



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

7/19/2022

Subject:

Approval Re: Second Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street - Districts 3 and 5

Fiscal Impact:

None

Dept/Office:

Public Works Department/Finance and Contracts Administration

Requested Action:

It is requested the Board of County Commissioners approve and authorize the Chair to execute the Second Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street providing for the third extension to October 27, 2022 for the City of Palm Bay to complete the right-of-way acquisition for Phase 3 and authorize the County Manager to grant subsequent time extensions if requested by the City.

Summary Explanation and Background:

On April 21, 2020, the Board of County Commissioners approved the Interlocal Agreement (ILA) regarding the St. Johns Heritage Parkway Intersection and Babcock Street with the City of Palm Bay which was recorded on April 30, 2020. The ILA set out certain deadlines by which the City would acquire the right-of-way for Phase 3 of the intersection project. On August 3, 2021, the Board of County Commissioners approved the Amendment to the ILA which authorized the County Manager to administratively grant two time extensions: (1) the first was up to an additional 120 days; extended to April 30, 2022; and (2) the second was up to an additional 90 days; extended to July 29, 2022. Per the Amendment, any subsequent extensions must be granted by the Brevard County Board of County Commissioners.

The City has made substantial progress to complete the right-of-way acquisition; however, on June 16, 2022, the City requested a third extension for an additional ninety days from July 29, 2022. The Second Amendment will grant the third extension to October 27, 2022 and authorize the County Manager to grant reasonable time extensions if subsequently requested by the City. If a request for an extension is deemed not to be reasonable by the County Manager, the City must seek approval from the Brevard County Board of County Commissioners. On July 7, 2022, the City Council of Palm Bay approved the Second Amendment to the Interlocal Agreement Regarding the St. Johns Heritage Parkway and Babcock Street Intersection. In accordance with Administrative Order 29, the Second Amendment has been reviewed and approved by the County Attorney's Office, Risk Management and Purchasing Services.

Clerk to the Board Instructions:

F.3.

7/19/2022

Please return the Second Amendment to the Public Works Department for recordation.

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: N/A		2. Amount: N/A	
3. Fund/Account #: N/A		4. Department Name: Public Works	
5. Contract Description: 2nd Amendment - Interlocal Agreement Re: St. Johns Heritage Pkwy & Babcock			
6. Contract Monitor: Jeanette Scott		8. Contract Type:	
7. Dept/Office Director: Marc Bernath		INTERGOVT/LOCAL	
9. Type of Procurement: Select from pull down:			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

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☐

Purchasing

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☐

Risk Management

☐
☐

County Attorney

☐
☐

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

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☐

Thomas-Wood, Tammy

Digitally signed by Thomas-Wood, Tammy
DN: cn=Thomas-Wood, o=County of Brevard, ou=County of Brevard, email=Thomas.Wood@brevard.net, c=US

Purchasing

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☐

Risk Management

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☐

County Attorney

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Esseeesse, Alexander

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Date: 2022.06.30 11:54:32 -04'00'

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM 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 G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

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SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

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☐

Purchasing

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Risk Management

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☐

County Attorney

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SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

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Purchasing

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Risk Management

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County Attorney

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Wilson, Shannon

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Date: 2022.07.01 08:52:42 -04'00'

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM 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 G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
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**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

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9. Type of Procurement: Select from pull-down:			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	
Purchasing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wall, Katherine <small>Digitally signed by Wall, Katherine Date: 2022.06.30 12:07:34 -04'00'</small>
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Esseesse, Alexander <small>Digitally signed by Esseesse, Alexander Date: 2022.06.30 11:54:32 -04'00'</small>

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

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July 20, 2022

MEMORANDUM

TO: Marc Bernarth, Public Works Director

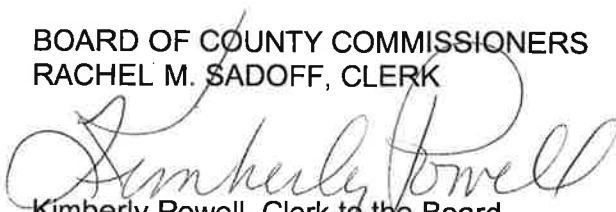
RE: Item F.3., Approval of Second Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street

The Board of County Commissioners, in regular session on July 19, 2022, execute and approved the Second Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street providing for the third extension to October 27, 2022, for the City of Palm Bay to complete the right-of-way acquisition for the Phase 3; and authorized the County Manager to grant subsequent time extensions if requested by the City. Enclosed are two fully-executed Second Amendment to Interlocal Regarding St. Johns Heritage Parkway.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/pp

Encl. (2)

cc: Contracts Administration
County Manager
Finance

SECOND AMENDMENT TO INTERLOCAL AGREEMENT REGARDING ST JOHNS HERITAGE PARKWAY INTERSECTION AND BABCOCK STREET

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT REGARDING ST JOHNS HERITAGE PARKWAY INTERSECTION AND BABCOCK STREET ("Second Amendment") is made and entered into the date of last signature below by and between Brevard County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY", and the City of Palm Bay, Brevard County, Florida, hereinafter referred to as the "CITY".

WITNESSETH:

WHEREAS, the COUNTY and the CITY entered into an Interlocal Agreement pursuant to Chapter 163, Part 1, Florida Statutes, regarding St. Johns Heritage Parkway Intersection and Babcock Street, on the 30th day of April, 2020, as recorded in Public Records of Brevard County Florida at Official Record Book 8730, Page 998, hereinafter referred to as "Original ILA", which is incorporated herein by this reference; and

WHEREAS, the Original ILA was entered into by the parties in order to facilitate the completion of intersection improvements at Babcock Street and the newly constructed St. Johns Heritage Parkway, defined below as the Intersection Project, and complete the future widening of Babcock Street south of Malabar Road; and

WHEREAS, the Original ILA set out certain deadlines and dates by which the CITY would acquire right-of-way for Phase 3 of the Intersection Project which was the subject of the Original ILA; and

WHEREAS, the CITY and the COUNTY agreed to modify the Original ILA for the purpose of extending said dates for the CITY to complete acquisition of the right-of-way for Phase 3 of the Intersection Project; and

WHEREAS, the First Amendment to the Original ILA, hereinafter referred to as the "First Amendment", was effective August 9, 2021, as recorded in the Public Records of Brevard County, Florida, at Official Record Book 9217, page 749, hereinafter referred to as the "Amendment," which is incorporated herein by this reference; and

WHEREAS, the First Amendment provided that if the CITY did not complete acquisition of the right-of-way for Phase 3 by December 31, 2021, the CITY shall submit a written request seeking an extension of the acquisition deadline to the County Manager's Office at least thirty calendar days prior to said deadline. The Amendment authorized the County Manager to grant two time extensions: (1) the first is up to an additional 120 days; and (2) the second is up to an additional 90 days. Any subsequent extensions must be granted by the Brevard County Board of County Commissioners; and

WHEREAS, the COUNTY granted the CITY the first extension on December 16, 2021, which is incorporated herein by this reference, establishing a new deadline for acquisition of all right-of-way for Phase 3 to be completed by April 30, 2022; and

WHEREAS, the COUNTY granted the CITY the second extension on March 21, 2022, which is incorporated herein by this reference, establishing a new deadline for acquisition of all right-of-way for Phase 3 to be completed by July 29, 2022; and

WHEREAS, CITY has made substantial progress in acquiring the needed right-of-way for Phase 3; and

WHEREAS, on June 16, 2022, the CITY requested from the COUNTY a third extension for an additional ninety (90) days to complete acquisition of all right-of-way for Phase 3, which request is attached hereto as Exhibit A; and

WHEREAS, the COUNTY finds this request for an extension is reasonable and serves a public purpose and benefit; and

WHEREAS, the CITY and COUNTY desire to amend the Original ILA, including any amendments or modifications made thereto, to provide for the requested third extension to complete acquisition of the right-of-way for Phase 3 to October 27, 2022, and to allow for any future extensions requested by the CITY at least thirty (30) calendar days prior to said deadline to be granted by the County Manager, in his/her sole discretion. If a request for an extension is deemed not to be reasonable by the County Manager, the CITY must seek approval from the Brevard County Board of County Commissioners.

NOW, THEREFORE, for and in consideration of the terms, conditions and mutual covenants contained herein and for other good and valuable consideration received by each party, the sufficiency of which is hereby acknowledged, the COUNTY and the CITY acknowledge and agree as follows:

1. **Recitals.** The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this Second Amendment.
2. **Amendment.** Item 12(c) of the Original ILA is hereby stricken in its entirety and amended as follows:

October 27, 2022: The CITY shall complete acquisition of all right-of-way for Phase 3. If not completed by this date, the CITY shall submit a written request seeking an extension of the acquisition deadline to the County Manager's Office at least thirty (30) calendar days prior to said deadline. The County Manager is authorized to grant reasonable time extensions. The granting of such extensions shall not be unreasonably withheld by the COUNTY. In the sole discretion of the County Manager, if the CITY's request for an extension is not determined to be reasonable, the CITY will be required to seek approval from the Brevard County Board of County Commissioners. The

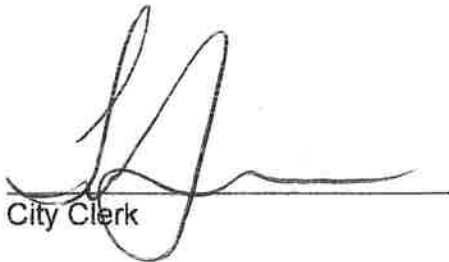
County Manager has the authority to grant any necessary extensions to ensure the Original ILA, and any amendments or modifications thereto, does not expire prior to consideration by the Board of County Commissioners.

3. **Counterparts.** This Amendment may be executed in two (2) or more counterparts, each of which shall be taken to be an original, and all collectively deemed to be one (1) instrument.
4. **Ratification.** Except as modified herein, the COUNTY and the CITY hereby represent and warrant that the Original ILA, and any amendments or modifications thereto, remains in full force and effect and is hereby reaffirmed and ratified by both the COUNTY and the CITY.
5. **Effective Date and Recording.** Pursuant to Chapter 163, Florida Statutes, the effective date of this Amendment shall be the date on which it is recorded with the Clerk of the Circuit Court in and for Brevard County. The COUNTY shall be responsible for recording a fully executed original of this Second Amendment in the public records of Brevard County, and shall return a recorded copy of the Amendment to the CITY.

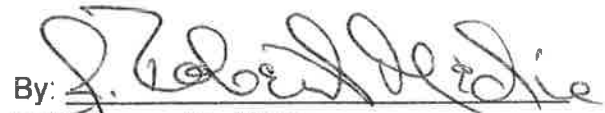
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have subscribed their names and have caused this Second Amendment to be executed by their duly authorized representatives.

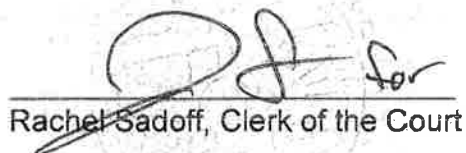
Attest:


City Clerk

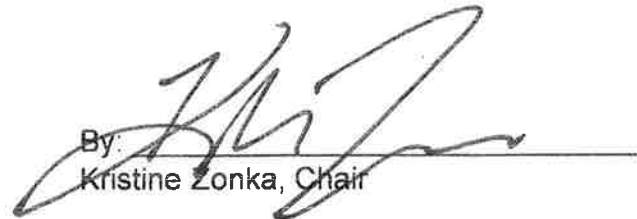
City of Palm Bay, Florida

By: 
Robert Medina, Mayor
Date: 07-12-22

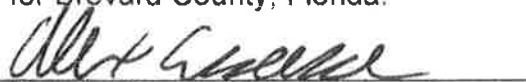
Attest:


Rachel Sadoff, Clerk of the Court

Brevard County, Florida

By: 
Kristine Zonka, Chair
Date: 7/19/2022
As approved by the Board on July 19, 2022

Reviewed for Legal Form and Content
for Brevard County, Florida:


Deputy County Attorney



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

DATE: 7/7/2022

RE: Consideration of a Second Amendment to the Interlocal Agreement with Brevard County regarding the St. Johns Heritage Parkway and Babcock Street intersection relating to an extension to right-of-way acquisition.

On February 6, 2020, City Council approved the St. Johns Heritage Parkway and Babcock Interlocal Agreement (ILA). Subsequently, Brevard County Board of County Commissioners approved the ILA on April 21, 2020, and the Agreement was recorded on April 30, 2020, which serves as the effective date. The ILA provides for the acquisition of necessary right-of-way (ROW) along and construction and improvements related to the widening of Babcock Street. The ILA provides that the City shall acquire all ROW before December 31, 2021.

On August 3, 2021, the Brevard County Board of County Commission approved Amendment #1 to the ILA providing for two extensions (120 days and an additional 90 days) to the acquisition of ROW to be authorized administratively by the County Manager. In December 2021 and March 2022, the City requested and was authorized extensions to the December 31, 2021 deadline to acquisition necessary ROW, which expired on June 30, 2022.

The City has acquired ROW from all but one property owner. Due to challenges negotiating the acquisition of ROW from GA Property, LLC, the City is requesting Amendment #2 to the ILA for an additional 90 day extension to acquire the remaining ROW. Amendment #2 will be presented to Brevard County Board of County Commissioners at the regular meeting on July 19, 2022. In the meantime, the City continues to negotiate the final right-of-way from GA Property, LLC.

REQUESTING DEPARTMENT:

Public Works

FISCAL IMPACT:

There is no fiscal impact to this request.

RECOMMENDATION:

Motion to approve Amendment #2 to Interlocal Agreement related to St. Johns Heritage Parkway and Babcock Street, and authorize the City to bring forth this Amendment to Brevard County Board of County Commissioners for consideration at their July 19 regular meeting.

ATTACHMENTS:

Description

Amendment #2 to Interlocal Agreement regarding St Johns Heritage Parkway Intersection and Babcock St

Amendment #1 to Interlocal Agreement regarding St Johns Heritage Parkway Intersection and Babcock St

Legislative Memorandum for the ILA, February 6, 2020

Interlocal Agreement - St. Johns Heritage Parkways Intersection and Babcock Street

Exhibit A



June 16, 2022

Frank Abbate
Brevard County Manager
2725 Judge Fran Jamieson Way, Bldg. C
Viera, FL 32940

Dear Mr. Abbate:

Section 2 of the of the Amendment to the Interlocal Agreement (ILA) between the City of Palm Bay and Brevard County regarding St. Johns Heritage Parkway intersection and Babcock Street, the City is required to complete the acquisition of all necessary rights-of-way (ROW) along Babcock Street by December 31, 2021. As you are aware, the City requested and received two extensions as authorized in the Amendment, with the last extension expiring on June 30, 2022. The City has acquired all but approximately 0.11 acres of ROW from property owner, GA Property, LLC. While the City was able to negotiate the acquisition agreement and Palm Bay City Council approved the agreement on May 19, 2022, the property owner has since requested additional compensation. At this time, the City has not come to an agreement with the property owner and would like the County's consideration for a 90-day extension beyond what is authorized under the Amendment to the ILA. .

If you have any technical questions, please contact the City Engineer Frank Watanabe at (321) 409-6341.

Thank you for your consideration.

Sincerely,

Suzanne Sherman

City Manager