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August 24, 2016

MEMORANDUM

TO: John Denninghoff, Public Works Department Director

RE: Item II.A.2., Resolution and Local Agency Program Supplemental Agreement Number 3 with the Florida Department of Transportation for St. Johns Heritage Parkway at Ellis Road

The Board of County Commissioners, in regular session on August 23, 2016, adopted Resolution No. 16-124, and executed Supplemental Agreement Number 3 with the Florida Department of Transportation for St. Johns Heritage Parkway at Ellis Road; and approved any necessary budget change requests. Enclosed are three fully-executed Resolutions and three executed Agreements.

Upon execution by FDOT, please return a fully-executed Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cm

Encls. (6)

cc: Contracts Administration
Finance
Budget



SUPPLEMENTAL NO. 3 DUNS NO. 80-939-7102	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 426905-2-38-01 CONTRACT NO. AR235
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The Florida Department of Transportation and Brevard County _____ desires to supplement the original Agreement entered into and executed on June 21, 2013 as identified above. All provisions in the original Agreement and supplements, if any, remain in effect except as expressly modified by this supplement.

The changes to the Agreement and supplements, if any, are described as follows:

PROJECT DESCRIPTION

Name St Johns Heritage Parkway at Ellis Road Length 1.7 miles

Termini From John Rhodes Boulevard to west of Wickham Road

Description of Work:

The project consists of designing four lanes along Ellis Road from John Rhodes Boulevard to just west of Wickham Road, a distance of approximately 1.7 miles. Signal plans, pavement marking plans, as well as utility coordination and permitting will be a part of this project. A detailed drainage analysis and final design to reduce the right-of-way cost is also a part of this project. The main elements of design will follow the PD&E recommendations prepared by the Florida Department of Transportation (FDOT) and approved by the Federal Highway Administration (FHWA). **The plans cannot exceed 60%** until the PD&E study had been completed and the location design approval has been obtained from FHWA.

Additional right of way, mapping, survey and title work for the Project are as follows:

- (a.) Preparation of (i) right of way maps, (ii) control maps in the Agency's name, (iii) legal descriptions, all of which must be developed to Department standards; and
- (b.) Obtaining title searches (developed to Department standards and going back to the earliest public record) for all property to be acquired; and
- (c.) Supporting the Department's review of the title searches; and
- (d.) Updating the title searches that are used to certify the right of way so long as the certification takes place within six (6) months of acceptance of the final right of way map prepared by the Agency, thereafter, the Department will be responsible to update the title searches as necessary; and
- (e.) Support the Agency's Engineer of Record through all phases of the Project, including, but not limited to, appraisal support, post design services*, utility relocation and litigation support in the event litigation is necessary to acquire property interests necessary for the Project.

* Post design survey is to meet the Department's requirements, including parcel staking as required for appraisal and acquisition needs. The basic expectation would be to stake all parcels, take pictures and to consider a percentage of staking based on improvements in the corridor that may need to be relocated upon acquisition.

Reasons for Supplement and supporting engineering and/or cost analysis:

1. Funds in the amount of **\$40,127.00** is being added to the design phase for additional drainage analysis services. The Department has requested that the County study drainage alternatives that would achieve a "no-rise" level of performance for the widening of Ellis Road within the study limits. For the purposes of this study, "no-rise" is defined as 0.05' or less increase in state over the existing conditions. Total federal funding for the project is now **\$2,536,098.00**.

Said revision is reflected in the Schedule of Funding, attached hereto and incorporated herein, as Exhibit "B".

2. Section 5.04 of the original Agreement referenced above is hereby deleted and replaced by the following language, which applies to any reimbursements that are processed after the execution of this Supplemental Agreement #3:

5.04 Audit Reports: The administration of resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or limit the authority of any State agency

inspector general, the State of Florida Auditor General or any other State official. The Agency shall comply with all audit and audit reporting requirements as specified below.

a. In addition to reviews of audits conducted in accordance with OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO) or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as defined by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, as a subrecipient of a Federal award awarded by the Department through this Agreement is subject to the following requirements:

1. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, the Agency must have a Federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. **Exhibit** to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and the requirements of 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award

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provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. An audit conducted by the State of Florida Auditor General in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, will meet the requirements of this part.

2. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as provided in 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014.

3. In the event the Agency expends less than the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

4. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by

OMB Circular A-133, for fiscal years beginning before December 26, 2014, and for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us **within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014.**

5. Upon receipt, and within six months, the Department will review the Agency's **audit reporting package, including corrective action plans and management letters**, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance.

6. As a condition of receiving this Federal award, the Agency shall permit the Department, or its designee, the CFO or State of Florida Auditor General access to the Agency's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

7. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, the CFO or State of Florida

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Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department, or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

3. Exhibit 1, Federal Financial Assistance (Single Audit Act), of the original Agreement referenced above is hereby deleted and replaced by Exhibit 1, attached to this Amendment.

ADJUSTED EXHIBIT B SCHEDULE OF FUNDING

SUPPLEMENTAL NO. 3 DUNS NO. 80-939-7102	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 426905-2-38-01 CONTRACT NO. AR235
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TYPE OF WORK By Fiscal Year	FUNDING				
	(1) PREVIOUS TOTAL PROJECT FUNDS	(2) ADDITIONAL PROJECT FUNDS	(3) CURRENT TOTAL PROJECT FUNDS	(4) TOTAL AGENCY FUNDS	(5) TOTAL STATE & FEDERAL FUNDS
Planning					
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
Total Planning Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Project Development & Environment (PD&E)					
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
Total PD&E Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Design					
FY: 2012-2013	\$2,370,971.00	\$0.00	\$2,370,971.00	\$0.00	\$2,370,971.00
FY: 2013-2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
FY: 2014-2015	\$125,000.00	\$0.00	\$125,000.00	\$0.00	\$125,000.00
FY: 2015-2016	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
FY: 2016-2017	\$0.00	\$40,127.00	\$40,127.00	\$0.00	\$40,127.00
FY: _____	_____	_____	_____	_____	_____
Total Design Cost	\$2,495,971.00	\$40,127.00	\$2,536,098.00	\$0.00	\$2,536,098.00
Right-of-Way					
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
Total Right-of-Way Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Construction					
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
Total Construction Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Construction Engineering and Inspection (CEI)					
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
FY: _____	_____	_____	_____	_____	_____
Total CEI Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Construction & CEI Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST OF THE PROJECT	\$2,495,971.00	\$40,127.00	\$2,536,098.00	\$0.00	\$2,536,098.00

SUPPLEMENTAL NO. 3 DUNS NO. 80-939-7102	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 426905-2-38-01 CONTRACT NO. AR235
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IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY BREVARD COUNTY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: 
Name: Jim Barfield
Title: Chairman

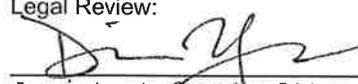
By: _____
Name: Frank J. O'Dea, P.E.
Title: Director of Transportation Development

Attest: 
Name: Scott Ellis
Title: Clerk

Attest: _____
Name: _____
Title: Executive Secretary

Date: 8-23-2016
As approved by the Board

Date: _____

Legal Review:

Assistant County Attorney

See attached Encumbrance Form for date of funding approval by Comptroller.

EXHIBIT 1

FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program Site: <https://www.cfda.gov/>
Award Amount: \$2,536,098.00
Awarding Agency: Florida Department of Transportation
Award is for R&D: No
Indirect Cost Rate: N/A

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards
<http://www.ecfr.gov/>

OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*
http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf

OMB Circular A-133 Compliance Supplement 2014
http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2014

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

OMB Circular A-87 (Revised), *Cost Principles for State, Local and Indian Tribal Governments*
http://www.whitehouse.gov/omb/circulars_a087_2004/

OMB Circular A-102, *Grants and Cooperative Agreements with State and Local Governments*
http://www.whitehouse.gov/omb/circulars_a102/

Title 23 – Highways, United States Code
<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code
<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Map-21 – Moving Ahead for Progress in the 21st Century, Public Law 112-141
<http://www.gpo.gov/fdsys/pkg/PLAW-112publ141/pdf/PLAW-112publ141.pdf>

Federal Highway Administration – Florida Division
<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)
<https://www.fsr.gov/>

RESOLUTION NO. 2016- 124

A RESOLUTION AUTHORIZING THE EXECUTION OF LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT FOR THE ST. JOHNS HERITAGE PARKWAY AT ELLIS ROAD PROJECT

WHEREAS, the State of Florida Department of Transportation and Brevard County desire to facilitate the St. Johns Heritage Parkway at Ellis Road project and,

WHEREAS, the State of Florida Department of Transportation has requested Brevard County to execute and deliver to the State of Florida Department of Transportation the Local Agency Program Supplemental Agreement for the aforementioned project, FPN 426905-2-38-01.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that Jim Barfield, Chairman of the Board of County Commissioners, is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Local Agency Program Supplemental Agreement for the aforementioned project, FPN 426905-2-38-01.

DONE AND RESOLVED in regular session this 23rd day of August, 2016.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Scott Ellis, Clerk



Jim Barfield, Chairman

As approved by the Board on August 23, 2016

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I - The following information must be completed on all new contracts submitted to the Board.

1. Contractor: N/A	
2. Fund/Account #: 1700/344931	Department Name: Public Works
4. Contract Description: Local Agency Program Supplemental Agreement – St. Johns Heritage Parkway at Ellis Road	
5. Contract Monitor: Jeanette Scott	6. Mail Stop #: Ext. 52853
7. Dept./Office Director: John P. Denninghoff, Director	8. Contract Type: Grant Intergovernmental State
ACTION DATE: 30 days from entry	ACTION REQUIREMENT: Need complete data

SECTION II - The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	JHW	8/8/16
Risk Management	_____	_____	_____	_____
County Attorney	✓	_____	DEG	8/8/16

If any office denies approval, the package will be returned immediately to the User Agency.

SECTION III - CONTRACT MANAGEMENT DATABASE CHECKLIST

DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund and GL Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Data (No Additional renewals/extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in database (Initial Contract Form with County Attorney/Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>
Note: Insurance Certificates uploaded under collapsible/expandable <u>Monitor Bar Section</u> Change Order/Task Order uploaded under collapsible/expandable <u>Monitor Bar Section</u> Contract Renewal documents uploaded under collapsible/expandable <u>Renewal /Bar Section</u>	

NOTE: This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form, Executed/Attested Contract to department for contract to be entered and uploaded into the Contract Management System. See AO-29 for additional information.