

V.a.

LAKE WORTH
COMMUNITY REDEVELOPMENT AGENCY
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MEMORANDUM

TO: Chair, Vice-Chair and Members of the Board

FROM: Chris Dabros, Deputy Director *CD*

DATE: November 10, 2015

SUBJECT: Traffic Control Boxes Maintenance Agreement – REVISED AGREEMENT

EXPLANATION:

UPDATE: *On August 11, 2015 the CRA Board agreed to enter into a Maintenance Agreement with Palm Beach County to install and maintain artistic 'traffic control box wraps' on numerous boxes within the CRA district. Unfortunately, soon after the CRA executed the document, Staff learned that the agreement originally provided to us contained missing text and information. Therefore, a revised agreement from Palm Beach County has been provided for the Board to review and approve. Please review and discuss the revised agreement prior to approval (EXHIBIT 'B').*

ORIGINAL STAFF REPORT: The CRA, through the LULA Lake Worth Arts Program, would like to expand its art in public places initiative by installing new artistically designed vinyl 'wraps' around select traffic control boxes within the CRA district. The practice of 'wrapping' traffic control boxes with art, designs or photos has been implemented in many major downtowns throughout the country, including Boston, San Jose, Minneapolis, Ft. Lauderdale and West Palm Beach. These boxes can typically be found at major street intersections in which a traffic light exists.

Courtesy of funding received from the Neighborworks Catalytic Grant, the CRA has an opportunity to professionally design, install and maintain a select number of traffic control boxes within the downtown area. Although the CRA district contains over 20 of these large metal boxes, Staff foresees that we may only be able to wrap and maintain 5- 10. A majority of the 'wrapped' boxes will primarily be located in the downtown area and/or near the Gateways. Examples of proposed decorative wraps are provided as **EXHIBIT "A"**.

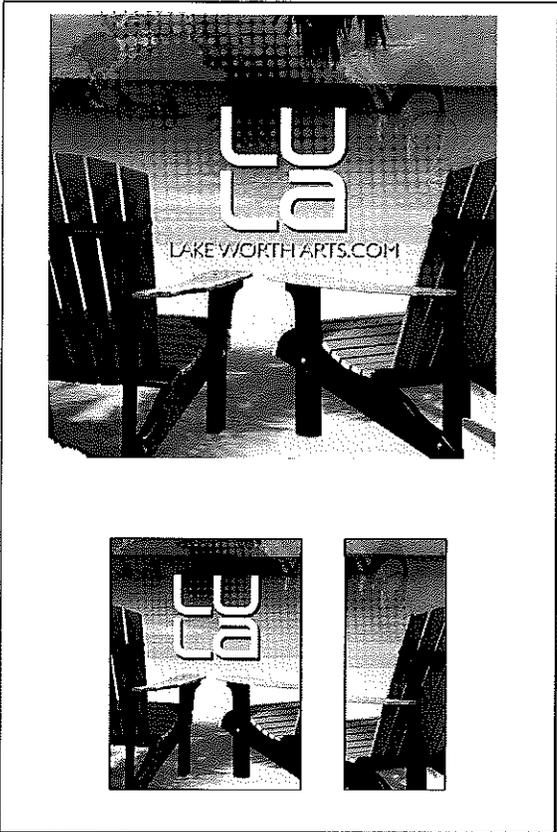
The CRA anticipates that these decorative 'wraps' will help to support continued redevelopment of older strip commercial areas, such as Dixie Highway and Lake/Lucerne Avenues, and maintain their economic viability while enhancing civic pride. The CRA began its art in public places initiative by creating and supporting the wall mural program which has led to over 15 new murals throughout the City.

Due to the fact that these traffic boxes are owned, operated and maintained by the Palm Beach County Traffic Control Division, an installation and maintenance agreement is required by both the CRA and the Palm Beach County Board of Commissioners. This agreement details the types of material that are permitted on the boxes and requires the CRA to pay for and schedule maintenance to each of the boxes if vandalism occurs to the exterior. A standard installation and maintenance agreement (**EXHIBIT "B"**) is included for review.

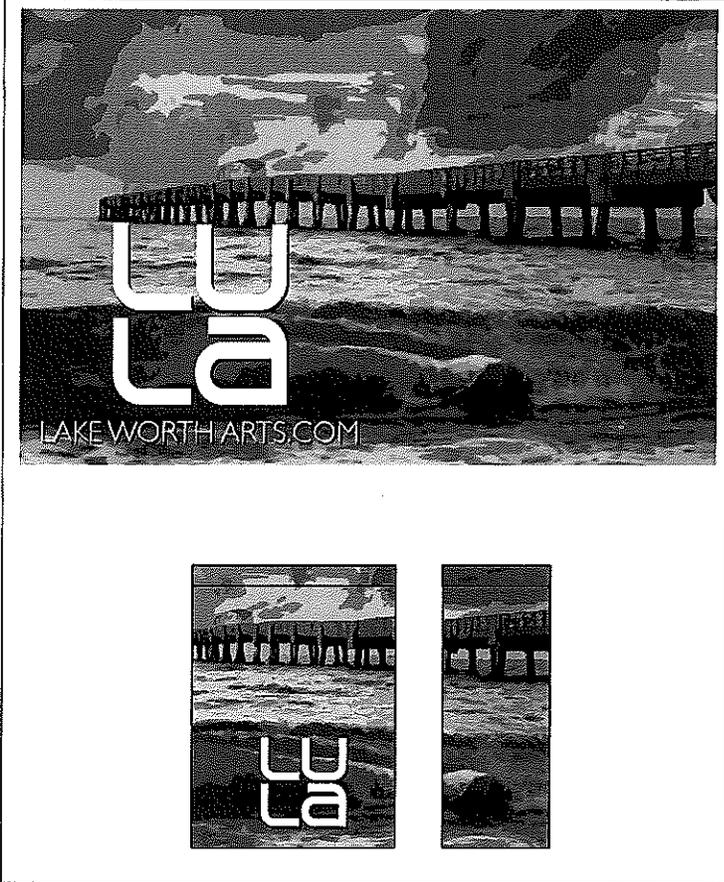
RECOMMENDATION:

Staff recommends the Board authorize the Chair to execute the revised agreement between the CRA and Palm Beach County. Following execution, CRA Staff will forward the document to the Palm Beach County Board of Commissioners for final authorization of the agreement.

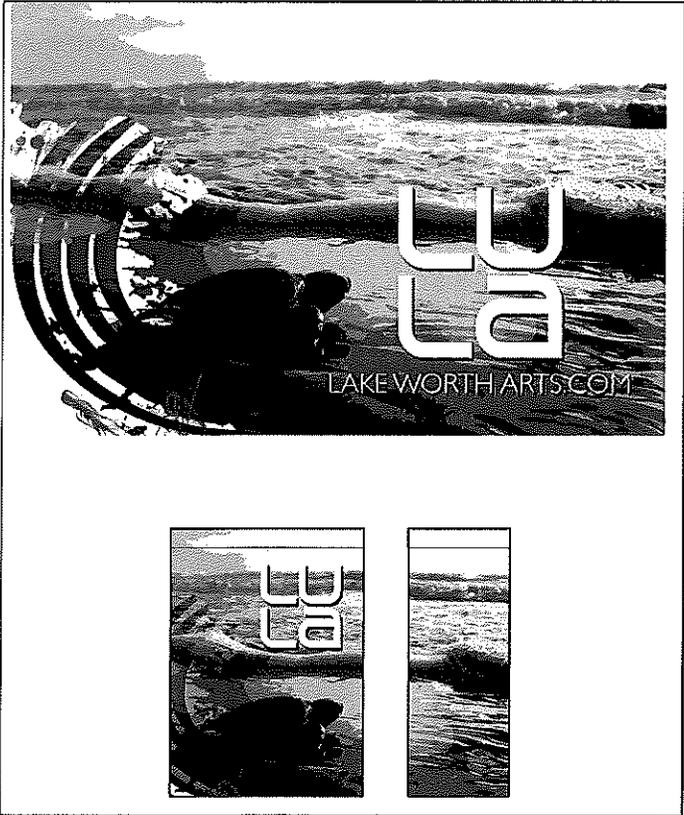
EXHIBIT 'A'



Example 1



Example 2



Example 3

**INTERLOCAL AGREEMENT FOR THE INSTALLATION AND
MAINTENANCE OF DECORATIVE ART WRAPS ON TRAFFIC SIGNAL
CONTROL CABINETS BETWEEN PALM BEACH COUNTY AND WEST
PALM BEACH DOWNTOWN DEVELOPMENT AUTHORITY**

THIS AGREEMENT, made and entered into this _____ day of _____, 2015 and between **PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida, hereinafter "COUNTY", and **THE LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY (CRA)**, located in Palm Beach County, Florida, hereinafter "CRA."

WITNESSETH:

WHEREAS, the COUNTY operates certain traffic signals within Lake Worth municipal limits which includes traffic signal control cabinets; and

WHEREAS, the CRA is responsible for promoting a safe, vibrant downtown for residents, businesses and visitors through the strategic development of economic, social and cultural opportunities; and

WHEREAS, in order to beautify downtown Lake Worth, the CRA wishes to affix decorative art wraps, herein "wraps," on Palm Beach County traffic signal control cabinets, herein "SIGNAL CABINETS;" and

WHEREAS, the placement of decorative art wraps on signal cabinets integrates civic art with public infrastructure; and

WHEREAS, the COUNTY believes that the efforts by the CRA 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 CRA wish to enter into an Agreement to establish the criteria and requirements associated with the installation and maintenance of wraps 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. CRA will present the decorative art wraps to the Lake Worth Cultural Renaissance Foundation, herein after "FOUNDATION" for its review and approval. The CRA assumes full responsibility for the content of the wraps and follow the recommendations of the FOUNDATION. Advertising shall not be permitted on the wraps under any circumstances.
3. CRA will provide the COUNTY with ten (10) calendar days notice, prior to the installation of decorative art wraps on signal cabinets.

4. Wraps shall be installed in such a manner as to not interfere with the operation and maintenance of the signal cabinets.

5. Wraps shall be installed in such a manner as to not obstruct the access and ventilation of the signal cabinet, including but not limited to the hinges, lock mechanism, door handle and cabinet vents.

6. COUNTY is not responsible for damage to wraps caused by the COUNTY'S regular operations and/or maintenance in and around the COUNTY'S signal cabinet.

7. Wraps shall be made of quality 3M vinyl material and ink. They shall be graffiti and sticker resistant, and removable.

8. The wraps shall be light in color, such as white and soft pastels. Dark colors are not permitted.

9. CRA is responsible for all permitting required in the associated (i.e., COUNTY, FDOT) rights-of way.

10. CRA is solely responsible for all costs associated with installation, maintenance, replacement, and/or removal of the wraps.

11. CRA is solely responsible for restoring the signal cabinet to its original condition.

12. COUNTY shall have the right to remove and/or request that the CRA remove the wraps. When feasible, the COUNTY will provide the CRA ten (10) calendar days notice that wraps must be removed and ten (10) calendar days after receipt of said notice to remove the wraps.

13. Under no circumstances shall the COUNTY incur a cost as a result of the existence of the wraps.

14. Should the COUNTY remove the wraps, under any circumstance, the CRA shall be responsible for all costs. The COUNTY will forward any and all costs associated with the removal of the wraps to the CRA. The CRA will not be permitted to install any additional wraps on any COUNTY maintained signal cabinets, until any and all outstanding costs have been reimbursed to the COUNTY.

15. This Agreement may be canceled by the COUNTY or CRA for any reason after sixty (60) days written notice has been provided to the other party. Upon receipt of written notification, all wraps will be removed from traffic signal boxes and the County shall be relieved of any further obligation.

16. This Agreement is subject to modification in writing by the mutual consent of parties to this Agreement and executed with the same formality as the original Agreement.

17. All notices and/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 CRA:

PALM BEACH COUNTY: Palm Beach County Attorney's Office
Attention: Marlene Romano Everitt
Assistant County Attorney
P.O. Box 1989
West Palm Beach, FL 33402-1989

With a copy to: Director Traffic Division
Palm Beach County Engineering and
Public Works Department
P.O. Box 21229
West Palm Beach, FL 33416-1229

CRA: Lake Worth Community Redevelopment Agency
Attention: Joan Oliva
Executive Director
29 South J Street
Suite 1
Lake Worth, FL 33460
(561) 493-2550

18. 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.

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

20. This Agreement shall be construed by and governed by the laws of the State of Florida.

21. Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties.

22. 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.

23. The CRA shall maintain books, records and documents to justify all charges, expenses and costs incurred under this Agreement.

24. The CRA 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 CRA's performance of the terms of this Agreement or due to the acts or omissions of the CRA. The CRA'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.

25. The CRA warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information. CRA has submitted to COUNTY a copy of its non-discrimination policy which is consistent with Resolution R-2014-1421, as amended, or in the alternative, if CRA does not have a written non-discrimination policy or one that conforms to the COUNTY's policy, it has acknowledged through a signed statement provided to COUNTY that CRA will conform to the County's non-discrimination policy as provided in the above resolution.

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

27. All services required herein shall be performed by the CRA or under its supervision, 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. CRA warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field and that all CRA's personnel and contractors while on COUNTY premises will comply with all County requirements governing conduct, safety and security.

28. The CRA does not have the power or authority to bind the County in any promise, agreement or representation and shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

29. It is understood and agreed that in the event any lawsuit in any judicial system, including federal or state, is brought to enforce compliance with the Agreement or interpret same, or if any administrative proceeding is brought for the same purposes, each party to said action shall be responsible for its own Attorney's fees and costs, including appellate costs.

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

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

32. 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, CRA 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.

33. If any section, paragraph, sentence, clause or provision of this Agreement, is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void such holding shall not affect the remaining portions of this Agreement, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

34. The COUNTY and the CRA agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

35. 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.

36. Neither the COUNTY nor the CRA shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other.

37. 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.

38. 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 CRA, 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.

39. 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 CRA.

40. 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.

(REMAINDER OF THIS PAGE WAS LEFT BLANK INTENTIONALLY)

EXECUTED by the Lake Worth Community Redevelopment Agency this ____ day
of _____, 2015.

(Authority Seal)

ATTEST:

Witness

Lake Worth Community
Redevelopment Agency

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Lake Worth Community
Redevelopment Agency

EXECUTED by COUNTY this ____ day of _____, 2015.

(County Seal)

ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

Deputy Clerk

Shelley Vana, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

Assistant County Attorney

Traffic Division, Engineering