

Memorandum



Date: August 16, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

Agenda Item No. 2(B)(5)
October 5, 2021

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive, flowing style.

Subject: Feasibility Report on District 10 Pilot Program to Cover Existing and Future Utility Facilities and Equipment with Landscaping to Prevent Graffiti Vandalism - Directive 202406

This report has been prepared by the Department of Transportation and Public Works (DTPW) in response to Resolution R-1250-20, sponsored by Senator Javier Souto and Commissioner Eileen Higgins and approved at the December 15, 2020 Board of County Commissioners meeting. This resolution directed the County Mayor or County Mayor’s designee to research and develop a pilot program for County Commission District 10, at no cost to Miami-Dade County (County), to implement design standards to cover all existing and future utility facilities and associated equipment with landscaping to prevent graffiti vandalism, and to provide a report to the Board regarding the feasibility and advisability of implementing the pilot program. For the reasons detailed below, covering these facilities with landscaping is not advisable due to safety, access, and maintenance concerns. However, there are other cost-effective beautification measures, such as covering utility boxes with artwork, that work as deterrents to graffiti and vandalism.

On April 15, 2021 and April 22, 2021, collaborative meetings were held with utility companies to solicit their input and recommendations. Several areas of concern were raised which included:

1. The National Electric Code requirement of three feet of clearance from all electrical equipment and, in some cases, eight-foot clearance on the openings.
2. The ventilation and heat dissipation requirement for communications equipment and the need for access to equipment for maintenance and repair would impede landscape installation.
3. Landscaping in the public right-of-way (ROW) could impede clearances required for compliance with the Americans with Disability Act (ADA) and that landscaping roots could damage underground facilities.
4. Landscaping could impede the site safety triangle and impact visibility for motorists.
5. The utilities and County lack the ability to maintain landscaping long term without a reliable water source. Consequently, maintenance would be difficult with the lack of irrigation.
6. Landscaping could provide a safety risk by providing cover for possible criminal activity. Additionally, potential liability issues are presented by the ability for people to hide behind landscaping.
7. The legal interpretation by the utility companies of Florida Statutes Section 337.401 would prohibit the County from imposing new requirements on already permitted existing sites and from imposing a private easement requirement to provide access and/or landscaping to and around the equipment cabinet located in the public ROW
8. Even if the physical configuration of the ROW allows landscaping surrounding the equipment, the equipment still requires access, which means that at least one side of the

equipment cabinet cannot be landscaped. The necessity to leave access open to the equipment cabinet does not resolve the potential for graffiti vandalism.

9. Safety and/or caution tags, safety hardware, and transformer markings shall not in any way be covered thus reducing the ability to install landscaping.

The official responses from the utility companies that participated in the collaborative meetings are attached to this memorandum as Exhibit A. Given the challenges noted above with the installation of landscaping, it may not be feasible to install landscaping around utility facilities.

It is therefore recommended that the pilot program consist of a collaborative effort between the County and utility companies, to both mitigate and remediate graffiti. Mitigation efforts using graffiti-proof paint upon initial installation and a system of communication via email with an auto generated referral to the appropriate entity so that complaints and/or pictures can be sent to a central contact within each company for resolution. Each company will be afforded with a 10-business-day period for resolution at their sole cost. Additionally, camouflage wraps or artwork may be considered to discourage graffiti, as depicted in Exhibit B, attached to this memorandum. Although utility companies have stated that they are unable to bear the cost of installing wraps, artwork has already been added to several Miami-Dade County Parks through Commission District discretionary funds.

Per ordinance No. 14-65, this report shall be placed on the next available Board meeting agenda.

Should you require additional information, please contact Eulois Cleckley, Director, Department of Transportation and Public Works, at eulois.cleckley@miamidade.gov.

- c:
- Geri Bonzon-Keenan, County Attorney
 - Gerald Sanchez, First Assistant County Attorney
 - Jess McCarty, Executive Assistant County Attorney
 - Office of the Mayor Senior Staff
 - Eulois Cleckley, Director, Department of Transportation and Public Works
 - Yinka Majekodunmi, Commission Auditor
 - Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
 - Melissa Adames, Director, Clerk of the Board
 - Eugene Love, Agenda Coordinator

EXHIBIT A

Letters from Utility Companies

April 23, 2021

VIA EMAIL

Alejandro Barrios, Assistant Director Construction & Maintenance
Miami-Dade County Department of Transportation and Public Works
111 NW 1st Street, 14th Floor
Miami, Florida 33128
Alex.Barrios@miamidade.gov

RE: ROW Pilot Program

Thank you for hosting the conference call to solicit recommendations and input from the Communications Industry last Thursday, April 15, 2021 on the ROW pilot program plan. The meeting was a valuable opportunity to discuss the issues and constraints that would be created regarding implementation of a landscaping requirement within the public ROW. We request that the County does not proceed with the adoption of a landscaping requirement and adopts a graffiti removal plan instead. As stated during the call, such a landscaping requirement would violate Florida Statutes 337.401. Furthermore, a landscaping requirement is not feasible for the following reasons:

1. The National Electric Code requires a minimum of three feet of clearance from electrical equipment.
2. Communications equipment requires adequate ventilation for heat dissipation that would be adversely affected by landscaping placed too closely to the equipment.
3. As space remains limited in the public ROW, an attempt to landscape equipment is likely to impede on the clearances required by the Americans with Disabilities Act (ADA).
4. Landscaping could impede the visibility triangle for motorists.
5. Communications companies, including Crown Castle, do not have access to irrigation in the ROW.
6. A landscaping requirement may create a safety risk by providing cover for criminal activity.



Crown Castle
9250 West Flagler Street
Miami, Florida 333174

7. The roots associated with any landscaping may damage underground communications facilities.
8. A landscaping plan would impose an unreasonable cost on communication service providers.

For the foregoing reasons, a landscaping plan will effectively prohibit us from providing service at certain locations that will be essential to our network. We support a graffiti remediation approach, whereby Crown Castle would respond to remove graffiti vandalism on utility boxes with a minimum of ten (10) business days prior notice. In addition, the resolution provides that the pilot program will apply to all existing and future utility facilities. It is our understanding from the April 15, 2021 conference call between the County and Communications Industry that the County does not intend to impose any landscaping requirements on existing facilities. Please confirm that our understanding is correct. We thank you once again for collaborating with Crown Castle and the Communications Industry to address the issue of graffiti vandalism.

Best regards,

A handwritten signature in purple ink, appearing to read 'Jessica Fernandez Ibarra', written in a cursive style.

Jessica Fernandez Ibarra

Government Affairs Manager

Barrios, Alex (DTPW)

From: Alvarez, Adriana <Adriana.Alvarez@fpl.com>
Sent: Tuesday, April 27, 2021 9:35 AM
To: Barrios, Alex (DTPW); Moubayed, Bassam (DTPW); Ruiz, Daniel D. (DTPW); Melian, Nestor (DTPW)
Cc: Abraham, Evelyn M; Fernandez, Armando; Huff, Richard
Subject: Proposed Revisions to Utility Accommodation & Appurtenance Specifications for Public Rights of Ways, a portion of Part 2 of the Public Works Manual (FPL)

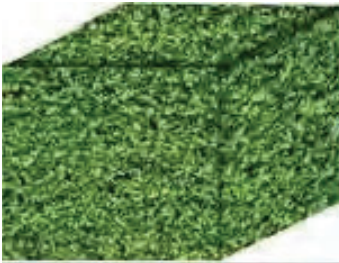
EMAIL RECEIVED FROM EXTERNAL SOURCE

Good morning Alex and team and thank you for the opportunity to provide our feedback on the proposed revision to the Utility Accommodations & Appurtenance Specifications for Public Rights of Way.

Below we've summarized the main points from our discussion that should be considered when it comes to FPL equipment:

- Ventilation of FPL equipment must be taken into account
- **Safety and/or caution tags and safety hardware shall not be covered**
- **Transformer Markings shall not in any way be covered**
- **Coverings of any kind shall not impede or prevent the opening of any door, lid, hood or hand hole of any equipment**
- **Coverings of any kind shall not impede the restoration of equipment**
- Line of sight must be maintained
- All of our pad mounted equipment requires a minimum clearance of 3' on the sides and 8' clearance on the openings, keeping all above mentioned requirements

As requested here are some pictures of the approved wrapping for our equipment.



Let me know if you have any questions or if you require any additional information.

Regards,
Adriana

Adriana Alvarez – Sr. Customer Advisor
Major and Governmental Accounts
Florida Power & Light Co
4200 West Flagler Street | Miami, FL 33134
Office: 305-442-5542 | Cell: 305-775-6047



Deborah L. Martohue, Esq., AICP
1036 23rd Avenue N.
St. Petersburg, FL 33704
Office Direct: 727.256.1211
Mobile: 727.460.8431
dmartohuelaw@outlook.com

April 19, 2021

VIA EMAIL ONLY

Alejandro Barrios, Assistant Director Construction & Maintenance
Miami-Dade County Department of Transportation and Public Works
111 NW 1st Street, 14th Floor
Miami, Florida 33128
Alex.Barrios@miamidade.gov

RE: ROW Utility Box Pilot Program

Dear Mr. Barrios:

As you are aware, this law firm represents T-Mobile South, LLC (T-Mobile). Thank you for hosting a call last Thursday, April 15th, with the Communications Industry to discuss the Right-of-Way (ROW) Utility Box Pilot Program for District 10 authorized by Resolution adopted 12/15/2020 by the Board of County Commissioners, Miami-Dade County (MDC). We appreciate the opportunity to discuss the graffiti issues that generated the concern as well as potential constraints and realistic opportunities to implement remediation of graffiti on equipment boxes located within MDC ROW. In response to your request, below is a list of constraints and concerns regarding implementing a landscape requirement within the public ROW identified by T-Mobile as well as a remediation approach T-Mobile can support:

1. Compliance with NESC will most likely be prohibitive as a result of minimum distance separation requirements between equipment and external barriers, including but not limited to: landscaping and fences, particularly in physically constrained ROW areas;
2. Similarly, compliance with OSHA will also be impaired;
3. Compliance with ADA requirements, particularly in areas where sidewalks are in close proximity with landscaping, will most likely be prohibitive;
4. Compliance with Site Safety Clearance triangles near intersections and driveways will prohibit fences and landscaping;
5. The Industry and County lack the ability to maintain landscaping long term without a reliable water source;
6. Potential liability issues are presented by the ability for people to hide behind landscaping;
7. Even if the physical configuration of the ROW allows landscaping surrounding the equipment, the equipment still requires access which requires that at least one side of the equipment

cabinet cannot be landscaped. The necessity to leave access open to the equipment cabinet does not resolve the potential for graffiti vandalism;

8. 337.401 would prohibit MDC from imposing new requirements on existing validly permitted sites; and

9. 337.401 prohibits MDC from imposing a private easement requirement to provide access and/or landscaping to and around the equipment cabinet located in a public ROW.

Per our group discussion on April 15, 2021, T-Mobile supports a reactive approach to respond to a request to remove graffiti from equipment when identified and reported. We think the best approach would be for the County and each equipment owner/operator establish a central contact email not associated with a specific contact person but rather associated specifically with graffiti remediation for the exchange of notices and photos. T-Mobile would need a minimum 10 business days to remove graffiti due to business logistics and necessity to issue purchase orders to a vendor for remediation work.

Thank you in advance for your time and consideration. If you have any questions, please contact me at dmartohuelaw@outlook.com or 727.256.1211.

Best regards,



Deborah L. Martohue, Esq. AICP

Cc: Client [digitally signed and emailed]

Scott Gustafson
Verizon Wireless Network Strategy and Business Development
15340 Park of Commerce Boulevard
Jupiter, FL 33478
Scott.gustafson@verizonwireless.com

April 29, 2021

Alejandro Barrios
Assistant Director Construction & Maintenance
Miami-Dade County Department of Transportation and Public Works
111 NW 1st Street, 14th Floor
Miami, Florida 33128
Alex.barrios@miamidade.gov

RE: Miami-Dade County Proposed Pilot Program District 10 to address Graffiti issues through Landscaping

Mr. Barrios,

As per your request, Verizon Wireless is responding to you conference call April 15, 2021, Right-of-Way Utility Box Pilot Program for District 10 to minimize potential graffiti issues. Please find below the list of constraints that impair deployment of landscape materials;

- Compliance with (NESC) National Electric Code that requires 3' clearance from electric box to foliage
- Compliance with ADA (Americans with Disabilities Act) requirements 36" minimum sidewalk width.
- Roots can compromise Cables going in/out of boxes
- Clearance for Cabinet doors
- Access for installation, repair, and replacement must come from ROW frontage.
- ROW limited real estate, county cannot force utility companies to acquire easement from private property. County will not reduce roadway to gain sidewalk space
- Landscaping will not prevent graffiti
- Landscaping promotes squatting by homeless by providing shelter and screening and or potential opportunity for criminal mischief, which begs the question who is liable?

The spirit of this item is to deter graffiti but this does not seem like the best pathway forward for the county to stop graffiti. The group concluded that the best opportunity would be for the specific utility providers to respond to notice by the county of graffiti, giving a 10-day window to respond to remove the graffiti. I thank you for your time and consideration. Please feel free to contact me. 561-512-2972

Thank you,



Scott Gustafson

EXHIBIT B

Artistic Wraps for Utility Boxes









