

Meeting Date
10/21/2014



AGENDA	
Section	New Business
Item No.	V A 3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Joint Participation Agreement Amendment Number 2 with the Florida Department of Transportation and Resolution for the Pineda Causeway Grade Separation - District 4
DEPT/OFFICE:	Public Works Department – Finance & Contracts Administration

Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chairman to execute the Joint Participation Agreement Amendment Number 2 with the Florida Department of Transportation and Resolution for the Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway Project.

Summary Explanation & Background:

On October 4, 2011, the Board of County Commissioners approved and authorized the Chairman to execute a Joint Participation Agreement (JPA) with FDOT for the design, right-of-way acquisition and construction of an overpass on the Pineda Causeway over the Florida East Coast Railway (FEC) right-of-way in the amount of \$26,160,000.

On October 8, 2013, the Board of County Commissioners approved Amendment No. 1 to the JPA to add language to the Agreement indicating that because the right-of-way easement funding, initially estimated to be \$325,000.00, may exceed said amount due to increased cost associated with anticipated maintenance of traffic (MOT) during construction. In this case FDOT and Brevard County agree that reimbursement by FDOT shall be limited to the actual cost of right-of-way/easement property interests to establish and to accomplish the MOT. Right-of-way/easement costs to be reimbursed by FDOT shall not include fair market value or purchase price, whichever is greater, of excess real estate interests and land not necessary and not utilized for MOT purposes.

This modification is only recommended if the County also chooses to acquire all of the Page parcel for joint purposes of the overpass project and other County uses. The Page property has about 26,100 sq. ft. of high bay warehouse space on 1.44 acres plus another 1.95 acres of land appropriate for office space use. This property and location is highly suitable for the relocation of the traffic engineering sign, signal and ITS shops. These shops are currently located on Merritt Island, are subject to evacuation for hurricanes, have finished floor elevations well below a Category 3 storm surge, and are not built to meet current wind load standards for critical government facilities. The parcel has acreage suitable for the construction and operation of a ITS Traffic Management Center.

Additionally, the acquisition of the entire Page parcel allows for safety enhancements to the overpass design by allowing an adjustment to the location of the driveway for the Holy Trinity Preparatory School to a location that will be; further away from the bridge, lower and thus more safe for all traffic on the Pineda.

It is important to bring this matter to resolution since FDOT is anxious to bring this consideration to conclusion so the overpass project which they are funding can be completed.

Options:

1. a) Approve the proposed Agreement Modification; and
 b) Authorize staff to begin negotiating the acquisition of the Page parcel including the use of eminent domain if necessary. (The use of eminent domain or a proposed contract to purchase will require additional Board action).
2. Reject the Agreement Modification and only acquire the minimum property rights from the Page parcel required for the overpass alone.

Due to the anticipated cost for Right of Way/Easements, Amendment No. 2 to the JPA will modify and replace the terms added by Amendment Number to 1 to read Right of Way/Easement Cost shall be limited to an amount not to exceed \$3,100,000. All other reimbursement of costs associated with the project as described in the original JPA shall not exceed \$23,060,000 plus any balance left over of the \$3,100,000 Right of Way/Easement funding after all necessary real property interests have been acquired.

Fiscal Impact: FY 2014/2015 \$2,456,425 Traffic Management Center funds can be utilized for balance needed for Option 1.

Clerk to the Board instruction: Return three executed Amendments and Resolutions to Department

Exhibits Attached: Three copies of Joint Participation Agreement Amendment Number 2 and Resolution, Property Fact Sheet, Aerial Map

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager	Assistant County Manager Mel Scott	Department Director / Extension John Denninghoff / 57202
Stockton Whitten	Assistant County Manager Venetta Valdengo	



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

October 22, 2014

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item V.A.3., Resolution and Joint Participation Agreement Amendment Number 2 with Florida Department of Transportation (FDOT) for Pineda Causeway Grade Separation

The Board of County Commissioners, in regular session on October 21, 2014, adopted Resolution No. 14-199 (Exhibit A), and executed Joint Participation Agreement Amendment Number 2 with Florida Department of Transportation (FDOT) for the Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway Project; and authorized staff to begin negotiating the acquisition of the Page parcel, including the use of eminent domain if necessary. Enclosed are original and two executed copies of the Joint Participation Agreement Amendment Number 2 and the Resolution (Exhibit A).

Upon execution by FDOT, please return a fully-executed copy of the Joint Participation Agreement Amendment Number 2 and the Resolution (Exhibit A) 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 Etheridge, Deputy Clerk

Encls. (3)

cc: Contracts Administration
Finance
Budget

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT PARTICIPATION AGREEMENT
AMENDMENT NUMBER 2

EXECUTION DATE: _____

Agency: Brevard County	Fund: DDR/DIS/DPTO	Financial Management No.:
Vendor No.: F596000523-163	Function: 215	422830-1-94-01
Contract No: AQJ65	Catalog of State Financial Assistance	Category: 088808
	(CSFA) No.: 55-021	Object Code: 750021
	CSFA Title – Rail Development Grants	Org. Code: 55052000531
	Contract Amount: \$ 26,160,000.00	

The terms of the original Joint Participation Agreement (JPA) between the State of Florida Department of Transportation and Brevard County for the Project described as the “Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway”, executed on **December 29, 2011**, and Amendment Number 1 dated **October 18, 2013**, are hereby amended as follows:

The purpose of this Amendment Number 2 is to modify and to replace the terms added by Amendment Number 1 to read as follows:

The DEPARTMENT and the LOCAL GOVERNMENT agree that the “Right of Way/Easement” funding, initially estimated herein to be \$325,000.00, may exceed said estimated amount due to increased costs of right-of-way acquisition that is anticipated due to required Maintenance of Traffic (“MOT”) during construction. If this is the case, the DEPARTMENT and the LOCAL GOVERNMENT agree that reimbursement by the DEPARTMENT to the LOCAL GOVERNMENT for “Right of Way/Easement” costs shall be limited to an amount not to exceed \$3,100,000.00 (Three Million One Hundred Thousand Dollars and No/100). All other reimbursement of costs associated with the Project as described in the original JPA shall not exceed \$23,060,000.00 (Twenty Three Million Sixty Thousand Dollars and No/100) plus any balance left over of the \$3,100,000.00 “Right of Way/Easement” funding after all necessary real property interests have been acquired.

Any and all cost of right of way acquisition in excess of \$3,100,000.00 shall be the sole responsibility of the LOCAL GOVERNMENT.

Except as hereby modified, amended or changed, all of the terms and conditions of said original Agreement thereto will remain in full force and effect.

Attachment 1: “Exhibit B - Revised Estimated Schedule of Funding”

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

BREVARD COUNTY
By: **BOARD OF COUNTY COMMISSIONERS**

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: *Mary Bolin Lewis*
Name: Mary Bolin Lewis
Title: Chairman

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

As approved by the Board on: 10-21-14

Attest:

Scott Ellis
Scott Ellis
Clerk

Attest:

Executive Secretary

Legal Review:

EB
Deputy County Attorney

Legal Review:

Attachment 1

Exhibit "B"

REVISED ESTIMATED SCHEDULE OF FUNDING

Financial Management Number: 422830-1-94-01

Phase	Funding
Preliminary Engineering	\$300,000
Design	\$3,940,000
Right of Way/Easement (if necessary)	\$3,100,000
Construction and Construction Management	\$18,820,000
*Total Estimated Costs for all Phases	\$26,160,000

*The Department's participation of the Total Project Cost is a maximum participating amount that will not increase. The LOCAL GOVERNMENT will be solely responsible to provide any additional funds that are necessary to complete the Project.

EXHIBIT "A"
RESOLUTION NO. 2014-
FOR AMENDMENT NUMBER 2
Financial Management Number: 422830-1-94-01

A RESOLUTION AUTHORIZING THE EXECUTION OF THE JOINT PARTICIPATION AGREEMENT SUPPLEMENTAL AMENDMENT NUMBER 2 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE PINEDA CAUSEWAY GRADE SEPARATION OVERPASS OVER THE FLORIDA EAST COAST RAILWAY.

WHEREAS, the State of Florida Department of Transportation (FDOT) and Brevard County desire to facilitate the design, right-of-way acquisition, construction and construction management of an Overpass on the Pineda Causeway over the Florida East Coast Railway (FEC) right-of-way; and

WHEREAS, the Florida Department of Transportation (FDOT) and Brevard County desire to add language to the Joint Participation Agreement (JPA) to modify and to replace the terms added by Amendment Number 1 to clarify the right-of-way/easement funding; and

WHEREAS, the State of Florida Department of Transportation has provided a Joint Participation Agreement Amendment Number 2 to Brevard County for execution and delivery to the State of Florida Department of Transportation.


NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that Mary Bolin Lewis, Chairman, of the Board of County Commissioners, is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Joint Participation Agreement Amendment Number 2 for the Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway, FPN 422830-1-94-01.

DONE, ORDERED AND ADOPTED in regular session this 21st day of October, 2014.

ATTEST:



SCOTT ELLIS, CLERK



Robin L. Fisher, vice Chairman
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the BOCC on: 10-21-14

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**JOINT PARTICIPATION AGREEMENT
AMENDMENT NUMBER 2**

EXECUTION DATE: _____

Agency: Brevard County Vendor No.: F596000523-163 Contract No: AQJ65	Fund: DDR/DIS/DPTO Function: 215 Catalog of State Financial Assistance (CSFA) No.: 55-021 CSFA Title – Rail Development Grants Contract Amount: \$ 26,160,000.00	Financial Management No.: 422830-1-94-01 Category: 088808 Object Code: 750021 Org. Code: 55052000531
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By: BOARD OF COUNTY COMMISSIONERS

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DEPARTMENT OF TRANSPORTATION

By: 
Name: Mary Bolin Lewis
Title: Chairman

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

As approved by the Board on: 10-21-14

Attest:


Scott Ellis
Clerk

Attest:

Executive Secretary

Legal Review:


Deputy County Attorney

Legal Review:

Attachment 1

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FOR AMENDMENT NUMBER 2
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DONE, ORDERED AND ADOPTED in regular session this 21st day of October, 2014.

ATTEST:



SCOTT ELLIS, CLERK



Mary Bolin Lewis, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the BOCC on: 10-21-14

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JOINT PARTICIPATION AGREEMENT
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Name: Mary Bolin Lewis
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By: _____
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Title: Director of Transportation Development

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ATTEST:



SCOTT ELLIS, CLERK



**Mary Bolin Lewis, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

As approved by the BOCC on: 10-21-14

**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: FDOT	
2. Fund/Account #:	Division Name: Finance & Contract Administration
4. Contract Description: Pineda Causeway Grade Separation Overpass over East Coast Railway	
5. Contract Monitor: Tammy Thomas-Wood	6. Mail Stop #: 81
7. Dept./Office Director: Public Works/John Denninghoff	8. Contract Type: Joint Participation Agreement Amendment 2
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	✓	_____	<u>thw</u>	<u>6/11/14</u>
Risk Management	_____	_____	_____	_____
County Attorney	✓	_____	<u>JTB</u>	<u>6/11/14</u>

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

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 to department for contract to be entered into the Contract Management System. See AO-29 for additional information.*

AO-29: EXHIBIT I

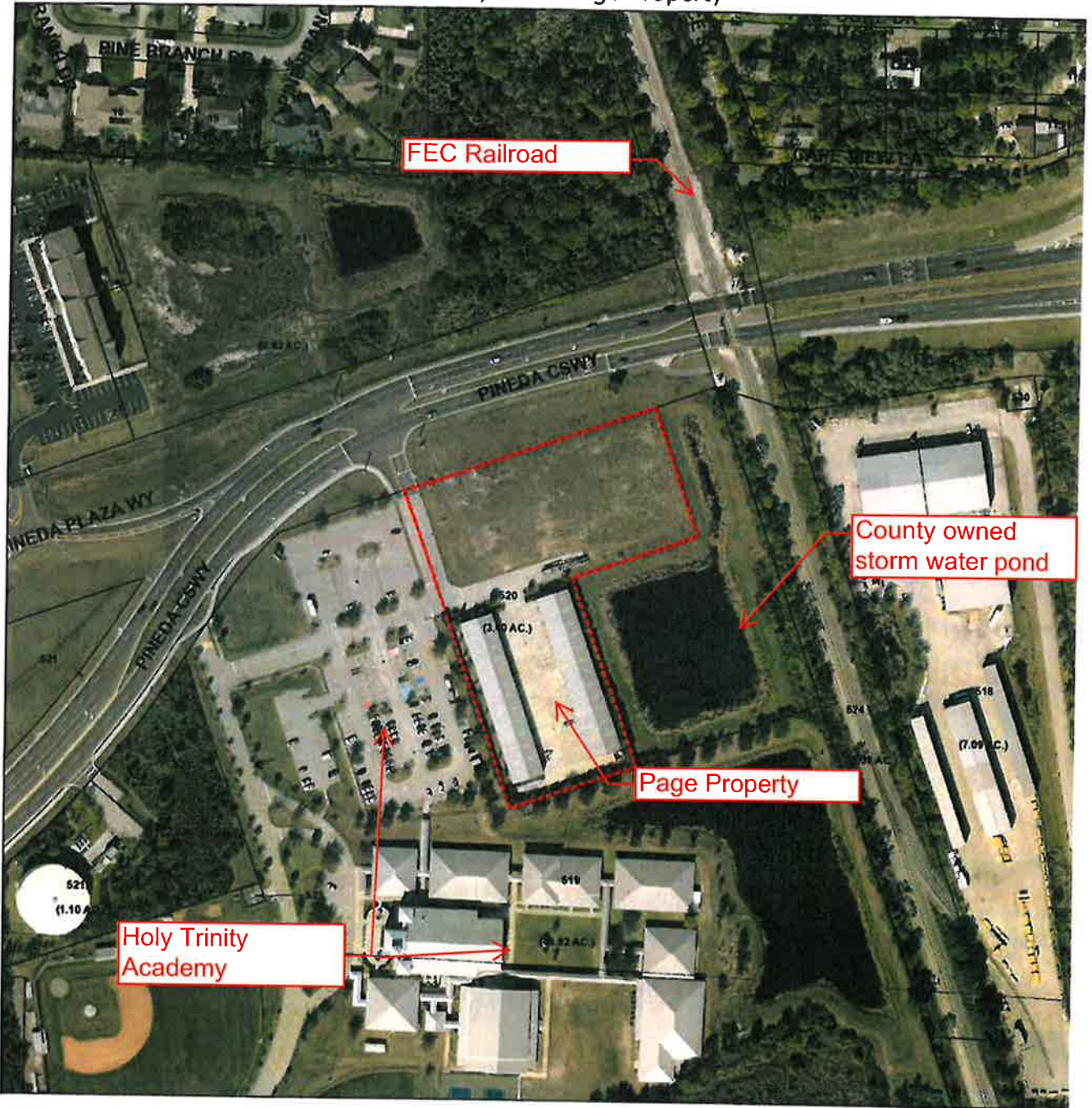
PROPERTY FACT SHEET
PROJECT: PINEDA CAUSEWAY FLYOVER

OWNER:	William J. Page
PARCEL LOCATION:	2905 Pineda Causeway, Melbourne, FL
PARCEL SIZE:	3.39 acres – whole acquisition
ZONING/LANDUSE:	C – Warehousing, Distribution and Trucking Terminal, Van & Storage Warehousing
IMPROVEMENTS:	Two building – 13,050 square feet per building
TOPOGRAPHY:	Level with road grade, no wetlands indicated
FLOOD ZONE:	X (outside 500-year flood)
TAX PARCEL ID#:	26-37-19-00-00520.0-0000.00
MARKET VALUE: (Property Appraiser's Records)	\$900,000.00 (2013 Assessment)
PUBLIC UTILITIES:	All utilities
PROPERTY TRANSACTION: (Clerk of the Court Records)	Purchase date: February 28, 1996 Sale amount: \$220,000.00
APPRAISAL DATE: Appraisal Amount:	December 11, 2013 \$2,750,000.00 (Roper)
Appraised Value of Easement interests	\$1,104,000.00
Potential	
If County went to Mediation or Trial:	N/A (voluntary negotiations)
Appraisal Amount:	N/A
Updated County Appraisal:	N/A
Owner appraisal:	N/A
Owner legal & expert fees:	N/A
Total	N/A
Plus any court awarded amount over the appraisal	N/A



Dana Blickley, CFA
Brevard County Property Appraiser

Pineda Flyover - Page Property



North Government Complex
400 South St, 5th Floor
Titusville, FL 32780
Phone: (321) 264-6700
Fax: (321) 264-6954

Merritt Island Services Complex
2575 N Courtenay Pkwy
Merritt Island, FL 32953
Phone: (321) 454-6620
Fax: (321) 454-6618

Viera Government Center
2725 Judge Fran Jamieson Wy
Viera, FL 32940
Phone: (321) 690-6880
Fax: (321) 690-6883

South Services Complex
1515 Sarno Rd
Melbourne, FL 32935
Phone: (321) 255-4440
Fax: (321) 255-4439

Palm Bay Service Complex
450 Cogen Dr, SE
Palm Bay, FL 32909
Phone: (321) 952-4574
Fax: (321) 952-4573

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