

Meeting Date
March 7, 2017



AGENDA	
Section	Consent
Item No.	II.A.4

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval RE: Joint Participation Agreement Supplemental Amendment No. 3 and Resolution with the Florida Department of Transportation for the Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway - District 4
DEPT/OFFICE:	Public Works Department – Finance and Contracts Administration

Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chairman to execute the Joint Participation Agreement (JPA) Supplemental Amendment No. 3 and Resolution with the Florida Department of Transportation (FDOT) for the Pineda Causeway Grade Separation Overpass over the Florida East Coast Railway. It is further requested that the Board approve any necessary Budget Change Requests associated with this request.

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 all of which is to be provided by FDOT (no local funds required unless the total cost exceeds this amount).

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 substantially exceed said amount due to increased expenses associated with required maintenance of traffic (MOT) during construction. These MOT expenses had previously been roughly estimated based on preliminary designs and have now been estimated based on advanced design efforts. In this case FDOT and Brevard County agree that reimbursement by FDOT shall be limited to the actual cost of required property interests to establish and to accomplish the MOT, etc. 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.

On October 21, 2014, the Board of County Commissioners approved Amendment No. 2 to the JPA to modify and replace the terms added by Amendment Number 1 to read Right of Way/Easement Cost shall be limited to an amount not to exceed \$3,100,000. This modification was needed to acquire the entire Page parcel for joint purposes of the overpass project and other County uses. The parcel has acreage suitable for the construction and operation of an ITS Traffic Management Center. This property and location is highly suitable for the relocation of the traffic engineering sign, signal and ITS shops. The 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 purpose of amendment Number 3 is to modify and to replace the terms added by Amendment Numbers 1 and 2 to read: The Department and the Local Government agree that the "Right of Way/Easement" funding currently estimated to be \$3,100,000.00, may exceed said amount as a result of increased costs associated with negotiation and coordination of the Railway's recent disclosure of their requirement for an aerial easement. This easement was not included in previous right-of-way cost estimates. The "right of Way/Easement" estimate shall be increased to an amount not to exceed \$3,400,000.00. The total estimated cost of the project as described in the original JPA remains and shall not exceed \$26,160,000.00.

The current Engineer's Estimate of Probable Cost remains below the amount to be provided by the FDOT.

Fiscal Impact: FY2016/2017 None

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

Exhibits Attached: Three copies of Joint Participation Agreement Amendment Number 3 and Resolution

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

**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:	
2. Fund/Account #:	Department Name:
4. Contract Description: Amendment #3 to Joint Participation Agreement (JPA) with FDOT re: Pineda Causeway Overpass	
5. Contract Monitor: Jeanette Scott	6. Mail Stop #: EXT 52853
7. Dept./Office Director: John P. Denninghoff	8. Contract Type: Grant
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	✓	_____	th	2/21/17
Risk Management	_____	_____	_____	_____
County Attorney	_____	_____	_____	_____

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.	



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

March 8, 2017

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item II.A.4., Resolution and Joint Participation Agreement No. 3 with Florida Department of Transportation (FDOT) for Pineda Causeway Grade Separation Overpass Over the Florida East Coast Railway

The Board of County Commissioners, in regular session on March 7, 2017, adopted Resolution No. 17-042, and executed Joint Participation Agreement No. 3 with FDOT for the Pineda Causeway Grade Separation Overpass Over the Florida East Coast Railway; and approved any necessary Budget Change Requests associated with this request. Enclosed are three fully-executed Resolutions and three executed Joint Participation Amendments No. 3.

Upon execution by FDOT, please return a fully-executed Joint Participation Amendment No. 3 to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encls. (6)

cc: Contracts Administration
Finance
Budget

EXHIBIT "A"

RESOLUTION NO. 2017- 042

FOR AMENDMENT NUMBER 3

Financial Management Number: 422830-1-94-01

A RESOLUTION AUTHORIZING THE EXECUTION OF THE JOINT PARTICIPATION AGREEMENT SUPPLEMENTAL AMENDMENT NUMBER 3 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 and 2 to clarify the right-of-way easement funding; and

WHEREAS, the State of Florida Department of Transportation has provided a Joint Participation Agreement Supplemental Amendment Number 3 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 Curt Smith, 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 Supplemental Amendment Number 3 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 7th day of March, 2017.

ATTEST:



SCOTT ELLIS, CLERK


**CURT SMITH, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

As approved by the BOCC on: 03-07-17



BOARD OF COUNTY COMMISSIONERS

Public Works Department

2725 Judge Fran Jamieson Way
Building A, Room 201
Viera, Florida 32940

April 24, 2017

Tammy Rowe, Deputy Clerk
Clerk to the Board
Brevard County Clerk of Courts
400 South Street
Titusville, FL 32781

RE: Item II.A.4 Resolution and JPA No. 3 with FDOT for Pineda Causeway Grade Separation Overpass FEC

As indicated in the Clerk's Memorandum for the March 7, 2017 Board meeting, please find enclosed a fully-executed Amendment No. 3 for inclusion in the official minutes.

Thank you,

Jeanette Scott

Jeanette Scott, Contracts Administrator

Encl. (1) Fully-Executed Agreement
3/8/17 Clerk's Memorandum

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT PARTICIPATION AGREEMENT
AMENDMENT NUMBER 3

EXECUTION DATE: 4-5-2017

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
---	---	--

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, Amendment Number 1 dated, October 18, 2013, and Amendment Number 2 dated December 8, 2014, are hereby amended as follows:

The purpose of this Amendment Number 3 is to modify and to replace the terms added by Amendment Numbers 1 and 2 to read as follows:

The DEPARTMENT and the LOCAL GOVERNMENT agree that the “Right of Way/Easement” funding currently estimated to be \$3,100,000.00, may exceed said amount as a result of increased costs associated with negotiation and coordination of the Railway’s issuance of an aerial easement. The “Right of Way/Easement” estimate shall be increased to an amount not to exceed \$3,400,000.00 (Three Million Four Hundred Thousand Dollars and No/100).

The DEPARTMENT and the LOCAL GOVERNMENT further agree that the “Construction and Construction Management” cost estimate will be decreased by \$300,000.00 to \$18,520,000.00.

The total estimated cost of the Project as described in the original JPA shall not exceed \$26,160,000.00 (Twenty Six Million One Hundred Sixty Thousand Dollars and No/100).

Attachment 1: “Exhibit B - Revised Estimated Schedule of Funding” is amended as reflected in the attached, revised Exhibit B.

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.

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**

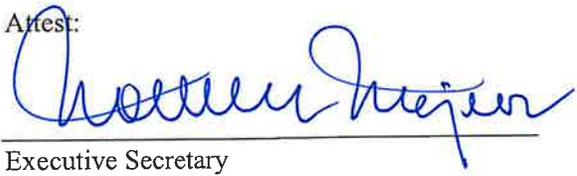
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: 
Name: Curt Smith
Title: Chairman

By: 
Name: Frank J. O'Dra
Title: Director of Transportation Development

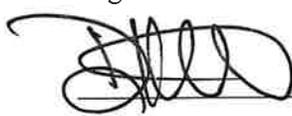
As approved by the Board on:
March 7, 2017

Attest: 
Scott Ellis, Clerk

Attest: 
Executive Secretary

Legal Review:

Assistant 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)	\$3,400,000
Construction and Construction Management	\$18,520,000
*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
FOR AMENDMENT NUMBER 3

Financial Management Number: 422830-1-94-01

EXHIBIT "A"

RESOLUTION NO. 2017- 042

FOR AMENDMENT NUMBER 3

Financial Management Number: 422830-1-94-01

A RESOLUTION AUTHORIZING THE EXECUTION OF THE JOINT PARTICIPATION AGREEMENT SUPPLEMENTAL AMENDMENT NUMBER 3 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 and 2 to clarify the right-of-way easement funding; and

WHEREAS, the State of Florida Department of Transportation has provided a Joint Participation Agreement Supplemental Amendment Number 3 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 Curt Smith, 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 Supplemental Amendment Number 3 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 7th day of March, 2017.

ATTEST:



SCOTT ELLIS, CLERK



**CURT SMITH, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

As approved by the BOCC on: 03-07-17