



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

#21-0031

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

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: April 20, 2021

TITLE: Resolution Approving the Fourth Amendment to the Ground Lease Agreement with Las Olas SMI, LLC ("Suntex") for City-owned Property Located at 240 East Las Olas Circle – **(Commission District 2)**

Recommendation

Staff recommends the City Commission adopt a Resolution approving the Fourth Amendment to the Ground Lease Agreement with Las Olas SMI, LLC ("Suntex") for City owned property located at 240 East Las Olas Circle, commonly known as the Las Olas Marina.

Background

On June 21, 2016, the City Commission adopted Resolution 16-102 declaring its intent to lease City-owned property known as the Las Olas Marina located on 240 East Las Olas Circle and a portion of the Las Olas Intracoastal Parking Lot located on 201 South Birch Road, both properties commonly known as the Las Olas Marina. Suntex Marina Investors, LLC. ("Suntex") was the sole bid responder. As part of its bid submittal, Suntex included a Base Proposal, an Alternate A Proposal (Base Proposal plus Restaurant), an Alternate B Proposal (Mega Yacht Proposal) and an Alternative C Proposal (Mega Yacht Proposal plus Restaurant). On October 5, 2016, the City Commission approved Resolution 16-175 awarding the Las Olas Marina Lease to Suntex. On October 18, 2016, the City Commission adopted Resolution 16-180 authorizing the negotiation of the lease and the approval of Alternative C-3 Proposal from the Suntex bid package. On July 11, 2017, the City Commission adopted Resolution 17-154 approving the ground lease with Suntex for a 50-year term.

There are three executed amendments related to initial agreement:

- First Amendment (CAM #19-0394): Extended the pre-development period
- Second Amendment (CAM #19-0708): Replaced the site plan known as Alternate C-3 with a new site plan known as Alternate Proposal Site D
- Third Amendment (CAM #19-1195): Extended the pre-development period

The proposed fourth amendment includes:

- Defined Terms: Modifies and/or creates definitions for five terms – Demised Premise, Lease Terms, Permitted Use, Lessee Improvements, and Wayfinding Signage.
- Section 4.1 – Primary Term: Includes the term starting on the Commencement Date and ending on the Expiration Date. Added Language that both parties agree to memorialize all dates in writing, when all conditions for turnover of Possession have been completed.
- Section 5.5 – Additional Approvals: Language was removed, and conditions related to the Submerged Land Lease (SLL) were added.
- Section 6.3 – Percentage Rent: Clarified the definition for Gross Sales and added language waiving rights of Lessee related to the lack of privity on the new SLL and Portofino Offset.
- Section 6.4 - Trustees of the Internal Improvement Trust Fund (TIITF) Rents & New SLL Consideration: Clarified that Lessee shall pay rents owed to TIITF under the Amended Deed Restrictions/Reverter Agreement without offset or reduction in rents owed to the City under the Ground Lease.
- Section 8.1 – Construction of Improvements: Language was added to address parking mitigation requirements and requirements to build Wayfinding Signage.
- Section 16.1 – Default: Replaces language related to the Submerged Land Lease and TIITF requirements and added new default provisions.
- Section 16.3 – Limited Right of Offset: Adds language to provide ground lease rent offsets if the City defaults on the Development Agreement with Las Olas SMI, LLC for Pump Station D-31 Relocation and Replacement.

All other terms and conditions of the Ground Lease Agreement, as amended, remained unchanged.

Resource Impact

There is no direct fiscal impact to the City associated with this action, although percent rent and TIITF rents are being amended.

Strategic Connections

This item is a *2021 Top Commission Priority*, advancing the Parks and Public Places initiative.

This item supports the *Press Play Fort Lauderdale 2024* Strategic Plan, specifically advancing:

- The Public Places Focus Area
- Goal 3: Build a healthy and engaging community.
- Objective: Improve access to and enjoyment of our beach, waterways, parks and open spaces for everyone

This item advances the *Fast Forward Fort Lauderdale 2035* Vision Plan: We Are Here.

Related CAMs

#21-0003

#21-0029

#21-0030

#21-0035

#21-0075

#21-0184

Attachments

Exhibit 1 – Fourth Amendment

Exhibit 2 – Resolution

Prepared by: Ben Rogers, Director, Transportation and Mobility

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