



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

② ✓ 6/22/16

Today's Date: 6-13-16

DOCUMENT TITLE: Third Amendment to Lease Agreement (Shippey House)

COMM. MTG. DATE: 6/7/16 CAM #: 16-0690 ITEM #: CM-6 CAM attached: ☐ YES ☒ NO

Routing Origin: CAO Router Name/Ext: Shaniece/Ext. 5036

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 2 Approved as to Form: ☒ YES ☐ NO

Date to CCO: 06/09/16

RBD
Initials

Returned to CAO on 6/10/16 due to old routing form used did not include CMO section

5) City Clerk's Office: # of originals: 2 Routed to: Gina Ri/CMO/X5013 Date: 6/13/16

6) City Manager's Office: CMO LOG #: June 20 Date received from CCO: _____

Assigned to: L. FELDMAN ☒ S. HAWTHORNE ☐ C. LAGERBLOOM ☐
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE (Initial/Date) C. LAGERBLOOM
(Initial/Date) ☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward ___ originals to ☐ Mayor ☐ CCO Date: _____

7) Mayor/CRA Chairman: Please sign as indicated. Forward 2 originals to CCO for attestation/City seal (as applicable) Date: 6/22/16

INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 1 original and forwards 1 original(s) to: Shaniece/Ext. 5036(Name/Ext)

Attach ___ certified Reso # ___ ☐ YES ☒ NO Original Route form to CAO

② ✓ L

DOCUMENT ROUTING FORM

NAME OF DOCUMENT: Third Amendment to Lease Agreement (Shippey House)

Date: June 9, 2016

CCM: 06/07/16 CAM 16-0690 Item: CM-6 ☐ Not a Commission Item

Routing Origin: ☒ CAO Also attached: ☐ copy of CAM ☒ Original Documents

City Attorney's Office: Approved as to Form 2 Originals and Delivered to City Clerk for login purposes

Assistant City Attorney: RBD

CIP FUNDED ☐ YES ☒ NO
Capital Investment / Community Improvement Projects

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

2) **City Clerk:** Please forward 2 originals to the City Manager. 6/9/16

3) **City Manager:** Please sign as indicated and forward 2 originals to the City Mayor's office.

4) **Mayor:** Please sign as indicated and forward 2 originals to Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

5) **City Clerk** maintains one (1) original and returns one (1) original to Shaniece ext. 5036

☒ Original Route form to Shaniece Louis – ext. 5036

**THIRD AMENDMENT
TO
LEASE AGREEMENT**

THIS THIRD AMENDMENT TO LEASE AGREEMENT ("hereinafter, "Lease") made this 17th day of May, 2016, by and between:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter "LESSOR" or "CITY"),

and

RIVERWALK FORT LAUDERDALE, INC., a Florida not-for-profit corporation, FEI/EIN No. 650112666, whose principal address is 305 South Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "LESSEE").

WITNESSETH

WHEREAS, under the Lease, LESSEE assumed responsibility to undertake renovation and rental of the Leased Premises ("Shippey House"); and

WHEREAS, in undertaking such tasks, LESSEE had to address and fund asbestos remediation that was found in Shippey House during the initial demolition of wall coverings which amplified the tasks of renovations and remediation by theretofore unanticipated additional expenditures of approximately \$30,000.00; and

WHEREAS, LESSEE has a Sublease for the Shippey House and the Sublessee is responsible under the Sublease for the internal rehabilitation; and

WHEREAS, under the Sublease, the Sublessee is entitled to a five (5) year period of rent abatement starting with the commencement date of the Sublease; and

WHEREAS, the scope of the internal rehabilitation has been significantly increased as a result of the asbestos remediation, Sublessee and LESSEE have agreed to extend the five (5) year period of rent abatement to a six (6) year period of rent abatement, in exchange for which Sublessee agrees to undertake the expanded scope of internal rehabilitation; and

WHEREAS, the parties are desirous of reducing the foregoing understanding by way of amendments to the respective Lease and Sublease; and

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the LESSOR and LESSEE agree as follow:

1. Article 10, Assignment and Subletting is amended as follows:

ARTICLE 10.

ASSIGNMENTS AND SUBLETTING

10.1. Assignment and Subletting.

(a) Unless expressly authorized otherwise, LESSEE may not assign neither this Lease nor any portion of its leasehold interest, nor lease, sublet, license or grant any concession for the use of the Leased Premises or Shippey House to another person without obtaining LESSOR's prior written consent, which such prior written consent shall be given by LESSOR'S City Manager.

(b) Upon review and approval of the terms and conditions of a sub-lease of the Leased Premises and structure of the Shippey House by LESSOR'S City Manager, LESSEE is expressly authorized to sub-lease the Leased Premises and the structure of the Shippey House to an entity for the purpose of operating the Leased Premises and the structure of the Shippey House in accordance with the Permissible Uses set forth in Section 4.1 of this Lease and for no other purposes. As a condition to LESSOR's prior written consent to a sublease hereunder, the Sublessee shall agree in writing to comply with and be bound by all the terms, covenants, conditions, provisions and agreements under this Lease and LESSEE shall deliver to LESSOR promptly after execution, an executed copy of such Sublease and an agreement by Sublessee of compliance with the terms and conditions set forth in this Lease.

1. The Sublessee ("Initial Sublessee") under the initial sub-lease of the Leased Premises after the Effective Date shall be obligated, at its own expense, to complete construction of interior renovations in accordance with **Schedule Three** attached hereto.

2. Rent to the Initial Sublessee shall be at a comparable market rate to be approved by the LESSOR'S City Manager upon consultation with the LESSOR'S broker of record or comparable person with expertise in real property values; provided however, that the Initial Subtenant shall be entitled to a six (6) ~~five (5)~~ year period of rental abatement during which period Subtenant shall pay to LESSEE, as "additional rent" the sum of \$3,000.00 annually to an ear-marked segregated account set up by LESSEE to be held in trust by LESSEE for the purpose of establishing a Capital Reserve Account for capital maintenance and improvements for Shippey House and making expenditures therefrom for those limited purposes.

3. At the conclusion of the six (6) ~~five (5)~~ year rent abatement period for the Initial Sublessee, the rental rate to be paid by Sublessee shall be at a comparable market rate, as approved by the LESSOR'S City Manager in consultation with the LESSOR'S broker of record or comparable person with expertise in real property values.

a. The comparable market rate set at the conclusion of the six (6) ~~five (5)~~ year rent abatement period shall escalate by 2.0% on the anniversary dates for years numbered seven (7) ~~six (6)~~ through nine (9).

b. Commencing with year number ten (10) and continuing for each and every fifth anniversary thereafter, the rent shall be re-set in accordance with the comparable market rate as approved by the City Manager in accordance with the foregoing. During the intervening years thereafter the rent shall escalate by 2.0% on each of the next successive intervening anniversary dates

4. As to the rents and additional rents paid by the Initial Sublessee or any successor Sublessee to LESSEE after the initial six (6) ~~five (5)~~ year rent abatement period, LESSEE hereby agrees that (i) one-half (1/2) of such rental income shall be deposited and allocated on LESSEE's books as an ear-marked segregated account set up by LESSEE and held in trust by LESSEE for the purpose of establishing a fund, expenditures from which shall be limited, except as hereinafter set forth, to the preservation, maintenance and capital improvements in support of the Shippey House; (ii) once the Capital Reserve Account attains a balance of \$50,000.00, funds may be disbursed from the Capital Reserve Account for either routine maintenance and repairs for the Shippey House or for funding increased activity levels for Riverwalk Linear Park and Riverwalk District or for capital improvements in support thereof; (iii) the \$50,000.00 fund balance referenced in (ii) above shall be adjusted annually in accordance with the percentage increase or decrease in the Consumer Price Index as referenced in Section 9.3 (b) hereof; (iv) the remaining one-half (1/2) of the rental income received by LESSEE shall be deposited and allocated on LESSEE's books as an ear-marked segregated account set up by LESSEE and held in trust by LESSEE for funding the cost of increased activities along Riverwalk Linear Park or Riverwalk District or for making capital contributions in support thereof.

(c) LESSEE shall, by written notice, advise LESSOR of its desire from and after a stated date (which shall not be less than thirty (30) nor more than ninety (90) days after the date of LESSEE's notice) to assign its interest under this Lease for any part of the term hereof. LESSEE shall supply LESSOR with such information, financial statements, verifications and related materials as LESSOR may request or desire to evaluate the written request to so assign; and in such event LESSOR shall have the right, to be exercised by giving written notice to LESSEE within thirty (30) days after receipt of LESSEE's notice and all of the aforesaid materials, to either refuse to consent to the proposed assignment. Said notice by LESSEE shall state the name and address of the proposed assignee.

(d) As a condition to LESSOR's prior written consent as provided for herein, the assignee shall agree in writing to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease, and

LESSEE shall deliver to LESSOR promptly after execution, an executed copy of such assignment and an agreement of said compliance by each sublease or assignee.

10.2. Continued Liability of LESSEE. LESSOR's consent to any sale, assignment, encumbrance, subletting, occupation, lien or other transfer shall not release LESSEE from any of LESSEE's obligations hereunder or be deemed to be a consent to any subsequent occurrence. Any sale, assignment, encumbrance, subletting, occupation, lien or other transfer of this Lease that does not comply with the provisions of Article shall be void.

2. In the event and to the extent that there is any conflict between the terms and conditions of the underlying Lease, as previously amended, and the terms and conditions of this Third Amendment to the Lease Agreement, then, to the extent of such conflict, the terms and conditions of the Third Amendment shall supersede and prevail over any such conflicting terms in the underlying Lease, as previously amended.

3. In all other respects, the parties ratify and confirm the underlying Lease, as previously amended and as amended in this Third Amendment.

IN WITNESS OF THE FOREGOING, THE PARTIES HAVE SET THEIR HANDS AND SEALS THE DAY AND YEAR FIRST ABOVE WRITTEN.

AS TO LESSOR:

WITNESSES

Jeannette A. Johnson
Signature

Jeannette A. Johnson
Print Name

Gina Rizzuti-Smith
Signature

Gina Rizzuti-Smith
Print Name

(CORPORATE SEAL)



CITY OF FORT LAUDERDALE

BY: [Signature]
John R. "Jack" Seiler, Mayor

BY: [Signature]
Lee R. Feldman, City Manager

ATTEST: [Signature]
Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:
Cynthia A. Everett, City Attorney

BY: [Signature]
Robert B Dunckel
Assistant City Attorney

[Signature]

AS TO LESSEE

WITNESSES

[Signature]
Signature

Patricia A. Harris
Print Name

[Signature]
Signature

Kimberly C. Spelber
Print Name

RIVERWALK OF FORT
LAUDERDALE, INC.

BY [Signature]
Eugenia Duncan Ellis, President

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 1 day of June, 2016 by **Eugenia Duncan Ellis**, President of Riverwalk of Fort Lauderdale, Inc., a Florida not for profit corporation. She is personally known to me or produced _____ as identification.

(Seal)

[Signature]
Notary Public, State of Florida
(Signature of Notary taking Acknowledgment)

Cristina Hudson
Name of Notary Typed, Printed or Stamped

My Commission Expires: 10/29/17

Commission Number



[Handwritten initials]