

RESOLUTION NO. 12-142

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED "LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT" BETWEEN THE CITY OF KEY WEST AND FDOT FOR THE TRANSFER OF \$40,000.00 FROM CONSTRUCTION, ENGINEERING AND INSPECTION (CEI) FUNDS (PHASE 68) TO CONSTRUCTION FUNDS (PHASE 58) FOR THE POINCIANA ELEMENTARY SCHOOL SAFE ROUTES TO SCHOOL SIDEWALK IMPROVEMENT PROJECT; APPROVING NECESSARY BUDGET AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Supplemental Local Area Program (LAP) grant agreement with the State of Florida Department of Transportation (FDOT) in order to transfer \$40,000.00 from CEI funds (Phase 68) to Construction funds (Phase 58) for the Poinciana Elementary School Safe Routes to School Sidewalk Improvement Project is hereby approved, and the City Manager is authorized to execute the Agreement.

Section 2: That amendments to the budget reflecting any related adjustments in FDOT LAP grant revenue, 102-0000-334-49-01, and to project expense account 102-4104-541-63-00/EN1101 are hereby authorized.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 1st day of May, 2012.

Authenticated by the presiding officer and Clerk of the Commission on May 2, 2012.

Filed with the Clerk May 2, 2012.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

EXECUTIVE SUMMARY

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

FROM: Carolyn Sheldon, Grants Administrator
Doug Bradshaw, Senior Project Manager

DATE: April 11, 2012

SUBJECT: Approving and authorizing the City Manager to execute a Supplemental Local Agency Program (LAP) Agreement for the transfer of \$40,000.00 from construction, engineering & inspection funds (Phase 68) to construction funds (Phase 58) for construction of the Poinciana Elementary School Safe Routes to School (SRTS) Sidewalk Improvement Project; approving any budget amendments necessary for the transfer of funds

ACTION STATEMENT:

This resolution will approve and authorize the City Manager to execute a Supplemental Local Agency Program (LAP) agreement for the transfer of \$40,000.00 from construction, engineering & inspection, or CEI, funds (Phase 68) to construction funds (Phase 58) for construction of the Poinciana Elementary School Safe Routes to School (SRTS) Sidewalk Improvement Project (EN1101) and approve any budget amendments necessary for the transfer of funds. The \$40,000.00 will be added to the \$306,408.00 current Phase 58 funds for a total of \$346,408.00 in construction funding.

BACKGROUND:

The LAP Agreement for Poinciana Elementary School Safe Routes to School (FM 425854-1) was approved with Resolution 10-218 on July 20, 2010. Funding for design, construction and construction, engineering and inspection (CEI) was included in the LAP Agreement. This project proposes the construction of sidewalks, curbs, curb ramps, residential and commercial property driveway aprons and property entrances, bicycle and pedestrian crosswalks, paving, stormwater improvements, signage and pavement

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

markings, and traffic calming devices on Duck Avenue, from Glynn Archer Drive (14th Street) to 17th Street, and 12th Street, from Staples Avenue to Seidenberg Avenue, to provide safe bicycle and pedestrian access routes to Poinciana Elementary School.

City Staff requested the transfer of CEI funds to construction funds from FDOT after the preliminary engineer's estimate showed an estimated cost of \$379,428.07 (which includes a 7% contingency) versus the \$306,408.00 currently funded by FDOT. City Staff recognizes that even with the \$40,000.00 transfer, a shortfall of \$33,020.07 exists based on the preliminary engineer's estimate. However, FDOT has approved the request to transfer \$40,000.00 from CEI funds to construction funds using the preliminary engineer's estimate as justification. Here is a breakdown of the grant funding:

Poinciana Elementary SRTS LAP Agreement (FM 425854-1)			
Project Phase	LAP Agreement	Supplemental LAP Agreement	Total Funding
Design	\$ 65,659.00	\$ 0.00	\$ 65,659.00
Construction	\$ 306,408.00	\$ 40,000.00	\$ 346,408.00
CEI	\$ 65,659.00	(\$ 40,000.00)	\$ 25,659.00
Total	\$ 437,726.00	\$ 0.00	\$ 437,726.00

Please note that the funding above is 100% FDOT. There is no local match required. FDOT will exhaust all of their funding before the Local Agency is required to incur costs. This means the Local Agency is responsible for any costs in excess of the funding above.

PURPOSE & JUSTIFICATION:

Although the City is asking for funds to be moved from CEI funding to construction funding, the transfer can only take place if FDOT has construction funding available to cover the amount of the transfer since money is not physically moved from CEI funding to construction funding. The two are separate sources of funding. The transfer is accomplished through the execution of a Supplemental LAP Agreement.

With a preliminary engineer's estimate that exceeds the construction funding currently available for the Poinciana Elementary School SRTS project, FDOT is allowing the City to transfer \$40,000.00 from CEI funds to construction funds for this project. City Staff is confident adequate CEI can be provided for the remaining \$25,659.00 in CEI funds once the transfer is made.

City Staff has not received bids for this project as the bid documents are currently being prepared. Ideally, FDOT would like for bids to be in hand prior to approving the transfer of funds in the event that additional funding can be provided should the bids exceed the funding already in place. The FDOT LAP Coordinator assigned to the City's LAP projects has advised City Staff to move forward with the transfer of the \$40,000.00 prior to FDOT's fiscal year end closing process which starts late May/early June. Their fiscal year end is June 30,

2012. Once the close out process starts, it is difficult to get Supplemental LAP Agreements approved and executed. In addition, the availability of the \$40,000.00 cannot be guaranteed once FDOT's new fiscal year begins. Similarly, the City cannot be guaranteed that additional funding will be available once bids are opened. The \$40,000.00 is available now for the transfer. If the City needs additional funds after bids are opened, a request would need to be submitted. If funds are available at the time of the request, it is possible for the City to receive additional funding if approved by FDOT.

OPTIONS:

1. Approve the Supplemental LAP Agreement and authorize the City Manager to execute the supplemental agreement. This allows for the transfer of \$40,000.00 from CEI funds to construction funds to help decrease the anticipated shortfall for the Poinciana Elementary SRTS Sidewalk Improvement Project. The transfer will increase construction funding to \$346,408.00. The funding does not require a City match.
2. Do not approve the Supplemental LAP Agreement. With this option, if the bids come in higher than \$306,408.00 (current level of grant funding), the City would need to fund the entire amount of the shortfall. Currently the shortfall is estimated to be \$73,020.07.

FINANCIAL IMPACT:

At this point, there is no financial impact to the City for the \$40,000.00 transfer since we budget construction and construction, engineering & inspection grant funding in the same account (FDOT LAP Grant revenue account 102-0000-334-49-01) / Project EN1101. The project costs associated with the Poinciana Elementary School SRTS Sidewalk Improvement Project are budgeted in expense account 102-4104-541-63-00 / EN1101.

The Supplemental LAP Agreement currently includes Local Funds of \$33,020.00 (rounded). As previously stated, FDOT will exhaust all of their funding before the Local Agency is required to incur costs leaving the Local Agency responsible for any costs in excess of the funding in place. Taking into consideration the \$40,000.00 transfer to increase construction funding to \$346,408.00 and the preliminary engineer's estimate of \$379,428.07, the Local Agency must currently fund the anticipated shortfall of \$33,020.00 (rounded).

If there is a shortfall after bids are opened, the Local Agency is responsible for funding the shortfall. However, City Staff will request additional funding from FDOT. If approved, this will lessen or eliminate the amount the City must fund.

RECOMMENDATION:

Staff recommends the City Commission select option 1, approve the Supplemental LAP Agreement and authorize the City Manager to execute the supplemental agreement allowing the transfer of \$40,000.00 from CEI funds to construction funds for construction of the Poinciana Elementary School SRTS Sidewalk Improvement Project.

SUPPLEMENTAL NO. 1 DUNS NO. 07-986-4898	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 425854-1 CONTRACT NO. AQ244
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The City of Key West desires to supplement the original Agreement entered into and executed on September 23, 2010 as identified above. All provisions in the original Agreement and supplements, if any, remain in effect except as expressly modified by this supplement.

The changes to the Agreement and supplements, if any, are described as follows:

PROJECT DESCRIPTION

Name Safe Routes to School - Poinciana Elementary School Length _____

Termini Duck Avenue from 17th Street to Glynn Archer Drive and 12th Street from Staples Avenue to Seidenberg Avenue

Description of Work:

This project proposes the construction of sidewalks, curbs, curb ramps, residential and commercial property driveway aprons and property entrances, bicycle and pedestrian crosswalks, paving, stormwater improvements, signage and pavement markings, and traffic calming devices on Duck Avenue, from Glynn Archer Drive (14th Street) to 17th Street, and 12th Street, from Staples Avenue to Seidenberg Avenue, to provide safe bicycle and pedestrian access routes to Poinciana Elementary School.

Reason for Supplement and supporting engineering and/or cost analysis:

Based on the preliminary engineer's estimate of \$379,428.07, construction costs are estimated to exceed current Phase 58 funds of \$306,408.00. To decrease the amount of the anticipated shortfall, the Local Agency is requesting to transfer \$40,000.00 from Phase 68 to Phase 58. The Local Agency is confident that adequate CEI can be provided with the remaining balance of Phase 68 funds of \$25,659.00. The project construction budget is being increased from \$306,408.00 to \$346,408.00 and the construction, engineering & inspection budget is being decreased from \$65,659.00 to \$25,659.00. See page 2 of Supplemental LAP Agreement.

ADJUSTED EXHIBIT B SCHEDULE OF FUNDING

SUPPLEMENTAL NO. 1 DUNS NO. 07-986-4898	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 425854-1 CONTRACT NO. AQ244
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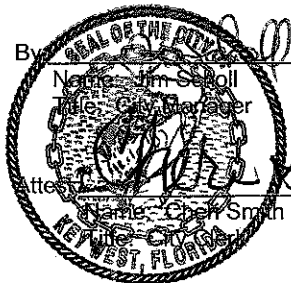
TYPE OF WORK By Fiscal Year	FUNDING				
	(1) PREVIOUS TOTAL PROJECT FUNDS	(2) ADDITIONAL PROJECT FUNDS	(3) CURRENT TOTAL PROJECT FUNDS	(4) TOTAL AGENCY FUNDS	(5) TOTAL STATE & FEDERAL FUNDS
Planning					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total Planning Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Project Development & Environment (PD&E)					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total PD&E Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Design					
FY: 2010 - 2011	\$65,659.00	\$0.00	\$65,659.00	\$0.00	\$65,659.00
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total Design Cost	\$65,659.00	\$0.00	\$65,659.00	\$0.00	\$65,659.00
Right-of-Way					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total Right-of-Way Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Construction					
FY: 2011 - 2012	\$306,408.00	\$40,000.00	\$346,408.00	\$33,020.00	\$379,428.00
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total Construction Cost	\$306,408.00	\$40,000.00	\$346,408.00	\$33,020.00	\$379,428.00
Construction Engineering and Inspection (CEI)					
FY: 2011 - 2012	\$65,659.00	(\$40,000.00)	\$25,659.00	\$0.00	\$25,659.00
FY: _____					
FY: _____					
FY: _____					
FY: _____					
FY: _____					
Total CEI Cost	\$65,659.00	(\$40,000.00)	\$25,659.00	\$0.00	\$25,659.00
Total Construction & CEI Costs	\$372,067.00	\$0.00	\$372,067.00	\$33,020.00	\$405,087.00
TOTAL COST OF THE PROJECT	\$437,726.00	\$0.00	\$437,726.00	\$33,020.00	\$470,746.00

SUPPLEMENTAL NO. 1 DUNS NO. 07-986-4898	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT	FPN 425854-1 CONTRACT NO. AQ244
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IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY City of Key West

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION



By: _____
Name: Jim Scholl
Title: City Mayor
Attest: *Cheryl Smith*
Name: Cheryl Smith

By: _____
Name: Harold A. Desdunes, P.E.
Title: District Director of Transportation Development

Attest: *Margaret Higgins*
Name: Margaret Higgins
Title: Executive Assistant

Date: May 2, 2012

Date: June 12, 2012

Legal Review: _____
[Signature]

_____ *Alicia Dujda*

See attached Encumbrance Form for date of funding approval by Comptroller.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PRODUCTION SUPPORT
08/06
Page

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 425854-1

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

The City of Key West

3140 Flagler Avenue, Key West, Florida 33041-1409

Dated _____

PROJECT LOCATION: Duck Avenue from 17th Street to Glynn Archer Drive and 12th Street from Staples Avenue to Seidenberg Avenue

The project ___ is X is not on the National Highway System.

The project ___ is X is not on the State Highway System.

PROJECT DESCRIPTION:

Duck Avenue from 17th Street to Glynn Archer Drive and 12th Street from Staples Avenue to Seidenberg Avenue - This project proposes the construction of sidewalks, curbs, curb ramps, residential and commercial property driveway aprons and property entrances, bicycle and pedestrian crosswalks, paving, stormwater improvements, signage and pavement markings, and traffic calming devices on Duck Avenue, from Glynn Archer Drive (14th Street) to 17th Street, and 12th Street, from Staples Avenue to Seidenberg Avenue, to provide safe bicycle and pedestrian access routes to Poinciana Elementary School.

SPECIAL CONSIDERATIONS BY AGENCY:

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Class of Action Determination Study to be completed by 12/31/11.
- b) Design to be completed by 3/31/12.
- c) Right-of-Way requirements identified and provided to the Department by 12/31/11.
- d) Right-of-Way to be certified by 12/31/11.
- e) Construction contract to be let by 7/31/12.
- f) Construction to be completed by 7/31/13.

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT: