



THE CITY OF KEY WEST

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## EXECUTIVE SUMMARY

**TO:** Jim Scholl, City Manager  
E. David Fernandez, Asst. City Manager - Operations

**FROM:** Doug Bradshaw, Senior Project Manager

**DATE:** March 22, 2012

**RE:** **Time Extension to Charley Toppino and Sons, Inc. for ARRA Sidewalk Enhancement Projects: Phase IV (Virginia and Applerouth projects), Phase V (Telegraph, Petronia/Whitehead, Eisenhower projects), Phase VI (Duck) and Phase VII (Leon)**

### ACTION STATEMENT:

This resolution will authorize a time extension to April 20, 2012 to the contracts with Charley Toppino and Sons, Inc. for ARRA Sidewalk Enhancement Projects: Phase IV (Virginia and Applerouth projects), Phase V (Telegraph, Petronia/Whitehead, and Eisenhower projects), Phase VI (Duck) and Phase VII (Leon).

### BACKGROUND:

These projects are funded by the American Recovery and Reinvestment Act (ARRA) of 2009, commonly referred to as stimulus funding and administered through FDOT's Local Agency Program (LAP).

The City had hoped the projects would have been completed by March 30, 2012 or sooner (see chart below) as required by FDOT. FDOT has indicated that they will receive final close out packages until mid-April. Several time extensions, some over one year, were granted to Charley Toppino and Sons, Inc. for each of the projects. However, continued lack of progress by the contractor, poor quality of work requiring removal and replacement of significant portions of sidewalks, and refusal to construct the project per the contractor's own engineer's specifications has forced the City into granting this extension in order to receive reimbursement from FDOT. In the past FDOT accepted the substantial completion date as the final completion date; however, in an audit with City staff, FDOT stated that the issuance of substantial completion for LAP projects before the contract expiration date will not qualify the City for final completion. In order to be eligible for reimbursement the City must extend the contract dates by resolution of the City Commission. The time extensions are not an allowance for additional construction time to April 20<sup>th</sup>. The City expects Charley Toppino and Sons, Inc. to be completed by March 31.

*Key to the Caribbean - Average yearly temperature 77° F.*

ARRA Sidewalk Enhancements  
 Completion Dates and # of Contract Days

Description	Original Completion Date	Completion Date Time Extension #1	Completion Date Time Extension #2	Completion Date Time Extension #3	Completion Date Time Extension #4	Total # of Contract Days with ALL Time Extensions
Phase IV Virginia, Appleton	2/6/2011 250 days	8/24/2011 add'l 200 days <i>Resolution 11-033</i>	12/31/2011 add'l 128 days <i>Resolution 11-343</i>	1/31/2012 add'l 31 days <i>Resolution 12-037</i>	4/20/2012 add'l 80 days <i>Resolution TBD</i>	800
Phase V Telegraph, Petronia / Whithead, Eisenhower	11/14/2010 150 days	4/3/2011 add'l 140 days <i>Resolution 10-333</i>	12/31/2011 add'l 272 days <i>Resolution 11-099</i>	4/20/2012 add'l 111 days <i>Resolution TBD</i>	N/A	703
Phase VI Duck	2/10/2011 365 days	8/29/2011 add'l 200 days <i>Resolution 11-024</i>	12/31/2011 add'l 124 days <i>Resolution 11-230</i>	4/20/2012 add'l 111 days <i>Resolution TBD</i>	N/A	800
Phase VII Leon	2/25/2011 360 days	9/13/2011 add'l 200 days <i>Resolution 11-033</i>	12/31/2011 add'l 109 days <i>Resolution 11-229</i>	4/20/2012 add'l 111 days <i>Resolution TBD</i>	N/A	760

**PURPOSE AND JUSTIFICATION:**

Extending the contracts with Charley Toppino and Sons, Inc. for Phases IV, V, VI and VII until April 20, 2012 will give City Staff time to complete contract close out, issue final payment to the contractor, submit required reimbursement paperwork to FDOT, and satisfy FDOT's requirement of having final contract date and final project completion as the same dates.

**OPTIONS / ADVANTAGES / DISADVANTAGES:**

1. Approve the time extension to extend the Phase IV, V, VI and VII contracts with Charley Toppino and Sons, Inc. to April 20, 2012. This will allow time to complete the contract close out process and issue final payment in time to meet FDOT's deadline for all ARRA projects.
2. Do not approve the time extensions. The contract completion dates will remain as they currently are. A project with work performed beyond the contract expiration date is not acceptable to FDOT. Reimbursement will not be approved without a valid contract expiration date. Additionally, the City will impose liquidated damages at a rate of \$580 per day for Phase IV & Phase VII and \$715 per day for Phases V & VI. The estimated liquidated damages for these projects at this time are \$215,000.

**FINANCIAL IMPACT:**

Approving the time extensions will give the additional time needed to close out these ARRA projects and provide the documentation necessary to FDOT by the April 20, 2012 deadline and will allow the City to submit final invoices to FDOT to request the remaining reimbursement for these ARRA-funded projects. Without the extensions, the City would be responsible for funding the remaining costs of the projects as well as refunding FDOT cost reimbursed.

**RECOMMENDATION:**

Staff recommends that the City Commission select option 1, approve the time extension to the contracts. This will allow time to complete the contract close out process and issue final payment to the contractor. The new contract completion date will be April 20, 2012.

DB/cds