

Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Authorizing The City Manager And City Clerk To Execute Short Form Lease With The State Of Florida Department Of Transportation ("FDOT"), For The Continued Use of Land Within FDOT Right-of-way Along The Julia Tuttle Causeway, Which Lease Is Attached Hereto As Exhibit 1.

Key Intended Outcome Supported:

Build and maintain priority infrastructure with full accountability.

Supporting Data (Surveys, Environmental Scan, etc.): N/A

Item Summary/Recommendation:

The Florida Department of Transportation (FDOT) is the right-of-way agent for the public's right-of-way along Route I-195 also known as the Julia Tuttle Causeway at Alton Road. At the eastern most portion of the Julia Tuttle, a large area (over 5 acres) of open space exists. Since this portion of the public's right-of-way is not used for vehicular use, it is an ideal location for both hurricane debris storage and contractor staging. During the reconstruction of Alton Road by FDOT, this area was and is still being utilized by contractors.

Now that the Alton Road Project from 5th Street to Michigan Avenue is nearing completion, FDOT is requiring their contractor and sub-contractors to vacate the staging area and return the site to previous or better condition.

Since the amount of available vacant public land within the City boundaries of Miami Beach is extremely limited, the City is requesting the continued use of this land as a contractor staging area for the current and the many future City projects that are proposed. In addition to providing quicker delivery time to various construction projects in the City, a reduced project cost is anticipated if the City is permitted the continued use of this land.

The City has entered into discussions with FDOT on the ability to lease this land. While they have responded favorably, the lengthy amount of time for FDOT to process a long term lease agreement with the City leaves a gap and the City would like to enjoy continued use of this area. While the long term lease is going through their internal processes, FDOT has offered a Short Form Lease of the property to the City. This short duration lease agreement is at no cost and is limited to 90 day duration after approval.

THE ADMINISTRATION RECOMMENDS APPROVING THE RESOLUTION.

Advisory Board Recommendation:

N/A

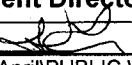
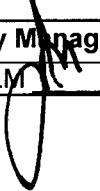
Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:**City Clerk's Office Legislative Tracking:**

Bruce Mowry, City Engineer, x. 6565

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JJF 	ETC 	JLM 

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy Morales, City Manager

DATE: April 13, 2016

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE SHORT FORM LEASE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT") FOR THE CONTINUED USE OF LAND WITHIN FDOT RIGHT-OF-WAY ALONG THE JULIA TUTTLE CAUSEWAY, WHICH LEASE IS ATTACHED HERETO AS EXHIBIT 1.**

FUNDING

N/A

ADMINISTRATION RECOMMENDATION

The Administration recommends adopting the Resolution.

BACKGROUND

The Florida Department of Transportation (FDOT) is the right-of-way agent for the public's right-of-way along Route I-195 also known as the Julia Tuttle Causeway at Alton Road. At the eastern most portion of the Julia Tuttle, a large area (over 5 acres) of open space exists. Since this portion of the public's right-of-way is not used for vehicular use, it is an ideal location for both hurricane debris storage and contractor staging. During the reconstruction of Alton Road by FDOT, this area was and is still being utilized by contractors.

Now that the Alton Road Project from 5th Street to Michigan Avenue is nearing completion, FDOT is requiring their contractor and sub-contractors to vacate the staging area and return the site to previous or better condition.

Since the amount of available vacant public land within the City boundaries of Miami Beach is extremely limited, the City is requesting the continued use of this land as a contractor staging area for the current and the many future City projects that are proposed. In addition to providing quicker delivery time to various construction projects in the City, a reduced project cost is anticipated if the City is permitted the continued use of this land.

The City has entered into discussions with FDOT on the ability to lease this land. While they have responded favorably, the lengthy amount of time for FDOT to process a long term lease agreement

with the City leaves a gap and the City would like to enjoy continued use of this area. While the long term lease is going through their internal processes, FDOT has offered a Short Form Lease of the property to the City. This short duration lease agreement is at no cost and is limited to 90 day duration after approval.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Resolution.

Exhibit:

- FDOT - Short Form Lease

JLM//EJC//BAM/WRB

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE SHORT FORM LEASE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT") FOR THE CONTINUED USE OF LAND WITHIN FDOT RIGHT-OF-WAY ALONG THE JULIA TUTTLE CAUSEWAY, WHICH LEASE IS ATTACHED HERETO AS EXHIBIT 1.

WHEREAS, the land at the east end of the Julia Tuttle Causeway (I-195), owned by the Florida Department of Transportation ("FDOT") has been use by contractors for staging of vehicles, equipment and materials; and

WHEREAS, the City of Miami Beach ("City") desires to enter into a long term lease agreement with FDOT in order to provide for future contractor staging required by the City for this area of the City relating to installation of pumps, roadway construction and other contractor needs; and

WHEREAS, FDOT has begun the process of developing a long term lease agreement between FDOT and the City to use the areas as a staging platform for the City's contractors, however, that agreement has not been finalized and will take several months to finalize; and

WHEREAS, while the long term lease is in development, FDOT requests the City to execute a Short Form Lease agreement for a term of 90 days from the date adopted by the City;

WHEREAS, the City Administration recommends entering into the Short Form Lease agreement, as the City requires a staging area for its contractors.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission authorize the City Manager and City Clerk to execute a Short Form Lease with the Florida Department Of Transportation ("FDOT") for the continued use of land within FDOT right-of-way along the Julia Tuttle Causeway, which lease is attached hereto as Exhibit 1.

PASSED AND ADOPTED this ____ day of _____, 2016.

ATTEST:

Rafael Granado, City Clerk

Phillip Levine, Mayor

City Attorney

Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
SHORT FORM LEASE

575-060-29
RIGHT OF WAY
OGC - 05/10

STATE ROAD NO.: 907/Alton Road
COUNTY: Miami Beach
RCI SECTION: _____
MANAGING DISTRICT: Six (6)

THIS SHORT FORM LEASE (this "Lease"), made this _____ day of _____, (the "Effective Date")
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, (hereinafter called the Lessor), and
City of Miami Beach, (hereinafter called the Lessee),

WITNESSETH

In consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Property and Term. Lessor does hereby lease unto Lessee the property described in Exhibit "A", attached hereto and made a part hereof (the "Property"), for a term of Ninety Days (90) beginning _____ and ending _____. This lease may be renewed for an additional N/A term at Lessee's option, subject to the rent adjustment as provided in Paragraph 3 below. Lessee shall provide Lessor N/A days advance written notice of its intent to exercise the renewal option. Should Lessee hold over and remain in possession of the property after the expiration of the term specified in this Lease, or any renewals of such term, Lessee's tenancy shall be considered a tenancy at sufferance, subject to the same terms and conditions as herein contained. This Lease is subject to all utilities in place and to the maintenance thereof as well as any other covenants, easements, or restrictions of record. This Lease shall be construed as a Lease of only the interest, if any, of Lessor and no warranty of title shall be deemed to be given herewith.

2. Use. The leased premises shall be used solely for the purpose of construction staging. If the property is used for any other purpose, Lessor shall have the option of immediately terminating this Lease. Lessee shall not use or permit any use of the property in any manner that would obstruct or interfere with the operation or maintenance of any transportation facilities. Lessee shall use the Property in accordance with applicable federal, state, local laws, rules and permits, as the same may be constituted and amended, including without limitation, those of the Department.

3. Rent. Lessee shall pay to Lessor as rent, on or before the first day of each rent payment period, the sum of \$ NIL plus any state, county, city or local taxes which may be applicable, for each NIL of the term. If this Lease is terminated prior to the end of any rent payment period, the unearned portion of any rent payment, less any other amounts that may be owed to Lessor, shall be refunded to Lessee. Rent payments shall be made payable to the Department of Transportation and shall be sent to 1000 NW 111th Avenue, Room 6104-B, Miami, FL 33172 Attn: Right of Way Administration. Lessor reserves the right to review and adjust the rental fee every two years and at renewal to reflect market conditions. Any installment of rent not received within ten (10) days after the date due shall bear interest at the highest rate allowed by law from the due date thereof. This provision shall not obligate Lessor to accept late rent payments or provide Lessee a grace period.

4. Improvements. Lessee's improvements and personal property existing on the Property as of the Effective Date are permissible unless Lessor, within its sole discretion, requires removal, modification, or relocation of same. Lessee shall have ten (10) days from the date of Lessor's written notice to remove, modify, or relocate the identified improvements and/or personal property at Lessee's sole cost and expense. If Lessee fails to timely remove, modify, or relocate the identified improvements and/or personal property, Lessor may do so at Lessee's sole cost and expense. Lessee shall remove its personal property and improvements from the Property and shall restore the Property to a condition acceptable to the Department in accordance with the terms and provisions of this Agreement and applicable Law within twenty (20) days of the earlier of: (1) the date of either party's Notice of Termination; (2) the date Lessee vacates the Property; or (3) such other date as the parties mutually agree upon in writing ("Removal Date"). The Department may remove and dispose of all personal property and improvements remaining after the Removal Date without liability to Lessee. Subsequent to the Effective Date, no structures or improvements of any kind shall be placed upon the property without the prior written approval of the Lessor.

5. Indemnification. Lessee shall indemnify, defend, and hold harmless the Lessor and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its agents or employees.

6. Eminent Domain. Lessee acknowledges and agrees that its relationship with Lessor under this Lease is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Lease. Termination of this Lease for any cause shall not be deemed a taking under eminent domain or any other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Lease, including any residual interest in the Lease, or any other facts or circumstances arising out of or in connection with this Lease.

7. Termination. This Lease may be terminated by Lessor immediately, without prior notice, upon default by Lessee hereunder, and may be terminated by either party without cause upon thirty (30) days written notice to the other party.

8. Access to the Property. Lessor may enter the Property at any time without prior notice to Lessee for any purpose, including, without limitation: (1) performing this Agreement; (2) observing and inspecting the Property; (3) maintaining, repairing and improving the Property; and (4) any other lawful purpose the Department determines necessary for the conduct of its business.

9. Waiver. Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Department's sovereign immunity protections, or as increasing the limits of liability set forth in §768.28, Fla. Stat. (2008). The limit of the Department's liability for breach of this Agreement shall be limited in amount and shall not exceed the limitations of liability for tort actions set forth in §768.28(5), Fla. Stat. (2009).

10. Venue. This Agreement shall be governed by the laws of the State of Florida in terms of interpretation and performance. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of this Agreement shall lie exclusively in a state court of appropriate jurisdiction selected by the Department, including, without limitation, Leon County. Lessee consents to personal jurisdiction in the State of Florida.

11. Entire Agreement. This instrument and attached exhibit contains the entire agreement of the parties and no representations or promises have been made except those that are specifically set out in this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter of this Agreement, and any part hereof, are waived, merged herein and superseded hereby.

12. Severability. If any section, paragraph, clause or provision of this Agreement is adjudged by a court, agency or authority of competent jurisdiction to be invalid, illegal or otherwise unenforceable, all remaining parts of this Agreement shall remain in full force and effect and the parties shall be bound thereby so long as principle purposes of this Agreement remain enforceable.

13. Third Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein.

14. Computation of Time. In computing any period of time prescribed in this Agreement, the day of the act, event or default from which the designated period of time begins to run, shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

15. Consideration. By their signature below, the parties hereby acknowledge the adequacy and sufficiency of consideration provided in this Lease and forever waive the right to object to or otherwise challenge the same.

16. Miscellaneous. Lessee shall not sublet the property or any part thereof, nor assign this Lease, without the prior written consent of the Lessor. This Lease is being executed by Lessor upon the credit and reputation of Lessee. Acceptance by Lessor of rental from a third party shall not be considered as an assignment or sublease, nor shall it be deemed as constituting consent of Lessor to such an assignment or sublease.

All notices to Lessor shall be sent to the address provided in paragraph 3 for rent payments. Notices to Lessee shall be sent to City of Miami Beach, 1700 Convention Center Drive, Miami Beach, FL 33139 Attn: City Manager, Jimmy Morales, and Bruce Mowery, P.E. City Engineer.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

LESSEE:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

City of Miami Beach
(Company Name if applicable)

By: _____
District Secretary

By: _____

Gus Pego, P.E.
Print Name

Print Name

Attest: _____

Title: _____

Name/Title: Executive Secretary

LEGAL REVIEW

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

[Signature]
City Attorney *fmi*

3/23/16
Date

Alicia Trujillo, Esq.
Print Name

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