

**INTERLOCAL AGREEMENT FOR THE INSTALLATION AND
MAINTENANCE OF TRAFFIC SIGNAL CABINET ART**

THIS AGREEMENT, made by and between Pinellas County, a political subdivision of the State of Florida (“County”), and the City of Clearwater, a municipal corporation of the State of Florida (“City”), collectively “Parties”.

RECITALS:

WHEREAS this Agreement is made and entered between the Parties pursuant to Section 163.01, Florida Statutes, the “Florida Interlocal Cooperation Act of 1969;” and

WHEREAS the County recognizes that public art enhances quality of life for residents and visitors while supporting and promotion Pinellas County as an arts destination; and

WHEREAS in furtherance thereof, the County has established a public arts program which includes, but is not limited to, the selection and installation of vinyl traffic signal cabinet wraps upon County owned and maintained traffic signal cabinets; and

WHEREAS the City has established a public arts program which includes, but is not limited to, the selection and installation of vinyl traffic signal cabinet wraps upon City owned and maintained traffic signal cabinets; and

WHEREAS, said vinyl wraps have been positively received by the community and have seemingly deterred vandalism to the underlying infrastructure; and

WHEREAS the Parties recognize that the deterrent of vandalism to the County’s infrastructure within the City is of mutual benefit to the Parties; and

WHEREAS the County owns, controls and/or maintains traffic signal cabinets (“Cabinets”) on certain County and State roads within the Municipality, upon which the Parties wish to place artistic vinyl traffic signal cabinet wraps (“Art”); and

WHEREAS the Parties recognize and agree that the Art installed pursuant to this Agreement constitute “government speech” of the Parties. The City, in its sole

discretion determines which Cabinets are appropriate for Art and what Art the City wishes to display and provides the proposed locations and art to the County for approval or rejection; and

WHEREAS the City accepts responsibility for the placement, maintenance, and removal of any Art approved by the County and installed pursuant to this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed by and between the Parties as follows:

**SECTION 1
COUNTY'S COMMITMENT**

1. The County hereby agrees that the City can install or have a contractor install County-approved Art on County approved Cabinets located within the Municipality.

2. The County, through its Director of Public Works, or designee, will, upon the City's request and in the County's sole discretion, determine which Cabinets are suitable for wrapping. The County will make this determination within thirty (30) days of the City's request made pursuant to Section 2 below.

3. The County, through its Director of Public Works, or designee, will, upon the City's request and in the County's sole discretion, approve all Art prior to it being placed or installed pursuant to this Agreement. The County will approve or reject proposed Art within thirty (30) days of submission of proofs by the City pursuant to Section 2 below.

4. The County will continue to maintain its right-of-way and infrastructure as it did prior to the effective date of this Agreement.

SECTION 2 CITY'S COMMITMENT

1. City will identify which Cabinets within the City's municipal limits the City desires to place Art and will request the County, through its Director of Public Works, identify whether or not the Cabinets are appropriate for Art.

2. The City will notify the County of the traffic signal cabinets upon which the City desires to place Art but will not place Art until the County has identified appropriate Cabinets which the City may use pursuant to this Agreement.

3. If Art is not placed upon an identified and approved Cabinet within three (3) months of Cabinet approval by the County, the City will confirm with the County that the Cabinet remains suitable for Art.

4. The City will not submit proposed Art to the County until after the Art has been approved by the City and the City has determined that installation of such Art on designated Cabinets is suitable for the community where the Art is being placed.

5. The City must comply with all ordinances of Pinellas County relating to public art and design. Notwithstanding contrary provisions in the Pinellas County Code, as may be amended, the City will maintain all Art installed pursuant to this Agreement.

6. All proposed Art must comply with the Traffic Signal Cabinet Wrap Directives attached hereto as Exhibit A.

7. Upon approval by the County pursuant to Section 1, and with at least ten (10) days' notice to the County, the City may install, or have a contractor install on its behalf, the Art on approved cabinets.

8. Upon completion of the Art installation, the City must notify the County.

9. To the extent any permits or permissions are required from any local, state, or federal agencies, other than the County, the City must obtain the requisite permits and permissions.

10. As part of the permit responsibilities, a Maintenance of Traffic Plan will be required if any part of any bike lane, sidewalk or travel lane is to be closed for the installation, maintenance or removal of the wrap.

11. After installation, the City must maintain the Art in a reasonable condition – although minimal wear and tear from the natural elements is acceptable, the Art must, generally, remain in its original condition. If any Art is vandalized or otherwise damaged, within fifteen days of receipt of notice from the County, or other notice made directly to the City, the City must, at its discretion, either (a) restore the Art to its pre-damage condition or (b) remove the Art and restore the Cabinet to the condition that it was in immediately prior to Art installation; the County may extend this fifteen (15) day deadline upon request and in its sole discretion. Pending restoration or removal, the City may, and upon the County’s request, must cover any damage on the Art.

12. Any agreement the City enters into regarding Art to be designed and installed pursuant to this Agreement must recognize and accept the County’s rights pursuant hereto.

13. During the term of this Agreement, any contractors or subcontractors hired by the City, for the installation and maintenance of the Project, must provide and maintain the following type of insurance with companies meeting the qualifications below:

- A. Comprehensive General Liability Insurance including, but not limited to, Independent Contractor, Contractual, Premises/Operations, Products/Completed Operations, Explosion, Collapse and Underground and Personal Injury covering the liability assumed under indemnification provisions of this License, with limits of liability for personal injury and/or bodily injury, including death and, property damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate limit. Coverage must be on an occurrence basis, and the policy must include Broad Form Property Damage coverage, and Fire Legal Liability of not less than \$50,000, per occurrence, unless otherwise stated by exception herein.
- B. Workers Compensation must be provided at limits no less than those required by law; Employers’ Liability Insurance of not less than \$500,000 for each accident.
- C. Any insurance company providing the required coverages above must have a Best’s rating of at least A- VIII.
- D. Insurance coverage must be primary and non-contributory.

- E. To the extent permitted by law, all policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Contractor and any subcontractors to meet the requirements of this Agreement must be endorsed to include Pinellas County, a Political Subdivision of the State of Florida and the City of Clearwater as primary, non-contributory. Additional Insureds indicating coverage on certificate boxes is not adequate. A copy of the actual endorsement or policy declaration page indicating such coverage must be submitted along with Certificate.
- F. Insurance policies, other than Professional Liability, must include waivers of subrogation in favor of Pinellas County, and the City of Clearwater from the contractor and subcontractor(s). Indicating such coverage on certificate is not adequate. A copy of the actual endorsement or policy declaration page indicating such coverage must be submitted along with Certificate.

14. The City will cause any third-party contractor to indemnify, hold harmless, pay on behalf of, defend and pay the costs of defense of the County, its officers, employees, and agents from and against all claims, damages, losses, and expenses, arising out of or resulting from the construction, installation, placement, or maintenance of Art by or on behalf of the City pursuant to this Agreement. The City must additionally indemnify, hold harmless, and pay the costs of defense of the County, its officers, employees and agents from any and all claims, damages, losses and expenses, arising out of or resulting from the City's negligence in the City's obligations contained herein. Costs of defense includes reasonable attorney's fees should the County deem it necessary to retain outside counsel due to the nature of the claim, or, should the County deem it appropriate to use in-house attorneys as per its usual course, costs of defense is limited to actual costs, excluding attorney's fees. The County and City are fully responsible for their own acts of negligence and their respective agents' acts of negligence, when such agents are acting within the scope of their employment; and may be liable for any damages resulting from said negligence to the extent permitted by Section 768.28 Florida Statutes. Nothing herein should be construed as a waiver of any

immunity from or limitation of liability that the County or City may be entitled to under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

15. The City releases and holds the County harmless for any damage to the Project resulting from the County's right-of-way and Cabinet maintenance.

16. The City is responsible for final inspection of the signal cabinet wrap, confirming equipment is in operational condition and ensuring all necessary identification and warning markings are present and up to standards after the artwork is applied.

17. Any contract entered into by the City in furtherance of the activities permitted by this Agreement must contain the following indemnification language:

"The Contractor agrees to indemnify, hold harmless, pay on behalf of, defend Pinellas County, its officers, agents, and employees, and pay the costs of defense of Pinellas County and its agents and employees from and against all claims, damages, losses, and expenses arising out of or resulting from the Contractor's actions undertaken pursuant to this Agreement. The duty to defend under this paragraph is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the Contractor, the County, and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to the Contractor. The Contractor's obligation to indemnify and defend under this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the County for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations."

SECTION 3 TERM, TERMINATION AND DEFAULT

1. Unless otherwise terminated, this Agreement will remain in effect for seven (7) years.

2. Either Party may terminate this Agreement upon thirty (30) days' notice to the other Party.

3. Should the City fail to comply with any requirements of Section 2, it will be in default. Upon the provision of written notice by the County, the City will have fifteen (15) days to cure, unless the County extends the time, for good cause shown by the City. If the City fails to cure a default within the time allowed pursuant to this Agreement, it will be in default and the County may terminate this agreement with five (5) days written notice.

4. Unless the County notifies the City, in writing at least thirty (30) days, or in the case of default – five (5) days, prior to the termination of this Agreement that the County will assume ownership and maintenance of certain Art, the City must remove all Art installed pursuant hereto and restore the Cabinets as required herein.

5. Should the City Agency fail to remove all Art in accordance with the preceding paragraph, the County may do so and bill the City for the cost of removal, which the City must promptly pay in no more than thirty (30) days after receipt of invoice.

SECTION 4 EFFECTIVE DATE

This Agreement will take effect immediately upon filing with the Clerk of the Circuit Court in Pinellas County in accordance with the Florida Statutes, Section 163.01(11) and continues in full force and effect until terminated.

SECTION 5 AMENDMENT OR MODIFICATION

1. This Agreement, including the exhibit hereto, constitutes the entire agreement between the Parties. Any prior understanding or representation of any kind preceding the date of this Agreement and not expressly incorporated herein will not be binding on either Party.

2. This Agreement may only be amended by written instrument executed with the same formality as this Agreement and may be extended by written instrument executed by the proper authorities for the Parties.

SECTION 6 AMENDMENT OR MODIFICATION

1. If any word, clause, sentence, or paragraph of this Agreement is held invalid, the remainder of this Agreement will remain in full force.

2. This Agreement is to be construed in accordance with the laws of the State of Florida and venue for any action brought pursuant hereto is in Pinellas County.

3. Nothing herein creates any third-party beneficiary rights in any person not a party to this Agreement.

4. All notices and submittals required by law and by this Agreement to be given by one (1) party to the other must be in writing and sent to the following respective addresses:

COUNTY:
Tom Washburn
Public Works Department
22211 U.S. Highway 19 North
Clearwater, Florida 33765
phone: 727-464-8804
email: Twashburn@pinellas.gov

CITY:
Amber Brice
Office of the City Manager, Arts & Cultural Affairs Manger
600 Cleveland Street #600 Clearwater, Florida 33755
phone: 727-444-7569
email: amber.brice@myclearwater.com

Either party may designate alternative contact information by providing written notice to other party at any time.

1. Both Parties acknowledge that the records relating to this Agreement and the carrying out of the obligations hereunder are subject to the provisions of Florida Statutes, Chapter 119.

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IN WITNESS WHEREOF, the parties hereto, or their lawful representatives have executed this Agreement on the date of the last signature as set forth below.

CITY OF CLEARWATER, FLORIDA

Countersigned:

Jennifer Poirrier
City Manager

Bruce Rector
Mayor

Approved as to form:

Attest:

David Margolis
City Attorney

Rosemarie Call
City Clerk

PINELLAS COUNTY, a political subdivision of the State of Florida, acting by and through its County Administrator

By: _____

Joe Lauro, Director of Admin Services

Date: _____

PCAO 480507