



Legislation Text

File #: 17-377, Version: 1

TO: Mayor and Commissioners
FROM: Dale S. Sugerman, Ph.D., Assistant City Manager
THROUGH: Chief Neal de Jesus, Interim City Manager
DATE: June 6, 2017

AMENDMENT TO REAL ESTATE LEASE FILE #317-3-1 BETWEEN FLAGLER STATION II LLC AND THE CITY OF DELRAY BEACH CONCERNING THE CITY'S CONTINUED USE OF THE FLORIDA EAST COAST RAILWAY RIGHT-OF-WAY

Recommended Action:

Motion to Approve an amendment to Real Estate Lease File #317-3-1 between Flagler Station II LLC and the City of Delray Beach concerning the City's continued use of the Florida East Coast Railway right-of-way.

Background:

The City of Delray Beach was provided written notice in October 2016 that the lease allowing the City's use of Florida East Coast (FEC) Railway right-of-way in the downtown area would be terminated effective November 11, 2016 due to conflicts with the construction of new rail infrastructure and expansion of rail services. In lieu of termination, the FEC was agreeable to amending the lease to allow the City to retain portions of the lease not impacted by the new rail infrastructure.

As directed by the City Manager, Environmental Services notified the FEC lease manager on November 7, 2016 that the City was interested in beginning the process to amend the lease. On March 10, 2016 the City received the Reinstatement of and Amendment to the Real Estate Lease as well as notification that the notice of lease termination was being withdrawn. The documents have been undergoing internal review.

The amendment to the lease revises the boundary of the leased premises to allow the City's continued use of the property. A condition of the lease amendment is the removal of 7 feet of asphalt, concrete curbing, and parking stops within Parcel A including a fence to prevent any encroachment into the Railroad's right-of-way.

The lease amendment requires the City's use to be no closer than 25 feet from the centerline of the main track. As a result, the size of Parcel A, will be reduced to 11 feet wide by 400 feet long on the railway's easterly right-of-way located adjacent to NE 3rd Avenue and north of East Atlantic Avenue. The leased premises is currently being used for 38 public parking spaces (90°). All of these parking spaces will be impacted by the new setback for the Brightline tracks. However, 18 parallel parking spaces which meet the City's Engineering Standards will fit in the new footprint for the amended lease; resulting in a net loss of 20 public parking spaces. Other use options such as golf cart parking

and bicycle parking are being considered in the design of the Trespass Prevention Project.

The annual rental for the leased property has been paid in full for the 12/17/15 and 12/17/16 billing periods. Based on the adjustments that will be made to those billing periods once the reinstatement and amendment is executed, there will be a credit balance on the City's account in the amount of (\$9,668.62) that can be applied to the 12/17/17 billing period. The annual rental for the leased property for the 12/17/16 and 12/17/17 billing period is \$18,029.

City Attorney Review:

Approved as to form and legal sufficiency.

Finance Department Review:

Finance recommends approval.

Funding Source:

Funding is available from account number 001-3151-545.44-10 (General Fund: Land Leases).

Timing of Request:

Consideration of this lease amendment is a high priority and integral to the design of the Trespass Prevention Project.