

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY, FLORIDA
AND
CITY OF LAKE WORTH BEACH
FOR JOINT PARTICIPATION AND PROJECT FUNDING
FOR CONSTRUCTION OF UTILITY ADJUSTMENTS FOR
CONGRESS AVENUE AT LANTANA ROAD
PALM BEACH COUNTY PROJECT NO. 2019108**

THIS Interlocal Agreement, (AGREEMENT), for intersection improvements to Congress Avenue at Lantana Road, (PROJECT), is made as of the _____ day of _____, 2022, 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 City of Lake Worth Beach, an interlocal government entity existing under the laws of Florida, (hereinafter "CITY"), each one constituting a public agency defined in Part I of Chapter 163, Florida Statutes (individually Party and collectively Parties).

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, thereby providing services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the CITY has requested the COUNTY to construct force main and associated appurtenance adjustments to the CITY'S system (UTILITY WORK) within the limits of the PROJECT; and

WHEREAS, the COUNTY and the CITY desire to jointly participate in the UTILITY WORK ; and

WHEREAS, both COUNTY and CITY declare that it is in the public interest that the UTILITY WORK be constructed with the PROJECT; and

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

Section 1. Recitals.

The above recitals are true and correct and are incorporated herein.

Section 2. COUNTY Responsibilities:

- A. COUNTY shall provide construction and administrative services to the PROJECT as more specifically described in the Bid Documents for Palm Beach County Project No. 2019108 (Exhibit "A"). Said Bid Documents include the UTILITY WORK as shown in CITY prepared Utility Matrix, Applicable Technical Specifications, Standard Construction Details, and Approved Product List.
- B. COUNTY shall obtain written approval from the CITY'S designated representative, Giles Rhoads, P.E., (CITY REPRESENTATIVE) in advance of COUNTY approving any change order, which change order would result in any cost attributable to the UTILITY WORK exceeding the total cost amount in section 3.A. below. CITY'S Approval shall not be unreasonably withheld.
- C. COUNTY shall secure all necessary easements and permits required for PROJECT.
- D. COUNTY shall publicly bid, administer, construct and inspect the PROJECT and UTILITY WORK in accordance with the Bid Documents and Exhibit "A".
- E. COUNTY shall require the contractor to provide a Public Construction Bond in an amount equal to the contractor's bid for the PROJECT and the UTILITY WORK.

Section 3. CITY'S Responsibilities:

- A. CITY shall reimburse COUNTY a total estimated cost including 30% contingency of **Thirty-Five Thousand Five Hundred Thirty-Five Dollars and Fifty Cents (\$35,535.50)**, provided COUNTY performs pursuant to the terms and conditions of this Agreement for all UTILITY WORK in accordance with the Bid Tabulation (Exhibit "A") and cost summary (Exhibit "B"). CITY hereby authorizes and delegates the authority to approve any change orders, invoices, and associated documents related to this AGREEMENT, to the CITY REPRESENTATIVE. Any cost exceeding this amount attributable to CITY'S Utility Items shall be paid by the CITY.
- B. Costs shall be based upon actual contract costs using contract unit prices and actual constructed quantities, said quantities being measured by the COUNTY with concurrence by the CITY.
- C. Upon completion of the PROJECT and the UTILITY WORK, the CITY shall repair and maintain the UTILITY WORK, at CITY'S expense.

Section 4. Payments/Invoicing and Reimbursement:

The COUNTY will invoice the CITY on a periodic basis during construction of the PROJECT and the UTILITY WORK. The CITY agrees to provide to COUNTY payment for documented costs for the UTILITY WORK in the amount established in Section 3.A. COUNTY shall submit all invoices to the CITY identifying the UTILITY WORK, including COUNTY'S total expenditure for the PROJECT, and identifying the amount attributable to the UTILITY WORK under Exhibit "A". COUNTY shall supply any further documentation such as copies of paid receipts, canceled checks, invoices and other documents deemed necessary by the CITY within seven (7) calendar days of request by the CITY. Invoices received from COUNTY will be reviewed and approved by the CITY REPRESENTATIVE to ensure that expenditures have been made in conformity with this

AGREEMENT. Upon COUNTY'S submission of acceptable documents needed to substantiate its costs for the UTILITY WORK, CITY will provide said payment to COUNTY on a reimbursement basis within thirty (30) days of receipt of all required documents. In no event shall the CITY provide advance payment to the COUNTY.

The PROJECT and the UTILITY WORK will be administered by the COUNTY. Only those costs incurred by the COUNTY relating to the UTILITY WORK are eligible for reimbursement by the CITY pursuant to the terms and conditions hereof. In the event the COUNTY ceases or suspends the PROJECT or the UTILITY WORK for any reason, the CITY will reimburse the COUNTY for the UTILITY WORK completed as of the date the COUNTY suspends the UTILITY WORK. Any remaining unpaid portion of this AGREEMENT shall be retained by the CITY and the CITY shall have no further obligation to honor reimbursement requests submitted by the COUNTY.

Section 5. Access and Audits:

COUNTY and CITY shall maintain adequate records to justify all charges, expenses and costs incurred in performing the PROJECT and the UTILITY WORK for at least five (5) years after completion or termination of this AGREEMENT. Each Party shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the other Parties place of business. In the event any work is subcontracted by COUNTY, COUNTY shall similarly require each contractor and subcontractor to maintain and allow access to such records for audit purposes.

Section 6. Independent Contractor:

COUNTY and the CITY are and shall be, in the performance of all work, services and activities under this AGREEMENT Independent Contractors and not employees, agents or servants of the other Party. All COUNTY employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to COUNTY'S sole direction, supervision, and control. All CITY employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to CITY'S sole direction, supervision, and control. The Parties shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Parties relationship and the relationship of its employees to the other Party shall be that of an Independent Contractor and not as employees or agents of the other.

Neither COUNTY nor the CITY have the power or authority to bind the other in any promise, agreement or representation.

Section 7. Personnel:

COUNTY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this AGREEMENT. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereinunder shall be performed by COUNTY or its contractor, and personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

All of COUNTY'S personnel, contractors and all subcontractors while on COUNTY premises will conduct themselves in an acceptable manner and follow acceptable safety and security procedures.

Section 8. Indemnification:

The CITY and COUNTY recognize their liability for certain tortious acts of its agents, officers, employees and invitees to the extent and limits provided in Section 768.28, Florida Statutes. To the extent permitted by law, the CITY and COUNTY shall indemnify, defend and hold the other harmless against any actions, claims and damages arising out of their own negligence in connection with the PROJECT and the UTILITY WORK and the use of the funds provided under this AGREEMENT. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute an agreement by the CITY or COUNTY to indemnify each other for sole negligence, or willful or intentional acts of the other. The foregoing indemnification shall survive termination of this AGREEMENT.

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 CITY.

Section 9. Annual Appropriation:

All provisions of this AGREEMENT calling for the expenditure of ad valorem tax money by either the COUNTY or the CITY are subject to annual budgetary funding and should either Party involuntarily fail to fund any of their respective obligations pursuant to the AGREEMENT, this AGREEMENT may be terminated. However, once the PROJECT and the UTILITY WORK have been awarded to the contractor, it shall be prosecuted to completion and this AGREEMENT shall be binding upon the Parties and neither Party shall have the right to terminate the subject AGREEMENT for the reason that sufficient funds are not available.

Section 10. Breach and Opportunity to Cure:

The Parties expressly covenant and agree that in the event either Party is in default of its obligations under this AGREEMENT, each Party shall have thirty (30) days written notice before exercising any of its rights.

Section 11. 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 12. Notice:

Except as otherwise provided herein, 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 or hand delivery, to the following:

All notice to the CITY shall be sent to:

City of Lake Worth Beach
Brian Shields, P.E. Water Utilities Director
301 College Street
Lake Worth Beach, FL 33460

All notice to the COUNTY shall be sent to:

Morton L. Rose, P.E., Director
Palm Beach County Engineering & Public Works
Roadway Production Division
P.O. Box 21229
West Palm Beach, FL 33416-1229

Section 13. Modification and Amendment:

Except as provided in section 2 and 3, and 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.

Section 14. Remedies:

This AGREEMENT shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this AGREEMENT will be held in a court of competent jurisdiction located in Palm Beach County, Florida. 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.

Section 15. No Waiver:

Any waiver by either Party of its rights with respect to a default under this AGREEMENT, or with respect to any other matters arising in connection with this AGREEMENT, shall not be deemed a waiver with respect to any subsequent default or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this AGREEMENT or to exercise any rights under this AGREEMENT shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.

Section 16. 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 17. Non-Discrimination:

COUNTY and CITY agree that both Parties shall not conduct business with nor appropriate any funds for any organization or entity that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. COUNTY will ensure that all contracts let for the PROJECT and the UTILITY WORK pursuant to the terms of this AGREEMENT will contain a similar non-discrimination clause.

Section 18. Execution:

This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 19. Filing:

A copy of this AGREEMENT shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

Section 20. Termination:

This AGREEMENT may be terminated by either Party upon sixty (60) days written notice to the other Party, provided the written notice is delivered to the other party prior to the date the PROJECT commenced, and such termination shall be effective upon expiration of the notice period even in the event the termination date is subsequent to the commencement of the PROJECT. Except as provided in the prior sentence, once the PROJECT has commenced, it shall be prosecuted to completion and this AGREEMENT shall be binding upon the Parties and neither Party shall have the right to terminate the subject AGREEMENT.

Section 21. Compliance with Codes and Laws:

COUNTY and CITY shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this AGREEMENT. COUNTY and CITY further agree to include this provision in all subcontracts issued as a result of this AGREEMENT.

Section 22. Office of the Inspector General:

Palm Beach 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 contractor, 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 in 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.

Section 23. Public Entity Crime Certification:

As provided in F.S. 287.132-133, by entering into this AGREEMENT or performing any work in furtherance hereof, COUNTY shall have its contractors certify that it, its 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 the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

Section 24. Severability:

If any term or provision of this AGREEMENT, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this AGREEMENT, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this AGREEMENT shall be deemed valid and enforceable to the extent permitted by law.

Section 25. Entirety of Agreement:

COUNTY and CITY agree that this AGREEMENT sets forth the entire AGREEMENT between the Parties, and there are no promises or understandings other than those stated herein.

Section 26. Survival:

The obligations, rights, and remedies of the Parties hereunder, which by their nature survive the termination of this AGREEMENT or the completion of the PROJECT and UTILITY WORK, shall survive such termination or PROJECT or UTILITY WORK completion and inure to the benefit of the Parties.

Section 27. Term:

The term of this AGREEMENT shall be effective on the date of execution of this AGREEMENT by both Parties.

WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and the CITY has hereunto set its hand the day and year above written.

CITY OF LAKE WORTH BEACH

BY: _____
Betty Resch, Mayor

ATTEST:

BY: _____
Melissa Coyne, City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED FOR
FINANCIAL SUFFICIENCY


BY: _____
Glen J. Torcivia, City Attorney

BY: _____
Bruce T. Miller
Financial Services Director

(SIGNATURE PAGES CONTINUED)

(SIGNATURE PAGES CONTINUED)

APPROVED AS TO TERMS
AND CONDITIONS

Y: 
Morton Rose, P.E., Director
Roadway Production Division

ALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, BY AND THROUGH
S BOARD OF COUNTY COMMISSIONERS

Y: _____
David Ricks, P.E.,
County Engineer

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Y: /s/ Yelizaveta B. Herman
Assistant County Attorney

\\ROADWAY\UTILITY COORDINATION\2019108_Lantana & Congress\City of Lake Worth Construction
Agreement.doc

BID TABULATIONS LANTANA ROAD AT CONGRESS AVENUE INTERSECTION IMPROVEMENTS CONTRACT PBC PROJECT #2019108				Average of Bid Items for All Bidders		Engineer's Estimate Municipal Contractors, Inc.		R&D Paving, LLC		Florida Blacktop, Inc.	
Item #	Item Description	Qty.	Units	Unit Price	Unit Price	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ROADWAY ITEMS											
1	Mobilization	1	LS	\$ 47,407.12	\$ 31,450.58	\$ 42,427.05	\$ 42,427.05	\$ 55,000.00	\$ 55,000.00	\$ 44,794.32	\$ 44,794.32
2	Maintenance of Traffic (Includes Pedestrian MOT)	1	LS	\$ 17,563.63	\$ 47,175.87	\$ 29,900.00	\$ 29,900.00	\$ 16,010.00	\$ 16,010.00	\$ 6,780.90	\$ 6,780.90
3	Clearing and Grubbing	1	LS	\$ 34,542.17	\$ 15,725.29	\$ 30,000.00	\$ 30,000.00	\$ 50,374.80	\$ 50,374.80	\$ 23,251.71	\$ 23,251.71
4	Regular Excavation	378	CY	\$ 31.62	\$ 11.28	\$ 40.00	\$ 15,120.00	\$ 33.95	\$ 12,833.10	\$ 20.92	\$ 7,907.76
5	Embankment (Compacted in Place)	102	CY	\$ 39.81	\$ 18.79	\$ 22.00	\$ 2,244.00	\$ 70.60	\$ 7,201.20	\$ 26.83	\$ 2,736.66
6	Optional Base Group 13	1,140	SY	\$ 37.46	\$ 29.58	\$ 36.25	\$ 41,325.00	\$ 33.70	\$ 38,418.00	\$ 42.42	\$ 48,358.80
7	Mill Existing Asphalt Pavement	5,001	SY	\$ 3.65	\$ 3.97	\$ 3.95	\$ 19,753.95	\$ 3.05	\$ 15,253.05	\$ 3.96	\$ 19,803.96
8	Superpave Asphaltic Concrete (Traffic Level C)	99	TN	\$ 230.66	\$ 160.60	\$ 146.00	\$ 14,454.00	\$ 192.45	\$ 19,052.55	\$ 353.52	\$ 34,998.48
9	Structural Overbuild	271	TN	\$ 151.25	\$ 144.95	\$ 146.00	\$ 39,566.00	\$ 122.15	\$ 33,102.65	\$ 185.61	\$ 50,300.31
10	Asphalt Concrete Friction Course (1.0") (FC-9.5)	462	TN	\$ 191.04	\$ 180.32	\$ 160.00	\$ 73,920.00	\$ 179.15	\$ 82,767.30	\$ 233.97	\$ 108,094.14
11	Inlet (Curb) (Type J-6)	1	EA	\$ 14,235.77	\$ 5,337.00	\$ 8,300.00	\$ 8,300.00	\$ 16,500.00	\$ 16,500.00	\$ 17,907.30	\$ 17,907.30
12	Storm Sewer Pumping (Exist.) (24" or Less) (See SP's)	95	LF	\$ 11.65	\$ 15.34	\$ 12.00	\$ 1,140.00	\$ 11.00	\$ 1,045.00	\$ 11.94	\$ 1,134.30
13	Storm Sewer Pumping (Exist.) (>24" to 48") (See SP's)	300	LF	\$ 13.51	\$ 15.34	\$ 13.00	\$ 3,900.00	\$ 13.20	\$ 3,960.00	\$ 14.33	\$ 4,299.00
14	Concrete Curb & Gutter (Type F)	663	LF	\$ 39.69	\$ 27.75	\$ 32.00	\$ 21,216.00	\$ 40.90	\$ 27,116.70	\$ 46.16	\$ 30,604.08
15	Traffic Separator Conc. (Special) (Variable Width)	568	SY	\$ 72.80	\$ 83.65	\$ 58.00	\$ 32,944.00	\$ 76.85	\$ 43,650.80	\$ 83.54	\$ 47,450.72
16	Concrete Sidewalk (4" Thick)	448	SY	\$ 62.97	\$ 72.90	\$ 38.00	\$ 17,024.00	\$ 75.70	\$ 33,913.60	\$ 75.20	\$ 33,689.60
17	Concrete Sidewalk (6" Thick) (Driveways)	54	SY	\$ 77.78	\$ 87.71	\$ 75.00	\$ 4,050.00	\$ 83.15	\$ 4,490.10	\$ 75.20	\$ 4,060.80
18	Sodding	168	SY	\$ 6.75	\$ 5.17	\$ 7.00	\$ 1,176.00	\$ 9.80	\$ 1,646.40	\$ 3.44	\$ 577.92
SUBTOTAL (ROADWAY)						\$	398,460.00	\$	462,335.25	\$	486,750.76
CONTINGENCY ITEMS											
19	Class I Concrete (Miscellaneous)	10	CY	\$ 173.02	\$ 331.86	\$ 175.00	\$ 1,750.00	\$ 165.00	\$ 1,650.00	\$ 179.07	\$ 1,790.70
20	Flowable Fill	10	CY	\$ 597.45	\$ 276.69	\$ 160.00	\$ 1,600.00	\$ 200.00	\$ 2,000.00	\$ 1,432.36	\$ 14,323.60
21	Changeable (Variable Message) Sign (Non MOT)	50	ED	\$ 23.78	\$ 41.79	\$ 25.00	\$ 1,250.00	\$ 16.50	\$ 825.00	\$ 29.85	\$ 1,492.50
22	Traffic Control Officer (Non MOT)	50	HR	\$ 69.87	\$ 66.34	\$ 67.00	\$ 3,350.00	\$ 65.00	\$ 3,250.00	\$ 77.60	\$ 3,880.00

BID TABULATIONS LANTANA ROAD AT CONGRESS AVENUE INTERSECTION IMPROVEMENTS CONTRACT PBC PROJECT #2019108				Average of Bid Items for All Bidders	Engineer's Estimate	Municipal Contractors, Inc.		R&D Paving, LLC		Florida Blacktop, Inc.	
Item #	Item Description	Qty.	Units	Unit Price	Unit Price	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
23	Storm Sewer Cleaning (Exist.) (24" or Less) (See SP's)	95	LF	\$ 19.29	\$ 33.63	\$ 12.00	\$ 1,140.00	\$ 22.00	\$ 2,090.00	\$ 23.88	\$ 2,268.60
24	Storm Sewer Cleaning (Exist.) (>24" to 48") (See SP's)	300	LF	\$ 23.78	\$ 21.55	\$ 14.00	\$ 4,200.00	\$ 27.50	\$ 8,250.00	\$ 29.85	\$ 8,955.00
25	Relocate Existing Light	1	EA	\$ 7,155.57	\$ 2,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,150.00	\$ 7,150.00	\$ 6,816.71	\$ 6,816.71
SUBTOTAL (CONTINGENCY)						\$	20,790.00	\$	25,215.00	\$	39,527.11
UTILITY ITEMS - CITY OF LAKE WORTH BEACH											
26	Deflect Force Main with Fittings <12"	1	EA	\$ 24,350.56	\$ 20,000.00	\$ 18,000.00	\$ 18,000.00	\$ 26,400.00	\$ 26,400.00	28651.68	\$ 28,651.68
27	Adjust Manholes - Utility	1	EA	\$ 899.92	\$ 300.00	\$ 750.00	\$ 750.00	\$ 935.00	\$ 935.00	1014.75	\$ 1,014.75
SUBTOTAL (UTILITY ITEMS)						\$	18,750.00	\$	27,335.00	\$	29,666.43
TOTAL BID						\$	438,000.00	\$	514,885.25	\$	555,944.30

EXHIBIT “B”

City of Lake Worth Beach

PROJECT NAME: Lantana Rd. at Congress Ave.

PROJECT NUMBER: 2019108

CONTRACTOR: R & D Paving, LLC

ITEM		QUANTITY /UNITS	UNIT PRICE	AMOUNT
City of Lake Worth Beach Utility Items				
26	Deflect Force Main with Fittings> 12"	1 EA	\$26,400.00	\$26,400.00
27	Adjust Manholes - Utility	1 EA	\$935.00	\$935.00
City of Lake Worth Beach Utility Total				<u>\$27,335.00</u>

City of Lake Worth Beach Grand Total Plus 30% Contingency **\$35,535.50**