  
Palm Tran

Approved as to Form and  
Legal Sufficiency

\_\_\_\_\_  
Town Attorney

## Exhibit A

Advertising Shelter and Bench Payments per Third Party Contracts as of date of execution of this contract between Town and County.

See attached revenue and price proposal pages



EXHIBIT A  
 BENCH REVENUE

THE LEXINGTON - REVENUE TO THE COUNTY

APPENDIX A2  
 REVENUE PROPOSAL PAGES  
 RFP NO. 11-053R/SC

BUS STOP BENCHES

Page 1 of 3

Submit this Appendix A2 (pages 1-3) to be considered for the separate award of Bus Stop Benches.

A. REVENUE FOR BENCHES

Contractor shall pay the County a fixed monthly fee for advertising on the Bus Stop Benches in accordance with the requirements indicated in the Scope of Work/Services set forth in this RFP document. The monthly payment shall be made in advance without billing on the first day of each month during the term of this Contract. Payments not received by the 10<sup>th</sup> day following the due date shall be considered past due and subject to a five percent (5%) late fee per month until paid.

\*There is no assurance or guarantee that the number of benches shown will be available at any time. The quantities shown were established for use in evaluation only and the actual quantities available during the life of the contract will vary and are not a commitment by the County. The Total Proposed Revenue for Benches, Extended Over Ten (10) Years shall be used for evaluation purposes only.

BUS STOP BENCHES						
Year	*Est. benches per month		Revenue (Fixed Fee per bench per month)		Unit (month)	Extended Total Revenue
1	150	x	\$17.50	x	12	\$31,500.00
2	150	x	\$17.50	x	12	\$31,500.00
3	150	x	\$18.33	x	12	\$33,000.00
4	150	x	\$18.33	x	12	\$33,000.00
5	150	x	\$20.00	x	12	\$36,000.00
6	150	x	\$20.00	x	12	\$36,000.00
7	150	x	\$21.67	x	12	\$39,000.00
8	150	x	\$25.00	x	12	\$45,000.00
9	150	x	\$25.83	x	12	\$46,500.00
10	150	x	\$26.67	x	12	\$48,000.00
*A. TOTAL PROPOSED REVENUE FOR BENCHES, EXTENDED OVER TEN (10) YEARS:						\$ 379,500.00

APPENDIX A1  
 REVENUE AND PRICE PROPOSAL PAGES  
 RFP NO. 11-053R/SC

ADVERTISING AND NON-ADVERTISING BUS STOP SHELTERS

Page 1 of 4

Submit this Appendix A1 (pages 1-4) to be considered for the separate award of Advertising and Non-Advertising Bus Stop Shelters.

A. REVENUE FOR SHELTERS

Contractor shall pay the County a fixed monthly fee for advertising on the Bus Stop Shelters in accordance with the requirements identified in the Scope of Work/Services set forth in this RFP document. The monthly payment shall be made in advance without billing on the first day of each month during the term of this Contract. Payments not received by the 10<sup>th</sup> day following the due date shall be considered past due and subject to a five percent (5%) late fee per month until paid.

\*There is no assurance or guarantee that the number of shelters shown will be available at any time. The quantities shown were established for use in evaluation only and the actual quantities available during the life of the contract will vary and are not a commitment by the County. The Total Proposed Revenue for Shelters, Extended Over Ten (10) Years listed below shall be used for evaluation purposes only.

BUS STOP SHELTERS						
Year	*Est. shelters per month		Revenue (Fixed Fee per shelter per month)		Unit (month)	Extended Total Revenue
1	300	x	\$ 67.50	x	12	✓ \$243,000.00
2	300	x	\$67.50	x	12	✓ \$243,000.00
3	300	x	\$70.00	x	12	✓ \$252,000.00
4	300	x	\$70.00	x	12	✓ \$252,000.00
5	300	x	\$72.50	x	12	✓ \$261,000.00
6	300	x	\$72.50	x	12	✓ \$261,000.00
7	300	x	\$75.00	x	12	✓ \$270,000.00
8	300	x	\$75.00	x	12	✓ \$270,000.00
9	300	x	\$77.50	x	12	✓ \$279,000.00
10	300	x	\$77.50	x	12	✓ \$279,000.00
*A. TOTAL PROPOSED REVENUE FOR SHELTERS, EXTENDED OVER TEN (10) YEARS:						✓ \$ 2,610,000.00

APPENDIX A1  
REVENUE AND PRICE PROPOSAL PAGES  
RFP NO. 11-053R/SC

ADVERTISING AND NON-ADVERTISING BUS STOP SHELTERS

Page 2 of 4

B. NON-ADVERTISING BUS STOP SHELTER

The following price is submitted as the all inclusive Total Price for Non-Advertising Bus Stop Shelters Extended over Ten (10) years to provide the County with Non-Advertising Bus Stop Shelters, on an as needed basis, in accordance with the Requirements/Scope of Work/Services set forth in this RFP document.

The fixed price per shelter for Non-Advertising Bus Stop Shelters shall include site preparation, shelter installation, permits and all applicable costs.

\*\*The Total Proposed Price for Non-Advertising Bus Stop Shelters Extended Over Ten (10) Years as listed below shall be used for evaluation purposes only.

NON-ADVERTISING BUS STOP SHELTERS				
Years	*Est. shelters (2 per year)		Fixed price per shelter	Total Price
1-5	10	x	\$16,350.00	\$163,350.00
6-10	10	x	\$20,575.00	\$208,750.00
**B. TOTAL PROPOSED PRICE FOR NON-ADVERTISING BUS SHELTERS EXTENDED OVER TEN (10) YEARS:				\$ 372,100.00

163,350  
208,750  
-----  
372,100

Prior to exercising of the option for Years 11 through 15, the COUNTY and CONTRACTOR shall negotiate a new revenue and price schedule.

\*\*\*C. TOTAL NET REVENUE OFFER, EXTENDED OVER TEN (10) YEARS

(A minus B): \$ 2,237,900.00      \$ 2,240,750.00

\*\*\*The Total Net Revenue Offer, Extended Over Ten (10) Years, shall be used to determine the points for evaluation. The Total Net Revenue Offer is calculated using the Total Proposed Revenue For Shelters, Extended Over Ten (10) Years, minus the Total Proposed Price For Non-Advertising Bus Shelters, Extended Over Ten (10) Years, and is for evaluation purposes only. (See Section 3.5)

## Exhibit B

### Bus Shelter/bench Sites

The following bus shelters/benches sites may consist of existing sites located within the Town's geographic boundaries and new sites identified by the parties for the installation of Palm Tran bus shelter/bench. The Town grants to County an exclusive and irrevocable right, privilege, license and permit to construct, install, maintain, repair, remove, relocate, improve, access and use the sites identified below for a public transit bus shelter/bench boarding and alighting area, as such use is further described in the parties' Interlocal Agreement.

#### Existing Sites

On Street

Cross Street/location

Palm Tran  
Bus Stop #

Not Applicable

#### New Sites

On Street

Cross Street/location

Palm Tran  
Bus Stop #

To be Determined

**Exhibit C**

Easement Form

Return To:  
Right-of-Way Acquisition Section  
Palm Beach County Engineering  
P.O. Box 21229  
West Palm Beach, FL 33416  
Attn:  
Acct. No.:

This Instrument Prepared by:  
Palm Beach County Attorney's Office  
301 N. Olive Ave., Suite 601  
West Palm Beach, FL 33401

P.C. No.:

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

(Corporation)

Project No.: \_\_\_\_\_  
Road: \_\_\_\_\_  
Parcel No.: \_\_\_\_\_

**PUBLIC TRANSIT BUS SHELTER BOARDING AND ALIGHTING AREA EASEMENT**

THIS IS AN EASEMENT, given this \_\_\_ day of \_\_\_\_\_, 201\_, by \_\_\_\_\_,  
a \_\_\_\_\_ corporation, whose address is \_\_\_\_\_,  
\_\_\_\_\_ (referred to herein as the "Grantor"), to Palm Beach County, a  
political subdivision of the State of Florida, whose address is 301 North Olive Avenue, West Palm Beach, Florida,  
33410, (referred to herein as the "County").

Whereas, Grantor owns certain real property situated in Palm Beach County, Florida, which County desires to use as a bus shelter boarding and alighting area; and

Whereas, Grantor has agreed to grant to County an easement to be used by County for a bus shelter boarding and alighting area as further described herein.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and County hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Grantor hereby grants, bargains, sells and conveys to County, its successors and assigns, an exclusive, except as set forth below, and perpetual and irrevocable easement in gross, in, on, over, under, through, and across the parcel of land, located in Palm Beach County, Florida, legally described on Exhibit "A" attached hereto and incorporated herein by reference (referred to herein as the "Easement Area"), for the construction, installation, maintenance, repair, removal, relocation, improvement, access and use of a public transit bus shelter boarding and alighting area, which may include but is not limited to a transit passenger shelter, seating area, transfer station, trash receptacles, bike racks, advertising, signage, lighting, landscaping, pavers, benches and any other use or activity which reasonably relates to and facilitates the public transit purposes described herein. The easement granted hereunder shall be non-exclusive and subordinate to any public utility easement dedicated to the public, as the term "public utility" is defined in Section 177.031(7)(b), F.S.
3. County shall have the right and privilege from time to time to alter, improve, enlarge, add to, change the nature or physical characteristics, and replace, remove or relocate any improvements located in, upon, over, under, through and across the Easement Area, along with all rights and privileges necessary or convenient for the full benefit and use thereof for the purposes described in this Easement, including but not limited to the right to clear obstructions within and to the

Easement Area.

4. Grantor acknowledges that County may contract with third parties for the purposes described in this Easement. County shall have the right to assign, contract with, and grant to a third party, the exercise of the rights granted to County in this Easement.
5. Grantor shall maintain the Easement Area until County commences the construction of any improvements within or upon the Easement Area. Maintenance by Grantor shall include the removal of any trash, garbage, debris or other waste material and the upkeep of all landscaping and grassy areas, including keeping the grounds free of dangerous conditions. Thereafter, County shall maintain the Easement Area and any improvements constructed by County thereon. Improvements may include but are not limited to transit passenger shelters, seating areas, transfer stations, trash receptacles, bike racks, advertising, signage, lighting, landscaping, pavers, benches and any other physical enhancement which reasonably relates to and facilitates the public transit purposes described in this Easement.
6. All of the benefits, burdens, easements and agreements contained herein shall constitute covenants running with the land, shall be binding upon the Grantor, its successors and assigns, and shall inure to the benefit of County, its successors or assigns, having or hereinafter acquiring any right title or interest in the Easement Area
7. In the event County fails or refuses to perform any term, covenant, or condition of this Easement, Grantor's sole remedy shall be the right of specific performance thereof; provided, however, that the parties do not intend nor shall this Easement be construed so as to require or compel the County to utilize the Easement Area for the purposes described herein.
8. This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Easement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.
9. No party shall be considered the author of this Easement since the parties hereto have participated in extensive negotiations and the drafting of this instrument so as to achieve a final agreed upon instrument. Thus, the terms of this Easement shall not be strictly construed against one party in favor of the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions of this Easement and the remainder shall remain in full force and effect.
10. This Easement contains the entire understanding of the parties with respect to the subject matter hereof. No amendment shall be effective unless it is in writing and signed by the Grantor and the County.
11. Grantor hereby covenants with County that Grantor is lawfully seized of the parcel of land referred to herein as the "Easement Area;" that the Easement Area is free and clear of all encumbrances that could adversely affect County's use for the purposes of this Easement; that Grantor has good right and lawful authority to convey this Easement; and that it hereby fully warrants and shall defend the title to the Easement hereby conveyed against the claims of all other persons whomsoever.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Grantor has executed this Easement on the day and year first above written.

Signed, sealed and delivered in the presence of:  
(Signature of two witnesses required by Florida law)

\_\_\_\_\_  
Typed or Printed Name of Corporation

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
its \_\_\_\_\_ (Title of Official)

\_\_\_\_\_  
Typed or printed name of witness

\_\_\_\_\_  
Typed or Printed Name of Official

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Typed or printed name of witness

Attest: \_\_\_\_\_  
its Secretary

\_\_\_\_\_  
Typed or Printed Name of Secretary

STATE OF FLORIDA            )  
COUNTY OF PALM BEACH    )

(CORPORATE SEAL)

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who is personally known to me or who has/have produced \_\_\_\_\_ as identification and who did/did not take an oath, executed the foregoing instrument, for the uses and purposes expressed therein, as the \_\_\_\_\_ of \_\_\_\_\_ and on behalf of said Corporation.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)  
Notary Public in and for the County and  
State aforementioned

\_\_\_\_\_  
Notarial Seal

My Commission Expires: \_\_\_\_\_