



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#21-1094

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

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: November 16, 2021

TITLE: Resolution Authorizing the Execution of a Facilities Relocation Agreement with Florida Power and Light Company (FPL) for Relocation of Transmission Lines Contingent on the Fort Lauderdale Community Redevelopment Agency's Approval of the Expenditure, Approval of an Excess Cost and Grant Of Easement Agreement, an Eleventh Amendment to the Development Agreement with Village of the Arts, Ltd., a Guaranty Agreement with Milton and Barbara Jones and a Recognition Agreement with Bank of America, N.A., and Authorizing the City Manager to Execute Certain Documents and Instruments, To Take Certain Actions and Providing for an Effective Date - (**Commission District 3**)

Recommendation

Staff recommends the City Commission adopt a resolution authorizing the execution of a Facilities Relocation Agreement with Florida Power and Light Company (FPL) to relocate FPL transmission facilities associated with the development of City property at 543 NW 5 Avenue, contingent on the Fort Lauderdale Community Redevelopment Agency (CRA) approval of the expenditure, approval of an Excess Cost and Grant of Easement Agreement with Village of the Arts Ltd, approval of a Guaranty Agreement with Milton Jones Jr. and Barbara Jones, approval of an Eleventh Amendment to the Development Agreement with Village of the Arts, Ltd., approval of a Recognition Agreement with Bank of America, N.A. and authorizing the City Manager to execute certain documents and instruments necessary or incidental to the consummation of the transaction, to take certain actions and providing for an effective date.

Background

At its meeting of June 19, 2018, the City Commission approved a resolution to execute an agreement with Florida Power and Light Company (FPL) to prepare a detailed cost estimate and design for the proposed relocation of a major transmission line that crosses the City owned vacant parcel fronting Sistrunk Boulevard proposed for development at 543 NW 5th Avenue. Subsequently, the CRA Board on June 19, 2018, authorized the expenditure of \$143,080 for FPL to prepare the detailed cost estimate and design. Relocation of the utility line is part of the Northwest Progresso Flagler Heights (NPF) CRA Community Redevelopment Plan and is in the City of Fort

Lauderdale Community Investment/CRA CIP Program with an available budget of \$3,178,929 under (P12096.347). FPL has completed their detailed cost estimate and design for the relocation of this transmission line and has determined the cost to be \$1,831,420.83 and has provided the binding cost estimate to the City. FPL requires payment of 120% of the cost estimate prior to commencing work and will credit the City for the expenditure of \$143,080 to prepare the cost estimate whereby the balance due to FPL will be \$2,054,625.00 for their services. The Cost Estimate from FPL is valid through January 21, 2022. A copy the Facilities Relocation Agreement is attached as Exhibit 1.

The City-owned parcel affected by the transmission line that prevents its development is subject to a Land Disposition, Development and Management Agreement (Development Agreement) between the City and Village of the Arts, Ltd., MJDC AOA, LLC., the Milton Jones, Jr and Barbara Jones (Developer). It identifies the parcel as Phase II of the development located at the intersection of NW 7th Avenue and Sistrunk Boulevard. The project to be developed on the site is a mixed-use development consisting of an eight story structure with up to 200 residential units, swimming pool and deck area, health club room, administrative offices, no less than 5,000 square feet of ground floor retail and parking garage. Location of the transmission line and an illustration of the Project is attached as Exhibit 2. The total project cost was estimated at \$31,997,595 as of November 7, 2017. The Developer has a \$21.4 million commitment from Bank of America (Exhibit 3) and Developer equity will cover the remaining project cost. However, the project cannot proceed until the prerequisite relocation of the transmission line is completed. In order for this relocation to occur, Regal Trace, Ltd, an entity controlled by Milton and Barbara Jones, will need to grant an easement to FPL over its adjacent property to accommodate the rerouting of the transmission line. Regal Trace Ltd. has agreed to the easement.

The Developer has also agreed to cover \$207,835.98 plus any additional costs for any cost overruns associated with the utility line relocation by FPL with a final reconciliation when the job is complete. A copy of the Agreement between the City and the Developer to cover excess cost and grant an easement is attached as Exhibit 4. Milton and Barbara Jones have also agreed to a Guaranty Agreement which will compensate the City for the value of the land in the event Bank of America exercises its right to terminate the Development Agreement. Should the bank or banks successor obtain title to the Property whether by foreclosure, deed in lieu of foreclosure, or other process, Milton Jones Jr and Barbara Jones will guarantee payment to the City of the fair market value of the Property. A copy of the Guaranty Agreement is attached as Exhibit 5. In exchange for the easement from Regal Trace LTD., the City has agreed to convey the Property by Quit Claim Deed subject to a right of reverter. An Amendment to the Developers Agreement with the City (Exhibit 6) and the terms within the Quit Claim Deed require commencement of the project within 3 years and completion of the Project within 5 years of conveyance of the property by the City unless delays are caused by FPL whereby two one-year extensions may be granted by the City Manager.

Also, should the Developer be unable to commence construction in 3 years and complete the project in 5 years, the property will automatically revert back to the City unless extended by the City. Upon closing with Bank of America, the City shall subordinate its right of reverter in favor of Bank of America. The Developer is prepared to immediately proceed with the redevelopment of the site once the FPL transmission line relocation is completed. The Developer has also agreed to provide a community benefit of \$100,000 in the form of a scholarship fund for CRA residents.

At their meeting of April 9, 2019, the CRA Advisory Board unanimously recommended that the CRA Board approve funding the relocation of the Florida Power and Lights Company transmission facilities that cross 543 NW 5th Avenue to facilitate the redevelopment of the property. CRA Board approval of this item is on November 16, 2021, CRA Agenda as CAM 21-1095.

Consistency with the NPF CRA Community Redevelopment Plan

The NPF CRA Community Redevelopment Plan is designed, in part to stimulate private development of areas planned for development. The NPF CRA 5 Year Program, a component of the redevelopment plan includes a set of core strategic objectives and development goals and priorities. Strategic Objectives and goals include aggressively pursuing the redevelopment of all vacant properties at the intersection of Sistrunk Boulevard and NW 7th Avenue for large scale development and investing in development projects that promote public/private partnerships, enhance tax revenues, and promote investment in the redevelopment area. The program recommends funding of capital projects including the Shoppes on Arts Avenue relocation of an overhead utility line to address redevelopment obstacles and assist with Phase II of the project.

Resource Impact

There is no fiscal impact associated with this action.

Strategic Connections

This item is a *2021 Commission Priority*, advancing the Smart Growth initiative.

This item supports the *Press Play Fort Lauderdale 2024 Strategic Plan*, specifically advancing:

- The Neighborhood Enhancement Focus Area
- Goal 4: Build a thriving and inclusive community of neighborhoods
- Objective: Ensure a range of affordable housing options

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community and We Are Prosperous*.

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

- The Neighborhood Enhancement Focus Area
- The Housing Element
- Goal 1: The Comprehensive Plan shall support the provision of adequate sites

for future housing, including affordable workforce housing

Related CAM

#21-1095 (CRA Board Agenda)

Attachments

Exhibit 1 – Facilities Relocation Agreement with FPL

Exhibit 2 – Location of the Transmission Line and Project Illustrations

Exhibit 3 – Developers Bank Commitment

Exhibit 4 – Excess Cost and Grant of Easement Agreement with Developer

Exhibit 5 – Guaranty Agreement

Exhibit 6 – Amendment to Development Agreement

Exhibit 7 – Recognition Agreement

Exhibit 8 – CRA Advisory Board Approved Minutes – April 9, 2019

Exhibit 9 – Resolution

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