



ITEM NO. (ID # 4656)

DATE: 09/05/2017

AGENDA REQUEST

*CONSENT AGENDA\COUNTY ATTORNEY

TO: Board of County Commissioners

PRESENTED BY: Daniel S. McIntyre, County Attorney

SUBMITTED BY: County Attorney

SUBJECT: All Aboard Florida - Increase of Funds for Payment of Legal Defense Invoices through All Aboard Legal Defense Fund

BACKGROUND:

The County has retained the firm of Oertel, Fernandez, Bryant & Atkinson (the "Firm") to review the Draft Environmental Impact Statement ("DEIS") submitted by All Aboard Florida ("AAF") to the Federal Railroad Administration ("FRA") and provide advice as to how to proceed.

Cost of Litigation

With regard to the cost of the litigation, outside counsel's originally estimated St. Lucie's share of the cost would be between \$200,000.00 to \$250,000.00 including the cost of experts. As a result of the extensive discovery, the change in AAF plans, the additional exemptions granted by SFWMD and the need for a two week hearing, the County's outside counsel estimated that St. Lucie's share of the litigation will be approximately \$400,000.00 which required the Board to increase the existing AAF expense fund by \$150,000.00 on May 31, 2017. After that increase, total contributions to the AAF expense fund were \$1,000,000.00.

At this time, funds remaining in the account are insufficient to pay the invoice received for July 2017 services, with a shortfall of \$29,000.00.

Attached is Invoice No. 17400 for professional services for SFWMD ERP Challenge. St. Lucie County and Martin County are sharing the cost of these invoices. Staff is requesting that the Board authorize the increase of funds to the existing All Aboard expense fund and authorize payment of the invoice from the special fund the Board created to fund the review of the AAF project.

PREVIOUS ACTION:

On June 17, 2014, the Board adopted Resolution No. 14-091 opposing the All Aboard Florida Project as then constituted. On September 6, 2016, the Board authorized the filing of a request for administrative proceeding on the All Aboard Florida Environmental Resource Permit as recommended by the County

special counsel. On March 7, 2017, the Board approved transferring \$250,000.00 from General Fund Emergency Reserves to Other General Government Services - Professional Services Account.

On May 31, 2017, the Board approved transferring an additional \$150,000.00 from General Fund Emergency Reserves to Other General Government Services - Professional Services Account.

The Board has approved prior payments from the specified fund on July 7, 2015, September 15, 2015, October 6, 2015, October 20, 2015, December 15, 2015, February 9, 2016, March 1, 2016, April 5, 2016, May 3, 2016, June 7, 2016, July 26, August 2, 2016, September 6, 2016, October 18, 2016, December 6, 2016, December 20, 2016, January 24, 2017, February 21, 2017, March 7, 2017, March 28, 2017, May 16, 2017, June 6, 2017, July 5, 2017 and August 15, 2017.

FINANCIAL IMPACT:

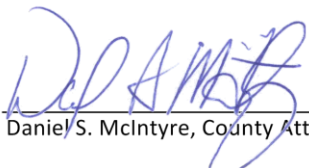
Partial funds are available in account string #001-1900-531000-1935 (All Aboard Florida Legal Defense - Professional Services) in the amount of \$10,157.20. Upon approval of this agenda item, staff will transfer \$29,000.00 from General Fund Emergency Reserves Account No. 001-9910-599301-800 to Other General Government Services - Professional Services Account No. 001-1900-531000-1935.

RECOMMENDATION:

Staff recommends that the Board direct staff to increase the existing All Aboard Florida expense fund by \$29,000.00 from the account set out above. Staff also recommends that the Board authorize payment of the attached invoice from the special fund the Board created pertaining to All Aboard Florida (AAF).

COMMISSION ACTION:

Coordination/Signatures



Daniel S. McIntyre, County Attorney

8/25/2017