



FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF COCONUT CREEK FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: MILLING, PAVING, AND RESURFACING OF PUBLIC ROADS, BC-CCREEK-FY2020-00001

This First Amendment ("First Amendment") is entered into by and between Broward County, a political subdivision of the State of Florida ("County") and the City of Coconut Creek, a municipality of the State of Florida ("Municipality") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. The Parties entered into the Interlocal Agreement for Surtax-Funded Municipal Transportation Project for milling, paving and resurfacing of certain public roads, dated February 2, 2022 (the "Agreement").

B. The Parties now desire to modify the deliverables, acceptance criteria, and schedule and include a reimbursable inflation adjustment to the Agreement to provide Municipality additional compensation to complete the work under the Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this First Amendment shall retain the meaning ascribed to such terms in the Agreement.
2. Amendments to the Agreement made pursuant to this First Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.
3. Section 5.4 of the Agreement is amended as follows:

Maximum Funding. Municipality acknowledges that the Maximum Funding Amount set forth below is the maximum amount payable by County and constitutes a limitation upon County's obligation to provide funding to Municipality for the Project. Municipality further acknowledges that subtotal amounts set forth below for the applicable phases and in the Funding Schedule (including as amended) are the maximum amounts payable for the applicable portions of the Project, and constitute limitations on County's obligation to provide funding to Municipality for the Project.

Description	Not-To-Exceed Amounts
Phase 1: Construction (inclusive of 5% contingency)	\$3,000,000
<u>Reimbursable Inflation Adjustment</u>	<u>\$357,000</u>
MAXIMUM FUNDING AMOUNT:	\$3,000,000 <u>\$3,357,000</u>

In no event shall County be liable to provide funding to Municipality in excess of the applicable amounts stated in the Funding Schedule or the Maximum Funding Amount, regardless of the basis for any claim or the basis for increased cost, including, without limitation, differing site conditions, delays, weather, or any other reason. If the actual costs of the Project exceed the amount County is obligated to fund per the Funding Schedule, as same may be amended pursuant to this Agreement, Municipality shall be solely responsible for funding any and all such additional amounts. Municipality is solely responsible for any and all costs to operate, support, and maintain the Project unless otherwise agreed in writing by the Parties; County has no obligation to fund any costs related to the Project except as expressly stated in this Agreement.

4. Exhibit A, Section 2, Deliverables is amended as follows:

Municipality shall provide quantifiable, measurable, and verifiable units of Deliverables as set forth below. Each Deliverable must specify the required minimum level of work to be performed and the criteria for evaluating successful completion of the Deliverable.

DELIVERABLES: Phase 1 - Construction

No.	Description	Duration/Deadline	Acceptance Criteria
0	Execution of ILA between County and City of Coconut Creek	January 17, 2022	ILA executed by Municipality and resolution authorizing execution by Municipality's Commission.
1	Project Construction Advertising Bid, Award, Construction Contract execution	60 days	Execution of Construction Contract
2	Notice to Proceed and Commencement of Work/Project Kickoff	10 days	NTP Issued by Municipality
3	Task #1 – Carombola Carambola Circle, Cocoplum Circle, and associated roadways	70 days 86 days	Mobilization, Maintenance of Traffic, Clearing and Grubbing, Inlet Protection System, 1" Asphalt Surface, 2" Asphalt Surface, Milling 1" Asphalt Surface, 4" Limerock Base, Earthwork.
4	Task #2 – NW 22 nd Street and associated roadways	70 days 85 days (16 days overlap with Task No. 1)	Mobilization, Maintenance of Traffic, Clearing and Grubbing, 1" Asphalt Surface, 2" Asphalt Surface, Milling 1" Asphalt Surface, 4" Limerock Base, Earthwork, Type 'D' Curb.
5	Task #3 – Cocoplum Circle Hammock Blvd and associated roadways	70 days 86 days (15 days overlap with Task No. 2)	Mobilization, Maintenance of Traffic, Clearing and Grubbing, 1" Asphalt Surface, 2" Asphalt Surface, 4" Concrete Pavement, Root Barrier, Type 'D' Curb, Type 'F' Curb.
6	Task #4 – NW 42nd Avenue and associated roadways Closeouts	70 days 67 days (13 days overlap with Task No 3)	Mobilization, Maintenance of Traffic, Clearing and Grubbing, 1" Asphalt Surface, 4" Concrete Pavement, Root barrier, Type 'F' Curb, ADA Single Ramp, ADA Detectable

			Warning, Sign Post & Sign, Pavement Marking, Structural Grate Adjustment, Concrete Flume. Closeout documents
7	Final Completion	280 days after NTP	Project Certified/Final Payment Issued

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5. The provisions within the Funding Parameters Section of Exhibit B are amended as follows:

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Municipality shall invoice County for up to a quarter of the applicable Total Maximum Not-To Exceed Amount specified below **(excluding the Cost Escalation Amount)** in advance of the applicable Deliverable or Phase ("Application for Funding"). The first Application for Funding shall be submitted to the Contract Administrator no later than thirty (30) days after the full execution of this Agreement. Municipality shall submit no more than four separate Applications for Funding per funding schedule provided below.

Each quarter will be funded in advance by County per the schedule(s) stated below, with each funding amount determined by the Maximum Not-to-Exceed Amount for the applicable Deliverable less any unexpended funding for prior Deliverables. Unexpended funds for prior Deliverables shall be deducted from subsequent Applications for Funding or refunded to County, as requested by the Contract Administrator.

Each Application for Funding (after the first) shall include the information required in the Agreement including the following information for the prior Deliverables (as applicable): the amount of funding received and evidence of actual expenditures (including documentation demonstrating all invoices received from and payments made to Consultant and for right of way acquisition or wetland mitigation); a statement indicating the cumulative amount of CBE participation; an updated progress schedule; and all required certifications including that all Deliverables sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Absent prior written approval by the Contract Administrator, Municipality may not submit an Application for Funding for a Deliverable until all prior Deliverables have been satisfactorily completed.

Reimbursable Inflation Adjustment

After Project final completion, successful Project closeout, and all other Project funding has been expended on the Project, Municipality may submit an Application for Funding to County seeking reimbursement for eligible Project costs associated with inflation up to the Reimbursable Inflation Adjustment Amount specified below. An Application for Funding for the Reimbursable Inflation Adjustment Amount must include: the information set forth above for an Application for Funding; a certification that all other Project funding has been utilized; and invoices documenting expenditures for eligible Project Costs up to the Reimbursable Inflation Adjustment Amount. The Inflation Adjustment

Amount may not exceed eleven and nine tenths' percent (11.9%) of the Total Maximum Not-To-Exceed Amount excluding the Reimbursable Inflation Adjustment Amount.

Deliverable/Phase Description	Maximum Not-To-Exceed Amount
Deliverables 0-2: Execution of ILA, Bidding, Award, NTP and Commencement/Project Kickoff	\$750,000.00
Deliverables 3-4 3 : Task No. 1 and 2 (Carambola /Cocoplum)	\$750,000.00
Deliverable 5 Task No. 3 4 Task No. 2 (NW 22nd)	\$750,000.00
Deliverable 5 , 6 , and 7: Task No. 3 (Hammock) , Task No. 4 (Closeouts) and Final Project Completion	\$750,000.00
<u>Deliverable: Final Completion, Successful Closeout, and County's receipt of required documentation.</u> <u>Reimbursable Inflation Adjustment Amount</u>	<u>\$357,000.00</u>
TOTAL MAXIMUM NOT-TO-EXCEED AMOUNT:	<u>\$3,000,000.00 \$3,357,000.00</u>

6. In the event of any conflict or ambiguity between this First Amendment and the Agreement, the Parties agree that this First Amendment shall control. The Agreement, as amended herein by this First Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this First Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

7. Preparation of this First Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

8. The Parties agree and acknowledge that through the effective date of this First Amendment, Municipality has no claims or disputes against County with respect to any of the matters covered by the Agreement.

9. The effective date of this First Amendment shall be the date of complete execution by the Parties.

10. This First Amendment may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the 25th day of August, 2020, Agenda Item No. 86, and CITY OF COCONUT CREEK, signing by and through its Authorized Signer, duly authorized to execute same.

BROWARD COUNTY

BROWARD COUNTY, by and through
its County Administrator

By _____
Monica Cepero

____ day of _____, 2022

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By _____
William J. Bucciero (Date)
Assistant County Attorney

By _____
Angela J. Wallace (Date)
Transportation Surtax General Counsel

AJW/WJB/hb
First Amendment - BC-CCREEK-FY2020-00001
10/17/2022
#22-114.00

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MUNICIPALITY

ATTEST:

CITY OF COCONUT CREEK

Joseph J. Kavanagh, CITY CLERK

By: _____
Karen M. Brooks, CITY MANAGER

Print Name

_____ day of _____, 2022

I HEREBY CERTIFY that I have approved
this Agreement as to form and legal
sufficiency subject to execution by the parties:

Terrill C. Pyburn, CITY ATTORNEY