



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: 10/24/24

14

DOCUMENT TITLE: Amendment to the Lease Agreement with the Florida Department of Transportation for Right-of-Way Land Above the Henry E. Kinney Tunnel

COMM. MTG. DATE: 10/15/2024 CAM #: 24-0938 ITEM #: CM-14 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: S.Sierra/5598 Action Summary attached: ☒ YES ☐ NO

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: CAO Router Name/Ext: S.Sierra/5598 # of originals routed: 4 Date to CAO: 10/24/24

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 4

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 10/24/24 Lynn Solomon
Attorney's Name

Initials

3) City Clerk's Office: # of originals: 4 Routed to: Donna V./Amber Cabrera./CMO Date: 10/24/24

4) City Manager's Office: CMO LOG #: OCT 30 Document received from: CCO 10/25/24

Assigned to: SUSAN GRANT ☐ ANTHONY FAJARDO ☐ LAURA REESE ☐ BEN ROGERS ☐

SUSAN GRANT as Acting City Manager ☐

☐ APPROVED FOR S. GRANT'S SIGNATURE

☐ N/A FOR S. GRANT TO SIGN

PER ACM: A. Fajardo _____ (Initial/Date) PER ACM: L. REESE _____ (Initial/Date)

B. Rogers _____ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Comments/Questions: _____

Forward ☒ originals to ☐ Mayor ☒ CCO Date: 10/25/24

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Scan original and forwards 4 originals to: Gina Rizzuti-Smith/TAM/ Ext 3764

*****Please email a scan of completely executed documents to ssierra@fortlauderdale.gov

Attach certified Reso # _____ ☐ YES ☒ NO

Original Route form to Sonias/5598

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis

CM-12 [24-0915](#)

Motion Approving FY 2025 Beach Business Improvement District (BBID) Grant Participation Agreement with UniteUs Group Inc. - \$10,000 - (Commission District 2)

APPROVED

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis

CM-14 [24-0938](#)

Motion Approving and Authorizing the Execution of an Amendment to the Lease Agreement with the Florida Department of Transportation for Right-of-Way Land Above the Henry E. Kinney Tunnel - (Commission District 4)

APPROVED

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis

CM-15 [24-0994](#)

Motion Approving the First Amendment to Comprehensive Agreement Developing a Full-Service Movie Studio Complex at 1400 NW 31st Avenue - (Commission District 3)

APPROVED

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis

CM-16 [24-1012](#)

Motion Approving Change Order No. 1 for the Galt Ocean Mile Beautification Improvements - Chen Moore and Associates, Inc. - \$61,435 and extend the contract term by 114 days - (Commission District 1)

APPROVED

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis

CM-17 [24-0965](#)

Motion Eliminating July 15, 2025, and August 5, 2025, Conference and Regular Meetings for Vacation - (Commission Districts 1, 2, 3 and 4)

APPROVED

Yea: 5 - Commissioner Beasley-Pittman, Commissioner Sturman,
Commissioner Herbst, Vice Mayor Glassman and Mayor Trantalis



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#24-0938

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Susan Grant, Acting City Manager

DATE: October 15, 2024

TITLE: Motion Approving and Authorizing the Execution of an Amendment to the
Lease Agreement with the Florida Department of Transportation for Right-
of-Way Land Above the Henry E. Kinney Tunnel - (**Commission District
4**)

Recommendation

Staff recommends the City Commission consider a motion approving and authorizing the execution of an amendment to the Lease Agreement between the Florida Department of Transportation (FDOT) and the City for the right-of-way land (leased area) above the Henry E. Kinney Tunnel for the newly constructed Henry E. Kinney Tunnel Top Pedestrian Plaza (Tunnel Top Park), in substantially the form attached.

Background

On January 12, 1999, FDOT and the City entered into a twenty (20) year lease agreement for the purpose of establishing a linear park above the Henry E. Kinney Tunnel. The Leased Area included the Laura Ward Riverwalk Plaza and a portion of SE 6th Avenue.

On May 23, 2002, as part of a grant-funded improvement project, the FDOT extended the lease agreement with the City for a forty (40) year term, beginning on January 12, 1999, and ending on January 11, 2039, with an option to extend for one additional forty (40) year term.

In 2014, the City and FDOT agreed to integrate a park into the FDOT's impending rehabilitation project of the Henry E. Kinney Tunnel. The Henry E. Kinney Tunnel rehabilitation and Tunnel Top Park included a pedestrian plaza structure, raising of the intersection of Las Olas Boulevard and SE 6th Avenue, reconstruction of the north ventilation building, and landscape and hardscape of the leased area.

An Addendum to the Lease between the City of Fort Lauderdale and The State of Florida Department of Transportation dated January 12, 1999, was executed further detailing the Lessee responsibilities for the New River Tunnel.

On November 2, 2021, prior to the construction of Tunnel Top Park began, the City approved an amendment to the existing lease agreement to restrict public access, close off the leased area while construction was active, reduce the footprint of the leased area by 1,500 feet, but this amendment was never signed by FDOT.

Given the completion of the Henry E. Kinney Tunnel Top Park, the FDOT and the City must amend the lease agreement to include the new constructed area and to reduce the footprint of the leased premises.

Resource Impact

There is no fiscal impact associated with this action.

Strategic Connections

This item supports the *Press Play Fort Lauderdale 2029* Strategic Plan, specifically advancing:

- The Public Places Focus Area, Goal 5: Build a beautiful and welcoming community

This item advances the *Fast Forward Fort Lauderdale 2035* Vision Plan: We are Here

This item supports the *Advance Fort Lauderdale 2040* Comprehensive Plan specifically advancing:

- The Public Places Focus Area
- The Parks, Recreation, & Open Spaces Element
- Goal1: Be a community where persons of all ages are able to partake in a fun and healthy lifestyle

Attachments

Exhibit 1 – 1999 Public Purpose Lease Agreement

Exhibit 2 – 2002 Amendment to Lease Agreement

Exhibit 3 – 2002 Addendum

Exhibit 4 – 2021 Amendment to Public Purpose Lease Agreement

Exhibit 5 – Amendment of Lease

Exhibit 6 – Leased Area

Prepared by: Morgan Dunn, Program Manager I, Transportation and Mobility

Acting Department Director: Milos Majstorovic, MSCE, PE, Transportation and Mobility

AMENDMENT OF LEASE

Item/Segment No. : N/A (RWMS FM # 230337-1)
State Project No. : 86010-2112
Federal Project No. : N/A
State Road No. : SR 5 (US-1)
County : Broward
Excess Parcel No. : 1877

THIS AMENDMENT OF LEASE made and effective this ____ day of _____, 20____ between the City of Fort Lauderdale ("Lessee"), and acknowledged by the State of Florida Department of Transportation ("Lessor").

WITNESSETH:

WHEREAS, Lessee entered into a Lease Agreement (hereinafter, "the Lease") with Lessor on January 12, 1999 and amended on May 23, 2002 to extend the lease term from twenty (20) years to forty (40) years; and

WHEREAS, Lessee desires to amend the Lease with Lessor by adding an additional area which includes the newly constructed pedestrian plaza located just north of the intersection of Las Olas Boulevard and Southeast 6th Avenue, which is above the Kinney tunnel; and

WHEREAS, Lessee hereby requests that the Lessor consent to the amendment of the Lease.

NOW, THEREFORE, for good and valuable consideration flowing among the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do agree as follows:

1. This lease is subject to all utilities remaining in place and in use or relocated at the expense of Lessee.
2. Lessee acknowledges that the leased property cannot be and is not being used for site plan approval in conjunction with any development order, permits, or any other governmental requirements.
3. Any changes in the use of or improvements/alterations made on or to the leased property shall require a permit issued from Lessor's Permits Office and/or a lease amendment, as applicable. Lessor will advise Lessee of the appropriate document upon request.
4. Lessee acknowledges that the leased property cannot be and is not being used to obtain any grant, award, donation, endowment, subsidy, or allotment for any reason, whether repayable or non-repayable.
5. Lessee agrees that this lease shall not be recorded in the public records without the express written consent of the Lessor.
6. Lessee agrees to provide Lessor with a copy of any local, state, or federal permit(s) obtained that include the leased property.
7. Nothing is permitted to be discharged into drains/inlets on or adjacent to the leased property, if applicable.
8. The following shall apply if the lease needs to be suspended and Lessee is required to vacate the leased property or allowed to remain on leased property.
 - a. Lessor will provide Lessee with written notification prior to the commencement of an upcoming project that will include the leased property, with notice to lessee if vacating the property is necessary.
 - b. Lessee shall be responsible for removing all items and personal property from the leased property once notice is given of same. Lessee shall be responsible for removal and off-site storage of all items and personal property at its own expense.

- c. Lessee shall not be allowed to occupy the leased property while project activities are underway in leased property; however, Lessee may return as soon as the Lessor gives written notice that project is complete.
 - d. After project completion, Lessee shall be responsible for any expenses related to the return of all items and personal property to the leased property.
 - e. The Lessee may be permitted to leave items in the leased area and occupy the lease area only if the Lessor agrees in writing.
9. Lessee agrees that no activities shall be permitted to disrupt the Stranahan House, which is a SHPO National Registered Site.
10. The Lessee agrees to reinstate the lease that was suspended by the Lessor on February 11, 2022, and acknowledged by the Lessee on February 17, 2022, effective upon execution of this amendment.
11. The Lessee acknowledges that the newly constructed pedestrian plaza, located just north of the intersection of Las Olas Boulevard and Southeast 6th Avenue, which is above the Kinney tunnel, is now part of the "lease area" in the original lease agreement. The "lease area" refers to the property described in Exhibit "A" attached.

All other provisions, terms and conditions in the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed below and the Amendment shall be effective on October 25, 20 24.

CITY OF FORT LAUDERDALE:

By: See JAP

Name: Jason Grant

Title: Acting City Manager

ATTEST:

D.R.S.

Signature

David B. Solomon

Print Name



Approved as to form and correctness:
Thomas J. Ansbros, City Attorney

Lynn Solomon, Asst. City Attorney

[DEPARTMENT SIGNATURES ON THE FOLLOWING PAGE]

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: Steven C. Braun, P.E.

Title: District 4 Secretary

ATTEST:

Signature (Seal)

Name: Alia E. Chanel

Title: Executive Secretary

Legal Review:

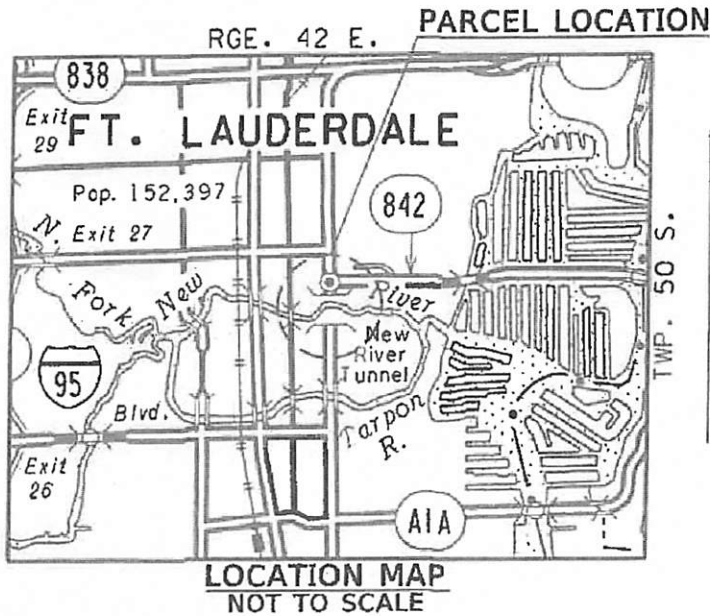
Signature

Name: Elizabeth Quintana

Title: Senior Attorney

EXHIBIT "A"

LEGEND



B	=	BASELINE
Δ	=	CENTRAL ANGLE
C.B.	=	CHORD BEARING
D.C.R.	=	DADE COUNTY RECORDS
E	=	EASTING
EXIST.	=	EXISTING
FDOT	=	FLORIDA DEPARTMENT OF TRANSPORTATION
F.M.	=	FINANCIAL MANAGEMENT
L	=	ARC LENGTH
L.B.	=	LICENSED BUSINESS
LT	=	LEFT
N	=	NORTHING
NO.	=	NUMBER
O.R.B.	=	OFFICIAL RECORDS BOOK
(P)	=	PLAT
P.B.	=	PLAT BOOK
PG.	=	PAGE
P.O.B.	=	POINT OF BEGINNING
P.O.C.	=	POINT OF COMMENCEMENT
R	=	RADIUS
RT	=	RIGHT
R/W	=	RIGHT OF WAY
RGE.	=	RANGE
S	=	SOUTH
SEC.	=	SECTION
S.R.	=	STATE ROAD
STA.	=	STATION
SUBD.	=	SUBDIVISION
TWP.	=	TOWNSHIP
W	=	WEST

GENERAL NOTES:

1. BEARINGS AND COORDINATES ARE RELATIVE TO THE STATE PLANE COORDINATES, FLORIDA EAST ZONE, NORTH AMERICAN DATUM (NAD) OF 1983 (ADJUSTMENT OF 1990) A BEARING OF N 04°15'26" W HAS BEEN ESTABLISHED BETWEEN MONUMENTS BLC4 STAMPED "5 86 17 C04" AND BLC5 STAMPED "5 86 07 C05" AS SHOWN ON PROJECT NETWORK CONTROL SHEET FOR STATE PROJECT 439714-1-52-01 AS ON FILE AT DISTRICT IV SURVEYING AND MAPPING IN FORT LAUDERDALE, FLORIDA.

POINT	NORTHING	EASTING	DESCRIPTION
BLC4	649,191.656	939,312.137	SET FDOT ALUMINUM DISK STAMPED "5 86 17 C04"
BLC5	650,923.027	939,183.251	FOUND FDOT BRASS DISK STAMPED "5 86 07 C05"

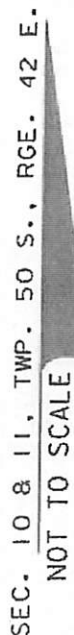
2. EXISTING BASELINE AND RIGHT OF WAY SHOWN HEREON FOR STATE ROAD 5 WAS PROVIDED BY FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT IV SURVEYING AND MAPPING DEPARTMENT.
3. THIS SKETCH EXISTS SOLELY FOR THE PURPOSE OF ILLUSTRATING THE LEGAL DESCRIPTION SHOWN HEREIN ON SHEETS 4 AND 5.
4. ALL BEARINGS AND DISTANCES ARE CALCULATED UNLESS OTHERWISE NOTED.
5. HATCHED AREA TO BE LEASED.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
SURVEYING AND MAPPING
3400 WEST COMMERCIAL BOULEVARD
FT. LAUDERDALE, FLORIDA 33309
954-777-4551

VAULT PROJECT:RWMAPPING/r4397141_SR5/RWPSLEASE-1sh1.dgn

				FLORIDA DEPARTMENT OF TRANSPORTATION	
				PARCEL SKETCH - NOT A SURVEY	
				BROWARD COUNTY	
				STATE ROAD NO. 5	
		BY	DATE	PREPARED BY:	DATA SOURCE:
		DRAWN	C MILLER	02-20-24	MANUEL G. VERA & ASSOCIATES, INC., LB#2439
		CHECKED	T TRUONG	03-28-24	F.M. NO. 439714-1
				SECTION 86010-2112	SHEET 01 OF 05
REVISION	BY	DATE			

CITY OF FORT LAUDERDALE



CITY OF FORT LAUDERDALE

LINE DATA		
LINE	BEARING	LENGTH
L1	S 07°58'07" W	60.84'
L2	N 77°24'28" W	25.57'
L3	N 89°20'29" W	27.22'

CURVE (A)
 $\Delta = 92^{\circ}09'04''$ (RT)
 $L = 32.17'$
 $R = 20.00'$
 C.B. = $S\ 44^{\circ}34'59''\ W$

CURVE (B)
 $\Delta = 87^{\circ}50'56''$ (RT)
 $L = 30.67'$
 $R = 20.00'$
 C.B. = $N\ 45^{\circ}25'01''\ W$

DETAIL "A" NOT TO SCALE

VAULT PROJECT:RWMAPPING/r4397141_SR5/RWPSLEASE-1sh3.DGN

			FLORIDA DEPARTMENT OF TRANSPORTATION				
			PARCEL SKETCH - NOT A SURVEY				
			STATE ROAD NO. 5				BROWARD COUNTY
				BY	DATE	PREPARED BY:	DATA SOURCE:
			DRAWN	C MILLER	02-20-24	MANUEL G. VERA & ASSOCIATES, INC., LB#2439	N/A
REVISION	BY	DATE	CHECKED	T TRUONG	03-28-24	F.M. NO. 439714-1	SECTION 86010-2112
						SHEET 03 OF 05	

EXHIBIT "A"

A portion of land lying within the existing Right of Way corridor for State Road 5, Sections 10 and 11, Township 50 South, Range 42 East, Broward County, Florida; said portion being more particularly described as follows:

Commence at the Southwest corner of Lot 7, EDGEWATER ADDITION CORRECTED PLAT, according to the plat thereof, as recorded in Plat Book 2, Page 73 of the Public Records of Dade County, Florida, said point also being the point of intersection with the Northerly Existing Right of Way line of East Las Olas Blvd. and the Easterly Existing Right of Way line of State Road 5; thence South 07°58'07" West, a distance of 60.84 feet to the POINT OF BEGINNING, said point also being the point of intersection with the Southerly Existing Right of Way line of East Las Olas Blvd. and said Easterly Existing Right of Way line of State Road 5; thence South 01°29'33" East along said Easterly Existing Right of Way line of State Road 5, a distance of 43.76 feet; thence South 88°30'27" West, a distance of 20.00 feet; thence South 01°29'33" East, a distance of 75.00 feet; thence North 88°30'27" East, a distance of 20.00 feet to a point on said Easterly Existing Right of Way line of State Road 5; thence South 01°29'33" East along said Easterly Existing Right of Way line of State Road 5, a distance of 182.29 feet; thence North 84°12'35" West, a distance of 91.74 feet to a point on the Westerly Existing Right of Way line of State Road 5; thence along said Westerly Existing Right of Way line of State Road 5 for the following described three (3) courses: (1) North 01°29'33" West, a distance of 134.16 feet; thence (2) North 10°02'05" West, a distance of 26.93 feet; thence (3) North 01°29'33" West, a distance of 128.26 feet to a point on said Southerly Existing Right of Way line of East Las Olas Blvd.; thence North 88°17'25" East, a distance of 95.00 feet to the POINT OF BEGINNING.

Containing 0.595 acres, more or less.

AND

A portion of land lying within the existing Right of Way corridor for State Road 5, Sections 10 and 11, Township 50 South, Range 42 East, Broward County, Florida; said portion being more particularly described as follows:

Commence at the Southwest corner of Lot 7, EDGEWATER ADDITION CORRECTED PLAT, according to the plat thereof, as recorded in Plat Book 2, Page 73 of the Public Records of Dade County, Florida, said point also being the point of intersection with the Northerly Existing Right of Way line of East Las Olas Blvd. and the Easterly Existing Right of Way line of State Road 5; thence North 77°24'28" West, a distance of 25.57 feet to the POINT OF BEGINNING and to the beginning of a curve concave Northwesterly, having a chord bearing of South 44°34'59" West; thence Southwesterly along the arc of said curve, having a radius of 20.00 feet, through a central angle of 92°09'04", an arc distance of 32.17 feet; thence North 89°20'29" West, a distance of 27.22 feet to the beginning of a tangent curve concave Northeasterly, having a chord bearing of North 45°25'01" West;

VAULT PROJECT:RWMAPPING/r4397141_SR5/RWPSLEASE-1sh4.DGN

REVISION		BY	DATE	FLORIDA DEPARTMENT OF TRANSPORTATION PARCEL SKETCH - NOT A SURVEY			
				STATE ROAD NO. 5			
				BROWARD COUNTY			
		BY	DATE	PREPARED BY:		DATA SOURCE:	
		DRAWN	C MILLER	02-20-24	MANUEL G. VERA & ASSOCIATES, INC., LB#2439		N/A
		CHECKED	T TRUONG	03-28-24	F.M. NO. 439714-1		SECTION 86010-2112
		SHEET 04 OF 05					


EXHIBIT "A"

thence Northwesterly along the arc of said curve, having a radius of 20.00 feet, through a central angle of 87°50'56", an arc distance of 30.67 feet; thence North 01°29'33" West, a distance of 122.63 feet; thence North 88°30'27" East, a distance of 67.20 feet; thence South 01°29'33" East, a distance of 123.65 feet to the POINT OF BEGINNING.

Containing 9,448 square feet, more or less.

All together containing 0.812 acres, more or less.

I hereby certify that this sketch and legal description were prepared under my direction and that said sketch and legal description is in compliance with the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code pursuant to Section 472.027, Florida Statutes.

 03/28/24
Mark R. Sowers Date
Florida Professional Surveyor & Mapper No. 5266
Florida Department of Transportation

Not valid unless signed and sealed.

VAULT PROJECT:RWMAPPING/r4397141_SR5/RWPSLEASE-1sh5.DGN

				FLORIDA DEPARTMENT OF TRANSPORTATION	
				PARCEL SKETCH - NOT A SURVEY	
				STATE ROAD NO. 5	
				BROWARD COUNTY	
		BY	DATE	PREPARED BY:	DATA SOURCE:
				MANUEL G. VERA & ASSOCIATES, INC.. LB#2439	N/A
REVISION	BY	DATE	CHECKED	T. TRUONG	03-28-24
				F.M. NO. 439714-1	SECTION 86010-2112
					SHEET 05 OF 05