

MEMORANDUM

TO: JOSEPH F. LO BELLO, TOWN MANAGER
FROM: ANTHONY R. MERIANO, DIRECTOR OF PUBLIC WORKS
SUBJECT: INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY
ROADS AND BRIDGES DIVISION
DATE: JULY 26, 2016



BACKGROUND

The Town of Juno Beach owns and operates a six (6) acre public works facility on Rolling Green Road. The Town and the Palm Beach County's Roads and Bridges Division executed an Interlocal Agreement in the 1990's to allow the County to operate a satellite shop and material storage area in the north county for a term of ten years with a ten year renewal. This Agreement has expired and the County has requested to execute a new agreement to continue the use a portion of the Town's property on Rolling Green Road.

DISCUSSION

The Interlocal Agreement between the Town and County allowed the Roads and Bridges Division use of approximately 10,000 square feet within the public works facility to store of an office trailer, a storage trailer and assorted materials. Both agencies determined that the co-use of the facility would meet the Town's and County's public works objectives and increase the efficiency of both operations. The Town agreed to the use at no cost, but for the County to pay any improvement and utility installation and usage costs associated with its own operations.

The proposed Interlocal Agreement mirrors that of the past Agreement except that the term of the Agreement has been revised to a five (5) year period which will automatically be extended for successive five (5) year periods under the same terms and conditions of the Agreement. The Term of the Agreement may be modified or extended with the mutual consent of the parties. Staff and the Town Attorney have reviewed the proposed Agreement and agree that this will continue to serve the public works objectives of both the Town and the County.

RECOMMENDATION:

Staff requests the Town Council to approve Resolution 2016-07, the Interlocal Agreement between the Town of Juno Beach and Palm Beach County for the use of land within a designated area of the public works facility on Rolling Green Road.



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RESOLUTION 2016-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR THE CO-LOCATION OF THE COUNTY'S AND THE TOWN'S PUBLIC WORKS OPERATIONS ON PROPERTY OWNED BY THE TOWN; AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to an Interlocal Agreement dated May 20, 2003, Palm Beach County ("County") has been utilizing a portions of the Town's public works facility located at 685 Rolling Green Road ("Property") and has improved the property with an office trailer, a storage trailer and a material storage area; and

WHEREAS, the term of the original Interlocal Agreement has expired and the parties wish to execute a new Interlocal Agreement for continued County use of the Property for a five-year term with automatic renewals for successive five-year terms unless terminated earlier by either party; and

WHEREAS, the Town Council determines that the continued co-location of the County and the Town's public works facilities is the best interests of the Town and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are hereby ratified and incorporated herein.

Section 2. The Town Council hereby approves the Interlocal Agreement with Palm Beach County for the co-location of the County's and the Town's public works operations, a copy of which is attached hereto and incorporated herein, and authorizes the Mayor and Town Clerk to execute the Agreement on behalf of the Town.

Section 3. This Resolution shall become effective immediately upon adoption.

RESOLVED AND ADOPTED this _____ day of _____, 2016.

Jason Haselkorn, Mayor

ATTEST:

Vanessa M. Mutchnik, MMC, Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Leonard G. Rubin, Town Attorney

**INTERLOCAL AGREEMENT BETWEEN
THE TOWN OF JUNO BEACH
AND PALM BEACH COUNTY**

THIS IS AN INTERLOCAL AGREEMENT (hereinafter referred to as "Agreement") entered into _____, by and between the **TOWN OF JUNO BEACH**, a municipal corporation of the State of Florida, hereinafter referred to as "Town", and **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "County", on behalf of the Palm Beach County Engineering and Public Works Department Road and Bridge Division, hereinafter referred to as "Division".

WITNESSETH:

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969", 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 and thereby to provide 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, Town owns certain real property located at 685 Rolling Green Road, Juno Beach, Florida, which property is more particularly described in Exhibit "A" attached hereto and by reference made a part hereof (the "Property"); and

WHEREAS, the Property is improved with a public works facility known as the Town of Juno Beach's Public Works Complex; and

WHEREAS, the County and Town entered into an Interlocal Agreement dated May 20, 2003, (R2003-0700), for the County to utilize portions of the Property for the purpose of operating a satellite shop and yard for Division, and the term expired on May 19, 2013; and

WHEREAS, the Division has continuously used the Premises as hereinafter defined since 2003 and has improved the Premises with an office trailer, a storage trailer and a material storage area; and

WHEREAS, the parties mutually desire for the continued co-location of Town's and County's public works operations on the Premises for the purpose of better serving the residents of northern Palm Beach County.

NOW, THEREFORE, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Premises. County shall have the exclusive use and right to access a portion of the Property (the "Premises") as depicted on Exhibit "B" attached hereto, at no charge, for the operation of a satellite public works office and yard, consisting of an office trailer (720 sf), a storage trailer (280 sf) and a material storage area (9,000 sf) (the "County's Public Works Facility"). County shall not use the Premises for any other purpose whatsoever without the prior written consent of Town, which consent may be withheld at the Town's sole discretion. County is required to continuously operate in compliance with all applicable Town laws, rules, and regulations affecting the Property, and shall comply with all applicable federal, state and local laws, regulations and ordinances protecting the environment and natural resources and regulating hazardous substances.

3. Alterations.

3.01 Town's Work. Town shall not be obligated or required to perform any improvements whatsoever to the Premises.

3.02 County's Work. During the Term of this Agreement, or any extensions thereof, County shall have the right, but not the obligation, to install the improvements to the Premises described on Exhibit "C" attached hereto and made a part hereof ("County's Improvements") at County's sole cost and expense. Additionally, County shall have the right, but not the obligation, to replace or install additional facilities on the Premises ("Alterations") at County's sole cost and expense. County shall not install any County Improvements or Alterations other than those described on Exhibit "C" without Town's prior written consent. Town acknowledges that County shall submit plans and specifications for County's Improvements or Alterations to the Town's Planning and Zoning Director for administrative approval, which approval shall not be unreasonably withheld. Town agrees to promptly sign any application(s) or owner's consent form(s) as may be required as part of the Town's administrative approval process. County Improvements or Alterations shall be purchased, installed and maintained by County, at County's sole cost and expense.

4. Length of Term. The term of this Agreement shall commence retroactively on May 20, 2013, and shall extend for a period of five (5) years, (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement. The Term of this Agreement shall automatically be extended for successive periods of five (5) years each under the same terms and conditions of this Agreement, unless sooner terminated pursuant to the provisions of this Agreement. The Term of this Agreement may be modified or extended with the mutual consent of the parties.

5. Surrender of Premises. Upon termination, expiration or cancellation of this Agreement, County, at its sole cost and expense, shall remove County's personal property and removable fixtures and equipment from the Premises. The Town Manager shall determine whether improvements and alterations to the real Property shall be removed by the County and shall notify County of such required removal no later than sixty (60) days prior to termination, expiration or cancellation. Upon surrender of the Premises, title to any and all remaining improvements or property within the Premises shall vest in Town.

6. Maintenance of Premises.

6.01 Responsibility of County. County shall be responsible for maintaining the County's Public Works Facility in good condition and repair, at its sole cost and expense, including the asphalt and shell rock driveways, necessary to access the County's Public Works Facility in its existing condition, normal wear and tear and casualty excepted. Notwithstanding the foregoing, County shall have no obligation to make modifications to the Property nor have any responsibility for restoration of the Property, in the event of a casualty. Further, County shall have no obligation to repair any damage arising from any negligent or intentional act or omission of Town, its employees, agents, invitees or any third parties.

6.02 Responsibility of Town. Except for the County's provision of maintaining the County's Public Works Facility and the asphalt and shell rock driveways, the Town shall be responsible for all maintenance of the Property, including landscaping services, necessary to maintain the Property in its existing condition, normal wear and tear and casualty excepted.

6.03 Annual Meeting. No less than once annually, the Director of the Division and the Town's Director of Public Works shall meet to discuss any required Town or County changes to the Division's operation to more effectively utilize the site.

7. Insurance.

7.01 Liability. Each party acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law to recover damages in tort for monetary damages up to the limits set forth in such statute for death, personal injury or damage caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The parties agree to be responsible for all such claims and damages, to the extent and limits provided

in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

7.02 Liability Insurance. Without waiving the right to sovereign immunity as provided by s.768.28 F.S., the County and Town acknowledge to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event either agency maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 F.S., they shall maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

In addition, each agency agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, each agency shall provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which each agency agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve either party of its liability and obligations under this Agreement.

7.03 Personal Property. All of County's personal property placed or moved in the Premises shall be at the risk of the County or the owner thereof. Except as otherwise provided herein, Town shall not be liable for any damage to such personal property, except to the extent directly and solely caused by the Town, its agents' or its employees' willful or negligent acts or omissions.

8. Damage or Destruction of Premises. In the event the Premises shall be destroyed or so damaged or injured by fire or other casualty during the Term of this Agreement, or any extension thereof, whereby the same shall be rendered untenable, in whole or in part, County shall have the right to terminate this Agreement, whereupon the parties shall be relieved of all further obligations occurring subsequent to the date of such casualty, except to remove the improvements pursuant to Paragraph 5 of this Agreement. In the event County does not exercise its right to terminate this Agreement due to any such casualty, the County shall commence restoration of the Premises within 30 days of the casualty and complete same within 60 days thereafter.

9. Default and Opportunity to Cure.

9.01 Default by County. County shall be in default of this Agreement if County: (i) fails to observe or perform any term, covenant, or condition of this Agreement on the County's part to be observed or performed for more than thirty (30) days after notice from Town of such failure, or (ii) vacates or abandons the Premises, except as otherwise provided for herein. If any event of default occurs, then Town shall have the right to give County notice that Town intends to terminate this Agreement upon a specified date not less than thirty (30) days after the date notice is received by County, and this Agreement shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Agreement. If, however, the default is cured within such period or within a reasonable period thereafter if the same cannot be cured within such period and County undertakes such cure within such period and the Town is so notified, this Agreement will continue.

9.02 Default by Town. Town shall be in default of this Agreement if Town shall fail to observe or perform any term, covenant, or condition of this Lease on the Town's part to be observed or performed, and the Town fails to remedy the same within thirty (30) days after notice from County. In the event the default is of such a nature that it cannot be reasonably cured within the foregoing thirty (30) day period, Town shall be entitled to a reasonable period of time under the circumstances in which to cure said default, provided that Town diligently

proceeds with the curing of the default. In the event that the default is not cured by Town within the foregoing time period, County, at County's option, may either cure said default and Town shall reimburse County for all expenses incurred by County in doing so, or County may give to the Town a thirty (30) days notice specifying that the County intends to terminate this Agreement. Upon receipt of said notice and expiration of the thirty (30) day period, this Agreement and all obligations of County hereunder shall terminate and County shall thereupon be relieved of all further obligations hereunder.

10. Utilities. Town shall allow the County to connect to the water, sewer, electricity, and gas utilities existing on the Property. The County shall be required to pay for all costs associated with the extension and/or connection of utilities to the County's improvements. The County shall be responsible for and promptly pay directly to the utility company or the provider of such service all charges or assessments for water, gas, electricity, trash collection and removal, and any other utility used or consumed by County. Town shall not be liable for an interruption or failure in the supply of such service to the Premises resulting from a failure of the utility company to provide service to the Premises.

11. Annual Budgetary Funding. This Agreement and all obligations of County and Town hereunder are subject to and contingent upon annual budgetary funding by the Board of County Commissioners of Palm Beach County and the Town of Juno Beach, respectively. Notwithstanding anything in this Agreement to the contrary, at any time during the Term of this Agreement, County shall have the right to cancel this Agreement for any reason upon one hundred eighty (180) days prior written notice to Town. At any time after the 5th year of this Agreement, Town shall have the right to terminate this Agreement for any reason upon twelve (12) months prior written notice to County. In the event this Agreement is terminated, the parties shall be relieved of all further obligations hereunder.

12. Quiet Enjoyment. Upon the observance and performance of all the covenants, terms and conditions on County's part to be observed and performed, County shall peaceably and quietly hold and enjoy co-utilization of the Property for the Term without hindrance or interruption by Town or any other person or persons lawfully or equitably claiming by, through or under the Town, subject, nevertheless, to the terms and conditions of this Agreement.

13. Entire Agreement. This Agreement and any Exhibits attached hereto constitute all agreements, conditions, and understandings between Town and County concerning the Premises. All representations, either oral or written shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change, or addition shall be binding upon Town or County unless reduced to writing and signed by them.

14. Condemnation. In the event that all or any part of the Property shall be acquired or condemned for any public or quasi-public use or purpose, the parties hereunder shall terminate this Agreement and the obligations of all parties hereunder shall terminate and thereupon relieved of all further obligations hereunder.

15. Notices. All notices, consents, approvals, and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service (provided in each case a receipt is obtained), telecopied, faxed, or emailed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if telecopier, fax or email if transmitted before 5 P.M. on a business day and on the next business day if transmitted after 5 P.M. or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(a) If to the Town at:

Town Manager
Town of Juno Beach
340 Ocean Blvd
Juno Beach, FL 33408
Fax: 561-775-0812

(b) If to the County at:

Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

With a copy to:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-355-4398

And

Daryl Dawson, Director
Palm Beach County Road & Bridge Division
Vista Operation and Support Center
2555 Vista Parkway
West Palm Beach, FL 33411-5601
Fax:

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

16. Assignment. County may not assign, mortgage, pledge, or encumber this Agreement in whole or in part, nor sublet all or any portion of the Premises, without Town's prior written consent, which shall not be unreasonably withheld. In the event of an approved assignment, County shall be released from any further obligation hereunder. Any sale, mortgage, pledge, or encumbrance of the Property by Town shall be subject to the terms of this Agreement.

17. Severability. If any term of this Agreement, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application or such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. No Recording. Neither this Agreement, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida, but this Agreement shall be filed with the County Clerk as required by Chapter 163 of the Florida Statutes.

19. Waiver of Jury Trial. The parties hereto waive trial by jury in connection with proceedings or counterclaims brought by either of the parties hereto against the other in connection with this Agreement. This Agreement shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in a state court of competent jurisdiction in Palm Beach County.

20. Time of Essence. Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

21. Benefit and Binding. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, legal representatives, and assigns of the parties hereto.

22. Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

23. Non-Exclusivity Remedies. 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 or 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.

24. Non-Discrimination. The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, be excluded from the benefits of, or be subjected to any form of discrimination under any activity conducted pursuant to this Agreement.

Town has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, has acknowledged through a signed statement provided to County that Town will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

25. Construction. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is 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.

26. Incorporation by Reference. Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

27. No 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 citizens of Palm Beach County or employees of County or Town.

28. Office of the Inspector General. Palm Beach County has established the Office of the Inspector General. 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 audit, investigate, monitor, and inspect the activities of the parties or entities with which the County enters into agreements, their officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All parties or entities doing business with the County or receiving County funds shall fully cooperate with the Inspector General including granting the Inspector General access to records relating to the agreement and transaction.

29. Effective Date of Agreement. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

30. Securing Gate Access. County shall insure that the County's access gate to the Premises will be secured at all times when the Premises are not in use by County.

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IN WITNESS WHEREOF, Town and County have executed this Agreement, or have caused the same to be executed, as of the day and year first above written.

TOWN OF JUNO BEACH, a municipal corporation of the State of Florida

Vanessa M. Mutchnik, MMC
Town Clerk

By: _____
Clerk

By: _____
Jason Haselkorn, Mayor

Signature of Witness

(OFFICIAL SEAL)

Print Name of Witness

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Signature of Witness

By: _____
Legal Counsel

Print Name of Witness

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Jason Haselkorn, Mayor, Town of Juno Beach, who is personally known to me or has produced _____ as identification and did (did not) take an oath.

Notary (Signature)

Name (Type, Print or Stamp)

Commission No. _____

My commission expires:

ATTEST:

PALM BEACH COUNTY, a political subdivision of the State of Florida

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: _____
Department Director

EXHIBIT "B"

PREMISES

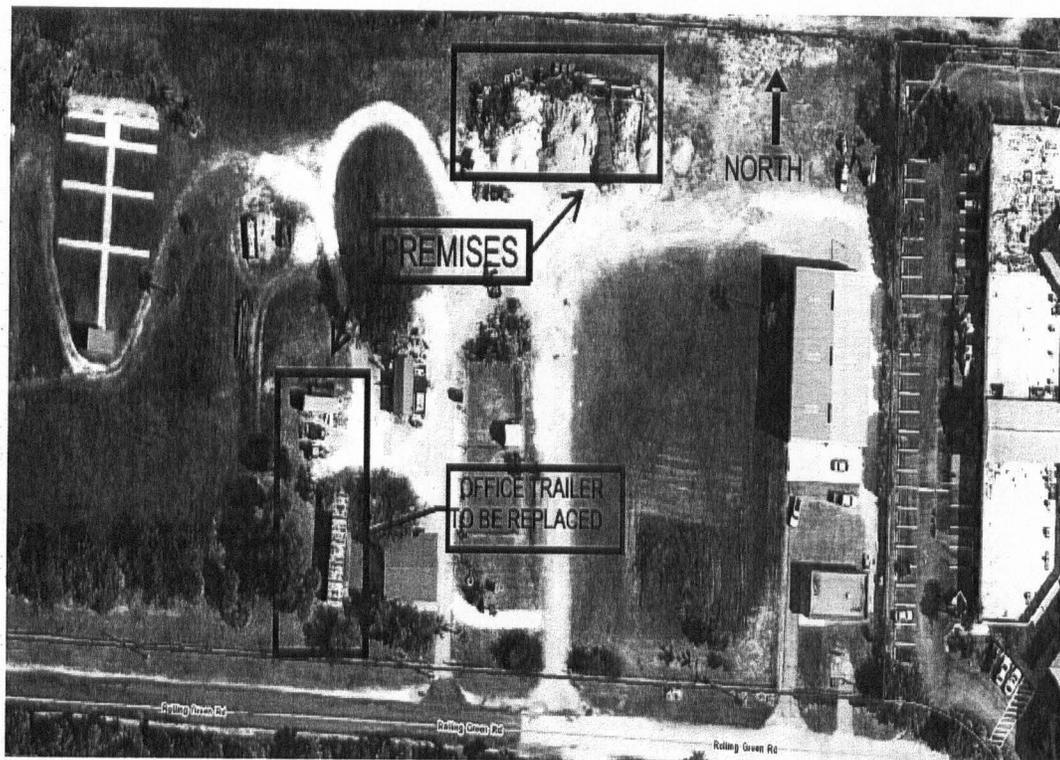
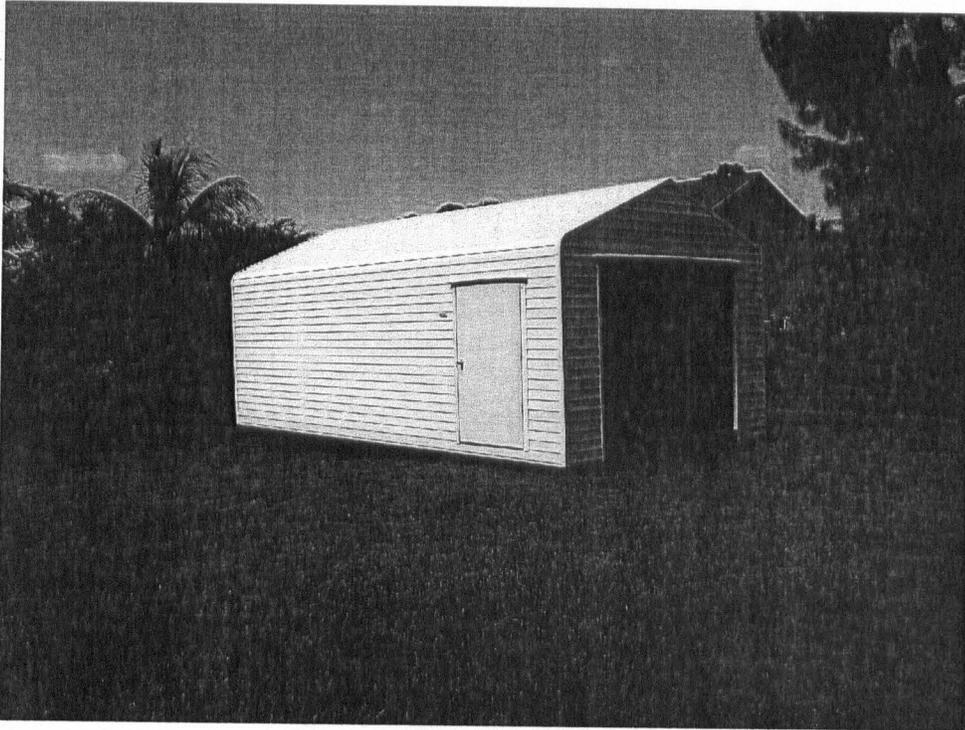


EXHIBIT "C"

COUNTY'S IMPROVEMENTS



Division, at its sole cost and expense, will replace the existing office trailer depicted in Exhibit "B" with a similar shed as shown above. Additionally, a 12' x 6' ramp will be constructed in front of the overhead roll-up door located at the north end of the shed. Division will remove, at its sole cost and expense, the existing office trailer from the Premises.

Note: This photo is used as an example only. The actual shed will be approximately 12' x 32', building code compliant and similar in design and nature.

