ORDINANCE NO. 09-10

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, ADOPTING AMENDMENTS TO THE ANNUAL BUDGET FOR THE CITY OF KEY WEST, FLORIDA, FOR THE YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission of the City of Key West adopted the fiscal year 2008-2009 annual budget on September 17th, 2008, effective October 1, 2008; and

WHEREAS, the City Commission desires to amend the 2008-2009 budget to make provisions for the carry over of grant funding from the Federal Transit Administration, and the recognition of the receipt of funding from the Federal Emergency Management Agency and the Florida Department of Transportation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That a budget amendment for FY 2008-2009 is hereby approved, appropriating $824,978.00 for revenue account #402 331.35 and expense account #402 3802 538.65 to provide for recognition of FEMA and FDEP 319 grant revenue.

Section 2: That a budget amendment for FY 2008-2009 is

hereby approved to provide for a carry forward of a grant from the Federal Transit Administration in the amount of $2,727,184.00 for Transit Grant Account 411-4404-544.65.

Section 3: That there are hereby appropriated for the period beginning October 1, 2008, and ending September 30, 2009, the several amounts for the various purposes and accounts as set forth in the amendment to budget for the period referred to in Sections 1 and 2 of this Ordinance and therein made a part of the Ordinance.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6. This Ordinance 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.

Read and passed on first reading at a regular meeting held this 19th day of May, 2009.

Read and passed on final reading at a regular meeting held this 2nd day of June, 2009.

Authenticated by the presiding officer and Clerk of the Commission on 3rd day of June, 2009.

Filed with the Clerk June 3, 2009.

MORGAN McPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Section 1

Backup Information

Section 1

GENERAL SERVICES DEPARTMENT MEMORANDUM

EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager

FROM: E. David Fernandez, Assistant City Manager EDF

CC: Gary Bowman, General Services Director
Annalise Mannix, P.E. Manager of Engineering Services and Environmental Programs

DATE: April 24, 2009

RE: Stormwater Budget Amendment – Grant Revenue Recognition

ACTION STATEMENT

A ordinance amending the FY 2009 Budget to recognize revenue for FEMA and FDEP 319 grant revenue totaling $824,978 for revenue account # 402 331.35 and expense account # 402 3802 538.65.

STRATEGIC PLAN INITIATIVES

The maintenance and improvement of our stormwater system is essential in protecting our near-shore water quality which is a key goal in the City's Strategic Plan. This project will place an outfall from Patricia/Ashby Pump station to the ocean, through a sediment trap to reduce flooding during rain and hurricane events.

The maintenance of our public infrastructure in a cost effective manner to serve the needs of our citizens and visitors and protect the local environment is one of our seven priorities outlined in the Strategic Plan.

BACKGROUND

In FY 2008 the City awarded a Stormwater Construction project that began last summer and was completed in FY 2009. Grant expenses and reimbursements EPA 319 Grant were budgeted in FY 2008 and not rolled over. Revenue and Expenses related to this grant funded project occurred in FY 2009 and require recognition of the associated Revenue and Expenses.

The City applied for two Hazard Mitigation Grant Program (HMGP) administered by the Federal Emergency Management Agency and the Florida Division of Emergency Management (Ashby Street and Patricia Street/1600 block of United Street and 1000 block of George Street). The City has been awarded HMGP grants for the design and construction of these projects. The City Commission has already executed the design phase grant contracts and has authorized the design contract for the project (see Resolution 08-323 and 09-006). The total design cost for the Ashby/Patricia project will be $134,816 with the City providing matched funding for 25% ($33,704). FEMA will fund 75% ($101,112). The total design cost for the United/George Street project will be $311,821, with the City providing matched funding for 25% ($77,955.25). FEMA will fund 75% ($233,865.75).

PURPOSE & JUSTIFICATION
The City executed the grant contracts; however, the grant revenue and expenses are not budgeted in FY 2009. This ordinance amends the budget as necessary.

OPTIONS
There are two options for this request. The first is to approve the Budget Amendment and allow for revenue and expenses for these projects to be budgeted in 2009. The second is to reject the Budget Amendment and have unbudgeted funds received. This will impact expenses budgeted for FDOT projects not yet awarded.

FINANCIAL IMPACT
This amendment recognizes combined grant revenue and expenses of $824,978 ($334,978 FEMA and $490,000 EPA 319). This ordinance allows for the city to budget the revenue and expense for the grants. The City's match is listed as line items in the Stormwater Utility rate study/budget for 2009 in account # 402-3802-538-65-00. .

The total design cost for the project will be $134,816 with the City providing matched funding for 25% ($33,704). FEMA will fund 75% ($101,112). The total design cost for the project will be $311,821, with the City providing matched funding for 25% ($77,955.25). FEMA will fund 75% ($233,865.75).

RECOMMENDATION
City staff recommends that the Commission authorize this ordinance to recognize grant revenue.

The City of Key West

DESCRIPTION OF WORK PERFORMED

The City of Key West contracted with Douglas N. Higgins, Inc. to construct five stormwater gravity injection wells and five baffle boxes as the low bidder in a sealed bid process conducted in April, 2008.

The original bid was in the amount of $1,773,660. A Notice to Proceed was issued to the contractor on June 9, 2008 with work being complete on January 22, 2009. At project completion, total expenditures were $1,554,844.17 ($218,815.83 under bid).

This project was funded in part with grants received from the Florida Department of Environmental Protection ($490,000) and the South Florida Water Management District ($400,000). Additional costs were funded by the City of Key West. The City of Key West is requesting reimbursement from the Army Corp of Engineers for those additional costs on a 65% / 35% basis as shown below.

EXPENDITURES SUBMITTED FOR REIMBURSEMENT

	Total Costs	319 Eligible	319 Non-Federal Match SFWMD	319 Non-Federal Match City	Total Project Cost (ACOE Eligible)	ACOE Funded	ACOE Non-Federal City Match
Pre-Agreement Planning & Design *(see detail next page)*							
GM Selby	**$ 54,892.50**	$ -	$ -	$ -	54,892.50	$ 35,680.13	$ 19,212.38
Grant Period Agreement Planning & Design *(see detail next page)*							
GM Selby	**$ 11,329.60**	-	-	-	11,329.60	7,364.24	3,965.36
Perez Eng	**$ 21,032.63**	-	-	-	21,032.63	13,671.21	7,361.42
Construction Management *(see detail next page)*							
Perez Eng	**$ 39,270.45**	-	-	-	39,270.45	25,525.79	13,744.66
Construction Services							
DN Higgins Pay App #1	**$ 85,876.20**	-	42,938.10	42,938.10	-	-	-
DN Higgins Pay App #2	**$ 401,970.05**	-	200,985.02	67,061.90	133,923.13	87,050.03	46,873.10
DN Higgins Pay App #3	**$ 404,704.58**	132,050.00	156,076.88	-	116,577.70	75,775.51	40,802.20
DN Higgins Pay App #4	**$ 62,334.34**	38,572.28	-	-	23,762.06	15,445.34	8,316.72
DN Higgins Pay App #5	**$ 81,225.29**	71,155.00	-	-	10,070.29	6,545.69	3,524.60
DN Higgins Pay App #6	**$ 177,052.62**	145,122.00	-	-	31,930.62	20,754.90	11,175.72
DN Higgins Pay App #7	**$ 234,389.70**	103,100.72	-	-	131,288.98	85,337.84	45,951.14
DN Higgins Pay App #8	**$ 107,291.39**	-	-	-	107,291.39	69,739.40	37,551.99
Total Project Cost	**$ 1,681,369.35**	**$ 490,000.00**	**$ 400,000.00**	**$ 110,000.00**	**$ 681,369.35**	**$ 442,890.08**	**$ 238,479.27**
% of total project cost						65%	35%
Cost Allocation		**29.14%**	**23.79%**	**6.54%**		**26.34%**	**14.18%**
Funded by Grants	**$ 1,332,890.08**	**79.27%**					
Total City Match	**$ 348,479.27**	**20.73%**					

Backup

RESOLUTION NO. 09-006

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT/FEMA GRANT FUNDING IN THE AMOUNT OF $227,760.00, WITH A CITY MATCH OF $84,240.00 FROM THE STORM WATER UTILITY, TO DESIGN A PUMP ASSISTED STORM WATER OUTFALL SYSTEM TO REDUCE FLOODING IN THE UNITED/GEORGE STREET BASIN; AUTHORIZING A BUDGET TRANSFER OF $63,990.00 FROM OPERATING CONTINGENCY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, funding is available to the City of Key West from the State of Florida in the amount of $227,760.00 for storm water management, which requires a City contribution of $84,240.00.

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

Section 1: That a FEMA grant in the amount of $227,760.00 is hereby approved.

Section 2: That a budget transfer of $63,990.00 from the operating contingency for this project is hereby approved.

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.

Backup

Passed and adopted by the City Commission at a meeting held this 6th day of January, 2009.

Authenticated by the presiding officer and Clerk of the Commission on January 7, 2009.

Filed with the Clerk January 7, 2009.

MORGAN McPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Backup

GENERAL SERVICES DEPARTMENT MEMORANDUM

EXECUTIVE SUMMARY

TO: Jim Scholl , City Manager

FROM: Annalise Mannix, P.E. Manager of Engineering Services and Environmental Programs

VIA: David Fernandez, Assistant City Manager
Gary Bowman, General Services Director

DATE: December 8, 2008

RE: State of Florida Division of Emergency Management/FEMA Grant Funding for the George/1st Street Pump Station Drainage Phase 1 (Design)

ACTION STATEMENT: Resolution authorizing the execution of a State of Florida Division of Emergency Management grant for $227,760.00 with a city match of $84,240 from the Stormwater Utility to design a pump assisted storm water outfall system to reduce flooding in the United/George Street drainage basin. Authorizing a FY 09 budget transfer for $63,990 from Stormwater Operating Contingency account number 402 3802 535.98.

STRATIGIC PLAN INITIATIVE
The maintenance and improvement of our stormwater system is essential in protecting our nearshore water quality which is a key goal in the City's strategic and Business Plan.

BACKGROUND:
Mitigation is one of the cornerstones of emergency management. Its goal is to lessen the impact that disasters have on people's lives and property. Authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Hazard Mitigation Grant Program (HMGP) is administered by the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (DEM). The City has been awarded an HMGP grant for this project.

Flooding due to large rains has caused disruption of vehicular travel on United Street for years. Flooding impacts numerous homes and has required, in the past, barricade placement during flood events taking critical staff away from stormwater duties. The City Stormwater Utility applied for Hurricane Wilma HMGP funds in 2005 to implement a project to reduce the rain related flooding. The Stormwater Utility's grant application ranked high enough to be funded due to the social and economic affects the project will have.

Backup

PURPOSE & JUSTIFICATION:

FEMA has approved the application in two phases. Phase I is the design of the stormwater system, the hydraulics of the pre and post project, a cost to benefit analysis to demonstrate the mitigation effectiveness of the infrastructure a set of community approved, and state reviewed construction plans and bid documents.

If Phase I is completed successfully and the cost to benefit analysis is good the state will authorize the construction project. Phase II work will include a pump station well and outfall to accept stormwater flow and dispose of it.

The DCA has supplied the Utility an initial contract to perform the design work in Phase I. The design phase grant is for $227,760.00. The Stormwater Utility match is 25%, or $84,240 for a total project of $312,000. A fee is provided to the city for sub-grantee administration of the grant ($7,240). The time frame for the design work is 13 months.

The Utility seeks grant funding to match City funding to leverage many projects that the City not afford alone. This grant is one of many the Utility has received in an effort to reduce the financial burden our citizens.

OPTIONS:
Accept the grant and obtain a design to reduce flooding on United Street and surrounding areas.

Fund a design to reduce flooding on United Street with only City of Key West funding.

Do not attempt this design to reduce flooding in the United Street Area.

FINANCIAL IMPACT:
The total project cost for this design program will be $312,000. Under the FEMA/Division of Emergency Management grant program the City will be required to supply a 25% ($84,240) match which is currently in the utility budget. The match for this project will be funded through budget line item # 402-3802-535-65-00. The match require a FY 09 budget transfer for $63,990 from Stormwater Operating Contingency account number 402 3802 535.98.

Due to the expense of this project the city cannot afford to move forward wit this project with out this FEMA HMGP funding.

RECOMMENDATION:
Execute this contract.

Backup

09-006

STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

CHARLIE CRIST
Governor

W. CRAIG FUGATE
Director

February 20, 2009

2009 FEB 27 PM 12:24
CITY CLERK
KEY WEST, FLORIDA

Ms. Cheri Smith
City Clerk
City of Key West
525 Angela Street
Key West, Florida 33040

Re: FEMA Project 1609-110-R
City of Key West, Monroe County, George/1st Street Station, Drainage, Phase I

Dear Ms. Smith:

Enclosed is the executed Hazard Mitigation Grant Program contract (DEM No. 09HM-37-11-54-02-030) between City of Key West and the Division of Emergency Management. Upon completion of the work identified in the contract, a Request for Reimbursement form (Attachment D) should be completed and submitted to the Division for processing in accordance with Paragraphs (17) and (18) of the Agreement. Additional assistance is available regarding your Project on the Florida Division of Emergency Management Website: **http://www.floridadisaster.org/brm/hmgp.htm**. Please reference the heading: "Grant Management Tools Listed Below" which contains sample documents that will provide guidance for completing requests for reimbursement, reporting requirements and supporting documents containing important points, and subgrantee close-out checklists.

Please forward all Requests for Reimbursement (Attachment D) to the Division of Emergency Management at the following address:

Shaurita Jackson, Project Manager
Division of Emergency Management
State of Florida, Mitigation Section
2555 Shumard Oaks Boulevard
Tallahassee, Florida 32399-2100

If you have any specific questions regarding the contract or the Request for Reimbursement form, please call Shaurita Jackson at (850) 922-5332.

Respectfully,

Miles E. Anderson, State Hazard Mitigation Officer
Bureau of Recovery and Mitigation
Mitigation Section

WCF:sj/w

Enclosures

Backup

RESOLUTION NO. 08-323

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT/FEMA GRANT FUNDING IN THE AMOUNT OF $103,950.00 FOR PHASE I (DRAINAGE)OF THE PATRICIA/ASHBY STREETS PUMP STATION DRAINAGE AREA PROJECT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, funding is available to the City of Key West from the State of Florida in the amount of $103,950.00 for storm water management, which requires a City contribution of $33,750.00.

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

Section 1: That a FEMA grant in the amount of $103,950.00 for phase I (drainage) of the Patricia/Ashby streets pump station drainage area project is hereby approved.

Section 2: 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 2nd day of December, 2008.

Authenticated by the presiding officer and Clerk of the Commission on December 3, 2008.

Filed with the Clerk December 3, 2008.

MORGAN McPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Backup

GENERAL SERVICES DEPARTMENT MEMORANDUM

EXECUTIVE SUMMARY

TO: **Jim Scholl , City Manager**

FROM: **Annalise Mannix, P.E. Manager of Engineering Services and Environmental Programs**

VIA: **David Fernandez, Assistant City Manager**
Gary Bowman, General Services Director

DATE: **October 7, 2008**

RE: **State of Florida Division of Emergency Management/FEMA Grant Funding for the Patricia /Ashby Street Pump Station Drainage Phase 1 (Design)**

ACTION STATEMENT: Resolution authorizing the execution of a State of Florida Division of Emergency Management grant for $103,950.00 with a city match of $33,750 from the Stormwater Utility to design a pump assisted storm water system and other infrastructure to reduce flooding on Ashby St. and other areas of the Kamien subdivision.

STRATIGIC PLAN INITIATIVE
The maintenance and improvement of our stormwater system is essential in protecting our nearshore water quality which is a key goal in the City's strategic and Business Plan.

BACKGROUND:
Mitigation is one of the cornerstones of emergency management. Its goal is to lessen the impact that disasters have on people's lives and property. Authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Hazard Mitigation Grant Program (HMGP) is administered by the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (DEM). The City has been awarded an HMGP grant for this project.

Flooding due to large rains has caused disruption of vehicular travel on Ashby Street for years. Flooding impacts numerous homes and increases public works work orders requiring barricades be placed during flood events. The City Stormwater Utility applied for Hurricane Wilma HMGP funds in 2005 to implement a project to reduce the rain related flooding. The Stormwater Utility's grant application ranked high enough to be funded due to the social and economic affects the project will have.

Backup

PURPOSE & JUSTIFICATION:

FEMA has approved the application in two phases. Phase I is the design of the stormwater system, the hydraulics of the pre and post project, a cost to benefit analysis to demonstrate the mitigation effectiveness of the infrastructure a set of community approved, state reviewed construction plans and bid documents.

If Phase I is completed successfully and the cost to benefit analysis is good the state will authorize the construction project. Phase II work will include a pump station well and outfall to accept stormwater flow and dispose of it.

The DCA has supplied the Utility an initial contract to perform the design work in Phase I. The design phase grant is for $103,950.00. The Stormwater Utility match is 25%, or $33,750 for a total project of $137,700. A fee is provided to the city for sub-grantee administration of the grant. The time frame for the design work is 12 months.

The Utility seeks grant funding to match City funding to leverage many projects that the City not afford alone. This grant is one of many the Utility has received in an effort to reduce the financial burden our citizens.

OPTIONS:
Accept the grant and obtain a design to reduce flooding on Ashby Street and surrounding areas.

Fund a design to reduce flooding on Ashby Street with only City of Key West funding.

Do not attempt this design to reduce flooding in the Ashby Street Area. Due to the expense of this project the city cannot afford to move forward with this project without this FEMA HMGP funding.

FINANCIAL IMPACT:
The total project cost for this program will be $137,700. Under the FEMA/Division of Emergency Management grant program the City will be required to supply a 25% ($33,750) match which is currently in the utility budget. The match for this project will be funded through budget line item # 402-3802-535-65-00.

RECOMMENDATION:
Execute this contract.

Backup

STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

CHARLIE CRIST
Governor

W. CRAIG FUGATE
Director

February 12, 2009

RECEIVED

Ms. Cheri Smith
City Clerk
City of Key West
525 Angela Street
Key West, Florida 33040

Re: FEMA Project 1609-111-R
City of Key West, Monroe County, Patricia/Ashby Street, Drainage, Phase I

Dear Ms. Smith:

Enclosed is the executed Hazard Mitigation Grant Program contract (DEM No. 09HM-37-11-54-02-031) between City of Key West and the Division of Emergency Management. Upon completion of the work identified in the contract, a Request for Reimbursement form (Attachment D) should be completed and submitted to the Division for processing in accordance with Paragraphs (17) and (18) of the Agreement. Additional assistance is available regarding your Project on the Florida Division of Emergency Management Website: **http://www.floridadisaster.org/brm/hmgp.htm.** Please reference the heading: "Grant Management Tools Listed Below" which contains sample documents that will provide guidance for completing requests for reimbursement, reporting requirements and supporting documents containing important points, and subgrantee close-out checklists.

Please forward all Requests for Reimbursement (Attachment D) to the Division of Emergency Management at the following address:

Shaurita Jackson, Project Manager
Division of Emergency Management
State of Florida, Mitigation Section
2555 Shumard Oaks Boulevard
Tallahassee, Florida 32399-2100

If you have any specific questions regarding the contract or the Request for Reimbursement form, please call Shaurita Jackson at (850) 922-5332.

Respectfully,

Cheri Rainor for

Miles E. Anderson, State Hazard Mitigation Officer
Bureau of Recovery and Mitigation
Mitigation Section

WCF:sj/w

Enclosures

Backup

Contract Number: 09HM-37-11-54-02-031
CFDA Number: 97.039

FEDERALLY FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division"), and City of Key West, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

A. The Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. The Division has received these grant funds from the State of Florida, and has the authority to subgrant these funds to the Recipient upon the terms and conditions below; and

C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Recipient agree to the following:

(1) SCOPE OF WORK

The Recipient shall perform the work in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

The Recipient and the Division shall be governed by applicable State and Federal laws, rules and regulations, including those identified in Attachment B.

(3) PERIOD OF AGREEMENT

This Agreement shall begin on June 24, 2008 and shall end June 26, 2009, unless terminated earlier in accordance with the provisions of Paragraph (12) of this Agreement.

(4) MODIFICATION OF CONTRACT

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal "Common Rule: Uniform Administrative Requirements for State and Local Governments" (53 Federal Register 8034) or OMB Circular No. A-110, "Grants and Agreements with Institutions of High Education, Hospitals, and Other Nonprofit Organizations," and either OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations." If this Agreement is made with a commercial (for-profit) organization on a cost-reimbursement basis, the Recipient shall be subject to Federal Acquisition Regulations 31.2 and 931.2.

(b) The Recipient shall retain sufficient records to show its compliance with the terms of this

Backup

Agreement, and the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of five years from the date the audit report is issued, and shall allow the Division or its designee, the State Chief Financial Officer or the State Auditor General access to the records upon request. The Recipient shall ensure that audit working papers are available to them upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Division. The five year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the five year period expires, and extends beyond the five year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at $5,000 or more at the time it is acquired shall be retained for five years after final disposition.

3. Records relating to real property acquired shall be retained for five years after the closing on the transfer of title.

(c) The Recipient shall maintain all records for the Recipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachment A - and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Division, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Division.

(6) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at reasonable times for inspection, review, or audit by state personnel and other personnel authorized by the Department or the Division. "Reasonable" shall ordinarily mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends $500,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement shows the Federal resources awarded through the Division by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Division. The determination

Section 2

Backup Information

SECTION 2

Executive Summary

To: Jim Scholl, City Manager

cc: Shawn D. Smith, City Attorney
Roger Wittenberg, Finance Director

From: Myra Wittenberg, Director / KWDoT

Date: May 5, 2009

Subject: Ordinance to Amend the FY 2009 Budget - City of Key West; Providing Carry Forward of $2,727,184.00, (balance remaining of $3,011,518.00 grant awarded FY 04) - Federal Transit Administration 2004 Grant Award / Account #411-4404-544.65

ACTION STATEMENT

This is a request for ordinance to carry forward a grant balance of $2,727,184.00, of the original $3,011,518.00, into the Transit Grants Account 411-4404-544.65 in an effort to correct an error of that grant not being carried over since the FY 2006-2007 cycle. It was carried forward in the FY 2007-2008 budget but somehow due to oversight, it is not in the current FY 2009 budget.

This money is used for design, architecture, engineering, bidding and award of bid, project management and oversight as well as direct construction costs associated with the City's new transit facility. The project code for this facility is set up at TS0402.

HISTORY

In 2003 and 2004 the City Transportation Department began soliciting funds for a new building, realizing that the current building would be outgrown, the City began merging various operations into one site which provided a lack of security and synergy, and as such the current site is inadequate. We lack parking, restroom facilities, locker room facilities, security of the building and equipment, etc.

In fiscal years 2004 and 2005 the City received several 5309 Capital earmarks for funding and construction of a new transit facility - which would compliment the State Department of Transportation grant executed in FY 2003 in the amount of $2,250,000.00, resulting in an additional $3,011,518.00.

However, due to unavoidable delays which saved the City money on purchase of a parcel of land, and other conditions such as storms, hurricanes, existing construction of the transfer facility, the City was required to return a grant award of an additional $2,250,000.00, to State DOT with the understanding that once those funds were returned and laid dormant for twelve (12) months they would make every effort to return the grant award of the $2,250,000.00, to the City which we expect will be close to July for the State FY 2010 cycle. This is in addition to the budget amendment herein and part of the total funding package for this project.

Subsequent years provided additional grant earmarks as you can see from the attached funding status report sheet provided for your information. It appears we are now at 100% funding for this project and should not experience any further delay.

JUSTIFICATION / PURPOSE

It is requested that the budget amendment be approved and the carry forward of the additional $2,727,184.00, as the balance on the original grant be reflected in the current budget immediately as this is the mechanism that departments in the City utilizes in order to secure requisitions, purchase orders and pay vendors via accounts payable in finance. Also, this correction will assure the oldest grant money is used first and the newer grant monies are used last - which is the correct way to expend grant money.

This grant is matched at 0% local requirement as it has Florida State Toll Revenue Credits as a "funny money" match ratio provided by FDOT which gives us 100% reimbursement of the project award amount.

OPTION 1 (Advantages / Disadvantages / Fiscal Impact) – APPROVE Ordinance for Budget Amendment in the amount of $2,727,184.00 as carry foreward FOR CAPITAL GRANT - NEW TRANSIT FACILITY

The first Option is to approve the budget amendment - with obvious advantages stated above in the history section of the summary.

The City stands to benefit a new facility, a full scale, state of the art, transit building as a capital project by beginning the process with approval of this budget amendment - the first step in many in the next two (2) year period toward full progress and full funding of a new transit facility. As you can see there is slightly more than $8.0 million dollars pledged to that project thus far.

We see no disadvantages to this Option - the City will be required to lien hold the property the facility is constructed on for 20 years - but the building will be in good shape at the end of that period at which time the City may request release from the lien and take back the property and the improvements on site.

OPTION 2 (Advantages / Disadvantages / Fiscal Impact) – CITY DOES NOT APPROVE THE REQUESTED BUDGET AMENDMENT

It is simple and clear in that Option #2 is not a recommended option and is a direct opposite as to actions of all advantages and disadvantages listed in option #1 above. We will not spend time repeating those details but refer the reader to the paragraph written above; and the fact that this budget amendment allows the City to be close to assuredness that we will achieve full funding for this project.

Also refer to paragraph one (1) under justification above to see that to not approve this amendment could result in the City not having adequate funding to complete the project.

OPTION 3 (Advantages / Disadvantages / Fiscal Impact) – CITY DOES NOT OPT TO BUILD A NEW TRANSIT FACILITY

This is the least desirable option with regard to safety and community services. However, it is an option - should the City decide to not provide public transit in the future this may be a good time to discuss that option - prior to accepting and using Federal and State funds to build a new facility.

All of the advantages and disadvantages are again clear here with Option #3 in that the City would not have a new facility to use for public transit, and would not opportunity public transit services at all should this option be approved.

RECOMMENDATION

KWDoT recommends approval of this ordinance as requested, to include the noted budget amendment reflective to Project Code TS0402 - the New Transit Facility.

Attachments
/MHW
File: Executive Summary – New Facility Budget Amendment 411-4404-544.65

New Transit Facility Construction Capital Funding Status Report

FEDERAL FUNDING - AWARDED

- Federal Transit / Federal Highway Administration (FHWA)

FY 2003-04 Earmark (5309 Capital)	$3,011,518.00 *
FY 2004-05 (5309 Capital)	495,000.00
FY 2005-06 (JARC/ Highway)	$495,630.00
(JPA to be supplemented via Stimulus grant / per FDOT)	

Awarded funds - sub total: $4,002,148.00

FEDERAL FUNDING - EARMARKED (via Federal Registry) PENDING EXECUTION)

- Federal Transit Administration (FTA)

FY 2008 Earmark (5309 Capital)	$ 294,000.00
(electronic agreement consolidation in process)	
FY 2009 Earmark (5309 Capital)	$ 950,000.00
(grant consolidation in process - see above)	

Federal - sub total: $1,244,000.00

STATE FUNDING - ANTICIPATED BY VERBAL ALLOCATION - FDOT

- Florida Department of Transportation (FDOT)

Stimulus (ARRA) Funding (5311 Capital)	$ 591,895.00
FY 2010 / Oct 1st (Federal pass)	
JPA - reissue expected - FY 03 grant award	$2,250,000.00
FY 2010 cycle or July 1st	

State - sub total: $2,841,895.00

Total Funding Available: $8,088,043.00

==========

Engineer Estimate of Probable Construction Cost: $7.75 - $8.75 Million

The $1.0 differential relates to fill material the City expects to be able to provide to reduce cost of construction. The current proposed design / build option will allow the facility to be built to match funds available at 100% grant funding - based on date of bid award and expected construction start up.

See Options 1, 2 and 3 attached for review and note that the STMULUS and additional FTA / FDOT / FHWA funding earmarked represents grants by project and dollar value but they have not had a signed and executed agreement put in place just yet. We are hopeful to consolidate these grants into a single agreement by agency and dollar value - target dates is July 1 to September 30, 2009.

* Balance of grant award for carry forward of original $3,011,518.00., is $2,272,184.00, as noted in summary.

https://ftateamweb.fta.dot.gov - TEAM-Web (PRODUCTION Database) Project Funds/Status - Microsoft Internet E

Project Funds/Status

CANCEL OK

Summary | Project Funding | By Amendment

View By: Account Class Code

CstCtr	Acc Class Cd	FP	Reservation	Obligation	Deobligation	Disbursement	Refund
65000	2004.47.03.31.1	00	$1,067,961.00	$1,067,961.00	$0.00	$284,334.00	$0.00
65000	2005.47.03.31.1	00	$1,943,557.00	$1,943,557.00	$0.00	$0.00	$0.00
Project Totals:			$3,011,518.00	$3,011,518.00	$0.00	$284,334.00	$0.00

BAL: $2,727,184.

2005.47.03.31.1 - 00 Totals

Disbursement/Refund Records:

2008

TRANSIT FUND - INCLUDING PARK N' RIDE
BUDGET YEAR 2007-2008
REVENUES

411

ACCOUNT NUMBER	DESCRIPTION	PERIOD 13 ACTUAL FY 03-04	PERIOD 14 ACTUAL FY 04-05	PERIOD 14 ACTUAL FY 05-06	BUDGET FY 06-07	COMMISSION APPROVED FY 07-08	CURRENT FY VS PRIOR FY VARIANCE	% VAR	% OF BUDGET CURRENT
331.42-10	STATE GRANT-MASS TRANSIT- OPERATING 5311 Grant	$237,566	$286,556	$171,590	$198,309	$391,400	$193,092	97.4%	3.9%
331.42-20	FEDERAL GRANT-MASS TRANSIT-CAPITAL 5309 Earmark Awards Building Equipment (Buses/GPS)	(0)	0	155,268	2,051,561	0 0 3,100,000 983,679	(2,051,561) 0 3,100,000 983,679	(100.0%) 0.0% 0.0% 0.0%	0.0% 0.0% 30.7% 9.7%
331.42-40	FEDERAL GRANT-MASS TRANSIT- JARC (50%)	0	0	420,567	220,500	278,750	58,250	26.4%	2.8%
334.42-10	STATE MASS TRANSIT OPERATING Block Grant (50%)	(37,748)	98,607	508,832	162,031	161,928	(103)	(0.1%)	1.6%
334.42-20	STATE CAPITAL GRANT	0	0	0	0	0	0	0.0%	0.0%
334.42-30	STATE CAPITAL GRANT State Grant	0	0	0	2,250,000	2,500,000	250,000	11.1%	24.7%
334.42-40	STATE GRANT-MASS TRANSIT- JARC (25%)	0	0	0	110,250	139,376	29,125	26.4%	1.4%
334.42-50	INTERLOCAL JARC - LOWER KEYS COUNTY SHAR county 8.33, marathone 8.33, city 8.33	0	0	0	110,250	0 92,880	(17,370)	(15.8%)	0.9%
334.49-00	FDOT GRANT Service Development	0	0	0	0	0	0	0.0%	0.0%
334 50-00	FEMA GRANT	0	0	0	0	0	0	0.0%	0.0%
SUBTOTAI	**FEDERAL & STATE GRANTS**	**199,818**	**385,162**	**1,256,257**	**5,102,901**	**$7,648,012**	**$2,545,112**	**49.9%**	**75.6%**
344 31	BUS FARES-Key West & Stock Island -4402	246,531	262,111	381,277	260,000	$420,000	$160,000	61.5%	4.2%
344 32	BUS- ADVERTISING CHARGES (FKAA)	39,853	30,816	31,500	30,934	27,000	(3,934)	(12.7%)	0.3%
344.33	BUS SHELTER ADV - Key West & Stock Island -4402	11,972	51,402	60,378	24,108	41,250	17,142	71.1%	0.4%
344 34	BUS FARES LOWER KEYS SHUTTLE	0	0	1,040	184,135	80,000	(104,135)	(56.6%)	0.8%
344 35	BUS SHELTER ADV. - KEYS	0	0	0	2,500	13,750	11,250	450.0%	0.1%
344.39	TRANSIT - OTHER CHARGES	9,118	2,246	5,933	7,820	12,000	4,180	53.4%	0.1%
344 50	PNR - PARKING 250 Spaces	446,711	390,145	433,757	464,833	465,000	167	0.0%	4.6%
344 50-03	PNR - PARKING - CONCH HARBOR	0	0	17,930	12,833	16,000	3,167	24.7%	0.2%
SUBTOTAI	**OPERATIONS**	**754,185**	**736,720**	**931,815**	**987,163**	**$1,075,000**	**$87,837**	**8.9%**	**10.6%**

TRANSIT FUND - INCLUDING PARK N' RIDE
BUDGET YEAR 2008-2009
REVENUES

2009

ACCOUNT NUMBER	411 DESCRIPTION	PERIOD 14 ACTUAL FY 04-05	PERIOD 14 ACTUAL FY 05-06	PERIOD 14 ACTUAL FY 06-07	BUDGET FY 07-08	COMMISSION APPROVED FY 08-09	CURRENT FY VS PRIOR FY VARIANCE	% VAR	% OF BUDGET CURRENT
331.42-10	STATE GRANT-MASS TRANSIT- OPERATING	$286,556	$171,590	$396,617	$391,400	$205,472	($185,929)	(47.5%)	4.7%
	5311 Grant								
331.42-20	FEDERAL GRANT-MASS TRANSIT-CAPITAL	0	155,268	155,299	0	0	0	0.0%	0.0%
	5309 Earmark Awards				0	0	0	0.0%	0.0%
	Building			0	3,100,000	495,000	(2,605,000)	(84.0%)	11.4%
	Equipment (Buses/GPS)				983,679	0	(983,679)	(100.0%)	0.0%
331.42-40	FEDERAL GRANT-MASS TRANSIT- JARC (50%)	0	420,567	282,081	278,750	355,000	76,250	27.4%	8.2%
334.42-10	STATE MASS TRANSIT OPERATING	98,607	508,832	131,602	161,928	160,000	(1,928)	(1.2%)	3.7%
	Block Grant (50%)								
334.42-20	STATE CAPITAL GRANT	0	0	0	0	0	0	0.0%	0.0%
334.42-30	STATE CAPITAL GRANT	0	0	0	2,500,000	0	(2,500,000)	(100.0%)	0.0%
	State Grant								
334.42-40	STATE GRANT-MASS TRANSIT- JARC (25%)	0	0	141,040	139,375	177,500	38,125	27.4%	4.1%
					0	0			
334.42-50	INTERLOCAL JARC - LOWER KEYS COUNTY SHAR	0	0	94,027	92,880	105,495	12,615	13.6%	2.4%
	county 8.33, marathone 8.33, city 8.33								
334.49-00	FDOT GRANT	0	0	0	0	0	0	0.0%	0.0%
	Service Development								
334.50-00	FEMA GRANT	0	0	0	0	0	0	0.0%	0.0%
SUBTOTAI	**FEDERAL & STATE GRANTS**	**385,162**	**1,256,257**	**1,200,666**	**7,648,012**	**$1,498,467**	($6,149,546)	(80.4%)	34.5%
344.31	BUS FARES-Key West & Stock Island -4402	262,111	381,277	484,611	420,000	$425,000	$5,000	1.2%	9.8%
344.32	BUS- ADVERTISING CHARGES (FKAA)	30,816	31,500	15,750	27,000	10,000	(17,000)	(63.0%)	0.2%
344.33	BUS SHELTER ADV. - Key West & Stock Island -440	51,402	60,378	58,000	41,250	50,000	8,750	21.2%	1.2%
344.34	BUS FARES LOWER KEYS SHUTTLE	0	1,040	1,080	80,000	200,000	120,000	150.0%	4.6%
344.35	BUS SHELTER ADV. - KEYS	0	0	0	13,750	5,000	(8,750)	(63.6%)	0.1%
344.39	TRANSIT - OTHER CHARGES	2,246	5,933	10,759	12,000	5,000	(7,000)	(58.3%)	0.1%
344.50	PNR - PARKING 250 Spaces	390,145	433,757	444,980	465,000	465,000	0	0.0%	10.7%
344.50-03	PNR - PARKING - CONCH HARBOR	0	17,930	8,365	16,000	10,000	(6,000)	(37.5%)	0.2%
SUBTOTAI	**OPERATIONS**	**736,720**	**931,815**	**1,023,544**	**1,075,000**	**$1,170,000**	$95,000	8.8%	27.0%