



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

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: November 5, 2013

TITLE: Motion to authorize execution of a three-party Revocable License Agreement between the North Broward Hospital District D/B/A Broward Health, Broward County and City of Fort Lauderdale for the installation and maintenance of street trees and landscaping in the South Andrews Avenue right-of-way.

Recommendation

It is recommended that the City Commission adopt a motion authorizing execution of a three-party Revocable License Agreement between the North Broward Hospital District D/B/A Broward Health, Broward County and the City of Fort Lauderdale for the installation and maintenance of street trees and landscaping in the South Andrews Avenue Right-of-Way.

Background

The Sports Medicine and Orthopedic Center of Excellence is three-story building (located at 1601 South Andrews Avenue) that is currently in the construction phase. In September 2011 the North Broward Hospital District D/B/A Broward Health (designated as "Licensee" in the subject Revocable License Agreement) received final site plan approval for the Andrews Avenue Medical Office for Broward Health (DRC Case No. 34-R-11). A partial Certificate of Occupancy was issued in September 2013 for most of the second and third floor space under building permit No. 11111753; construction for the first floor and remaining offices in the upper floors is still underway. The ultimate build-out is proposed to have approximately 37,000 square feet of medical office space.

This development is being required to install approximately 12 live oak trees, minor ground cover, irrigation and other incidental items within the South Andrews Avenue right-of-way abutting the project. This requirement is in accordance with the City's Strategic Plan initiative promoting walkability and the South Andrews Avenue Master Plan design guidelines.

Revocable licenses are presented to the City Commission for approval in order to permit the temporary and conditional use of City rights-of-way by private entities. These

licenses typically obligate the “Licensees” to comply with certain conditions and minimum requirements, provide insurance and indemnify the City; any violations or default of contract are enforced through the assessment of fees and attachment of liens on the Licensee’s property. The continued use of the license areas are conditioned on the City’s right to require removal of the permitted improvements for non-compliance or if there is ever a conflict with public safety or a higher public purpose.

In this case, since Andrews Avenue is under County jurisdiction, the County is requiring the City to be a party to their Revocable License Agreement with Broward General (Licensee). A copy of the Revocable License is attached as Exhibit 1.

Paragraph 4.5 of the Agreement would require the City to be responsible in the event the Licensee (or an authorized entity contracted to do work on their behalf) does not comply with the terms and conditions therein. The City’s obligation would commence upon written notice from the County to the City that the Licensee is in non-compliance; the County would not be need to proceed against Licensee or exhaust any other remedies it may have against Licensee or the City prior to enforcing the obligations of the City.

The Licensee’s obligations contained in the agreement may be summarized under the following general categories:

- Plan submittals to the County and compliance with right-of-way and landscaping standards
- Perpetual maintenance of the improvements
- Removal of the improvements and restoration of the right-of-way (upon termination of the Agreement)
- Evidence of liability protection
- Contractual provisions, indemnification and insurance requirements for contractors that may be performing work on behalf of Licensee

Since Broward Health is a governmental entity operating under the provisions of Section 768.28, Florida Statutes, neither the insurance requirements nor the standard enforcement provisions (such as fines and liens on the Licensees property) are applicable and have been excluded from the Agreement.

In order to alleviate any concerns by the City over liability, as a separate stand-alone instrument, Broward Health has unilaterally executed a Hold Harmless declaration stating that they will indemnify the City from all administrative actions initiated by Broward County or any other person whomsoever, any lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind in connection with or arising directly out of their obligations under the Revocable License Agreement. The Hold Harmless Declaration is attached as Exhibit 2).

Should the City Commission decide to approve this Motion, the Agreement would be placed on an upcoming County Commission agenda for consideration and if approved, would become effective on the date the County executes the Agreement. The term of the Agreement would be for as long as the Licensee has need of the area, subject to the termination provisions. The Hold Harmless declaration would become effective on even date with the Revocable License.

Resource Impact

There is no fiscal impact to the City associated with this action.

Strategic Connections

This item is a *Press Play Fort Lauderdale Strategic Plan 2018 initiative*, included within the **Infrastructure Cylinder of Excellence**, specifically advancing:

- **Goal 1:** Be a pedestrian friendly, multi-modal City.
- **Objective 2:** Integrate transportation land use and planning to create a walkable and bikeable community.

This item also advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We are Connected*.

Attachments:

Exhibit 1 – Revocable License

Exhibit 2 – Hold Harmless Agreement

Prepared by:

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