



## Cover Memorandum/Staff Report

File #: 24-610

Agenda Date: 5/21/2024

Item #: 6.C.

**TO: Mayor and Commissioners**  
**FROM: Missie Barletto, Public Works Director**  
**THROUGH: Terrence R. Moore, ICMA-CM**  
**DATE: May 21, 2024**

AMENDMENT OF LEASE AGREEMENT FOR SIDEWALK CAFES WITHIN THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY.

### **Recommended Action:**

Motion to approve the Amendment of Lease Agreement for Sidewalk Cafes within the Florida Department of Transportation's right-of-way.

### **Background:**

The City currently owns and maintains the section of Atlantic Avenue from the east side of Swinton Avenue to the west side of NE/SE 5th Avenue. In late 2014, the Florida Department of Transportation (FDOT) met with staff to discuss their intent to levy fees within their right-of-way (ROW) pertaining to sidewalk cafes and valet parking queues.

On July 1, 2016, the City and the FDOT entered into a lease agreement with an initial term of five (5) years and the option to renew for an additional five (5) years for sidewalk cafes and valets within FDOT ROW along East Atlantic Avenue and South Ocean Boulevard. The rental fees for sidewalk cafes established along East Atlantic Avenue were established at a rate of \$3.50/square foot and \$4.00/square foot for sidewalk cafes and valet parking queues along South Ocean Boulevard. Additionally, the City is required to provide an annual report to the FDOT by July 1 of each year.

On May 18, 2021, the City and the FDOT mutually agreed to exercise the five-year renewal option of the lease agreement. New rental fees were also established, increasing rates for East Atlantic Avenue to \$5.00/square foot and South Ocean Boulevard to \$10.00/square foot.

Recently, the need to allow sidewalk cafes within the FDOT ROW along NE/SE 5<sup>th</sup> Avenue and Atlantic Avenue west of NE/SE 6<sup>th</sup> Avenue was recognized. The FDOT has provided an amendment to the current lease agreement, valid through May 18, 2026, establishing rates for sidewalk cafes on both NE/SE 5<sup>th</sup> Avenue and Atlantic Avenue west of NE/SE 6<sup>th</sup> Avenue at \$6.50/square foot. The existing rates of \$5.00/square foot for E Atlantic Avenue and \$10.00/square foot for South Ocean Boulevard remain in effect.

### **Attachments:**

1. Amendment to Lease Agreement
2. Renewal of Lease Agreement
3. Lease Agreement

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source:**

The lease invoice for sidewalk cafes and valet parking queues is prorated and issued following FDOT's receipt of the City's annual report, due July 1<sup>st</sup> of each year. The FY23-24 invoice totaled \$44,585. With the proposed expansion, the FY24-25 lease invoice is estimated at \$50,000. Funding is available in GL account 001-42-000-519.34-90.