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(772) 388-8214

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BOARD OF COUNTY
COMMISSION

August 28, 2014

The Honorable Peter O'Bryan, Chair
Indian River County Board of Administration
1801 27th Street
Vero Beach, FL 32960

RE: Resolution No. R-14-17

Dear Chairman O'Bryan:

Please find enclosed a copy of Resolution No. R-14-17 adopted by Sebastian City Council at their August 27th Regular City Council meeting expressing support for Senator Altman's request for an opinion by Attorney General Bondi regarding the lease agreement between the Orlando-Orange County Expressway Authority and All Aboard Florida.

If you have any questions regarding the City's request, please do not hesitate to contact City Manager Joe Griffin at 388-8200.

Sincerely,

A handwritten signature in black ink that reads "Sally A. Maio" followed by a horizontal flourish.

Sally A. Maio, MMC
City Clerk

SAM/jw

Enclosure

cc: City Council
City Manager Joe Griffin

RESOLUTION NO. R-14-17

A RESOLUTION OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, SUPPORTING SENATOR THAD ALTMAN'S REQUEST FOR A FLORIDA ATTORNEY GENERAL OPINION CONCERNING CERTAIN PROVISIONS OF THE LEASE AGREEMENT BETWEEN THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (NOW KNOWN AS THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY) (the 'Authority') AND ALL ABOARD FLORIDA – OPERATIONS LLC ("AAF").

WHEREAS, Florida Senator Thad Altman has petitioned Florida Attorney General Pam Bondi to issue an opinion as to whether certain language of the lease agreement between the Orlando-Orange County Expressway Authority (now known as Central Florida Expressway Authority) and All Aboard Florida – Operations LLC imposes a special "tax" on residents of Brevard and Indian River County (see attached); and

WHEREAS, the lease agreement also imposes an extraordinary review and determination prior to construction of any stops or depots between Orlando International Airport (OIA) and West Palm Beach for the protection of the System Pledged Revenues for the Authority's Amended and Restated Master Bond.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, as follows:

SECTION 1. City Council supports Senator Altman's request for an Attorney General Opinion, and agrees that provisions in the lease agreement between the Authority and AAF which impose additional rent in the event of additional stations for lost revenue by the Authority and extraordinary review and determination prior to construction of any stops or depots between OIA and West Palm Beach are disincentive to include Brevard and Indian River County stations in any future expansion of the high speed rail.

SECTION 2. CONFLICT. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect upon its adoption.

The foregoing Resolution was passed for adoption by Council Member Hill, was seconded by Council Member Gillmor, and upon, being put to a vote, the vote was as follows:

Mayor Bob McPartlan	<u>aye</u>
Vice Mayor Jim Hill	<u>aye</u>
Council Member Jerome Adams	<u>aye</u>
Council Member Andrea Coy	<u>aye</u>
Council Member Richard Gillmor	<u>aye</u>

The Mayor thereupon declared this Resolution duly passed and adopted this 27th day of August, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR THAD ALTMAN
16th District

July 29, 2014

The Honorable Pam Bondi
Attorney General
Department of Legal Affairs
The Capitol PL01
Tallahassee, Florida 32399-1050

Subject: Request for an Attorney General Opinion (AGO) in regard to a lease stipulation between the Orlando-Orange County Expressway Authority "the Authority" and All Aboard Florida (AAF) and the use of an extraterritorial tax.

Dear Attorney General Bondi:

I respectfully request that you issue an AGO in regard to the Orlando-Orange County Expressway Authority exceeding its statutory authority in regard to a lease for right-of-way for an intercity passenger rail service between Orlando and Miami known as All Aboard Florida. The specific issue is a condition of the lease that was signed June 28, 2013.

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"7. RENT. [TO BE DETERMINED AND SUBJECT TO THE FINAL APPROVAL BY THE AUTHORITY'S BOARD. THE RENT WILL REPRESENT ALL COMPENSATION TO THE AUTHORITY FOR: THE REDUCTION IN REVENUES TO THE SYSTEM, IF ANY, AS DETERMINED BY THE AUTHORITY'S TRAFFIC AND EARNINGS CONSULTANT; FOR AAF'S USE AND RIGHTS AS TO THE PROPERTY; AND FOR ALL OTHER ISSUES AND CONDITIONS TAKEN INTO CONSIDERATION RELATIVE TO THE LEASE AGREEMENT. SUCH RENT TO BE PAID IN ANNUAL INSTALLMENTS OR PERIODIC LUMP-SUM PAYMENTS OR A COMBINATION THEREOF]"

While this section seems appropriate to hold the Authority harmless for any impacts of the AAF system it has a direct impact for two communities, the Space and Treasure Coasts. The practical application of this requirement is if train stations are located in Brevard and Indian River

REPLY TO

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore