



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#13-0690

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee Feldman, ICMA-CM, City Manager

DATE: May 7, 2013

TITLE: Resolution Declaring the City's Intent to Enter Into A Lease With Nova
Southeastern University, Inc.

Recommendation

It is recommended that the City Commission adopt a resolution declaring the City's intention to lease a parcel of land including the Southside Cultural Center to Nova Southeastern University, Inc. (NSU), a Florida non-profit corporation, and scheduling a public hearing on June 18, 2013 for consideration of the terms of the lease in accordance with Section 8.13 of the City Charter.

Background

The City owns the Southside Property (comprised of the Southside South Property and the Southside North Property), which includes the historic designated Southside School Building. The City acquired such property from the Broward County School Board via a warranty deed containing certain restrictions

For the purposes of funding, the City entered into an Interlocal Agreement with Broward County which provided funds to the City for the acquisition, improvement, enhancement, operation, and management of the Southside Property. Additionally, the City acquired the Southside South property with partial funding from the Florida Communities Trust (FCT).

The Interlocal Agreement with Broward County provides certain restrictions regarding the use of the Southside Property and requires the City provide at least 60 days prior written notice to Broward County before entering into any lease. Additionally, as part and condition of the FCT funding, the City is required to also provide at least 60 days prior written notice to FCT before entering into any lease. The purpose of the notices is to provide for the evaluation of the legal and tax consequences of such an agreement. The City will not enter into a lease agreement until it receives verification that the lease will be permitted under the restrictions. It is the intent of the City that the lease and all activities by NSU be consistent with the Interlocal Agreement, the FCT Grant Agreement and Management Plan, the restrictions on the property by the School Board of Broward County and all other applicable grant restrictions and covenants affecting the Leased Premises.

NSU is a Florida nonprofit corporation, engaged in operating an educational facility. NSU wishes to utilize the Leased Premises as an educational and cultural facility to serve the public with a variety of educational programs for the community. NSU's activities do serve a significant public purpose.

The proposed term of the Lease is thirty (30) years with two (2) ten (10) year renewal options.

Section 8.13 of the City Charter (Exhibit 2) permits this action.

Resource Impact

There is no fiscal impact associated with this action.

Attachment:

Exhibit 1 – Resolution

Exhibit 2 – Section 8.13 of the City Charter

Prepared by: Frank Snedaker, AIA, Chief Architect
Yugal K. Lall, P.E., Assistant City Engineer

Department Director: Hardeep Anand, P.E., Acting Public Works Director

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DECLARING, PURSUANT TO SECTION 8.13 OF THE CITY CHARTER, THE INTENT OF THE CITY COMMISSION TO LEASE THE PREMISES, MORE PARTICULARLY DESCRIBED BELOW, TO NOVA SOUTHEASTERN UNIVERSITY, INC. A FLORIDA NON PROFIT CORPORATION, TO BE USED AS AN ARTS AND EDUCATIONAL CENTER FOR A TERM OF THIRTY (30) YEARS WITH TWO (2) TEN (10) YEAR RENEWAL OPTIONS, SUBJECT TO FURTHER TERMS AND CONDITIONS AND SCHEDULING A PUBLIC HEARING BEFORE THE CITY COMMISSION ON JUNE 18, 2013, FOR CONSIDERATION OF THE TERMS OF THE LEASE AND AUTHORIZATION FOR EXECUTION OF SAME BY THE PROPER CITY OFFICIALS SUBJECT TO CITY PROVIDING WRITTEN NOTICE TO APPROPRIATE AGENCIES AND RECEIVING VERIFICATION THAT THE LEASE WILL BE PERMITTED; AND INSTRUCTING THE CITY CLERK TO PUBLISH THIS RESOLUTION IN THE OFFICIAL NEWSPAPER AS MORE PARTICULARLY SET FORTH BELOW.

WHEREAS, the City of Fort Lauderdale ("City") is the fee simple owner of certain property located at 701 South Andrews Avenue, Fort Lauderdale, FL, including the building known as the Southside Cultural Center, more particularly described below ("Leased Premises"); and

WHEREAS, in 2004 the City acquired the Southside Property (comprised of the Southside South Property and the Southside North Property), which includes the historic designated Southside School Building, from the School Board of Broward County; and

WHEREAS, the conveyance documents of the Southside North Property included a Declaration of Restrictive Covenants and the conveyance documents of the Southside South Property included an FCT Grant Agreement both of which contain a number of provisions that limit use of the property for specific purposes in perpetuity; and

WHEREAS, pursuant to an Interlocal Agreement, Broward County provided funds to the City for the acquisition, improvement, enhancement, operation and management of property including the Southside School Property; and

CAM #13-0690
EXHIBIT #1

WHEREAS, the Interlocal Agreement provides certain restrictions on use of the Southside Property and requires the City to provide at least 60 days prior written notice to Broward County before entering into any lease of any interest in the site to any non-governmental person or organization in order to evaluate the legal and tax consequences of such lease agreement; and

WHEREAS, City has acquired the Southside Property with partial funding from the Florida Communities Trust (FCT), and the Southside South Property is subject to certain limitations provided in the FCT Grant Award Agreement (as recorded in OR Book 37702, Page 1579 in Broward County)(the "FCT Grant Agreement,"); and

WHEREAS, as part and condition of the FCT funding, the City is required to provide at least 60 days prior written notice to FCT before entering into any lease of any interest in the subject property to a non-governmental person or entity in order for FCT to evaluate the legal and tax consequences of such agreement; and

WHEREAS, it is the intent of City that the lease shall be consistent with the Interlocal Agreement, FCT Grant Agreement and Management Plan, the restrictions placed on the property by the School Board of Broward County and all other applicable covenants and restrictions affecting the Leased Premises; and

WHEREAS, Nova Southeastern University is a Florida non profit corporation, ("NSU") engaged in operating an educational facility; and

WHEREAS, NSU desires to utilize the Leased Premises as an educational facility to serve the public with a variety of educational programs for the community; and

WHEREAS, the City and NSU are desirous of entering a Lease for the operation of the Leased Premises as an educational and cultural facility for a term of thirty (30) years with two (2) ten (10) year renewal options; and

WHEREAS, the City Commission finds that City and NSU's activities serve a significant public purpose and the City desires to encourage and assist same; and

WHEREAS, the City Commission of the City desires to announce its intent to lease such land to NSU for a nominal sum, provided NSU continues to serve certain public functions, services and purposes and operate the Leased Premises in accordance with all applicable grant covenants and restrictions on the property; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Commission of the City of Fort Lauderdale, pursuant to Section 8.13 of the City Charter, hereby declares its intention to lease the Leased Premises generally located at 701 South Andrews Avenue, Fort Lauderdale, Florida,

such Leased Premises being more particularly described below, to Nova Southeastern University, Inc., a Florida non profit corporation, for a term of thirty (30) years, with two (2) ten (10) year renewal options, to be used as an educational and cultural facility providing classes and programs; said Leased Premises being more particularly described as follows:

A PORTION OF LOTS 1, 2 AND 3 BLOCK 60 "TOWN OF FORT LAUDERDALE", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK "B", PAGE 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF A LINE 15.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES, THE NORTH LINE OF SAID LOT 1, ALSO BEING THE SOUTH RIGHT OF WAY OF SOUTHWEST 7TH STREET, AND A LINE 15.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, THE EAST LINE OF SAID LOT 1, ALSO BEING THE WEST RIGHT OF WAY OF SOUTH ANDREWS AVENUE; THENCE SOUTH 88°15'53" WEST A DISTANCE OF 440.48 FEET; THENCE SOUTH 02°09'18" EAST, ALONG A LINE PARALLEL WITH AND 53.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, THE EAST LINE OF SAID LOT 3, A DISTANCE OF 77.00 FEET; THENCE NORTH 88°15'53" EAST, ALONG A LINE PARALLEL WITH AND 77.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES, THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 219.49 FEET; THENCE SOUTH 02°09'26" EAST, ALONG A LINE PARALLEL WITH AND 15.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, THE EAST LINE OF SAID LOT 2, A DISTANCE OF 140.51 FEET; THENCE NORTH 88°15'53" EAST A DISTANCE OF 46.32 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 149.00 FEET, A CENTRAL ANGLE OF 38'33'39" AND ARC LENGTH OF 100.28 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE; THENCE NORTH 88°15'53" EAST A DISTANCE OF 82.04 FEET TO A LINE 15.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, THE EAST LINE OF SAID LOT 1 ALSO BEING THE WEST RIGHT OF WAY OF SOUTH ANDREWS AVENUE; THENCE NORTH 02°09'34" WEST A DISTANCE OF 250.01 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, CONTAINING 68588.19 SQUARE FEET OR 1.574 ACRES, MORE OR LESS.

The term "Leased Premises" shall include the real estate described above and all attachments, improvements and appurtenances thereto now existing or hereafter constructed.

The Leased Premises are to be used as an educational and cultural facility.

SECTION 2. That the City Commission declares that leasing the Leased Premises to NSU is in the best interests of the City as such use as proposed by NSU will serve the community from a cultural and educational perspective.

SECTION 3. That among the terms and conditions that will be incorporated in the lease shall be:

- A. Lease of Leased Premises
- B. Term of Lease
- C. Rent
- D. Use of Premises
- E. Improvements
- F. Operation, Maintenance and Repairs
- G. Insurance and Indemnification
- H. Assignment and Subletting
- I. Alterations
- J. Audit
- K. Miscellaneous

SECTION 4. That a Public Hearing shall be had before the City Commission on June 18, 2013, regarding the proposed lease at which time citizens and taxpayers shall have the opportunity to object to the execution, form or conditions of the proposed lease, and, if the City Commission is satisfied with the terms and conditions of the proposed lease, the City Commission will adopt a Resolution authorizing execution of the lease by the proper City officials. In no event shall the Lease be executed by City or become effective, prior to City giving the required notice to Broward County and FCT and receiving verification that the Lease agreement is permitted.

SECTION 5. That the City Clerk shall cause this Resolution to be published in full in the official newspaper for two (2) issues prior to the date set for considering such proposal, with the first publication not less than ten (10) days before said date of hearing.

SECTION 6. That this Resolution shall be in full force and effect immediately upon and after its passage.

ADOPTED this the ____ day of _____, 2013.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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Sec. 8.13. - Leases to civic and charitable organizations.

City of Fort Lauderdale is hereby authorized to lease to civic organizations, charitable organizations, public nonprofit corporations and like organizations, any public lands, improvements, buildings, recreational parks and areas or other public places, now owned or hereafter acquired by the city, for a period exceeding one (1) year but not exceeding fifty (50) years, to be used by such lessee for purposes consistent with the public good, where such use will not conflict with use by the public of other portions of public land adjacent thereto, under the following conditions:

- (a) The city commission shall first adopt a resolution declaring its intention to lease to a named civic or charitable organization, nonprofit corporation or like organization, a definitely described property or portion thereof, which resolution shall state the reasons why the city commission believes such lease should be made, the purpose for which such public property will be used by the lessee, the compensation, if any, to be paid for the lease, and other information calculated to advise taxpayers and electors of the nature of the lease. Such resolution shall designate a day, not less than thirty (30) days after the adoption of such resolution, when a public hearing will be had before the commission upon such proposal.
- (b) If the property intended to be leased is encumbered by any bonds or obligations for which such property or revenue derived therefrom are specifically pledged, provisions must be made in the proposal to discharge or satisfactorily comply with the requirements of the pledge.
- (c) At any time, not less than thirty (30) days nor more than sixty (60) days, after the adoption of such resolution, a public hearing shall be had before the city commission upon such proposal to lease, and a notice shall be published by the city in the official newspaper for two (2) issues prior to the date set for considering such proposal, with the first publication not less than ten (10) days before said date of hearing. The city commission in offering said publicly owned facility or public lands for lease shall state in said resolution and notice such terms and conditions as deemed pertinent under which said facility will be leased and the number of years for which said facility shall be leased.

If before the day, fixed for such public hearing, a referendum petition is filed with the city clerk signed by fifteen (15) percent of the registered voters, demanding a referendum election upon the question of leasing such property, no lease shall be executed by the officials of the city until after approval by a majority of the voters participating in such referendum election. Such referendum election shall be called and held as provided in this charter.

At least three (3) days before said public hearing date, a copy of the proposed lease shall be posted on a public bulletin board by the city clerk and each commissioner shall be given a copy of such proposed lease together with a covering summary letter; providing, however, that in case of emergency, such procedure may be waived by the affirmative vote of three (3) commissioners. Citizens and taxpayers shall have the opportunity at such public hearing to object to the execution, form or conditions of such proposed lease. If the commission is satisfied with the terms and conditions of the proposed lease, and if no persuasive objections are voiced at such public hearing, the commission shall pass a resolution authorizing the execution of such lease by the proper

officials of the city subject to the approval by the city attorney prior to its execution by the proper city officials.