



Interoffice Memorandum

May 7, 2020

TO: Mayor Jerry L. Demings
and the Board of County Commissioners

FROM: Joseph C. Kunkel, P.E., Director, Public Works Department

Handwritten signature of Joseph C. Kunkel in black ink.

CONTACT PERSON: Raymond L.A. Williams, P.E., Manager
Public Works Engineering Division

Handwritten signature of Raymond L.A. Williams in black ink.

PHONE NUMBER: (407) 836-7909

SUBJ: First Amendment to the Interlocal Agreement between Orange County, Florida and the City of Ocoee, Florida regarding Improvements to and the Transfer of the Intersection of Fullers Cross Road and Ocoee-Apopka Road

A First Amendment to the Interlocal Agreement ("First Amendment") has been prepared by Orange County and executed by the City of Ocoee to amend the terms of the Interlocal Agreement between Orange County, Florida and the City of Ocoee, Florida regarding Improvements to and the Transfer of the Intersection of Fullers Cross Road and Ocoee-Apopka Road, which was approved by the Board on September 18, 2018. This First Amendment serves to increase the County's maximum contribution to the cost of the intersection improvements from \$500,000 to \$1,100,000 or 50% of the project cost, whichever is less. The increased project cost is due to changes in the scope of the project as reflected in the final construction plans.

Orange County will transfer jurisdiction for operation and maintenance of the intersection to the City of Ocoee on completion of the improvements.

The County Attorney's Office, Risk Management Division and Engineering Division have reviewed this First Amendment and find it acceptable.

Action Requested: Approval and execution of First Amendment to the Interlocal Agreement between Orange County, Florida and the City of Ocoee, Florida regarding Improvements to and the Transfer of the Intersection of Fullers Cross Road and Ocoee-Apopka Road. District 2.

RLAW/ilc

Attachments

FIRST AMENDMENT

to the

INTERLOCAL AGREEMENT

between

ORANGE COUNTY, FLORIDA

and the

CITY of OCOEE, FLORIDA

regarding

IMPROVEMENTS to and the TRANSFER of the

INTERSECTION

of

FULLERS CROSS ROAD and OCOEE-APOPKA ROAD

Approved by the Orange County
Board of County Commissioners
JUN 02 2020, 2020

Approved by the City of Ocoee
City Commission
May 5, 2020

**FIRST AMENDMENT
to the
INTERLOCAL AGREEMENT
between
ORANGE COUNTY, FLORIDA
and the
CITY of OCOEE, FLORIDA
regarding
IMPROVEMENTS to and the TRANSFER of the
INTERSECTION
of
FULLERS CROSS ROAD and OCOEE-APOPKA ROAD**

THIS FIRST AMENDMENT ("First Amendment") is made and entered into by and between **Orange County, Florida**, a political subdivision and charter county existing under the laws and constitution of the State of Florida ("County") at 201 South Rosalind Avenue, Orlando, Florida 32801, and the **City of Ocoee, Florida**, a Florida municipal corporation ("City") at 150 North Lakeshore Drive, Ocoee, Florida 34761.

WITNESSETH:

WHEREAS, on August 21, 2018, and September 18, 2018, respectively, the City and the County approved and executed an Interlocal Agreement regarding improvements to and transfer of jurisdiction of the intersection of Fullers Cross Road and Ocoee-Apopka Road; and

WHEREAS, changes in circumstances, including those relating to the costs of making those improvements, necessitate that the County and the City amend certain portions of the Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the County and the City agree to amend the Interlocal Agreement as follows:

Section 1. Recitals.

The foregoing recitals are true and correct and form a material part of this First Amendment.

Section 2. Amendments to Sections 3, 4 and 5 of the Interlocal Agreement.

Sections 3, 4 and 5 of the Interlocal Agreement, are amended to read as follows, with additions being shown by underlines and deletions being shown by strike-throughs:

Section 3. Intersection Project; Intersection Project Costs; Good Faith Estimate; Parties' Shares of Costs.

(a) **Intersection Project.** The County and the City agree to improve the Intersection by having the City design, permit, bid and construct a left turn lane at each of the four (4) legs of the Intersection, and install a new mast arm traffic signal system at the Intersection, all as generally depicted and described in **Appendix "B"** ("Intersection Project").

(b) **Intersection Project Costs.** All actual design, permitting, construction and related costs for the Intersection Project shall be deemed "Intersection Project Costs."

(c) **Good Faith Estimates.** The parties' good faith estimate of the Intersection Project Costs is ~~One Million Dollars (\$1,000,000.00)~~ Two Million and Two Hundred Thousand Dollars (\$2,200,000.00). The itemization of those costs is set forth in Revised Appendix "C" attached hereto ~~to the First Amendment~~ and incorporated ~~herein~~ in the First Amendment by reference.

(d) **Parties' Shares of Costs.** The County shall be responsible for fifty percent (50%) of the Intersection Project Costs, or ~~Five Hundred Thousand Dollars (\$500,000.00)~~ One Million and One Hundred Thousand Dollars (\$1,100,000.00), whichever is less. The City shall be responsible for the balance of the Intersection Project Costs, even if the City's share exceeds fifty percent (50%) of the Intersection Project Costs, or Five Hundred Thousand Dollars (\$500,000.00) One Million and One Hundred Thousand Dollars (\$1,100,000.00).

Section 4. City's Responsibilities for the Intersection Project.

(a) **Project Management.** The City shall be responsible for managing, designing, obtaining necessary permits, bidding, and constructing the Intersection Project. Coupled with the interests in the Intersection that are being dedicated and/or conveyed by the County to the City under Section 7, the City has or will have all the necessary right-of-way to construct the Intersection Project.

(b) **Invoices.** Before the County makes any payment for the Intersection Project pursuant to Section 5, the City shall provide the County with a copy of the invoice for such payment, for the County's review and approval.

(c) **Use of County Funds.** The City shall deposit and maintain the County funds in a separate account ("Account"), and distribute the County funds solely for construction of the Intersection Project. The City shall make payments to its contractor pursuant to the payment procedures set forth in the contract. Each payment to the City's contractor shall consist of one-half City funds and one-half County funds until the County funds are depleted, at which time, the City shall be solely responsible to fund the remainder of the costs, including change orders. Also, the City shall maintain records of the Account, and the County may, at any time, upon five (5) days' notice, inspect any or all records maintained by the City related to the Account. Within twenty (20) days after completion of the Intersection Project and final payment to the contractor, the City shall provide the County with an accounting of the County funds expended from the Account and return any unexpended County funds to the County within fifteen (15) days thereafter.

(d) **County Approvals.** The City must seek and obtain County approvals, as follows.

(1) **Design.** The City shall be responsible for the Intersection Project design, including procuring all applicable permits and coordinating with all applicable utilities and other third parties. The City may elect to use the Request for Qualifications process or an alternative method acceptable to the County. In either case, the County reserves the right to approve or disapprove the design. If the County does not approve or disapprove the proposed process within fifteen (15) days of being noticed by the City, the proposed process shall be deemed approved by the County.

(2) **Contracts.** Before entering into any contract or contracts for the design, permitting, and construction of the Intersection Project, the City shall send the County a copy of each proposed contract for the County's review and comment. If the County does not approve or disapprove a proposed contract within thirty (30) days of its delivery, the proposed contract shall be deemed approved by the County. The City shall provide the County with a copy of all fully executed contracts within five (5) business days after execution by the last party to approve and sign the contract.

(3) **Construction Plans.** During the design process, the City shall send the construction plans to the County for its review and comment at the 60% and 90% completion stages, and then send the County the final (100%) plans for its review and comment. Before advertising for the solicitation of construction contract bids, the City shall obtain the County's approval of the final plans. The County shall have thirty (30) days from delivery to review and comment on the final plans. Failure by the County to approve or disapprove the final plans within such thirty (30) day period shall be deemed approval of the plans.

(e) **Timelines for Intersection Project.** The City shall make a good faith effort to ensure that the final design plans for the Intersection Project are completed within twelve (12) months from the effective date of this Agreement, and that construction of the Intersection Project is completed within twenty four (24) months from the County's approval of the final design plans.

(f) **Delays, overruns, etc.** The City shall timely communicate to the County any material delays, cost overruns, and substantive issues that may arise throughout the Intersection Project. (Notwithstanding any cost overruns, the County's share of the total Intersection Project Costs shall not exceed fifty percent (50%) of the Intersection Project Costs, or ~~Five Hundred Thousand Dollars (\$500,000.00)~~ One Million and One Hundred Thousand Dollars (\$1,100,000.00), whichever is less.)

(g) **County's Right to Inspect.** The County shall have the right, at its discretion, to inspect the Intersection Project throughout the construction phase.

(h) **Completion of Intersection Project.** The City shall ensure that the Intersection Project is completed pursuant to the approved final design plans, as may be modified when agreed by the parties. Upon completion of the Intersection Project, the City's Public Works Director shall promptly so notify the County's Public Works Director. The completion date of the Intersection Project shall be the date when the County's Public Works Director accepts such completion.

Section 5. County's Responsibilities for Intersection Project.

(a) **Payment Schedule.** The County shall make payments directly to the City, according to the following schedule:

(1) **Design Costs.** Upon the City issuing a Notice to Proceed to the design contractor/consultant and issuing the County an invoice, the County shall, within sixty (60) days' notice, pay the City one-half of the contract price of the design contract, which one-half amount shall not exceed One Hundred Thousand Dollars (\$100,000.00). Thereafter, for any change orders or design contract amendments, the County shall, within thirty (30) days' notice, pay the City one-half of such change order or amendment, subject to the County's ~~\$500,000.00~~ maximum contribution of fifty percent (50%) of the Intersection Project Costs, or One Million and One Hundred Thousand Dollars (\$1,100,000.00), whichever is less.

(2) **Construction Costs.** Upon the City issuing a Notice to Proceed to the construction contractor and issuing the County an invoice, the County shall, within sixty (60) days' notice, pay the City one-half of the remaining Intersection Project Costs, subject to the County's ~~\$500,000.00~~ maximum contribution of fifty percent (50%) of the Intersection Project Costs, or One Million and One Hundred Thousand Dollars (\$1,100,000.00), whichever is less.

(b) **Permits.** At no cost to the City, the County shall, upon request by the City, grant the City all County permits and authorizations appropriate or necessary for the City to construct the Intersection Project, including but not limited to right-of-entry and right-of-way use permits. The County waives all fees associated with such permits and authorizations.

(c) **County Review of Estimates, Costs, Payments, and Plans.** To the extent the County disapproves or objects to any estimates, costs, payments or plans where authorized to do so under this Agreement, the parties shall attempt to reach agreement on

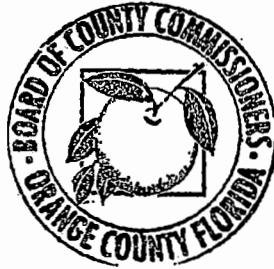
such issue within thirty (30) days of the County's disapproval or objection, or within such other time as may be agreed upon by the City's and the County's representatives.

Section 3. Remainder of Interlocal Agreement.

Except as set forth in Section 2 of this First Amendment, the Interlocal Agreement shall remain unchanged.

Section 4. Effective Date. This First Amendment shall become effective on the date of approval by the County, or on the date of approval by the City, whichever date is later ("Effective Date").

IN WITNESS WHEREOF, the County and the City have executed this First Amendment as of the dates written below.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*

for Jerry L. Demings, Mayor

Date: JUN 02 2020, 2020

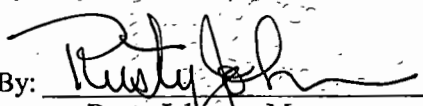
ATTEST: Phil Diamond, CPA, County Comptroller,
as Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

Print Name: **Katie Smith**

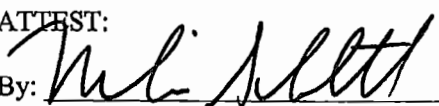
CITY OF OCOEE, FLORIDA

By: City Commission

By: 
Rusty Johnson, Mayor

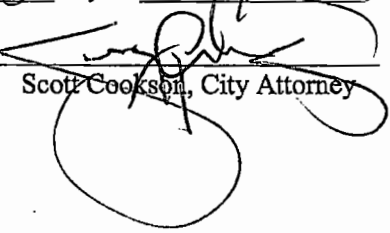
Date: May 5, 2020

ATTEST:

By: 
Melanie Sibbitt, City Clerk

Print Name: Melanie Sibbitt

FOR THE USE AND RELIANCE
ONLY OF THE CITY OF OCOEE, FLORIDA:
APPROVED AS TO FORM AND LEGALITY
this 5th day of MAY, 2020

By: 
Scott Cookson, City Attorney

APPROVED BY THE OCOEE
CITY COMMISSION AT A MEETING
HELD ON May 5, 2020
UNDER AGENDA ITEM NO. Emergency Item

Appendix "B"

General Description of Intersection Project

The project is to construct improvements to the intersection of Ocoee-Apopka Road and Fullers Cross Road. The existing intersection is a signalized, four-way crossing with rural sections on both roads. The proposed improvements will be to add left-turn deceleration lanes from the four approaches, adding south-bound and east-bound right turn deceleration lanes, and the replacement of the existing traffic signal with a mast arm traffic signal.



Appendix "B"

Revised Appendix "C"

Good Faith Estimate and Itemization of Intersection Project Costs

Appendix "C"

Good Faith Estimate and Itemization of Intersection Project Costs

\$ 212,600	Design fees with VHB (Includes \$3,000 for expenses)
\$ 80,000	Value of anticipated right of way dedication of City property. ½ acre at \$160,000/acre commercial property.
\$ 2,000	Value of corner clip from southeast quadrant development. 450 square feet.
<u>\$ 1,905,400</u>	Allowable Construction Costs.
\$ 2,200,000	Total Project