

**Via FedEx Delivery**

May 25, 2017

City of Delray Beach  
434 South Swinton Avenue  
Delray Beach, Florida 33444  
Attn: John Morgan, Environmental Services Director

Re: Real Estate Lease File #317-3-1 (the "Lease") dated December 17, 2006 between FDG Flagler Station II LLC ("FDG as Lessor") and City of Delray Beach ("Lessee") concerning premises located on the Florida East Coast Railway's right-of-way, as more particularly described in the Lease

Dear Mr. Morgan,

Per your request attached are three (3) originals of the Reinstatement of and Amendment to Real Estate Lease (the "Amendment") dated November 12, 2016 and executed by Lessor.

Please note the Lessor is delivering its counterpart of the Amendment to Lessee for Lessee's full execution. In the event Lessor does not receive a fully executed counterpart of the Amendment executed by Lessee within 10 days of your Commission Meeting being held on June 20, 2017, Lessor's offer to reinstate and amend the Lease shall be deemed automatically rescinded and Lessor's executed counterpart shall be null and void.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Erich Smith  
Lease Administration Manager  
(904) 565-4135  
[Erich.Smith@parallelinfrastructure.com](mailto:Erich.Smith@parallelinfrastructure.com)

## **REINSTATEMENT OF AND AMENDMENT TO REAL ESTATE LEASE**

**THIS REINSTATEMENT OF AND AMENDMENT TO REAL ESTATE LEASE** (this "Amendment") is made and entered into as of the 12th day of November, 2016 (the "Effective Date") by and between **FDG FLAGLER STATION II LLC**, a Delaware limited liability company ("FDG"), and **CITY OF DELRAY BEACH**, a Municipal corporation ("Lessee").

### **RECITALS:**

**WHEREAS**, FDG's, predecessor in interest, Florida East Coast Railway, L.L.C., a Florida limited liability company, and Lessee entered into that certain Real Estate Lease dated as of December 17, 2006, (the "Lease") with respect to certain real property more particularly described in the Lease as the Leased Premises (hereinafter referred to as the "Original Leased Premises"); and

**WHEREAS**, pursuant to that certain letter dated October 12, 2016 the Lease was terminated; and

**WHEREAS**, FDG and Lessee desire to reinstate the Lease and to amend the Lease to replace the Original Leased Premises with that certain real property more particularly described on **Exhibit A** attached hereto and made a part hereof (the "New Leased Premises") pursuant to the terms and conditions hereinafter set forth in this Amendment; and

**WHEREAS**, Lessee acknowledges that: (i) FDG MAKES NO WARRANTY, REPRESENTATION OR UNDERTAKING, EXPRESSED OR IMPLIED AS TO THE CONDITION OF THE NEW LEASED PREMISES; (ii) Lessee, at its sole cost and expense, hereby agrees to put the New Leased Premises in such condition for its proposed use and to maintain them in their entirety; (iii) the New Leased Premises are leased as they currently exist in an AS IS condition and the Lessee, who has inspected the New Leased Premises prior to entering into this Amendment, accepts the New Leased Premises AS IS and shall henceforth be responsible for any and all repairs and maintenance to the land and any buildings, facilities and improvements located thereon; (iv) Lessee, at its sole cost and expense, shall perform all work required for the preparation of the New Leased Premises for occupancy by Lessee; and (v) Lessee does hereby accept the New Leased Premises as now being in fit and leasable condition for all purposes of Lessee.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and convenience contained herein and in the Lease, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FDG and Lessee hereby agree as follows:

1. Defined Terms. Any terms used in this Amendment as defined terms, but which are not defined herein, shall have the meanings attributed to those terms in the Lease.
2. Recitals. The foregoing recitals are true and correct and are expressly incorporated into and made a part of this Amendment as if fully rewritten herein.
3. Reinstatement of Lease. The Lease is reinstated effective as of the Effective Date as if it were not previously terminated.

4. Leased Premises. Section 1 of the Lease is hereby deleted and restated in its entirety as follows:

“Leased Premises. FDG hereby leases to Lessee and Lessee hereby leases from FDG under the terms and conditions set forth in this Lease, the following described property:

**SEE EXHIBIT A**  
**[Attached hereto and made a part hereof]**

All as shown on Florida East Coast Railway’s Drawing No. A-1277-A, dated November 29, 1996; Drawing No. A-1277, dated November 29, 1996, last revised March 2, 2017; and Drawing No. A-1277-C dated November 29, 1996, last revised March 2, 2017, attached hereto as, and made a part hereof, located within the Florida East Coast Railway, L.L.C. right of way (collectively with any buildings, facilities and improvements currently or in the future located on the described property, the “Leased Premises”).”

5. Rent. Section 3(a) of the Lease is hereby restated in its entirety as follows:

“During the portion of the Term of this Lease from December 17, 2015 through November 11, 2016, the Lessee shall pay to FDG an annual base rental in the amount of \$23,152.44 in advance on or before the 1st day of each term year, plus all sales or use taxes levied by any governmental body for the use or occupancy of the Leased Premises (“Sales and Use Tax”).

During the portion of the Term of this Lease from November 12, 2016 through December 16, 2016 the Lessee shall pay to FDG an annual base rental in the amount of \$1,646.44 in advance on or before the 1<sup>st</sup> day of each term year, plus all Sales and Use Tax.

During the remaining portion of the Term of this Lease from December 17, 2016 through December 16, 2017 the Lessee shall pay to FDG an annual base rental in the amount of \$18,029.00 in advance on or before the 1<sup>st</sup> day of each term year, plus all Sales and Use Tax.

Rent shall be paid to FDG at Flagler Station II, LLC, P.O. Box 864638, Orlando, Florida 32886-4638, or as otherwise indicated on the applicable invoices. The requirement to pay rent and other payments shall survive expiration or termination of this Lease until all Lessee’s Property (as defined in Section 14 of this Lease) is removed from the Leased Premises in accordance with this Lease and the requirements of Section 14 of this Lease are met.”

6. Authority. FDG and Lessee affirm and covenant that each has the authority to enter into this Amendment, to abide by the terms hereof, and that the signatories hereto are authorized representatives of their respective entities empowered by their respective entities to execute this Amendment.

7. Provisions of Amendment Control. To the extent the provisions of this Amendment are inconsistent with the Lease, the terms of this Amendment shall control.

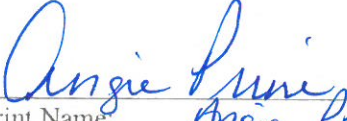
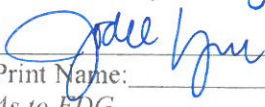
8. Force and Effect. Except as expressly amended or modified herein, all other terms, covenants and conditions of the Lease shall remain in full force and effect.

9. Successors and Assigns. The terms, conditions, covenants, and agreements contained herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. No reference in the preceding sentence to assigns shall be deemed to authorize any assignment or other transfer, in whole or in part, of the interest of Lessee in violation of any of the provisions of the Lease.

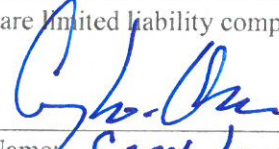
10. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original. The parties agree that a scanned or electronically reproduced copy or image of this Amendment shall be deemed an original.

[SIGNATURES FOLLOW] IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year first above written.

Signed, sealed and delivered  
in the presence of:

  
Print Name: Angie Prime  
  
Print Name: Jodie yepez  
As to FDG

**FDG FLAGLER STATION II LLC**, a  
Delaware limited liability company

By:   
Print Name: Carol W. Olson  
As its: V.P.

**CITY OF DELRAY BEACH**, a  
Municipal Corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
As to Lessee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
As its: \_\_\_\_\_

## Exhibit A

Four Parcel of land on Railway's right of way and property at Delray Beach, Florida more particularly described as follows:

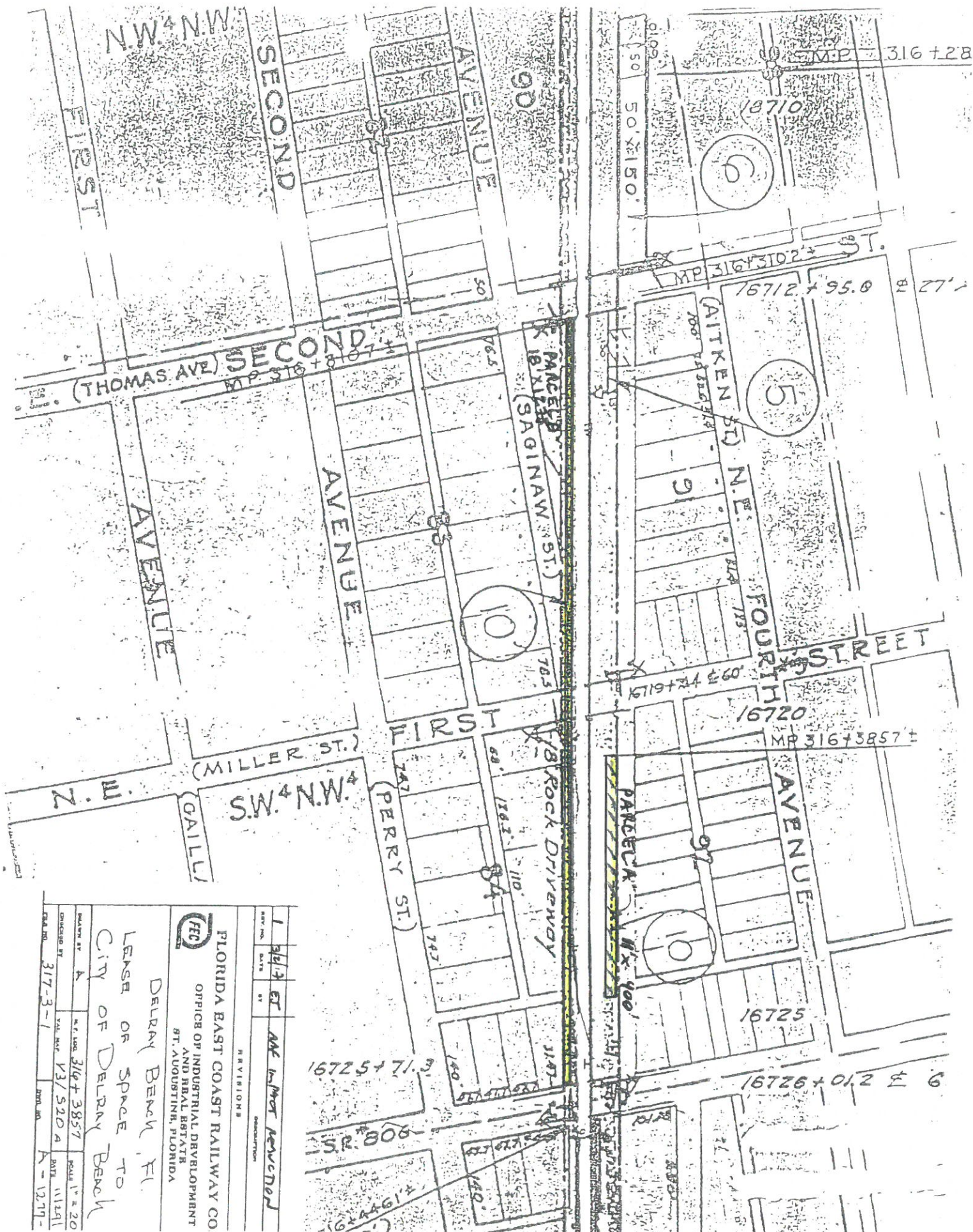
**PARCEL A:** A rectangularly-shaped parcel of land measuring 11 feet, easterly and westerly, by 400 feet, northerly and southerly, on Railway's easterly right of way with northwest corner of said parcel located 25 feet easterly from at right angles to a point located in the centerline of Railway's main track 3857 feet, more or less, southerly from Milepost 316, as measured from Jacksonville, Florida; thence continue southerly parallel with and 25 feet distance easterly from centerline of said main track for a distance of 400 feet to a point; thence continue easterly, at right angles to aforesaid course, for a distance of 11 feet to Railway's easterly right of way limit; thence continue northerly, coinciding with Railway's easterly right of way limit and parallel with the centerline of said main track for a distance of 400 feet; thence continue westerly at right angles to previously described course, for a distance of 11 feet to the Point of Beginning.

**PARCEL B:** A parallelogram-shaped parcel of land measuring 18 feet, east and west, by 1275 feet, northerly and southerly, on Railway's westerly right of way with northeast corner of said parcel located 32 feet distant westerly from and at right angles to a point in the centerline of Railway's main track, 3107 feet, more or less, southerly from Milepost 316, as measured from Jacksonville, Florida; thence continue southerly, parallel with and 32 feet distant westerly from centerline of said main track, for a distance of 1275 feet; thence continue west for a distance of 18 feet to Railway's westerly right of way limit; thence continue northerly along said westerly right of way limit for distance of 1275 feet to a point; thence continue east for a distance of 18 feet to said Point of Beginning.

**PARCEL E:** A rectangularly-shaped parcel of land on the easterly side of Railway's right of way for its main track, with said parcel being 11 feet in width, easterly and westerly, by 650 feet, more or less, in length, northerly and southerly, with easterly limit of said parcel of ground space coinciding with the Railway's easterly right of way line, westerly limit being parallel with and 25 feet distant easterly of the centerline of the Railway's main track and northerly limit being located 505 feet, more or less, southerly from Railway's Milepost 317 from Jacksonville, Florida.

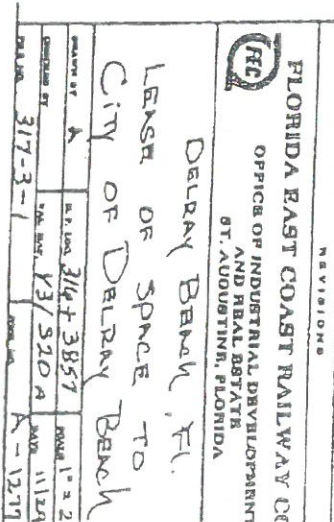
**PARCEL F:** A rectangularly-shaped parcel of land on the westerly side of Railway's right of way for its main track, with said parcel being 11 feet in width, easterly and westerly, by 460 feet, more or less, in length, northerly and southerly, beginning at a point located 4450 feet, more or less, southerly from Railway's Mile Post 317 from Jacksonville, Florida, and 25 feet westerly of the centerline of Railway's main track; thence extending southerly parallel with and 25 feet distant westerly from the centerline of Railway's main track for a distance of 460 feet, more or less, thence continue westerly 11' to the Railway's westerly right of way line; thence continue northerly along said westerly right of way limit for a distance of 460 feet to a point; thence continue east for a distance of 11 feet to said Point of Beginning.





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REV. NO.	DATE	BY	REVISIONS	DESCRIPTION	
<p><b>FLORIDA EAST COAST RAILWAY CO.</b>  <b>OFFICE OF INDUSTRIAL DEVELOPMENT</b>  <b>AND REAL ESTATE</b>  <b>871 AUGUSTINE, FLORIDA</b></p>					
<p><b>DELRAY BEACH, FL.</b>  <b>LEASE OR SPACE TO</b>  <b>CITY OF DELRAY BEACH</b></p>					
DESIGNED BY	DATE	SCALE	PLAT NO.	PLAT DATE	PLAT TIME
317-3-1	11/29	1" = 20'	13/520A	11/29	12:17







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FLORIDA EAST COAST RAILWAY CO.  
OFFICE OF INDUSTRIAL DEVELOPMENT  
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FT. LAUDERDALE, FLORIDA

DAIRY BEACH, FL.  
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