

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date:	April 16, 2019	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department:	Engineering & Public Works
Submitted By:	Engineering & Public Works
Submitted For:	Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve an interlocal agreement (Agreement) with the Village of Palm Springs (Village) for the installation and maintenance of decorative art wrap (Art Wrap) on Palm Beach County (County) traffic signal control cabinets; and

B) adopt a Resolution delegating to the County Administrator or designee the authority to enter into Art Wrap agreements with local agencies and municipalities.

SUMMARY: Approval of this Agreement will allow the Village to affix Art Wrap on County operated and maintained signal cabinets. The Village shall present the Art Wrap to the County for its review and approval. The Village shall be responsible for the permitting, installation, placement, maintenance, and removal of the Art Wrap should it interfere with the operation of the traffic signals, at no cost to the County. Adoption of this resolution will authorize the County Administrator or designee to execute future Art Wrap agreements. District 3 (YBH)

Background and Justification: In 2016, the County entered into an interlocal agreement with the Lake Worth Community Redevelopment Agency to install Art Wrap on several County owned signal cabinets. The Art Wrap has not caused any problems for the signal cabinets and does not show any signs of wear. Placement of the Art Wrap integrates civic art with public infrastructure. The County believes these integrations enhance the appearance of the right of way adjacent to the public road. This Agreement will allow the Village to place Art Wrap on a few select signal cabinets located within the Village's municipal limits. The County will have final approval of all Art Wrap installations. Advertising shall not be permitted. All material aspects of the Art Wrap agreements will be similar, if not identical, in form. Allowing the County Administrator or designee to execute these agreements will help streamline the BCC agenda process. Any agreement that substantially differs from the form agreement, which is Exhibit A to the Resolution, will require BCC approval.

Attachments:

1. Interlocal Agreement (4)
2. Resolution with Exhibit A

Recommended By: David Z. Hub 3/20/19
County Engineer Date

Approved By: Paul 4/8/19
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	\$ <u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	\$ ** <u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No
Does this item include the use of federal funds? Yes No X

Budget Acct No.: Fund__ Dept.__ Unit__ Object
Program

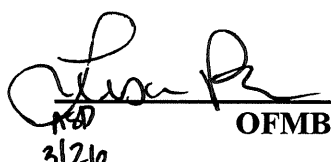
Recommended Sources of Funds/Summary of Fiscal Impact:

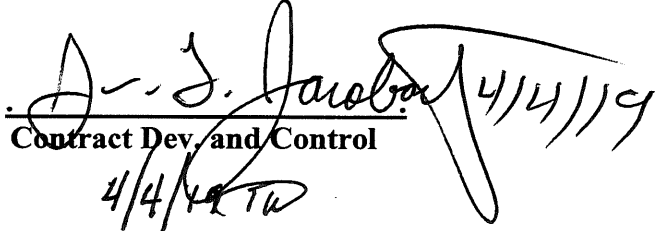
**This item has no fiscal impact.

C. Departmental Fiscal Review: Aliufovala

III. REVIEW COMMENTS

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


3/26/19
OFMB
3/26


4/4/19
Contract Dev. and Control
4/4/19

B. Approved as to Form and Legal Sufficiency:


4/5/2019
Assistant County Attorney

C. Other Department Review:

_____.
Department Director

This summary is not to be used as a basis for payment.

INTERLOCAL AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF DECORATIVE ART WRAP ON TRAFFIC SIGNAL CONTROL CABINETS BETWEEN PALM BEACH COUNTY AND THE VILLAGE OF PALM SPRINGS

THIS INTERLOCAL AGREEMENT (AGREEMENT) is made and entered into this _____ day of _____, 2019 by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners (**COUNTY**), and the **VILLAGE OF PALM SPRINGS (APPLICANT)**, a Florida municipal corporation, whose address is 226 Cypress Lane, Palm Springs, Florida 33461, its successors, agents, and assigns (individually Party and collectively Parties).

WITNESSETH:

WHEREAS, the **COUNTY** maintains and operates traffic signals, including the traffic signal control cabinets, within the **APPLICANT**'s municipal limits ; and

WHEREAS, the **APPLICANT** wishes to affix decorative art wrap (**WRAP**) on **COUNTY** maintained traffic signal control cabinets located within the **APPLICANT**'s municipal limits (**SIGNAL CABINETS**); and

WHEREAS, the placement of **WRAP** on **SIGNAL CABINETS** integrates civic art with public infrastructure; and

WHEREAS, the **COUNTY** believes that the efforts by the **APPLICANT** to integrate civic art with public infrastructure serve a public purpose and enhances the appearance of right of way adjacent to public roads; and

WHEREAS, the **COUNTY** and the **APPLICANT** wish to enter into an **AGREEMENT** to establish the criteria and requirements associated with the installation and maintenance of **WRAP** on **SIGNAL CABINETS**.

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants contained herein, the parties hereto agree as follows:

1. The above recitations are true and correct and incorporated herein.
2. The **APPLICANT** will present the **WRAP** to the **COUNTY** for its review and approval. The **APPLICANT** assumes full responsibility for the content of the **WRAP** and shall follow the recommendations of the **COUNTY**. Advertising shall not be permitted on the **WRAP** under any circumstances.
3. **APPLICANT** will provide the **COUNTY** with ten (10) calendar days-notice, prior to the installation of **WRAP** on **SIGNAL CABINETS**.
4. **WRAP** shall be installed in such a manner as to not interfere with the operation and maintenance of the **SIGNAL CABINETS**.
5. **WRAP** shall be installed in such a manner as to not obstruct the access and ventilation of the **SIGNAL CABINETS**, including but not limited to the hinges, lock mechanism, door handle and cabinet vents.
6. **WRAP** shall comply with all applicable standards and regulations, including but not limited to, the Florida Department of Transportation Design Manual, as amended.
7. The **COUNTY** is not responsible for damage to **WRAP** caused by the **COUNTY**'S operations or maintenance in or around the **SIGNAL CABINETS**.

8. WRAP shall be made of quality 3M vinyl material and ink, shall be graffiti and sticker resistant, and removable.

9. The APPLICANT is solely responsible for all costs associated with installation, maintenance, replacement and removal of WRAP.

10. The APPLICANT is solely responsible for restoring the SIGNAL CABINET to its original condition.

11. The COUNTY shall have the right to remove or request that the APPLICANT remove the WRAP. When feasible, the COUNTY will provide the APPLICANT thirty (30) calendar days-notice that WRAP must be removed.

12. Under no circumstances shall the COUNTY incur any cost related to the WRAP.

13. Should the COUNTY remove the WRAP under any circumstance, the APPLICANT shall be responsible for all costs. The COUNTY will forward any and all costs associated with the removal of the WRAP to the APPLICANT. The APPLICANT will not be permitted to install any additional WRAP on any SIGNAL CABINETS until any and all outstanding costs have been reimbursed to the COUNTY.

14. This AGREEMENT may be canceled by the COUNTY or the APPLICANT for any reason after sixty (60) days written notice has been provided to the other party. Upon receipt of written notification, all WRAP will be removed from SIGNAL CABINETS and the COUNTY shall be relieved of any further obligation.

15. Insurance. Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (STATUTE), the APPLICANT represents that it is self-insured with coverage subject to the limitations of the STATUTE, as may be amended. If the APPLICANT is not self-insured, the APPLICANT 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 the APPLICANT purchase excess liability coverage, the APPLICANT agrees to include the COUNTY as an Additional Insured. The APPLICANT agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes. Should the APPLICANT contract with a third party (CONTRACTOR) to perform any service related to the AGREEMENT, the APPLICANT 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 the APPLICANT and the COUNTY as Additional Insureds. The APPLICANT shall also require that the CONTRACTOR include a Waiver of Subrogation against the 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 APPLICANT shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance. Compliance with the foregoing requirement shall not relieve the

APPLICANT of its liability and obligations under this AGREEMENT.

16. All notices or inquiries required or allowed by this AGREEMENT shall be delivered in person or mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, to the party to whom such notice is to be given. Notices are to be sent to the following locations:
As to the activities of the COUNTY and APPLICANT:

PALM BEACH COUNTY: Palm Beach County Engineering and Public Works Department
Attn: Motasem A. Al-Turk, Ph.D., P.E.
Traffic Division Director
P.O. Box 21229
West Palm Beach, FL 33416-1229

With a copy to: Palm Beach County Attorney's Office
Attn: Yelizaveta B. Herman
Assistant County Attorney
P.O. Box 1989
West Palm Beach, FL 33416-1229

APPLICANT: Village of Palm Springs
Attn: Kim Glas-Castro
PZB Director
226 Cypress Lane
Palm Springs, FL 33461-1604

17. In the event that any section, paragraph, sentence, clause, or provision hereof be 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.

18. This AGREEMENT represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, written or oral, relating to this AGREEMENT.

19. Any costs or expenses including reasonable attorney's fees associated with the enforcement of the terms or conditions of this AGREEMENT shall be borne by the respective parties.

20. This AGREEMENT shall be governed by and in accordance with the laws of the State of Florida. Any 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 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.

21. The APPLICANT shall maintain books, records and documents to justify all charges, expenses and costs incurred under this AGREEMENT.

22. The APPLICANT 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 fees, whether at trial or appellate levels or otherwise arising during and as a result of the APPLICANT's performance of the terms of this AGREEMENT or due to the acts or omissions of the APPLICANT. The APPLICANT'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.

23. The Parties agree that no person shall be excluded on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this AGREEMENT, as provided in County R-2017-1770, as amended.

24. The APPLICANT 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 APPLICANT's sole direction, supervision, and control. The APPLICANT shall exercise control over the means and manner in which its employees, agents or contractors perform the work in all respects. The APPLICANT'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.

25. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original.

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

27. As provided in F.S 287.132-133, as may be amended from time to time, by entering into this AGREEMENT or performing any work in furtherance hereof, the APPLICANT shall have its contractors certify that their affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof.

28. 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 constrain, be construed more severely against one of the parties than the other.

29. Neither the COUNTY nor the APPLICANT shall assign, sublet, convey or transfer its interest in this AGREEMENT without the prior written consent of the other.

30. Except as expressly permitted herein 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. Except that either party may from time to time change the address to which notice under this AGREEMENT shall be given upon three (3) days prior written notice to the other party.

31. The COUNTY has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. 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 the APPLICANT, its 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 or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440 and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

32. 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 COUNTY and/or the APPLICANT.

33. This AGREEMENT shall become effective immediately upon the execution by both parties and upon filing with the Clerk of the Circuit Court of Palm Beach County, Florida.

EXECUTED by APPLICANT this 14th day of February, 2019



Kimberly M. Wynn, CMC, Village Clerk
(Print Name/Title)

APPLICANT: Village of Palm Springs

BY: [Signature]
(Signature)

Bev Smith, Mayor
(Print Name/Title)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: [Signature]
(Signature)

Glen Torcivia, Village Attorney
(Print Name/Title)

APPROVED AS TO TERMS
AND CONDITIONS

BY: [Signature]
(Signature)

Richard J. Reade, Village Manager
(Print Name/Title)

EXECUTED by COUNTY this _____ day of _____, 20__.

(COUNTY Seal)

ATTEST:

Sharon R. Bock
Clerk & Comptroller

Palm Beach County, Florida
by its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: ybh
Yelizaveta B. Herman
Assistant County Attorney

By: Motsem Al-Turk
Motasem A. Al-Turk, Ph.D., P.E.
Traffic Division Director

CERTIFICATE OF COVERAGE

Certificate Holder and Loss Payee

PALM BEACH COUNTY
 C/O INSURANCE TRACKING SERVICES, INC. (ITS)
 P.O. BOX 20270
 LONG BEACH, CA 90801

Administrator

Issue Date 10/15/18

Florida League of Cities, Inc.
 Department of Insurance and Financial Services
 P.O. Box 530065
 Orlando, Florida 32853-0065

COVERAGES
 THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT

COVERAGE PROVIDED BY:

FLORIDA MUNICIPAL INSURANCE TRUST

AGREEMENT NUMBER: FMIT 0459

COVERAGE PERIOD: FROM 10/1/18

COVERAGE PERIOD: TO 10/1/19 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- Comprehensive General Liability, Bodily Injury, Property Damage, Personal Injury and Advertising Injury
- Errors and Omissions Liability
- Employment Practices Liability
- Employee Benefits Program Administration Liability
- Medical Attendants'/Medical Directors' Malpractice Liability
- Broad Form Property Damage
- Law Enforcement Liability
- Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit
 Deductible N/A

Automobile Liability

- All owned Autos (Private Passenger)
- All owned Autos (Other than Private Passenger)
- Hired Autos
- Non-Owned Autos

Limits of Liability

* Combined Single Limit
 Deductible N/A

TYPE OF COVERAGE - PROPERTY

Buildings

- Basic Form
- Special Form
- Personal Property**
- Basic Form
- Special Form

Agreed Amount

- Deductible \$5,000
- Coinsurance 100%
- Blanket
- Specific
- Replacement Cost
- Actual Cash Value

Miscellaneous

- Inland Marine
- Electronic Data Processing
- Bond

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- Statutory Workers' Compensation
- Employers Liability
 - \$1,000,000 Each Accident
 - \$1,000,000 By Disease
 - \$1,000,000 Aggregate By Disease
- Deductible N/A
- SIR Deductible N/A

Automobile/Equipment - Deductible

- Physical Damage
 - Per Schedule - Comprehensive - Auto
 - Per Schedule - Collision - Auto
 - Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is \$200,000 Bodily Injury and/or Property Damage per person or \$300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to \$1,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/Locations/Vehicles/Special Items

RE: Evidenced of Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

Designated Member

Village of Palm Springs
 226 Cypress Lane
 Palm Springs FL 33461

Cancellations

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.



AUTHORIZED REPRESENTATIVE

RESOLUTION NO. R-2019-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DELEGATING TO THE COUNTY ADMINISTRATOR OR DESIGNEE THE AUTHORITY TO ENTER INTO CERTAIN DECORATIVE ART WRAP INTERLOCAL AGREEMENTS AS SET FORTH IN EXHIBIT A; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, several municipalities and local agencies have requested permission to install decorative art wrap (Art Wrap) on Palm Beach County (County) traffic signal control cabinets; and

WHEREAS, the County requires a requesting municipality or local agency to enter into an interlocal agreement; and

WHEREAS, the placement of the Art Wrap integrates civic art in public infrastructure and enhances the appearance of the public right of way; and

WHEREAS, the Board of County Commissioners (BCC) agrees to delegate to the County Administrator or designee the authority to enter into Art Wrap interlocal agreements as shown in **Exhibit A**, attached hereto and made a part hereof; and

WHEREAS, the BCC finds that this delegation of authority will eliminate the delay caused by requiring such items to be brought before the BCC for its approval; and

WHEREAS, the BCC finds that delegation of this authority furthers the BCC's objective of streamlining the agenda process.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The recitals contained above are true and correct and incorporated herein by reference.
2. The County Administrator or designee are hereby delegated the authority to enter into Art Wrap interlocal agreements as shown in **Exhibit A** on behalf of the BCC.
3. The terms of this Resolution shall take effect upon adoption by the BCC.

The foregoing Resolution was offered by Commissioner _____,
who moved its adoption. The motion was seconded by Commissioner _____,
and upon being put to a vote, the vote was as follows:

Commissioner Mack Bernard, Mayor	-
Commissioner Dave Kerner, Vice Mayor	-
Commissioner Hal R. Valeche	-
Commissioner Gregg K. Weiss	-
Commissioner Robert S. Weinroth	-
Commissioner Mary Lou Berger	-
Commissioner Melissa McKinlay	-

The Mayor thereupon declared the Resolution duly passed and adopted this _____
day of _____, 2019.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Mack Bernard, Mayor

SHARON R. BOCK, CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: ybh _____
Yelizaveta B. Herman
Assistant County Attorney

Exhibit A

**INTERLOCAL AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF
DECORATIVE ART WRAP ON TRAFFIC SIGNAL CONTROL CABINETS BETWEEN
PALM BEACH COUNTY AND _____**

THIS INTERLOCAL AGREEMENT (AGREEMENT) is made and entered into this _____ day of _____, 20__ by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners (COUNTY), and _____ (APPLICANT), a Florida municipal corporation, whose address is _____ its successors, agents, and assigns (individually Party and collectively Parties).

WITNESSETH:

WHEREAS, the COUNTY maintains and operates traffic signals, including the traffic signal control cabinets, within the APPLICANT's municipal limits ; and

WHEREAS, the APPLICANT wishes to affix decorative art wrap (WRAP) on COUNTY maintained traffic signal control cabinets located within the APPLICANT's municipal limits (SIGNAL CABINETS); and

WHEREAS, the placement of WRAP on SIGNAL CABINETS integrates civic art with public infrastructure; and

WHEREAS, the COUNTY believes that the efforts by the APPLICANT to integrate civic art with public infrastructure serve a public purpose and enhances the appearance of right of way adjacent to public roads; and

WHEREAS, the COUNTY and the APPLICANT wish to enter into an AGREEMENT to establish the criteria and requirements associated with the installation and maintenance of WRAP on SIGNAL CABINETS.

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants contained herein, the parties hereto agree as follows:

1. The above recitations are true and correct and incorporated herein.
2. The APPLICANT will present the WRAP to the COUNTY for its review and approval. The APPLICANT assumes full responsibility for the content of the WRAP and shall follow the recommendations of the COUNTY. Advertising shall not be permitted on the WRAP under any circumstances.
3. APPLICANT will provide the COUNTY with ten (10) calendar days-notice, prior to the installation of WRAP on SIGNAL CABINETS.
4. WRAP shall be installed in such a manner as to not interfere with the operation and maintenance of the SIGNAL CABINETS.
5. WRAP shall be installed in such a manner as to not obstruct the access and ventilation of the SIGNAL CABINETS, including but not limited to the hinges, lock mechanism, door handle and cabinet vents.
6. WRAP shall comply with all applicable standards and regulations, including but not limited to, the Florida Department of Transportation Design Manual, as amended.
7. The COUNTY is not responsible for damage to WRAP caused by the COUNTY'S operations or maintenance in or around the SIGNAL CABINETS.

Exhibit A

8. WRAP shall be made of quality vinyl material and ink, shall be graffiti and sticker resistant, and removable.

9. The APPLICANT is solely responsible for all costs associated with installation, maintenance, replacement and removal of WRAP.

10. The APPLICANT is solely responsible for restoring the SIGNAL CABINET to its original condition.

11. The COUNTY shall have the right to remove or request that the APPLICANT remove the WRAP. When feasible, the COUNTY will provide the APPLICANT thirty (30) calendar days-notice that WRAP must be removed.

12. Under no circumstances shall the COUNTY incur any cost related to the WRAP.

13. Should the COUNTY remove the WRAP under any circumstance, the APPLICANT shall be responsible for all costs. The COUNTY will forward any and all costs associated with the removal of the WRAP to the APPLICANT. The APPLICANT will not be permitted to install any additional WRAP on any SIGNAL CABINETS until any and all outstanding costs have been reimbursed to the COUNTY.

14. This AGREEMENT may be canceled by the COUNTY or the APPLICANT for any reason after sixty (60) days written notice has been provided to the other party. Upon receipt of written notification, all WRAP will be removed from SIGNAL CABINETS and the COUNTY shall be relieved of any further obligation.

15. Insurance. Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (STATUTE), the APPLICANT represents that it is self-insured with coverage subject to the limitations of the STATUTE, as may be amended. If the APPLICANT is not self-insured, the APPLICANT 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 the APPLICANT purchase excess liability coverage, the APPLICANT agrees to include the COUNTY as an Additional Insured. The APPLICANT agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes. Should the APPLICANT contract with a third party (CONTRACTOR) to perform any service related to the AGREEMENT, the APPLICANT 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 the APPLICANT and the COUNTY as Additional Insureds. The APPLICANT shall also require that the CONTRACTOR include a Waiver of Subrogation against the 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 APPLICANT shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance. Compliance with the foregoing requirement shall not relieve the

Exhibit A

APPLICANT of its liability and obligations under this AGREEMENT.

16. All notices or inquiries required or allowed by this AGREEMENT shall be delivered in person or mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, to the party to whom such notice is to be given. Notices are to be sent to the following locations: As to the activities of the COUNTY and APPLICANT:

PALM BEACH COUNTY: Palm Beach County Engineering and Public Works Department
Attn: Motasem A. Al-Turk, Ph.D., P.E. – Traffic Division Director
P.O. Box 21229
West Palm Beach, FL 33416-1229

With a copy to: Palm Beach County Attorney’s Office
Attn: Yelizaveta B. Herman
Assistant County Attorney
P.O. Box 1989
West Palm Beach, FL 33416-1229

APPLICANT: _____
Attn: _____

17. In the event that any section, paragraph, sentence, clause, or provision hereof be 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.

18. This AGREEMENT represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, written or oral, relating to this AGREEMENT.

19. Any costs or expenses including reasonable attorney’s fees associated with the enforcement of the terms or conditions of this AGREEMENT shall be borne by the respective parties.

20. This AGREEMENT shall be governed by and in accordance with the laws of the State of Florida. Any 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 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.

21. The APPLICANT shall maintain books, records and documents to justify all charges, expenses and costs incurred under this AGREEMENT.

22. The APPLICANT 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 fees, whether at trial or appellate levels or otherwise arising during and as a result of the APPLICANT’s performance of the terms of this AGREEMENT or due to the acts or omissions of the APPLICANT. The APPLICANT’s aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing,

Exhibit A

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.

23. The Parties agree that no person shall be excluded on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this AGREEMENT, as provided in County R-2017-1770, as amended.

24. The APPLICANT 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 APPLICANT's sole direction, supervision, and control. The APPLICANT shall exercise control over the means and manner in which its employees, agents or contractors perform the work in all respects. The APPLICANT'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.

25. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original.

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

27. As provided in F.S 287.132-133, as may be amended from time to time, by entering into this AGREEMENT or performing any work in furtherance hereof, the APPLICANT shall have its contractors certify that their affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof.

28. 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 constrain, be construed more severely against one of the parties than the other.

29. Neither the COUNTY nor the APPLICANT shall assign, sublet, convey or transfer its interest in this AGREEMENT without the prior written consent of the other.

30. Except as expressly permitted herein 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. Except that either party may from time to time change the address to which notice under this AGREEMENT shall be given upon three (3) days prior written notice to the other party.

31. The COUNTY has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. 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 the APPLICANT, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Exhibit A

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

32. 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 COUNTY and/or the APPLICANT.

33. This AGREEMENT shall become effective immediately upon the execution by both parties and upon filing with the Clerk of the Circuit Court of Palm Beach County, Florida.

EXECUTED by APPLICANT this _____ day of _____, 20__.

(APPLICANT Seal)

ATTEST:

APPLICANT:

BY: _____
(Signature)

(Print Name/Title)

BY: _____
(Signature)

(Print Name/Title)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

BY: _____
(Signature)

(Print Name/Title)

BY: _____
(Signature)

(Print Name/Title)

Exhibit A

EXECUTED by COUNTY this _____ day of _____, 20__.

(COUNTY Seal)

ATTEST:

Palm Beach County, Florida
by its County Administrator

By: _____
Witness

By: _____
Verdenia Baker
County Administrator

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Yelizaveta B. Herman
Assistant County Attorney

By: _____
Motasem A. Al-Turk, Ph.D., P.E.
Traffic Division Director