



Broward County

Legislation Details (With Text)

File #:	20-320	Version:	1	Status:	Agenda Ready
				In control:	PUBLIC HEARING
On agenda:	2/25/2020	Final action:	2/25/2020		
Title:	MOTION TO CONSIDER First Amendment to the Lease Agreement between Broward County and Cemex Construction Materials Florida, LLC. This is the first of two Public Hearings. No action on the motion is required at this time. The second Public Hearing will be held on March 10, 2020.				
Sponsors:					
Indexes:	Established Commission Goals				
Code sections:					
Attachments:	1. Exhibit 1 - Agreement Summary, 2. Exhibit 2 - Agreement, 3. Exhibit 3 - Resolution For Notice of Public Hearings, 4. Exhibit 4 - Notice to Publish, 5. Exhibit 5 - Letter from Cemex dated April 9, 2018				
Date	Ver.	Action By	Action	Result	

Broward County Commission Regular Meeting

Director's Name: Glenn Wiltshire (Acting Director)

Department: Port Everglades

Division: Business Administration

Information

Requested Action

MOTION TO CONSIDER First Amendment to the Lease Agreement between Broward County and Cemex Construction Materials Florida, LLC. This is the first of two Public Hearings. No action on the motion is required at this time. The second Public Hearing will be held on March 10, 2020.

Why Action is Necessary

Pursuant to Section 32.5.b. of the Broward County Administrative Code, two Public Hearings are required.

What Action Accomplishes

Allows for the consideration of the First Amendment to the Lease Agreement between Broward County and Cemex Construction Materials, Florida, LLC.

Is this Action Goal Related

Yes

Previous Action Taken

On February 11, 2020 (Item No. 4), the Board adopted a Resolution directing the County Administrator to publish notices of public hearings.

Summary Explanation/Background

THE PORT EVERGLADES DEPARTMENT RECOMMENDS APPROVAL.

This action supports the Broward County Board of County Commissioners' ("Board") Value of "Ensuring economic opportunities for Broward's diverse population and businesses" and the Goal to "Increase the economic strength and impact of revenue-generating County enterprises balancing economic, environmental and community needs."

On March 3, 2010 (Item No. 9), the Board approved a lease agreement between Broward County and Cemex Construction Materials Florida, LLC ("Cemex"), for 4.61 acres of land and improvements located at 2800 Eisenhower Blvd, Fort Lauderdale, FL 33316 for the operation of a cement distributing and packing plant in the Northport section of Port Everglades. The plant has been in operation since July 1, 1962. The term of the lease agreement was for a period of ten years, with an additional two five-year periods, at Cemex's option.

On April 9, 2018 (see Exhibit 5), Cemex provided notice of its intent to exercise the first five-year option term. Per the terms of the lease agreement, the only two items open for negotiation were the reset of the rental rate based upon an appraisal and the amount of minimum annual guarantees ("MAG") for the applicable option term. All other terms and conditions of the lease agreement remain the same.

Sunshined negotiations for the First Amendment to Lease Agreement involving representatives from Cemex, Port Everglades, and County Attorney's Office were held on December 13, 2019, and on December 18, 2019.

The primary business points of the First Amendment to Lease Agreement are as follows:

- The annual rent for the first year of the five-year option term increases from the current amount of \$701,124 to \$972,950 (an increase of 39%). This increase results from the latest appraised value for land and improvements compared to the last appraisal used to set the rent.
- For each additional year during the option term, the annual rent will increase by 3%.
- The negotiated minimum annual guarantee ("MAG") for the option term is revised from accounting only for cargo tonnage wharfage guarantees to also include marine charges such as dockage, harbormaster, line handler, and security fees. This approach provides additional revenue guarantees not previously captured. The current MAG is calculated based on minimum cargo tonnage throughput and wharfage charges only. For the five-year option term, the Port will receive minimum guaranteed revenue for cargo wharfage and marine service charges regardless of the number of actual vessel calls received. The negotiated MAG for the first year of the option term is 25% higher than the current MAG, increasing from \$396,200 to \$497,000. Increasing MAGs based on projected growth in Cemex's estimated cargo tonnage throughput during the option term are included for each additional year of the option term.

The amendment has been reviewed and approved as to form by the Office of the County Attorney.

The Resolution to Publish Notice of Public Hearing and Notice of Public Hearing from the Request to Set Public Hearing agenda item approved by the Board on February 11, 2020 (Item No. 4), are

attached as Exhibit 3 and Exhibit 4.

Source of Additional Information

Glenn A. Wiltshire, Acting Port Director & Chief Executive, Port Everglades Department, (954) 468-3504

Jorge Hernández, Enterprise Director of Administration, Port Everglades Department, (954) 456-3501

Fiscal Impact

Fiscal Impact/Cost Summary

The County will receive guaranteed revenue of \$8,528,000 over the option term and will generate additional revenue for each year Cemex exceeds its MAG cargo projections.