



THE CITY OF KEY WEST

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EXECUTIVE SUMMARY

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

FROM: Gary W. Bowman, General Services and Engineering Director

DATE: May 24, 2010

SUBJECT: **Approving the redistribution of excess sidewalk enhancement funds from current FDOT Sidewalk Enhancement projects; approving and authorizing the City Manager to execute Supplemental Local Agency Program (LAP) agreements necessary to allow for the redistribution; approving the reversal of previously approved budget transfers involving FDOT Sidewalk Enhancement projects**

ACTION STATEMENT:

This resolution will approve the redistribution of excess sidewalk enhancement funds from current Federal Department of Transportation (FDOT) Sidewalk Enhancement projects; approve and authorize the City Manager to execute Supplemental Local Agency Program (LAP) agreements needed to allow for the redistribution; approve the reversal of previously approved budget transfers involving FDOT Sidewalk Enhancement projects

BACKGROUND:

The City of Key West has 13 sidewalk enhancement projects that are funded with American Recovery and Reinvestment Act of 2009 (ARRA) dollars, commonly referred to as stimulus funds. The stimulus funds are being administered by FDOT through LAP grants. As a result, the 13 projects have been bundled into 7 LAP agreements which the City has entered into with FDOT.

Exhibit 1: Please refer to Exhibit 1 for additional information. The award of the 13 sidewalk enhancement projects was approved and contracts executed with the

Key to the Caribbean – Average yearly temperature 77° F.

low bidder Charley Toppino and Sons, Inc. Some of the projects required the City to provide funding to cover deficits resulting from the contract amount exceeding FDOT grant constraints. Budget transfers were approved via resolution (simultaneously with the award) to fund the deficits. At the time these resolutions were passed, no additional funding from FDOT was available leaving the City to fund the deficits with sidewalk funds. Subsequently, traffic impact fees were looked at as a source of funding for work such as the scope of work found in the sidewalk enhancement projects, which prompted City Staff to recommend expanding the scope of 3 of the 13 sidewalk enhancement projects: Southard Street, Fleming Street and Eaton Street. One project, Caroline Street, required a reduction in scope to remove 2 corners that are being constructed under an existing stormwater project. The underlying assumption of Exhibit 1 is that the City will fund all contract amounts in excess of FDOT grant constraints, as well as any change orders to increase the contract amounts. This is satisfactory to both parties thus far.

All the while as these projects are progressing, City Staff and FDOT remain in close contact regarding all aspects of the sidewalk enhancements projects, including the funding responsibilities assumed by the City as seen in Exhibit 1. It was not until recently that the excess sidewalk enhancement funds from 6 of the 13 projects were scrutinized during a short-lived effort to help fund the City's United Street Milling and Paving project, another FDOT stimulus-funded LAP project. That effort was unsuccessful ending in disapproval by FDOT in Tallahassee of the use of enhancement funds in a mill and pave project. The sidewalk work in the mill and pave project is considered a requirement rather than an enhancement. The disapproval surprised FDOT in Miami and focus was quickly turned to how the City would use these excess sidewalk enhancement funds. The City's options were limited: 1) give the funding back to FDOT 2) use the funds to start a brand new sidewalk enhancement project (i.e., a 14th enhancement project) or 3) redistribute the excess funds to existing enhancement projects for which the City is providing funding. Option 1 from above would mean an immediate loss of \$142,088.50 in funding to the City. With Option 2, the City risks losing the excess funds if we decide to start a new project. The excess funds would be taken from the City and placed in a general pool of funds with FDOT. The new project would then require an approval process with FDOT in Tallahassee during which we would be competing for the funding with other local agencies in Florida. With Option 3, redistribution, the funding stays with the City. With that in mind, City Staff is requesting Commission approval to redistribute the excess enhancement funds to existing enhancement projects so that we may utilize the funding to its fullest potential. If approved, Supplemental LAP agreements and the reversal of previously approved budget transfers will be required.

Exhibit 2: Please refer to Exhibit 2 for additional information. This exhibit is a side by side comparison of the sidewalk enhancements funding situation as it is today before the redistribution versus the funding situation after the redistribution. The City's funding responsibility decreases from \$151,453.68 to \$9,365.18.

Exhibit 3: Please refer to Exhibit 3 for additional information. This exhibit depicts the breakdown of the 13 stimulus-funded sidewalk enhancement projects, starting with the total grant budget for Construction and Construction Engineering & Inspection (CEI) before and after the redistribution for all 13 projects at the top of the exhibit. The next level is the 7 sidewalk enhancement phases and then finally, the individual level where the 7 phases are split into the 13 enhancement projects.

Exhibit 4: Please refer to Exhibit 4 for additional information. FDOT requires the local agency to submit Supplemental LAP agreements in order to move funds in or out of a project. In the case of

the redistribution, the City will be doing both. Part of this resolution is the approval of those Supplemental LAP agreements and the authorization of the City Manager to execute the agreements. Exhibit 4 demonstrates how the funding will flow in and out between the 13 enhancement projects, which are listed as FM numbers in the exhibit. Looking at Exhibit 2 side by side with Exhibit 4 should be helpful. You will notice the "Deficit" amounts that appear in Exhibit 2 (Column G) are rounded up to the nearest dollar in Exhibit 4. After rounding, the deficit amount is \$151,455 before redistribution and \$9,366.50 after redistribution.

PURPOSE & JUSTIFICATION:

The redistribution of excess sidewalk enhancement funds will decrease the amount funded by the City from \$151,455 (amount rounded up to the nearest dollar) to \$9,366.50 needed to complete the 13 sidewalk enhancement projects. The City has recently been given approval by FDOT to redistribute excess sidewalk enhancement funds among the sidewalk enhancement projects that are currently being funded with City traffic impact fees or sidewalk funds.

OPTIONS:

1. Approve the redistribution of excess sidewalk enhancement funds. This will decrease the City-funded amount from \$151,455 to \$9,366.50 and allow the City to utilize FDOT stimulus funds to the fullest potential. This option will also require 1) the approval of Supplemental LAP agreements and authorization of the City Manager to execute the supplemental agreements and 2) the reversal of previously approved budget transfers.
2. Do not approve the redistribution of excess sidewalk enhancement funds and elect to start a new project instead. The City risks losing the funds with this option since the new project would be required to go through an approval process with FDOT in Tallahassee. The City would be required to prepare Supplemental LAP agreements to give the funds back to FDOT. FDOT would then place the excess funds in a general pool of funds. The new project would be competing for the funds with other local agencies in Florida.
3. Do not approve the redistribution of excess sidewalk enhancement funds and elect to give the funding back to FDOT and take no further action. This option results in the City losing the excess enhancement funding. Supplemental LAP agreements are still required with Option 3 because the excess funds would then be given back to FDOT via the Supplemental LAP agreements.

FINANCIAL IMPACT:

The redistribution of excess sidewalk enhancement funds will impact the City financially as follows:

1. All previously approved budget transfers will need to be reversed, leaving \$9,366.50 to be funded by the City with the City's Sidewalk Fund, budget line item 102-4104-541-46-00.

2. **Exhibit 5**: Please refer to Exhibit 5 for additional information. This exhibit will detail the budget transfers to reverse, if the redistribution is approved.

RECOMMENDATION:

Staff recommends the City Commission select option 1, approve the redistribution of excess sidewalk enhancement funds. This will decrease the City-funded amount from \$151,455 to \$9,366.50 and allow the City to utilize FDOT stimulus funds to the fullest potential. This option will also require 1) the approval of Supplemental LAP agreements and authorization of the City Manager to execute the supplemental agreements and 2) the reversal of previously approved budget transfers.

GWB/cds