

RESOLUTION NO. 2018-30272

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING RESOLUTION NO. 2017-30069 TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE A NEW LEASE AGREEMENT, AS MODIFIED, BETWEEN THE CITY (TENANT) AND TOWER FORTY ONE ASSOCIATION, INC. (LANDLORD), FOR THE USE OF AN EQUIPMENT ROOM AND CERTAIN ROOFTOP AREAS, AT A BUILDING LOCATED AT 4101 PINE TREE DRIVE, IN CONNECTION WITH THE CONTINUED USE AND OPERATION OF PUBLIC SAFETY COMMUNICATIONS EQUIPMENT, FOR A TERM OF FIFTEEN (15) YEARS, COMMENCING, RETROACTIVELY, ON JANUARY 1, 2018, AND ENDING ON DECEMBER 31, 2032; AND FURTHER APPROVING, RETROACTIVELY, A MONTH TO MONTH EXTENSION OF THE CURRENT LEASE, FROM MARCH 8, 2015 THROUGH DECEMBER 31, 2017.**

**WHEREAS**, since 1987, the City, as Tenant, has entered into lease agreements with Tower 41 Associations, Inc. (Tower 41), as Landlord, for the use of an equipment room and certain rooftop areas for the placement and operations of certain public safety communications equipment; and

**WHEREAS**, pursuant to said lease agreements, the City has been operating a communications facility, which includes an equipment room (the Equipment Room Space) with radio communications equipment, such as transmitter, receiver, and other accessories; areas on the rooftop (the Rooftop Spaces) containing equipment and improvements such as transmitters, antennas, UPS system, UPS batteries, battery chargers and microwaves dishes; and flexible coaxial transmission lines between the Rooftop Space and the Equipment Room Space; and

**WHEREAS**, in 1996, the City entered into a twenty (20) year term agreement which expired on March 7, 2015 and has thereafter continued on a month to month basis; and

**WHEREAS**, the radio equipment located at Tower 41 provides a vital microwave link to ensure continuous public safety radio communications between the northern and mid-beach areas with the primary and secondary dispatch centers; and

**WHEREAS**, the relocation of the equipment from Tower 41 would require the City to apply to the Federal Communications Commission for new microwave frequencies and the certification that the frequencies would not interfere with the existing commercial licensees; and

**WHEREAS**, at the October 18, 2017 City Commission meeting, the Mayor and City Commission adopted Resolution No. 2017-30069, approving a similar new lease agreement, containing the following essential terms:

- A. Term: Seven (7) years, commencing retroactively on January 1, 2017;
- B. Rent/Electricity: \$20,000 annually, subject to three percent (3%) annual increases; payment of electricity consumption through sub meter;

C. Other: Tower 41 shall not lease other roof space for other purposes, if such purposes will interfere with the operations of the City's public radio communications; and

**WHEREAS**, The City is in the process of updating the City's Communications Facility with new equipment, which will have a useful life of fifteen (15) years; and

**WHEREAS**, subsequent to the October 18, 2018 City Commission meeting, the Administration and Tower 41 renegotiated the terms of the new lease agreement to accommodate the City's need for a longer lease commitment, to include: (1) increasing the term of the lease agreement from seven (7) years to fifteen (15) years; (2) modifying the commencement date of the lease term to reflect January 1, 2018, instead of January 1, 2017; and (3) providing that the initial annual rent, in the amount of \$20,000, shall be subject to annual increases of 4.5%, instead of 3%; and

**WHEREAS**, the Administration recommends that the Mayor and City Commission amend Resolution No. 2017-30069 to approve the new lease agreement, as modified, in the form attached to the City Commission Memorandum accompanying this Resolution; and

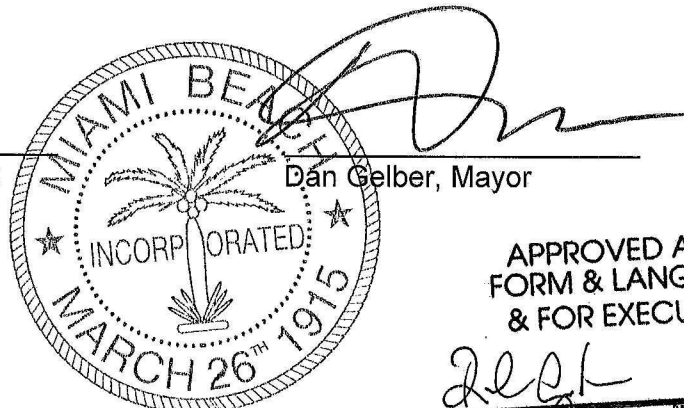
**WHEREAS**, the Administration also recommends formalizing the month to month extension of the existing lease, from the date of expiration, on March 7, 2015, through December 31, 2017.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby amend Resolution No. 2017-30069 to authorize the Mayor and City Commission to execute a new lease agreement, as modified, between the City (Tenant) and Tower Forty One Association, Inc. (Landlord), for the use of an equipment room and certain rooftop areas, at a building located at 4101 Pine Tree Drive, in connection with the continued use and operation of public safety communications equipment, for a term of fifteen (15) years, commencing, retroactively, on January 1, 2018, and ending on December 31, 2032; and further approve, retroactively, a month to month extension of the current lease, from March 8, 2015 through December 31, 2017.

PASSED AND ADOPTED this 11 day of April 2018.

ATTEST:

RS 4/25/18  
Rafael E. Granado, City Clerk



APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

REG 3-28-18  
City Attorney Date