

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

Meeting Date:	November 16, 2021	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
		<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

Department:	Engineering & Public Works Department
Submitted By:	Engineering & Public Works Department
Submitted For:	Roadway Production Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Assignment Assumption and Consent Agreement (Assignment) to transfer the intersection improvement annual services contract (R2017-0778) dated June 20, 2017 (Contract) from Bolton Perez & Associates, Inc. (BPA) to Colliers Engineering & Design, Inc. (CED).

SUMMARY: On August 1, 2021, BPA merged with CED and is now operating as CED. The Contract expired on June 19, 2020. However, there are active Work Task Orders (WTOs) still being processed. Approval of the Assignment will allow the Contract, and all associated WTOs to be assigned to CED. The Affirmative Procurement Initiative selected for the Contract's renewal on February 6, 2019, by the Goal Setting Committee is a 20% minimum mandatory Small Business Enterprise (SBE) participation. BPA committed to 20% SBE participation for this Contract. To date, WTOs in the amount of \$1,354,890 have been authorized for BPA and their cumulative SBE participation is 22.97%. CED's corporate office is located in Red Bank, New Jersey and they have an office located in Palm Beach County (County). Countywide (YBH)

Background and Justification: On June 20, 2017, the Board of County Commissioners (BCC) approved the Contract with BPA pursuant to Section 287.055, Florida Statutes, Consultants Competitive Negotiations Act. On August 1, 2021, CED merged with BPA. BPA requested that the County accept the assignment of their Contract and all associated WTOs to CED. Since professional services are still necessary for completion of the WTOs, the assignment of the Contract to CED will ensure the continuation of these services.

After reviewing the attached Assignment and finding it in proper order, the Engineering Department recommends BCC approval.

Attachments:

1. Assignment Assumption and Consent Agreement with Ebix Insurance Compliance (2)

<i>KAF</i> Recommended by: <i>HL gmk</i> YBH/TEL	<i>J. Ruzick</i> _____ County Engineer	<i>10/22/2021</i> _____ Date
Approved By: _____	<i>Pee</i> _____ Assistant County Administrator	<i>11/9/21</i> _____ Date

ASSIGNMENT ASSUMPTION AND CONSENT AGREEMENT
BY AND BETWEEN PALM BEACH COUNTY
AND BOLTON PEREZ & ASSOCIATES, INC.
AND COLLIERS ENGINEERING & DESIGN, INC.
FOR INTERSECTION IMPROVEMENTS ANNUAL SERVICES

This Assignment Assumption and Consent Agreement (ASSIGNMENT) is made and entered into as of _____ by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (COUNTY); Bolton Perez & Associates, Inc., a Florida for Profit Corporation (ASSIGNOR) whose Federal ID is 65-0789352 and Colliers Engineering & Design, Inc., a Foreign for Profit Corporation (ASSIGNEE) whose Federal ID is 22-2651610 (individually Party and collectively Parties).

WHEREAS, pursuant to this ASSIGNMENT, ASSIGNOR has agreed to assign and deliver to ASSIGNEE and ASSIGNEE has agreed to accept and assume from ASSIGNOR, the CONTRACT, as hereinafter defined, including all rights, claims, interests, and obligations with respect thereto; and

WHEREAS, the COUNTY has agreed and consented to the assignment of the CONTRACT, as defined below, according to the terms and conditions set forth herein by its execution of this ASSIGNMENT.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

Section 1 - CONTRACT - The contract to be assigned is the contract for the Intersection Improvements Annual Services between the COUNTY and the ASSIGNOR dated June 20, 2017 (R2017-0778), as amended on May 1, 2018 (R2018-0634), January 15, 2019 (R2019-0020) and June 4, 2019 (R2019-0711) together with Work Task Orders (WTO) issued pursuant thereto (collectively, CONTRACT).

Section 2 - Assignment and Effective Date - ASSIGNOR hereby conveys, transfers and assigns its rights, title and interest in, to, and under the CONTRACT to ASSIGNEE, as of August 1, 2021 (Effective Date), including all of ASSIGNOR's rights and obligations, and ASSIGNEE hereby assumes all of ASSIGNOR's rights and obligations, in, to and under the CONTRACT with the COUNTY, subject to the COUNTY's permission.

Section 3 - ASSIGNEE's Acceptance and Assumption - ASSIGNEE hereby accepts the assignment to it of ASSIGNOR's rights, title, obligations, and interest in, to, and under the CONTRACT and hereby expressly assumes the performance of each of the terms, conditions, covenants, obligations, liabilities and duties of the ASSIGNOR under the CONTRACT, effective as of and beginning on, the Effective Date and ASSIGNEE hereby assumes and agrees to pay all debts, obligations, and liabilities of ASSIGNOR under the CONTRACT that accrue on or after the Effective Date of this ASSIGNMENT. ASSIGNEE shall assume all responsibility for any warranty or guarantee under the CONTRACT which assumption shall include the guarantee or warranty of the performance of the CONTRACT in full, regardless of the date ASSIGNEE began performance.

Section 4 - No Waiver or Release - Notwithstanding any other clause or provision in this ASSIGNMENT, this ASSIGNMENT is not intended to act as a release, waiver, or relinquishment of any claims, demands, warranties, damages, causes of action, or rights of the COUNTY relating to ASSIGNOR and all such rights are reserved by the COUNTY and shall remain notwithstanding this ASSIGNMENT, to the extent they arise from or are related to the terms, conditions, covenants, obligations, liabilities, and duties of ASSIGNOR existing prior to the Effective Date of this ASSIGNMENT.

Section 5 - Payment for Work in Process and Completed Work - ASSIGNOR is conveying, transferring, and assigning all rights to payment for work and services performed under the CONTRACT to ASSIGNEE, as of the Effective Date. In order to transition work in process payments, each invoice, payment certification and requisition, or other request for payment due, received by the COUNTY before the Effective Date, regardless of the dates of services or work performed, will be processed by the COUNTY and if approved, paid to ASSIGNOR. Each invoice, payment certification and requisition, or other request for payment received by the COUNTY on or after the Effective Date, regardless of the dates of service or work performed, shall be processed by the COUNTY and if approved, shall be paid to ASSIGNEE.

Section 6 - Hold Harmless and Indemnity - In the event the COUNTY is made a party to an action between ASSIGNEE and ASSIGNOR, or involving any third party, arising out of this ASSIGNMENT, the ASSIGNEE and the ASSIGNOR each agree to indemnify, defend and hold the COUNTY, its elected officials, employees and agents, harmless from and against any such claim, demand, cause of action, economic losses, damages, and costs and expenses (including reasonable legal fees and costs of investigation) that arise from, out of, or as a result of, this ASSIGNMENT.

Section 7 - Appointment - ASSIGNOR hereby irrevocably appoints ASSIGNEE, its successors and assigns, as the attorney and agent of ASSIGNOR, in ASSIGNOR's name and stead, to enforce the provisions of the CONTRACT beginning on the Effective Date.

Section 8 - Acknowledgement - By signing below, the COUNTY agrees, subject to the terms of this ASSIGNMENT, to ASSIGNOR's assignment of all of its rights and obligations under the CONTRACT beginning on the Effective Date. The COUNTY acknowledges that ASSIGNOR and ASSIGNEE are relying on this consent in connection with this ASSIGNMENT. ASSIGNOR acknowledges its continuing responsibilities as set forth in this ASSIGNMENT.

Section 9 - Notices - Beginning on the Effective Date, any and all notices required under the CONTRACT and all payments to be paid under the CONTRACT will be delivered to ASSIGNEE, at:

Leonardo E. Ponzio, PLS, Executive Vice President/CAO
Colliers Engineering & Design, Inc.
331 Newman Springs Road, Suite 203
Red Bank, New Jersey, 07702
Phone: (877) 627-3772
Email: leo.ponzio@colliersengineering.com

Section 10 - Consent - The COUNTY's consent is effective when this ASSIGNMENT has been executed by all Parties and approved by the Board of County Commissioners.

Section 11 - Authority - The undersigned signatory for ASSIGNOR does hereby attest and affirm that the signatory has the current lawful authority to execute this ASSIGNMENT on behalf of the ASSIGNOR and that the assignment is not made with intent to hinder or defraud creditors, or interfere with lawful rights of other persons or entities, or for any other unlawful purpose.

Section 12 - Ratification - Except as expressly modified herein, the CONTRACT is hereby ratified, confirmed, and remains in full force and effect.

Section 13 - Governing Law - This ASSIGNMENT shall be governed by and interpreted in accordance with the laws of the State of Florida without giving effect to its conflict of laws principles.


Section 14 - Counterparts - This ASSIGNMENT, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same ASSIGNMENT. The COUNTY may execute the ASSIGNMENT through electronic or manual means. ASSIGNOR and ASSIGNEE shall execute by manual means only, unless the COUNTY provides otherwise.

Assignment Assumption and Consent Agreement

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this ASSIGNMENT on behalf of the COUNTY, and ASSIGNOR and ASSIGNEE have hereunto set their respective hands the day and year above written.

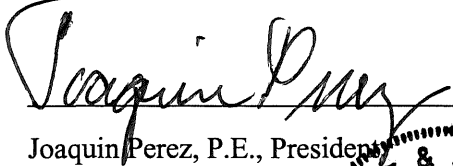
OWNER:

APPROVED AS TO TERMS
AND CONDITIONS

By: 
for Morton L. Rose, P.E.
Director of Roadway Production

ASSIGNOR:

Bolton Perez & Associates, Inc.

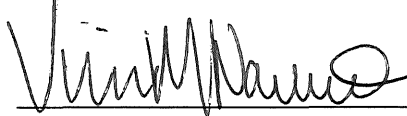


Joaquin Perez, P.E., President

(Corp. Seal)



ATTEST WITNESS:



Signature

VIVIAN M. NAVARRO

Name (type or print)

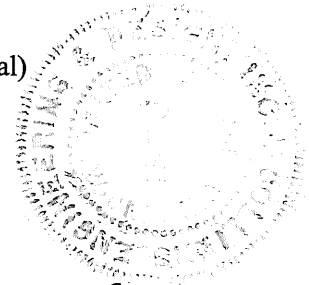
ASSIGNEE:

Colliers Engineering & Design, Inc.




Brian E. Curtis, Esq., Vice President & General Counsel

(Corp. Seal)



ATTEST WITNESS:



Signature

Carol A. DeLuca

Name (type or print)

Assignment Assumption and Consent Agreement

{SIGNATURE PAGES CONTINUED}

ATTEST:

Joseph Abruzzo
Clerk of the Circuit Court & Comptroller

COUNTY:

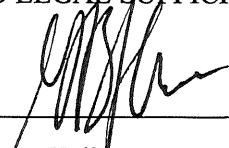
Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

(Seal)

By:  _____ 11/8/21
Yelizaveta B. Herman
Assistant County Attorney