

MEMORANDUM

TO: The Honorable Jeff Danner, Chair and Members of City Council

FROM: Richard B. Badgley, Senior Assistant City Attorney

DATE: June 9, 2009

SUBJECT: Amending Resolution 2009-276 - Pinellas Trail 34<sup>th</sup> St. Overpass Airspace Agreement

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On June 4, 2009 City Council adopted Resolution No. 2009-276 authorizing the execution of a ninety-nine (99) year airspace agreement with a ninety-nine (99) year renewal for the Pinellas Trail 34<sup>th</sup> Street South Pedestrian Bridge Project No. 06103-912 at no rent, and an assignment of the airspace agreement to Pinellas County.

Because the Council materials for this item were prepared in advance of finalizing the airspace agreement, the materials did not accurately reflect the terms of the document that was ultimately approved by the Florida Department of Transportation and the Federal Highway Administration. The final approved document contained a term of fifty (50) years with a fifty (50) year renewal rather than a ninety-nine (99) year term and renewal. It also included a nominal rent of \$1.00 per year.

The purpose of the attached resolution is to rescind the previous execution authorization and approve the execution of the airspace agreement with a fifty (50) year term and a fifty (50) year renewal with an annual rent of \$1.00, and the assignment of the airspace agreement to Pinellas County. All other provisions of Resolution 2009-276 not modified by the resolution, shall remain in full force and effect.

The Administration and the Legal Department recommend adoption of the attached resolution that reflects the changes.

Legal: 00108642.doc V. 2

A RESOLUTION AMENDING RESOLUTION NO. 2009 - 276 TO AUTHORIZE THE MAYOR, OR HIS DESIGNEE, TO EXECUTE A FIFTY (50) YEAR AIRSPACE AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION WITH A FIFTY (50) YEAR RENEWAL FOR THE PINELLAS TRAIL 34<sup>TH</sup> STREET SOUTH PEDESTRIAN BRIDGE PROJECT NO. 06103-912, AT AN ANNUAL RENT OF \$1.00, AND AN ASSIGNMENT OF THE AIRSPACE AGREEMENT TO PINELLAS COUNTY, AND TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE SAME; PROVIDING THAT ALL OTHER PROVISIONS OF RESOLUTION NO. 2009-276 NOT MODIFIED HEREIN, SHALL REMAIN IN FULL FORCE AND EFFECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Resolution No. 2009-276 authorized the execution of a ninety-nine (99) year airspace agreement with a ninety-nine (99) year renewal for the Pinellas Trail 34<sup>th</sup> Street South Pedestrian Bridge Project No. 06103-912 at no rent, and an assignment of the airspace agreement to Pinellas County; and

WHEREAS, the airspace agreement approved by the Florida Department of Transportation and the Federal Highway Administration has a term fifty (50) years with a fifty (50) year renewal and an annual rent of \$1.00; and

WHEREAS, the purpose of this resolution is to rescind the previous execution authorization and approve the execution of the airspace agreement with a fifty (50) year term and a fifty (50) year renewal with an annual rent of \$1.00, and the assignment of the airspace agreement to Pinellas County, and that all other provisions of Resolution 2009-276 not modified herein, shall remain in full force and effect; and

WHEREAS, the Administration and Legal Department recommend approval of this resolution.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida, that Resolution No. 2009-276 is amended to authorize the Mayor, or his Designee, to execute a fifty (50) year Airspace Agreement with the State of Florida Department of Transportation with a fifty (50) year renewal, for the Pinellas Trail 34<sup>th</sup> Street South Pedestrian Bridge Project No. 06103-912 with an annual rent of \$1.00 and an assignment of the

Airspace Agreement to Pinellas County and to execute all documents necessary to effectuate same; and

BE IT FURTHER RESOLVED that all other provisions of Resolution No. 2009-276, not modified herein shall remain in full force and effect.

This Resolution shall become effective immediately upon its adoption.

Approvals:

Legal: \_\_\_\_\_ Administration: \_\_\_\_\_

Legal: 00108641.doc V. 3