



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Unfinished Business

H.1.

3/12/2024

Subject:

Interlocal Agreement to Transfer James Road Extension to City of Cocoa

Fiscal Impact:

None

Dept/Office:

Public Works Department / County Attorney's Office

Requested Action:

It is requested that the Board of County Commissioners approve an Interlocal Agreement transferring to the City of Cocoa the road right-of-way, maintenance, and associated functional responsibilities for James Road west of Friday Road to I-95, and authorize the Chair to sign the Interlocal Agreement and associated County Deed.

Summary Explanation and Background:

The developer for the Windward Preserve subdivision, located within the City of Cocoa at the southeastern intersection of I-95 and S.R. 528, applied to Brevard County for a permit to construct an extension of James Road within the portion of right-of-way from Friday Road to I-95 (the "James Road Segment"). The proposed extension will provide access to the Windward Preserve subdivision. This access is consistent with the Stipulated Settlement Agreement entered into by the County, the City of Cocoa, and the current developer's predecessor-in-interest on December 11, 2007.

Most of the James Road Segment right-of-way was previously annexed into the City of Cocoa, and the James Road extension will primarily benefit development within the City of Cocoa. For these reasons, staff for the County and the City agree that the City should be responsible for the operation and maintenance of improvements within the James Road Segment.

The proposed Interlocal Agreement between the County and the City of Cocoa assigns and transfers to the City the right-of-way easement rights of the County, as well as jurisdiction over and full functional responsibility for the James Road Segment. The City's maintenance and functional responsibilities include the road extension, associated roadway drainage facilities, and other allied uses (e.g., utility lines, sidewalks, curbs and inlets, guardrails, landscaping, etc.).

This transfer does not include the 50' drainage easement and the existing ditch located south of the James Road segment. The Interlocal Agreement reserves to the County a perpetual easement for the use of the James Road segment to access and maintain this important County ditch. The Interlocal Agreement also reserves to the County the ability to issue discharge permits for the drainage facility. The Interlocal Agreement

does not itself permit any discharge into the County drainage facility, whether related to the proposed improvements in the James Road Segment or otherwise.

The Interlocal Agreement requires that the James Road Segment be used as a right-of-way for public highway purposes, and the County Deed transferring the right-of-way contains a corresponding reverter clause.

The James Road extension will be constructed in accordance with County standards and pursuant to a County-issued right-of-way permit. Traffic calming measures required under the 2007 Stipulated Settlement Agreement will be addressed in a separate County permit.

Clerk to the Board Instructions:

Upon execution by the Chair, please provide the original executed Interlocal Agreement and County Deed to the County Attorney's Office.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

March 13, 2024

MEMORANDUM

TO: Morris Richardson, County Attorney

RE: Item H.1., Interlocal Agreement to Transfer James Road Extension to City of Cocoa

The Board of County Commissioners, in regular session on March 12, 2024, approved an Interlocal Agreement transferring to the City of Cocoa the road right-of-way, maintenance, and associated functional responsibilities for James Road, west of Friday Road, to I-95; and authorized the Chair to sign the Interlocal Agreement and associated County Deed. Enclosed is a fully-executed Agreement and Deed.

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

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ns

Encls. (2)

cc: Public Works
Asset Management

**INTERLOCAL AGREEMENT BETWEEN
BREVARD COUNTY AND THE CITY OF COCOA
RELATING TO THE TRANSFER OF ROAD RIGHT-OF-WAY, MAINTENANCE,
DRAINAGE, AND ASSOCIATED FUNCTIONAL RESPONSIBILITIES FOR JAMES
ROAD FROM EAST OF I-95 TO FRIDAY ROAD**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into by and between BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (the “COUNTY”) and the CITY OF COCOA, FLORIDA, a municipal corporation of the State of Florida, whose address is 65 Stone Street, Cocoa, Florida 32922 (the “CITY”).

WITNESSETH:

WHEREAS, the COUNTY and the CITY desire to coordinate providing quality transportation facilities to enhance the quality of life for residents of Brevard County and Cocoa, Florida; and

WHEREAS, the Parties have the common power to construct and maintain roadways and drainage systems within their geographical jurisdictions; and

WHEREAS, the CITY requested that the COUNTY transfer jurisdiction of and the responsibility for operation and maintenance within the right-of-way of the portion of James Road from Friday Road to Interstate 95 (I-95) (the “James Road Segment”), which is identified in Exhibit ‘A’ attached hereto and incorporated herein by this reference and which the County obtained via Right of Way Deed, recorded in the Official Records Book 783, Page 918, of the public records of Brevard County, Florida; and

WHEREAS, the COUNTY and the CITY are agreeable to transfer the right-of-way easement rights of the COUNTY, the maintenance, and all associated functional responsibilities of and for the James Road Segment, and associated roadway drainage facilities and other allied uses as described herein within the James Road Segment, from the COUNTY to the CITY; and

WHEREAS, the COUNTY and the CITY agree that the transfer of jurisdiction of and the responsibility for operation and maintenance of the James Road Segment herein shall not include the responsibility to operate and maintain the large ditch located south of the James Road Segment in the 50’ drainage easement, recorded in the Official Records Book 724, Page 1017, of the public records of Brevard County, Florida, and

further, that the COUNTY's reservation of easement contained in Section 5 below is intended to preserve the COUNTY's right of ingress and egress, including operating heavy equipment, in order to maintain such ditch; and

WHEREAS, the COUNTY and CITY wish to advise the Florida Department of Transportation (the "F.D.O.T.") of this Agreement by means of the COUNTY providing the F.D.O.T., District 5, with a recorded copy of this Agreement and County Deed conveying the right-of-way easement rights of the COUNTY and maintenance obligations for the James Road Segment to the CITY; and

WHEREAS, this Agreement is authorized pursuant to the provisions of Chapters 125, 163, 166, and 335, Florida Statutes, and other applicable laws; and

WHEREAS, the Parties hereto have determined that this Agreement is in furtherance of the community health, safety, and welfare; serves a public benefit; and is in the public interest.

NOW, THEREFORE, in consideration of the premises herein, the Parties hereby agree as follows:

Section 1. Recitals. The above recitals are deemed true and correct and are hereby incorporated herein by this reference.

Section 2. Purpose. The purpose of this Agreement is for the COUNTY to assign and transfer to the CITY, the right-of-way easement rights of the COUNTY and jurisdiction over and full functional responsibility of the James Road Segment, and associated roadway drainage facilities and other allied uses as described herein within the James Road Segment, including, but not limited to, permit authority within the right-of-way, except as reserved to the COUNTY in Section 4 herein.

Section 3. Transfer of Responsibility. Attached as Exhibit 'B' to this Agreement is a deed in accordance with Section 125.411, Florida Statutes, executed by the COUNTY transferring the right-of-way easement rights of the COUNTY, the maintenance, and all associated functional responsibilities for the James Road Segment, and associated roadway drainage facilities and other allied uses within the James Road Segment, to the CITY. The "associated roadway drainage facilities" transferred shall not include the ditch located south of the James Road Segment in the 50' drainage easement, recorded in the Official Records Book 724, Page 1017, of the public records of Brevard

County, Florida, but shall include appurtenant inlets and drainage pipes associated with the James Road Segment roadway improvements, if any. The "other allied uses" within the James Road Segment which are transferred to the CITY include utility lines, sidewalks, curbs and inlets, drainage pipes, guardrails, and landscaping and grass within the James Road Segment, if any. The COUNTY shall be responsible for the cost to record the deed and this Agreement in the public records of Brevard County, Florida. Upon execution of this Agreement, which shall operate as acceptance of the James Road Segment, the CITY shall have the right-of-way easement rights of the COUNTY to, plenary authority over, and full responsibility for the functional operation and maintenance of the James Road Segment, as specified in Section 2 above. All of the COUNTY's rights, responsibilities, liabilities, duties, and obligations as to the James Road Segment shall be transferred to and assumed by the CITY and said right(s)-of-way shall be deemed the CITY's responsibility for all intents, purposes, and effects. Upon the effective date of the transfer to the CITY, nothing herein shall prohibit or limit the CITY's ability, at the CITY's discretion, to delegate and/or assign to the Windward Preserve Community Development District, by interlocal agreement, the maintenance, and all associated functional responsibilities for the James Road Segment, and associated roadway drainage facilities and other allied uses within the James Road Segment.

Section 4. Design Approval. The Parties agree that the CITY will accept the COUNTY's review and approval of the James Road Segment roadway improvement engineering plans, dated November 10, 2023, associated with the Windward Preserve PUD project, such project to be located on Tax Parcel ID # 24-35-10-00-502. The COUNTY has approved the James Road Segment roadway improvements via the issuance of Right-of-Way Permit #23RW00034. For future modifications to the James Road Segment, the COUNTY will have the right to review the design plans for any improvements to the road right-of-way, as well as the right to provide approval of said design plans, whether the plans are proposed by the CITY or by a third party. However, such approval will not be unreasonably withheld, provided that adequate ingress and egress is maintained and preserved within the James Road Segment to allow for the COUNTY's maintenance of the ditch located south of the James Road Segment in the 50' drainage easement, recorded in the Official Records Book 724, Page 1017, of the

public records of Brevard County, Florida, including the ability to maintain such ditch utilizing heavy equipment.

Section 5. Reservation of Easement. The Parties agree that the COUNTY reserves to itself a perpetual easement for the full usage of and complete access to, including rights of ingress and egress, the James Road Segment for the purpose of constructing, repairing, and maintaining the 50' drainage facility adjacent to the James Road Segment on the south, such reservation to include continued rights for drainage from the drainage facility to the James Road Segment, pursuant to that certain Easement for drainage recorded in Official Records Book 724, Page 1017, of the public records of Brevard County, Florida, and the deed described in Section 3 above contains a reservation of easement accordingly. In addition, the COUNTY will have no responsibility, or otherwise have any liability to any party, to repair or reconstruct, any improvements constructed in the transferred road right-of-way resulting from the COUNTY's reasonable access to and use of the road right-of-way for such maintenance purposes, and the COUNTY will be held harmless for any and all such damages.

Section 6. Permitting. The parties understand and agree that should any proposed improvements to the James Road Segment anticipate the need to utilize the 50' drainage facility described in the Section 5 paragraph above for drainage discharge purposes, it will be necessary to complete the appropriate required permitting process through COUNTY prior to the construction of any such improvements. This Agreement in no way transfers jurisdiction, control, or permitting authority over the 50' drainage facility from the COUNTY to the CITY, nor does it authorize or permit any discharge into the 50' drainage facility.

Section 7. Public Purpose. The parties agree that the James Road Segment shall be used as a right-of-way for public highway purposes, and should the CITY or its successor in interest discontinue its use of the James Road Segment for public highway purposes, the right-of-way easement rights being transferred herein will revert back to the COUNTY by operation of law.

Section 8. Limitations of Agreement. It is not the intent of this Agreement to change the jurisdiction of the Parties in any manner except as specifically provided herein. All other policies, rules, regulations, and ordinances of the COUNTY and the CITY,

respectively, will continue to apply as to the properties located within the jurisdictional boundaries of each party hereto. The maintenance of side roads, street name signs, and stop signs are the responsibilities of the CITY, except as otherwise provided herein.

Section 9. Other Agreements. The Parties agree to execute such instruments and documents as may be required to effectuate this Agreement.

Section 10. Sovereign Immunity. Nothing herein shall constitute a waiver of each respective Party's sovereign immunity.

Section 11. Notices.

(a) Whenever either Party desires to give notice to the other Party, notice shall be sent to:

For the COUNTY

Director of Public Works
Brevard County Public Works Department
2725 Judge Fran Jamieson Way
Viera, FL 32940

For the CITY

Stockton Whitten, City Manager
City Hall
65 Stone Street,
Cocoa, FL 32922

(b) The COUNTY Manager or CITY Manager may change, by written notice as provided herein, the addresses or persons for receipt of notices. Each such notice shall be deemed delivered on the date delivered if by personal delivery, or on the date of transmission if by facsimile, or on the date upon which the return receipt is signed or delivery is refused or notice is designated by the postal authorities as not deliverable, as the case may be if mailed, or date of delivery by overnight delivery services as evidenced by a service receipt.

Section 12. Counterparts. This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

Section 13. Entire Agreement. This Agreement, along with the County Deed, constitutes the entire agreement of the Parties with respect to the subject matter hereof, and neither this Agreement nor any portion of it may be altered, modified, waived, deleted, or amended except by a written instrument signed by both Parties' authorized

representatives. This Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter of this Agreement.

Section 14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors in interest, transferees, and assigns of the Parties.

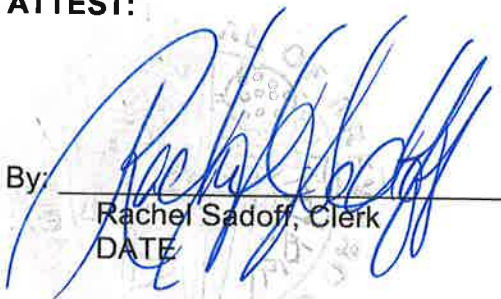
Section 15. Public Records. The Parties shall allow public access to all documents, papers, letter, or other materials subject to the provisions of Chapter 119, Florida Statutes, which have been made or received in conjunction with this Agreement.

Section 16. Conflict of Interest. Both Parties agree that they will not commit any act in the performance of its obligations pursuant to this Agreement that would create a conflict of interest, as defined by Chapter 112, Florida Statutes.

Section 17. Effective Date. This Agreement shall take effect upon the date of recording in the Public Records of Brevard County, Florida.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement through their authorized representative on the date last written below.

ATTEST:

By: 
Rachel Sadoff, Clerk
DATE

BREVARD COUNTY, FLORIDA

By: 
Jason Steele, Chair

As approved by the Board on:
03/12/2024

Approved as to legal form and sufficiency
as to Brevard County:


Morris Richardson, County Attorney

[SIGNATURES OF PARTIES CONTINUED ON NEXT PAGE]

ATTEST:

CITY OF COCOA, FLORIDA

By: _____
Monica Arsenault, City Clerk

By: _____
Michael C. Blake, Mayor

DATE:

As authorized by the City of Cocoa City
Council on: __/__/__

Approved as to legal form and sufficiency
as to the City of Cocoa:

Anthony Garganese, City Attorney

EXHIBIT 'A'

[James Road Segment]

The South fifty (50) feet of that portion of Section 10, Township 24 South, Range 35 East, lying East of the right-of-way of Interstate Highway No. 95 (I-95), being situated in Brevard County, Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

EXHIBIT 'B'

Prepared by and return to:
Office of the County Attorney
2725 Judge Fran Jamieson Way, Building C
Viera, Florida 32940

COUNTY DEED

(Statutory Form - Section 125.411, Florida Statutes)

THIS DEED, made this ___ day of January 2024, between BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, party of the first part, and the CITY OF COCOA, FLORIDA, a municipal corporation of the State of Florida, whose address is 65 Stone Street, Cocoa, Florida 32922, party of the second part,

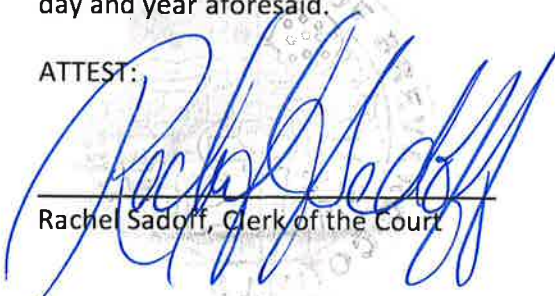
[Whenever used herein the terms "party of the first part" and "party of the second part" include all the parties to this instrument and their heirs, legal representatives, successors and assigns. "Party of the first part" and "party of the second part" are used for singular and plural, as the context requires, and the use of any gender shall include all genders.]

WITNESSETH that the party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00), to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, has granted, bargained and sold to the party of the second part, its successors and assigns forever, any interest it holds in the following described land lying and being in Brevard County, Florida, to wit:

The South fifty (50) feet of that portion of Section 10, Township 24 South, Range 35 East, lying East of the right-of-way of Interstate Highway No. 95 (I-95), being situated in Brevard County, Florida. The party of the first part hereby reserves to itself a perpetual easement for the full usage of and complete access to, including rights of ingress and egress, the herein described property for the purpose of constructing, repairing, and maintaining the drainage facility adjacent to the aforementioned property on the south, such reservation to include continued rights for drainage from the drainage facility to the above described property, pursuant to that certain Easement for drainage recorded in Official Records Book 724, Page 1017, of the public records of Brevard County, Florida. The property described herein is to be used by the party of the second part as right-of-way for public highway purposes, and should the property use as a public highway be discontinued, the property being transferred herein will revert back to the party of the first part by operation of law.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair of said board, the day and year aforesaid.

ATTEST:


Rachel Sadoff, Clerk of the Court

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Jason Steele, Chair

MAR 12 2024

As approved by the Board on _____