



Cover Memorandum/Staff Report

File #: 22-1791

Agenda Date: 1/10/2023

Item #: 7.E.

TO: Mayor and Commissioners
FROM: Jeffrey L. Oris, CEcD, Assistant City Manager
THROUGH: Terrence R. Moore, ICMA-CM
DATE: January 10, 2023

DISCUSSION AND DIRECTION REGARDING ANNUAL MAINTENANCE AND OPERATIONS PAYMENTS TO PALM BEACH COUNTY FOR USE BY THE LIBRARY OF THE SOUTH COUNTY COURTHOUSE GARAGE AND PARKING LOT.

Recommended Action:

The City Commission is asked to determine whether to continue to cover the outlined cost of maintenance and operations of the South County Courthouse garage and parking lot and if inclined to do so, determine the manner in which to make payment.

Background:

Several months ago it was brought to the City's attention there were outstanding invoices due to Palm Beach County for a portion of operation and maintenance costs related to the Library's use of the South County Courthouse parking lot and garage. Payment of these costs are a requirement of the original Interlocal Agreement between the City of Delray Beach, Delray Beach Community Redevelopment Agency, Delray Beach Public Library, and Palm Beach County which memorialized the responsibilities and costs to each party regarding the construction, operation, and future use of the parking garage and lot (outstanding invoices for FY17, FY21, and FY22 are attached). Concern was raised when informed that the County was awaiting payment from the City for these costs despite the fact that Section 10 of the Interlocal Agreement clearly states "The County shall be physically responsible for the operation and maintenance of the Parking Facilities and the Library shall annually pay the County 31% of all on-site operation and maintenance costs including capital renewal and replacement costs, utilities, and security." The Section further expands on dates for notifications and invoicing to the Library (agreement is attached).

In order to find the facts behind this item, contact was made with Ms. Kae Jonsons, the Library's Director of Development and Community Engagement, as this situation was brought to the City's attention through Ms. Jonsons' office when the County notified her that a recent audit found the invoice for FY 2017 had not been paid and Kae forwarded the invoice to the City. Ms. Jonsons was asked why the City was expected to pay the invoice when the original agreement clearly stated this was the responsibility of the Library. She responded that the City has paid these invoices for as long as she has been with the Library and she has been led to believe the City had paid the invoices since the initiation of payments upon completion of the construction of the garage in about 2005. Upon further questioning, Ms. Jonsons indicated that she was unaware of any formal arrangement between the Library and City for these payments. This information led to a search of City archives in an attempt to find any agreement, City Commission resolution, or other document that somehow indicated that the City accepted responsibility for these costs. The search resulted in no such

document being located, however City payment of the invoice was questioned by City staff in 2019, but payment for the cost was ultimately made by the City to the County with no backup documentation found as to justification.

Ms. Karyn Sykes, Director of Financial & Support Services for the Palm Beach County Department of Facilities and Operations' Strategic Planning Division, the division responsible for determining the operating and maintenance costs and preparing the invoices was contacted. Ms. Sykes was asked if she knew why the City seemed to be responsible for these payments and if she could forward any information that might prove the City's payments. Ms. Sykes confirmed that the City had been paying the invoices though she was unable to give any reason why the City was covering this costs or any proof of when payment by the City started. She was, however, able to confirm that the City has been paying these costs for as long as she was aware and she provided copies of several receipts and a City purchase order for payment for fiscal years as far back as FY 2015 (attached). In a continuing effort to learn more, information from Ms. Sykes was forwarded to the City's Finance Department who was able to confirm these payments to the County documentation Information was subsequently requested from the Finance Department related to payment prior to FY 2015, however, staff has been unable to find any such information to date.

Further reaching back for history of this matter, several former staff members involved in the original Interlocal Agreement and the undertaking of the project were sought out. Conversations were held with former CRA Executive Director Diane Colonna, former Assistant City Manager Robert Barcinski, and former City Manager David Harden, however, none of these individuals had any recollection of the Interlocal Agreement let alone this particular cost or any arrangement for the City to pay this cost. Ms. Jonsons also reached out to some individuals related to the Library for information. She indicated that several had stories that indicated the City has always made payment on the invoices and that there were unwritten arrangements or justifications but no written proof of such has surfaced or been provided. Ms. Jonsons did indicate the Library would make effort to have someone familiar with the situation available to speak and answer questions when it is heard before the City Commission at the January 10, 2023 meeting.

Through the above research, as well as other information garnered from persons associated with the Library and further discussion with the County, it does appear as the City has paid this expense each year since at least FY 2015, however, the Library and the City have failed to put in place any formal policy or arrangement to justify payment. Unfortunately, there are now three fiscal years' worth of expenses due to the County (those for FY 2017, FY 2021, and now also for FY 2022) in the total amount of \$101,267.84 and without any known arrangement accepting responsibility or authorizing these expenses, the City Administration is unable to further consider payment without formal City Commission direction on the matter. Should the City Commission wish to continue the history of paying these invoices, appropriate budgetary adjustments would be required.

City Attorney Review:

NA

Funding Source/Financial Impact:

To bring payments up to current would require covering three outstanding invoices from Palm Beach County in the following amounts:

FY 2017 - \$34,844.72

FY 2021 - \$32,140.32

FY 2022 - \$34,282.80

These invoices total \$101,267.84. There is no current budget line funded for this payment and thus a budget amendment would be required if payment is to be provided.

Timing of Request:

All of the invoices are currently due.