

**INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM**

DEPARTMENTAL

TO: Jason E. Brown, County Administrator

THROUGH: Richard B. Szpyrka P.E., Public Works Director

FROM: James W. Ennis P.E., County Engineer

SUBJECT: 45th Street at Old Dixie Highway Railroad Crossing Agreement

DATE: February 1, 2018

DESCRIPTION AND CONDITIONS

On February 17, 2015 the Board of County Commissioners approved Work Order No. 1 with Kimley-Horn & Associates, Inc. for design and permitting for the construction of an eastbound left turn lane at the 45th Street and US 1 intersection, as well as bike lanes and sidewalk crossings as part of the Gifford Neighborhood Plan (GNP). The project will extend approximately 1,200 feet to the west to tie to the existing 45th Street auxiliary lane west of the Florida East Coast Railroad right-of-way. The attached Agreement between Florida East Coast Railway, LLC (FECRR) and Indian River County will permit the County to construct an at-grade crossing for a three lane roadway configuration through the 100' wide FEC right-of-way west of Old Dixie Highway. FECRR will perform all the construction within the FEC right-of-way to accommodate the proposed County improvements. The Agreement conditions include:

1. The FECRR will construct the crossing with in house and contract forces and the County will pay 100% of the cost of warning devices \$534,283.88, grade crossing \$178,723.29, and associated engineering fees and CEI fees of \$39,000.00.
2. The County must keep the railroad's right-of-way clear of vegetation over 2' tall within 325' of the crossing.
3. The Agreement is for a one-year term but shall continue in effect year to year subject to termination by Railway or County.
4. The County shall pay an annual license fee of \$5,000, which shall be adjusted yearly based upon the CPI or 3%, whichever is greater.
5. The County is liable and responsible for the construction.
6. The total estimate for all construction by FEC in the FECRR right of way is **\$752,007.17** – the County has already submitted \$17,500 in engineering payments for a balance remaining of **\$734,507.17**.
7. All future maintenance costs shall be borne by the County.

Since the initiation of the project, All Aboard Florida (AAF) has proposed adding rail service through the County which will impact the current configuration of the RR crossing at 45th Street and Old Dixie Highway. Design of the crossing by FECRR, which is part of the attached agreement, does not accommodate future improvements to the RR crossing necessary for All Aboard Florida to operate

within the FECRR right of way. As such, construction of improvements to accommodate the 45th Street & US-1 intersection improvement project for \$752,007.17, will be removed and reconstructed in the future if All Aboard Florida is successful in providing service through the Treasure Coast.

I have discussed my concerns with FECRR staff with respect to the improvements needed to accommodate the 45th Street & US-1 project and the compatibility of the improvements if AAF was to utilize the FEC rail system for service. FECRR staff stated that it is likely that the proposed improvements for the 45th Street project will be removed and reconstructed to accommodate AAF. Please be aware that as of January 16, 2018 AAF had not submitted any documentation to FECRR for the construction of improvements to the FECRR crossings to accommodate the use of the rail system by AAF.

Staff is seeking Board Direction as to the following options:

Option 1 – Approve the License Agreement with FECRR in the amount of \$752,007.17 and authorize the Chairman to execute the Agreement on behalf of the Board.

Option 2 – Postpone action on the License Agreement and the construction of the 45th Street & US-1 Improvement Project until such time as AAF provides the FECRR with crossing improvements at 45th Street to accommodate the use of the FEC rail systems by AAF and the improvement to 45th Street proposed by County Staff. Also, extend the Gifford Neighborhood Plan completion time frame of 2018 for Action Item 7.3 that requires the connection of the sidewalk on 45th Street to US-1. Meeting the GNP time-frame for this project will not be possible if the Board chooses this option.

Commissioner Flescher and the County Administrator met with Joe Idlette and Freddie Woolfork of the Progressive Civic League of Gifford to discuss this issue. Mr. Idlette and Mr. Woolfork agreed that it would not be prudent to fund the crossing due to the possibility of the crossing being removed if All Aboard Florida is successful in providing service through Indian River County. With the postponement of this shovel ready project, County staff analyzed the possibility of moving another project in the Gifford Neighborhood forward. Staff has determined that the culverting of the 45th Street IRFWCD canal can be advanced in the project queue, which will allow the project to be advertised for bid at the end of April 2018. This will allow construction to commence in mid-July of 2018. The project was originally scheduled for bidding in October/November of 2018.

FUNDING

Funding is budgeted in the amount of \$734,507.17 from Optional Sales Tax - 45th Street/Left Turn Lane at US-1 - Account No. 31521441-066510-13013.

RECOMMENDATION

Staff recommends Option 2 to the Board. Spending an additional \$734,507.17 for FECRR crossing improvements with status of All Aboard Florida use of the FEC rail system still in question does not seem to be prudent.

ATTACHMENTS

Reference Letter and License Agreement

DISTRIBUTION

Joe Idlette, Progressive Civic League of Gifford
Freddie Woolfork, Progressive Civic League of Gifford

APPROVED AGENDA ITEM FOR February 13, 2018