

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 12, 2021	<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 receive and file: an interlocal agreement with the Town of Lake Park (Town) dated September 10, 2020, for the installation and maintenance of decorative art wraps on traffic signal control cabinets located within the Town's municipal limits.

SUMMARY: In accordance with Countywide PPM CW-O-051, all delegated contracts, agreements, and grants must be submitted by the initiating Department as a receive and file agenda item. This agreement was executed by the County Engineer on September 10, 2020, per Resolution R2019-0481. District 7 (YBH)

Background and Justification: Resolution R2019-0481 delegates authority to the County Administrator or designee to enter into decorative art wrap interlocal agreements on behalf of the Board of County Commissioners. The County Administrator designated authority to the County Engineer on May 22, 2019.

Attachments:

1. Interlocal Agreement with the Town of Lake Park

ma
Recommended By: YBH/TEL *ma David Z Reid* 12/11/2020
County Engineer Date

Approved By: *Pde* 12/22/20
Assistant County Administrator Date

INTERLOCAL AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF DECORATIVE ART WRAP ON TRAFFIC SIGNAL CONTROL CABINETS BETWEEN PALM BEACH COUNTY AND Town of Lake Park

THIS INTERLOCAL AGREEMENT (AGREEMENT) is made and entered into this 10 day of September, 20 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 Town of Lake Park (APPLICANT), a Florida municipal corporation, whose address is 535 Park Avenue, Lake Park, FL 33403 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 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:

- a. 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.
- b. Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- c. 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. **Notices.** 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: Town Clerk
Attn: Vivian Mendez
535 Park Avenue
Lake Park, FL 33403

17. **Severability.** 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. **Entire Agreement.** 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. **Legal Fees.** 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. **Venue.** 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. **Records.** The APPLICANT shall maintain books, records and documents to justify all charges, expenses and costs incurred under this AGREEMENT.

22. **Indemnification.** 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. **Non-Discrimination.** 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 R-2017-1770, as amended.

24. **Contractual Relationship.** 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. **Counterparts.** This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original.

26. **Legal Compliance.** 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. **Convicted Vendor List.** As provided in Section 287.132-133, Florida Statutes, 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. **Preparation of the Agreement.** 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 construal, be construed more severely against one of the parties than the other.

29. **Assignment.** 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. **Amendment.** 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. **Inspector General.** 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 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. **Third-Party Beneficiary.** 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. **Effective Date.** 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 COUNTY this 10 day of September, 2020

(COUNTY Seal)


ATTEST:

By: 
Witness
Mary Brodbeck


APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Yelena B. Herman
Assistant County Attorney

Palm Beach County, Florida
by its County Engineer

By: 
David L. Ricks, P.E.
County Engineer

APPROVED AS TO TERMS
AND CONDITIONS

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