



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.4.

8/8/2023

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### **Subject:**

Approval Re: Third 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 Third Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street providing for the extension to April 26, 2024 for the City of Palm Bay to complete the utility relocation and construction of the Phase 3 improvements. It is further requested the Board authorize the County Manager to grant subsequent time extensions if requested by the City for Phase 3.

### **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 complete phases of the intersection project. On August 3, 2021, the Board of County Commissioners approved the First 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. On July 19, 2022, the Board approved the Second Amendment to the ILA granting additional time for right-of-way acquisition.

The ILA requires the completion of Phase 3 by December 31, 2023. Although the City has made substantial progress to complete Phase 3, the City requested a time extension on May 3, 2023. The Third Amendment will grant the extension to April 26, 2024, 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 20, 2023, the City Council of Palm Bay approved the Third Amendment to the Interlocal Agreement Regarding the St. Johns Heritage Parkway and Babcock Street Intersection. In accordance with Administrative Order 29, the Third Amendment has been reviewed and approved by the County Attorney's Office, Risk Management, and Purchasing Services.

**Clerk to the Board Instructions:**

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



August 9, 2023

**MEMORANDUM**

**TO:** Marc Bernath, Public Works Director

**RE:** Item F.4., Third Amendment to Interlocal Agreement Regarding St. Johns Heritage Parkway Intersection and Babcock Street

The Board of County Commissioners, in regular session on August 8, 2023, approved and authorized the Chair to execute the Third Amendment to Interlocal Agreement regarding St. Johns Heritage Parkway Intersection and Babcock Street providing for the extension to April 26, 2024, for the City of Palm to complete the utility relocation and construction of the Phase 3 improvements; and authorized the County Manager to grant subsequent time extensions, if requested by the City, for Phase 3. Enclosed is the fully-executed Amendment.

**Upon recordation, please return a fully-executed Amendment 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*  
Kimberly Powell, Clerk to the Board

/tr

Encl. (1)

cc: Contracts Administration

**THIRD AMENDMENT TO INTERLOCAL AGREEMENT REGARDING  
ST JOHNS HERITGAGE PARKWAY INTERSECTION AND BABCOCK STREET**

**THIS THIRD AMENDMENT TO INTERLOCAL AGREEMENT REGARDING ST JOHNS HERITGAGE PARKWAY INTERSECTION AND BABCOCK STREET** ("Third 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 "COUNTY" and the City of Palm Bay, Brevard County, Florida, hereinafter referred to as "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, entered into 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 the "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 complete utility relocation and construction of Phase 3 of the Intersection Project which was, at least in part, the subject of the Original ILA; and

**WHEREAS**, the CITY and the COUNTY have agreed to modify the Original ILA for the purpose of extending said dates for the CITY to complete utility relocation and construction of Phase 3 of the Intersection Project; and

**WHEREAS**, the Original ILA provided that an extension to said deadlines may be agreed to in writing by the parties, at least ninety days prior to the date of the specific item; and

**WHEREAS**, the parties have entered into two previous amendments, the First Amendment to the Original ILA (Official Record Book 9217, Page 759) and the Second Amendment to the Original ILA (Official Record Book 9568, Page 2659), which are incorporated herein by this reference, to allow for additional time for the CITY to complete acquisition of all right-of-way for Phase 3 of the Intersection Project; and

**WHEREAS**, right-of-way acquisition is complete and the CITY subsequently issued competitive bids and awarded the construction of Phase 3 improvements to a third-party contractor; and

**WHEREAS**, the CITY issued a Notice to Proceed to their third-party contractor effective January 2, 2023, with time for completion of four hundred eighty (480) consecutive calendar days (April 26, 2024), with substantial completion within four hundred fifty (450) consecutive calendar days (March 27, 2024); and

**WHEREAS**, the Contractor has made significant progress towards the completion of the Intersection Project; and

**WHEREAS**, the Original ILA currently requires completion of the utility relocation and construction of Phase 3 by December 31, 2023; and

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

**WHEREAS**, the COUNTY and the CITY have agreed to modify only certain sections of the Original ILA as stated herein and restate all remaining Original ILA terms and conditions.

**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, COUNTY and 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 Third Amendment.

2. **Amendment.** Section 12 of the Original ILA is hereby amended as follows:

a. Paragraph 12(e) is stricken in its entirety and amended as follows:

April 26, 2024: The City shall complete utility relocation and construction of Phase 3 improvements. 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. The City shall be required to closeout all applicable permits. Upon joint final inspection of constructed improvements, receipt of all closeout documentation, and subsequent County approval, the County shall closeout the right-of-way permit for Phase 3.

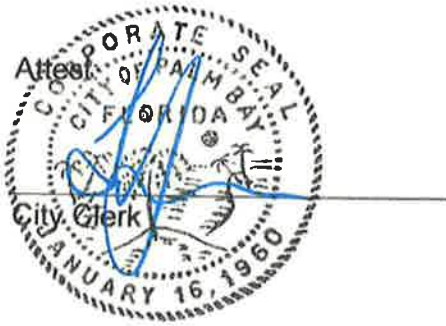
b. The second paragraph of Section 12 of the Original ILA is hereby amended as follows:

Timeline dates agreed to herein may be extended by written agreement of both parties at least ninety days prior to the date of the specific item. Additionally, the City may submit an independent traffic analysis, funded by the City or a third party and signed and sealed by a Professional Engineer licensed in the State of Florida, to demonstrate that the improvements contemplated in Phase 3 of Intersection Project are not necessary by the deadlines in this Section and could be delayed. County shall review the submitted traffic analysis and provide a response within 60 days. Should the County agree with the traffic analysis and agree to delay Phase 3 of the Intersection Project, a written amendment shall be required as outlined in Section 31 of this Agreement. If not completed by these dates, 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 Third 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, 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 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 Third Amendment in

the public records of Brevard County and shall return a recorded copy of the Third Amendment to the CITY.

**IN WITNESS WHEREOF**, the parties hereto have subscribed their names and have caused this Third Amendment to be executed by their duly authorized representatives on the date of last signature below.

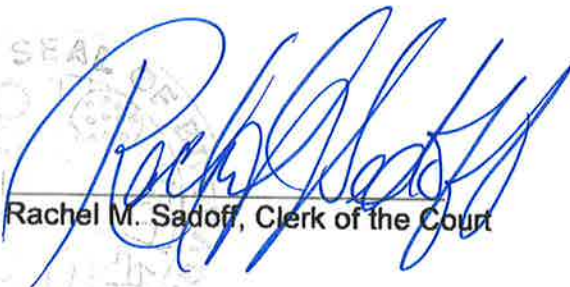


**City of Palm Bay, Florida**

By:   
Robert Medina, Mayor-Commissioner  
Date: 8/1/2023

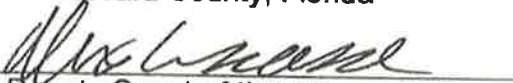
**Attest:**

**Brevard County, Florida**

  
Rachel M. Sadoff, Clerk of the Court

By:   
Rita Pritchett, Chair  
As approved by the Board on: 8/8/2023

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

  
Deputy County Attorney

## 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: 3rd Amendment - Interlocal Agreement Re: St. Johns Heritage Pkwy & Babcock			
6. Contract Monitor: Jeanette Scott		8. Contract Type:  INTERGOVT/LOCAL	
7. Dept/Office Director: Marc Bernath			
9. Type of Procurement: Select from pulldown:			

### 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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☐

Thomas-Wood, Tammy Digital signed by Thomas-Wood, Tammy  
DN: cn=Thomas-Wood, Springwood, Tammy, Thomas-Wood@brevard.gov  
Date: 2005.07.08 13:30:46 -0400

Purchasing

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☐

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Risk Management

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☐

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County Attorney

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☐

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### 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"/>



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9. Type of Procurement: Select from pulldown:			

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#### 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: 2023.07.26 14:44:29 -04'00'</small>
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Watson, Michael <small>Digitally signed by Watson, Michael Date: 2023.07.28 09:47:17 -04'00'</small>
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

### SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
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Contact Name	<input type="checkbox"/>
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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 type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Esseesse, Alexander

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Date: 2023.07.26 16:27:23 -04'00'

### SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
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