

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

Meeting Date:	October 8, 2024	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
		<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing
Department:	Engineering and Public Works Department				
Submitted By:	Engineering and Public Works Department				
Submitted For:	Roadway Production Division				

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: a Resolution delegating to the County Administrator or designee the authority to approve assignment assumption and consent agreements (Assignments) that allow professional service contracts and construction contracts to be assigned to another firm.

SUMMARY: The Board of County Commissioners (BCC) routinely approves professional service and construction contracts (Contracts) with firms on behalf of Palm Beach County (County). Occasionally, firms request assigning these Contracts to another firm when the original firm changes its name, is purchased by, or merges with, a new firm, or when any other transaction results in a change to the original firm’s name. Adoption of this Resolution will allow the County Administrator or designee to approve Assignments as they are needed, as Contracts prohibit assignment without the County’s consent. The delegation of authority is necessary to minimize the time to update any affected Contracts, and to pay invoices under the new name. It often takes a firm several weeks and even months to submit the full name change request for the Engineering and Public Works Department (EPW) staff to begin the agenda process. In an effort to have contracted vendors paid as quickly as possible, EPW asks for special consideration to have these items reviewed by all divisions and departments as a rush item. This process would allow the County to approve Assignments within a month or less, without affecting the workloads of other departments, placing the County’s timeline more in line with that of the Florida Department of Transportation. In accordance with PPM No. CW-O-051, all Assignments will be reviewed by the County Attorney’s office prior to approval by the designee, and submitted by the initiating department to the BCC as a receive and file consent agenda no later than 90 days after approval. Countywide (YBH)

Background and Justification: Adoption of this Resolution will authorize the County Administrator or designee to approve Assignments for the transfer of Contracts to another firm, as necessary.

Attachments:

- 1. Resolution with Exhibit A (Example Assignment Assumption and Consent Agreement)

Recommended by:	<u>Jonathan P. Kelly FOR</u>	<u>10/2/2024</u>
YBH/TEL	County Engineer	Date
Approved By:	<u>Paul</u>	<u>10/3/24</u>
	Deputy County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE					
POSITIONS (Cumulative)	-0-	-0-	-0-	-0-	-0-

Is Item Included in Current Budget? Yes No

Is this item using Federal Funds? Yes No

Is this item using State Funds? Yes No

Budget Account No:

Fund Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

**This item has no fiscal impact.

C. Departmental Fiscal Review: *Henry Ranzaloring*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

ASD/AL 9/13/24
OFMB
MD 9/13

Brundage 9/16/24
Contract Dev. and Control

B. Approved as to Form and Legal Sufficiency:

[Signature] 9/23/24
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

RESOLUTION NO. R2024-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO APPROVE ASSIGNMENT ASSUMPTION AND CONSENT AGREEMENTS TO PROFESSIONAL SERVICE CONTRACTS AND CONSTRUCTION CONTRACTS

WHEREAS, Palm Beach County (County) routinely enters into professional service contracts and construction contracts (collectively, Contracts); and

WHEREAS, the County enters into the Contracts with firms to provide engineering design, right-of-way acquisition, construction and construction engineering inspection; and

WHEREAS, when a firm's ownership changes, an assignment assumption and consent agreement (Exhibit A) is necessary to assign the Contract to the new firm; and

WHEREAS, the Contracts prohibit their assignment without the County's consent; and

WHEREAS, the Board of County Commissioners has determined that the delegation of authority to the County Administrator or designee to approve the assignment assumption and consent agreements is necessary for the efficient and timely processing of invoices for Contracts; and

WHEREAS, the Board of County Commissioners has determined that the delegation of authority to the County Administrator or designee to approve the assignment assumption and consent agreements is in the best interest of the citizens and residents of the County.

(Intentionally Left Blank)

NOW, THEREFORE be it resolved by the Board of County Commissioners of Palm Beach County, Florida, that:

1. The recitations set forth herein above are true, accurate and correct and are incorporated herein.
2. The County Administrator or designee is hereby authorized to execute the assignment assumption and consent agreements in the form provided in Exhibit A.
3. This Resolution will take effect upon its adoption.

The foregoing Resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Maria Sachs, Mayor	_____
Commissioner Maria G. Marino, Vice Mayor	_____
Commissioner Gregg K. Weiss	_____
Commissioner Michael Barnett	_____
Commissioner Marci Woodward	_____
Commissioner Sara Baxter	_____
Commissioner Mack Bernard	_____

The Mayor thereupon declared the Resolution duly passed and adopted this ____ day of _____, 20____.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, BY AND THROUGH ITS BOARD OF COUNTY COMMISSIONERS

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

JOSEPH ABRUZZO, CLERK OF THE CIRCUIT COURT & COMPTROLLER

By:  _____
Assistant County Attorney

By: _____
Deputy Clerk

APPROVED AS TO TERMS AND CONDITIONS

By:  _____
Division Director

ASSIGNMENT ASSUMPTION AND CONSENT AGREEMENT

BY AND BETWEEN PALM BEACH COUNTY

AND ***

AND ***

FOR *, PROJECT #*** AND**

FOR *, PROJECT #*****

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); ***, a *** (ASSIGNOR) whose Federal ID is ***; and ***, a *** (ASSIGNEE) whose Federal ID is *** (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 CONTRACTS, 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 CONTRACTS, 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 contracts to be assigned are the *** contracts for the ***, Project #*** (R***) dated *** and the ***, Project #*** (R***) dated ***, between the COUNTY and the ASSIGNOR, together with the work orders issued pursuant thereto (collectively, CONTRACTS).

Section 2 - Assignment and Effective Date - ASSIGNOR hereby conveys, transfers and assigns its rights, title and interest in, to, and under the CONTRACTS to ASSIGNEE, as of _____ (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 CONTRACTS 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 CONTRACTS and hereby expressly assumes the performance of each of the terms, conditions, covenants, obligations, liabilities and duties of the ASSIGNOR under the CONTRACTS, 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 CONTRACTS that accrue on or after the Effective Date of this ASSIGNMENT. ASSIGNEE shall assume all responsibility for any warranty or guarantee under the CONTRACTS which assumption shall include the guarantee or warranty of the performance of the CONTRACTS 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 CONTRACTS 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 shall 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 CONTRACTS 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 CONTRACTS 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 CONTRACTS and all payments to be paid under the CONTRACTS will be delivered to ASSIGNEE, at:

Phone: ***

Email: ***

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 CONTRACTS are 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.

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.

COUNTY:

APPROVED AS TO TERMS
AND CONDITIONS

By: _____

Morton L. Rose, P.E.
Director of Roadway Production

ASSIGNOR:

***, ***

(Corp. Seal)

ATTEST WITNESS:

Signature

Name (type or print)

ASSIGNEE:

***, ***

(Corp. Seal)

ATTEST WITNESS:

Signature

Name (type or print)

{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: _____
Yelizaveta B. Herman
Assistant County Attorney

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