

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION OF A STIPULATION WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION AND FLORIDA EAST COAST, LLC PERMITTING, SUBJECT TO CERTAIN TERMS AND CONDITIONS, THE CLOSURE OF THE NW 2ND STREET RAILROAD CROSSING AND DELEGATING TO THE CITY MANAGER THE AUTHORITY TO EXECUTE THE STIPULATION; REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as part of the All Aboard Florida rail project it has been deemed necessary that the N.W. 2nd Street railroad crossing be permanently closed; and

WHEREAS, a Stipulation permitting the permanent closing of the N.W. 2nd Street railroad crossing has been tendered to the City by the Florida Department of Transportation and the Florida East Coast, LLC, the effect of which is to agree to a permanent closing of the railroad crossing and avoidance of a separated administrative hearing thereon under Chapter 120, Florida Statutes;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That each WHEREAS clause set forth above is true and correct and incorporated herein by this reference.

SECTION 2. That the City Commission hereby authorizes execution of the Stipulation Of Parties for the Closure of NW 2nd Street Railroad-Highway Grade Closing, Crossing Number 272554D, City of Fort Lauderdale, a copy of which is attached hereto as Exhibit "A".

SECTION 3. That the City Commission hereby delegates authority to the City Manager to execution the Stipulation identified in Section 2 hereof.

SECTION 4. That any and all Resolutions in conflict herewith are hereby repealed.

SECTION 5. That this Resolution shall be in full force and effect immediately upon and after its final passage..

ADOPTED this the ____ day of _____, 2014.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

**STIPULATION OF PARTIES FOR THE CLOSURE OF
NW 2ND STREET RAILROAD-HIGHWAY GRADE CROSSING,
CROSSING NUMBER 272554 D,
CITY OF FORT LAUDERDALE, FLORIDA**

The City of Fort Lauderdale, Florida (CITY), Florida East Coast LLC (RAILROAD), and Florida Department of Transportation (DEPARTMENT) agree to the following conditions:

1. The RAILROAD has filed an application with the DEPARTMENT for a permit to close a public railroad-highway grade crossing, pursuant to Section 335.141(1), Florida Statutes (F.S.) and Rule 14-57.012, Florida Administrative Code (F.A.C.), attached as EXHIBIT "A."

2. The public railroad-highway grade crossing, Crossing Number 272554 D, at Railroad Milepost 340.91, is located at NW 2nd Street, Fort Lauderdale, Florida, as shown on the map, attached as EXHIBIT "B." NW 2nd Street is a two-lane road, classified as a major collector.

3. The RAILROAD will notify the CITY a minimum of 72 hours prior to starting any work related to the closing of the subject crossing.

4. The RAILROAD, at its expense, will remove all evidence of the crossing and restore the RAILROAD right-of-way. The RAILROAD is responsible for removing the concrete paneled crossing surface, all crossing signs and signals, roadway pavement, and all crossing debris inside the RAILROAD's right-of-way.

5. Prior to the start of the subject crossing's closure, the RAILROAD, at its expense, will erect, on each side of the crossing, permanent closure signs and object markers as identified in the DEPARTMENT's Standard Index 17349 and shown in EXHIBIT "C".

6. The CITY, at the RAILROAD's expense, will remove any rail crossing advance warning signs and pavement markings pertaining to the subject crossing.

7. All work by the RAILROAD, DEPARTMENT, or CITY will be in compliance with the current Manual of Uniform Traffic Control Devices, incorporated by reference in Rule 14-15.010,

EXHIBIT "A"

F.A.C., the American Association of State Highway and Transportation Officials Policy, and the current Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways, incorporated by reference in Rule 14-15.002, F.A.C.

8. All work by the RAILROAD or CITY, within the railroad-highway grade crossing area, will be in accordance with all applicable railroad requirements, such as flagging, insurance, etc.

9. The RAILROAD will provide the DEPARTMENT's District Four Rail Coordinator with the scheduled date of work, the project completion date, and a completed U.S. DOT Crossing Inventory form identifying the updated crossing status as closed, as attached in EXHIBIT "D".

10. This Stipulation of Parties has been executed by all parties having an interest in this matter. The RAILROAD and CITY waive the right to request an administrative hearing, provided by Chapter 120, F.S., relating to the closure of the NW 2nd Street railroad-highway grade crossing by execution of this Stipulation of Parties.

11. The terms of this Stipulation of Parties may not be changed, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by RAILROAD, CITY, and DEPARTMENT.

12. Any failure of any party to insist upon the strict performance of any terms or provisions of this Stipulation of Parties shall in no way constitute a waiver of future violations of the same or any other term or provision of this Stipulation.

13. This Stipulation of Parties is governed by, and shall be interpreted and construed in accordance with, the laws of the State of Florida.

14. The DEPARTMENT authorizes the closure of the NW 2nd Street railroad-highway grade crossing as evidenced by the execution of this Stipulation of Parties, provided all conditions of the Stipulation are met, the removal of the crossing surface and signs are completed within eighteen (18) months of the execution, and the completed closure project is inspected and approved by the DEPARTMENT.

(THIS CONCLUDES THE BODY OF THIS STIPULATION OF PARTIES)

FLORIDA EAST COAST LLC – RAILROAD

By: _____
(Authorized Signature)

Title: _____

Printed Name: _____

Attest: _____

Date: _____

CITY OF FORT LAUDERDALE – CITY

By: _____
(Authorized Signature)

Printed Name: _____

Title: _____

Attest: _____
(Authorized Official)

Date: _____

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
State Freight & Logistics Administrator

Date: _____

**DEPARTMENT OF TRANSPORTATION
LEGAL REVIEW**

By: _____
Attorney, FDOT

Date: _____