

RESOLUTION NO. 15-108

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING RESOLUTIONS NO. 15-28 AND 15-50 WHICH DECLARED THAT CERTAIN PROPERTY AND IMPROVEMENTS SITUATED THEREON, OWNED BY THE CITY OF FORT LAUDERDALE, WERE NOT NEEDED FOR GOVERNMENTAL PURPOSES, AND DECLARED THE INTENTION OF THE CITY COMMISSION TO LEASE SUCH PROPERTY AND IMPROVEMENTS PURSUANT TO SECTION 8.09 OF THE CITY CHARTER, SUCH PROPERTY BEING LOCATED AT 600 SEABREEZE BOULEVARD ON PROPERTY BEING MORE PARTICULARLY DESCRIBED BELOW; SETTING FORTH GENERAL TERMS AND CONDITIONS FOR THE LEASE, SUCH AMENDMENT REVISING THE DATE TO **JULY 7, 2015** UPON WHICH SEALED BIDS ARE TO BE SUBMITTED AND FURTHER REVISING THE DATE TO **AUGUST 18, 2015**

UPON WHICH THE CITY COMMISSION WILL REVIEW ALL BIDS; SUCH AMENDMENT FURTHER PROVIDING THAT THE BROKERAGE COMMISSION ON THE LEASE WILL BE PAID BY THE LESSEE; REQUIRING PUBLICATION OF THIS RESOLUTION; AUTHORIZING FILING OF AN EVICTION ACTION AGAINST THE CURRENT TENANT AND FURTHER AUTHORIZING ACTIONS TO RECOVER PAST DUE RENTS AND OTHER MONIES OWED THE CITY BY THE CURRENT TENANT; REPEALING ALL RESOLUTIONS OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDE FOR EFFECTIVE DATE.

WHEREAS, Resolution No. 15-28 was adopted by the City Commission on February 17, 2015 declaring certain property and improvements situated thereon, owned by the City of Fort Lauderdale, not needed for governmental purposes and declaring the intention of the City Commission to lease such lands and improvements pursuant to City Charter Section 8.09; and

WHEREAS, City management has determined that it is in the best interests of the City that a brokerage commission be paid by the successful bidder / Lessee and that Resolution No. 15-28 be amended to include that among the terms and conditions of the proposal and Lease would be the requirement that the successful bidder / Lessee be required to pay a brokerage commission of 4.0% of the gross rentals paid over the initial term of the lease, such brokerage commission to be made with each periodic installment of rent; and

WHEREAS, the City of Fort Lauderdale owns certain Property and improvements described herein located at 600 Seabreeze Boulevard, Fort Lauderdale, FL and more particularly described below (hereinafter referred to as "Property") the Property being located in the A-1-A Beachfront Area District (ABA) zoning district; and

WHEREAS, the Property and improvements were acquired by the City by Quit Claim Deed in 1947. It was leased to Universal Construction Company who sublet the Property to Sinclair gas station in 1948. In the late 1970's the Property was utilized as the quarters for the City's Beach Patrol with a portion being leased to Voyager Sightseeing Train. In 1993, the City released a Request for Proposals (RFP) for a Welcome and Visitor's Center and a restaurant. On March 3, 1994, the City entered into a Lease with 615 Beach Oasis Corporation ("Tenant") to operate the Center and the restaurant. The lease expired on February 15, 2014, but the Tenant continues to remain in possession of the Property as a tenant at sufferance; and

WHEREAS, the improvements to the Property include a single story CBS-type constructing building, the square footage and dimensions of which are available on the Broward County Property Appraiser's website for Property ID #5042 12 27 0013; and

WHEREAS, the City Commission deems it to be in the best interest of the City that such Property again be declared not needed for a governmental purpose and advertised for lease under the provisions of Section 8.09 of the City Charter, subject to certain conditions, limitations and restrictions; and

WHEREAS, the City Commission, pursuant to the terms and conditions set forth in City Charter Section 8.09 deems it to be in the best interest of the citizens of Fort Lauderdale to offer the Property for a ground lease for the Property without a percentage rate predicated on the revenues generated by the Property and to seek sealed bids from interested persons, for a lease term of twenty (20) years, plus two five (5) year options to renew, such options to renew being subject to approval by Landlord and Tenant; and

WHEREAS, the City Commission on March 17, 2015 adopted Resolution No. 15-50, which amended Resolution No. 15-28 to provide that the successful bidder/Lessee would be obligated to pay a brokerage commission to CBRE, the broker for the City, of 4.0% of the gross rentals due over the initial term of the Lease and revising the dates for submission of bids

to May 7, 2015 and award of bid to June 16, 2015; and

WHEREAS, Charter Section 8.09 requires publication of notice of the City's intent to Lease, with such notice to be published not less than ten (10) days prior to the date for submission of bids; and

WHEREAS, the publisher, Sun Sentinel failed to timely publish the notice and it is the Commission's intent to cure that defect by amending Resolution No. 15-50 providing for new dates for submission of bids, July 7, 2015 and award of the bid, August 18, 2015 while ratifying and confirming the underlying Resolutions No. 15-28 and 15-50;

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

SECTION 1. That each WHEREAS clause set forth above is true and correct and herein incorporated by this reference.

SECTION 2. That the City of Fort Lauderdale does hereby declare and determine its intention to lease, upon the terms and conditions prescribed below and in the request for proposal, certain Property and improvements on them owned by the City, which Property is located within the City of Fort Lauderdale, Broward County, State of Florida, and legally described as follows::

See Sketch & Legal Description
Attached hereto as
Exhibit "A"

(Property Appraiser's ID # 5042 12 27 0013)
(Hereinafter, "Property")

SECTION 3. That the City Commission does hereby declare and determine that it is in the best interest of the City that the above-described Property and improvements thereon be leased in accordance with the provisions, terms and conditions set forth herein. It is the intent of the City Commission to offer the Property and improvements located thereon for lease for a term of twenty (20) years, plus two (2) five (5) year Options to Renew, such Options to Renew being subject to approval by the Landlord and Tenant. However, an alternative term may be considered in the City Commission's discretion where conditions might warrant such an alternative term, for example, if the bidder proposed to demolish the existing improvements and construct new improvements to be amortized over an alternative term. Charter Section 8.09

prohibits a term of more than fifty (50) years, plus such length of time, not to exceed five (5) years, as determined by the City Commission to be a reasonably necessary period to complete construction of the improvements proposed for the Property. Further, that the terms and conditions of the Lease shall include a provisions requiring the successful bidder / Lessee to pay, in addition to the periodic installments of rent, a brokerage commission of 4.0% of the gross periodic rent installments due over the first term of the Lease.

SECTION 4. That the City Commission declares that the reasons for offering such Property and improvements for lease are that the Property and the buildings upon them are not needed for governmental purposes once the current Tenant at sufferance vacates the Property. The commencement date of the new lease resulting from these proceedings shall be on a date no sooner than the date the Tenant vacates the Property and all judicial labors relating to the eviction of the Tenant have been exhausted, including all rights of appeal; and

SECTION 5. That such Property and improvements shall be leased upon the terms and conditions specified in this Resolution, and such other terms as the City Commission shall deem necessary. The terms and conditions of the Lease shall include, but not be limited to the following subject matter areas:

- Commencement Date
- Rent abatement during construction
- Duration
- Rent
- Escalation Clause
- Use; Termination of Lease
- No Subordination
- Operation of Lands and Improvements
- Termination for Failure to Commence Operations
- Leasehold Improvements – Generally
- Leasehold Improvements – Specifically
- Leasehold Improvements – Minimum Investment
- Period for completion of Leasehold Improvements
- Commencement of Rent Obligation
- Capital Replacement Reserve Account
- Off Street parking
- Indemnification and Hold Harmless
- Insurance
- Easements
- Taxes and Utilities
- Maintenance, Repairs and Upkeep
- Substitution of Personnel

Subcontractors
Payment and Performance Bond
Force Majeure
Damage to Public or Private Property
Safety
Building and Site in "AS IS" Condition
Assignment and Subleases
Triple Net Lease
Compliance with Codes and Regulations
Brokerage Commission to be paid by Tenant
Other terms and conditions
Approval of City Attorney

SECTION 6. That all sealed bids shall be delivered to the Procurement Division Suite 619, 100 North Andrews Avenue, Fort Lauderdale, Florida at or before 2:00 p.m. on **July 7, 2015**. The sealed bids must be accompanied by cash, cashier's check or certified check payable to the City of Fort Lauderdale in an amount equal to at least ten (10) per cent of the first year's rental.

SECTION 7. That the City Commission will meet on **August 18, 2015** at 6:00 p.m. in City Hall at 100 North Andrews Avenue, Fort Lauderdale, Florida for the purpose of reviewing all bids and determining the best proposal submitted. The City Commission shall consider any and all proposals and accept the proposal which, in its judgment, shall be the most advantageous lease for the City, but the City Commission may reject and any all bids at any time. The City Commission may define and waive any minor irregularity it may discover in any proposal contained and submitted in any offer.


SECTION 8. That the City Clerk shall publish a notice in the official newspaper of the City for two (2) issues prior to the date set forth above for receiving bids; the first publication to be not less than ten (10) days before said date of receiving bids, and the second publication to be one week following the first.

SECTION 9. That the City Commission hereby authorizes initiation of eviction actions against the current Tenant and further authorizes all necessary administrative and judicial actions to recover past due rents, property taxes and other monies owed to the City by Tenant relative to the lease, use and possession of the Property.

SECTION 10. That any and all Resolutions or parts thereof in conflict herewith are hereby repealed and ratifying and confirming any and all Resolutions or parts thereof not in conflict herewith.


SECTION 11. That this Resolution shall be in full force and effect upon final adoption.

ADOPTED this the 19TH day of May, 2015.



Mayor
JOHN P. "JACK" SEILER

ATTEST:



City Clerk
JONDA K. JOSEPH

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