

FAILURE TO RESPOND TO THIS REQUEST WITHIN THE TIME PERIOD PROVIDED IN THE LEASE AGREEMENT BETWEEN CITY OF MIAMI BEACH, FLORIDA AND 1691 MICHIGAN AVE INVESTMENT LP SHALL CONSTITUTE AUTOMATIC APPROVAL OF THE MATTERS DESCRIBED HEREIN WITH RESPECT TO SECTION 10.3, 10.5 AND 10.6 OF SUCH LEASE AGREEMENT.

May 25, 2022

RECEIVED

26 MAY

Sent Via UPS

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

CITY MANAGER'S OFFICE

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
25 SE 2nd Ave
Suite 450
Miami, Florida 33131-1546
Attention: Joel N. Minsker, P.A.

Re: Lease Agreement (as previously assigned, the "Lease") between CITY OF MIAMI BEACH, FLORIDA, a municipal corporation duly organized and existing under the laws of the State of Florida ("Landlord"), and CLPF – Lincoln, LLC, a Delaware limited liability company (successor in interest to 1691 Michigan Ave Investment LP) ("Tenant"), dated September 1, 1999, with respect to the property located at 1691 Michigan Avenue, Miami Beach, Florida (the "Premises"); capitalized terms used but not otherwise defined herein have the meanings given such terms in the Lease. For reference a copy of the Offer Notice is attached hereto as Exhibit A.

Dear Sir or Madam:

If Landlord declines to accept that certain Offer Notice sent by Tenant on April 5, 2022 pursuant to Section 36.2(a) of the Lease, then Tenant hereby requests Landlord's consent to a proposed Sale of Tenant's interest in the Lease pursuant to Sections 10.3(c) and 10.5(a) of the Lease. Please note the following information about the potential third party purchaser of Tenant's interest in the Lease: (i) the name of the proposed purchaser is SCG Global Holdings, L.L.C., a Delaware limited liability company, or its affiliated designee, and the proposed purchaser's address is c/o Starwood Capital Group Global, L.P., 591 West Putnam Avenue, Greenwich, CT 06830, (ii) the Tenant's name is CLPF – Lincoln, LLC, and Tenant's address is c/o Clarion Partners, 230 Park Avenue, 12th Floor, New York, NY 10169, and (iii) the contemplated Sale is for one hundred percent (100%) of the leasehold interest under the Lease.

The proposed purchaser is a subsidiary of Starwood Capital Group, one of the world's leading private real estate firms, with approximately \$115 billion in assets under management. The firm has raised over \$70 billion of capital and has sponsored 16 private opportunistic real estate funds, 16 co-investments, and 8 public companies since its inception. Over the past 30 years, the firm has invested in over \$200 billion of assets, including properties within virtually every major real estate asset class. The firm has acquired over 100 million square feet of office properties since inception and currently owns a portfolio of approximately 48 million square feet globally. Over the past five years, the firm has been one of the most active and aggressive purchasers of office assets in the United States. During this period, the firm acquired over \$7 billion of office assets comprising over 20 million square feet across 32 transactions. Specific to Starwood's experience in Florida, since 2015 they have acquired 4.3 million square feet of office properties totaling nearly \$900 million in the state (for more information, please see www.starwoodcapital.com). The proposed purchaser hereby certifies that it is a Permitted Buyer pursuant to Section 10.3(c) of the Lease. Pursuant to Section 10.3(c)(A) of the Lease, attached please find a letter from the Chief Financial Officer of the Funds of Starwood XII Management GP, L.L.C., which certifies as to the net worth of the proposed purchaser and affiliated entities attached as Exhibit B (the "Financial Confidential Information").

Please note, to facilitate Landlord's evaluation of the proposed purchaser, Starwood Capital Group is willing to disclose to Landlord the Financial Confidential Information; provided, however, by accepting such Financial Confidential Information, Landlord agrees: (i) except as required by applicable law, regulation or legal process, to maintain in confidence and not disclose the Financial Confidential Information, or any part thereof, to any third party other than to Landlord's independent certified public accounting firm ("Landlord's CPA") it being understood Landlord's CPA shall be informed by Landlord of the confidential nature of such information and shall be directed by Landlord to treat such information confidentially, (ii) to take the same measures to maintain the confidentiality of the Financial Confidential Information as Landlord does with respect to its own proprietary and confidential information; and (iii) not to use any Financial Confidential Information for any purpose other than to evaluate whether or not to consent to the proposed Sale of Tenant's interest in the Lease. If the proposed Sale is not consummated, or any time upon request of Starwood Capital Group for any reason, Landlord will return to Starwood Capital Group or destroy all written Financial Confidential Information (except as may be required for regulatory purposes).

Pursuant to Section 10.6(b) of the Lease, attached as Exhibit C hereto please find a proposed form of Assignment and Assumption of Ground Lease (the "Assumption of Lease"). Please confirm the Assumption of Lease is acceptable for the consummation of the Sale to the proposed purchaser.

In the event that Landlord consents to the proposed Sale of Tenant's interest in the Lease as described above and approves the Assumption of Lease attached hereto, Tenant kindly requests that Landlord promptly provide a written statement to Tenant of such consent and approval by countersigning in the applicable signature block below.

If you have any questions or need additional information, feel free to contact us at Clarion Partners.

[Signature Page Attached]

Sincerely,

CLPF – LINCOLN, LLC,
a Delaware limited liability company

By: Clarion Lion Properties Fund Holdings, L.P.,
a Delaware limited partnership
Its: Sole Member

By: CLPF-Holdings, LLC,
a Delaware limited liability company
Its: General Partner

By: Clarion Lion Properties Fund Holdings REIT,
LLC, a Delaware limited liability company
Its: Sole Member

By: Clarion Lion Properties Fund, LP,
a Delaware limited partnership
Its: Managing Member

By: Clarion Partners LPF GP, LLC, a
Delaware limited liability company
Its: General Partner

By: Clarion Partners, LLC,
a New York limited liability company
Its: Sole Member

By: *Katie Vaz*
Name: Katie Vaz
Title: Authorized Signatory

WITH COPIES TO:

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

SCG Global Holdings, L.L.C.
c/o Starwood Capital Group Global. L.P.
591 West Putnam Ave
Greenwich, CT 06830
Attention: Andrew Coren


City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Nelson Mullins Broad & Cassel
1905 NW Corporate Blvd.
Suite 310
Boca Raton, FL 33431
Attention: David Itskovich

Bloom & Minsker
25 SE 2nd Ave
Suite 450
Miami, FL 33131-1546
Attention: Joel N. Minsker, P.A.

The undersigned hereby certifies to Landlord that it is a Permitted Buyer pursuant to Section 10.3(c) of the Lease.

SCG GLOBAL HOLDINGS, L.L.C.,
a Delaware limited liability company

By: 
Name: Andrew Coren
Title: Managing Director

The City of Miami Beach, Florida does hereby consent to the proposed Sale of Tenant's interest in the Lease as described above and approves the form of Assumption of Lease attached hereto.

CITY OF MIAMI BEACH, FLORIDA,
a municipal corporation of the State of Florida

By: _____
Name: _____
Title: _____

EXHIBIT A
OFFER NOTICE

FAILURE TO RESPOND TO THIS REQUEST WITHIN THE TIME PERIOD PROVIDED IN THE LEASE AGREEMENT BETWEEN CITY OF MIAMI BEACH, FLORIDA AND CLPF – LINCOLN, LLC SHALL CONSTITUTE AUTOMATIC APPROVAL OF THE MATTERS DESCRIBED HEREIN WITH RESPECT TO SECTION 36.2 OF SUCH LEASE AGREEMENT.

April 5, 2022

Sent Via UPS and Hand Delivery

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
Suite 700
1401 Brickell Avenue
Miami, Florida 33131
Attention: Joel N. Minsker, P.A.

Re: Lease Agreement (as amended and assigned, the "Lease") between CITY OF MIAMI BEACH, FLORIDA, a municipal corporation duly organized and existing under the laws of the State of Florida ("Owner"), and CLPF – Lincoln, LLC, a Delaware limited liability company (successor in interest to 1691 Michigan Ave Investment LP) ("Tenant"), dated September 1, 1999, with respect to the property located at 1691 Michigan Avenue, Miami Beach, Florida (the "Premises"); capitalized terms used but not otherwise defined herein have the meanings given such terms in the Lease.

Dear Sir or Madam:

Pursuant to Article 36.2(a) of the Lease, Tenant hereby notifies Owner that Tenant desires to sell its leasehold interest in the Premises. This notice constitutes an Offer Notice described in Article 36.2(a) of the Lease. Pursuant to Article 36.2(b) of the Lease, Tenant will not consummate any offer from a third party to purchase the Premises until the earlier to occur of (i) the expiration of 45 days following Owner's receipt of this Offer Notice, or (ii) receipt by Tenant of a notice by Owner declining to consummate the Right of First Offer Transaction. In the event that Owner elects not to consummate the Right of First Offer Transaction, Tenant kindly requests that Owner promptly provide a written statement to Tenant of such intention by countersigning in the applicable signature block below.

Pursuant to Section 36.2(a) and Exhibit 36.2(a) of the Lease, the terms of this Offer Notice are as follows:

1. Purchase Price - \$92,500,000
2. Closing Date - The closing of the purchase shall take place on a date designated by Tenant, but in any event not less than sixty (60) days nor more than ninety (90) days following the date Tenant executes a purchase agreement with Owner. If Owner declines to be the purchaser of this Right of First Offer Transaction, Tenant will likely consummate the sale to a third party at an earlier date.
3. Deed: Title - At the closing, Tenant shall convey to the Owner (i) all of Tenant's right, title and interest in and to the Premises by a special warranty deed and (ii) all of Tenant's right, title and interest in and to this Lease by an assignment of lease. The form of such deed and assignment of lease shall be mutually acceptable to Tenant and Owner but shall not in any event provide for any representations by Tenant other than a representation that Tenant has not theretofore transferred or assigned the items being transferred or conveyed thereby and representations and warranties customarily contained in a special warranty deed. Tenant's interest in the Premises and the Lease shall be conveyed to Owner subject to all liens encumbrances and other matters then affecting the title thereto and any state of facts a survey may reveal (but in all cases subject to Tenant's obligations under Section 2.2 of the Lease). Tenant shall also execute all other documents customarily used in real estate transactions in Miami-Dade County, Florida.
4. Rent: Prorations - At the closing of the purchase, all Rental and/or Impositions shall be prorated through the date of closing and paid by the party entitled thereto. If Owner declines to be the purchaser of this Right of First Offer Transaction, the expenses will be customarily prorated as in other real estate transactions in Miami-Dade County, Florida, including buyer receiving a credit with respect to Tenant's post-closing obligations under existing space leases for tenant inducement costs.
5. Expenses - Each party shall pay its own attorneys' fees. All title charges, recording fees, survey charges and other expenses incurred in connection with the purchase shall be paid by Owner. Tenant shall pay transfer taxes (including documentary stamp taxes and Miami-Dade County surtax) payable in connection with the purchase. If Owner declines to be the purchaser of this Right of First Offer Transaction, then in a sale transaction to a third party purchaser, (i) Tenant shall pay transfer taxes (including documentary stamp taxes and Miami-Dade County surtax) and the recording fees relating to any title clearing documents necessary to consummate the sale, Tenant's attorneys' fees, any fees and expenses required to be paid to Owner for its consent, any brokerage commission due to the broker used in the transaction, and 50% of escrow fees and (ii) the third party purchaser shall pay fees and premium for title insurance, survey charges and 50% of escrow fees.

If you have any questions or need additional information, feel free to contact us at 214-775-7668.

[Signature Page Attached]

Sincerely,

CLPF – LINCOLN, LLC,
a Delaware limited liability company

By: Clarion Lion Properties Fund Holdings, L.P.,
a Delaware limited partnership
Its: Sole Member

By: CLPF-Holdings, LLC,
a Delaware limited liability company
Its: General Partner

By: Clarion Lion Properties Fund Holdings REIT,
LLC, a Delaware limited liability company
Its: Sole Member

By: Clarion Lion Properties Fund, LP,
a Delaware limited partnership
Its: Managing Member

By: Clarion Partners LPF GP, LLC, a
Delaware limited liability company
Its: General Partner

By: Clarion Partners, LLC,
a New York limited liability company
Its: Sole Member

By: Jon Gelb
Name: Jon Gelb
Title: Authorized Signatory

WITH COPIES TO:

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
Suite 700
1401 Brickell Avenue
Miami, Florida 33131
Attention: Joel N. Minsker, P.A.

The City of Miami Beach, Florida does hereby elect **NOT** to consummate the Right of First Offer Transaction set forth in this Offer Notice. PLEASE NOTE THAT THE CONSUMMATION OF ANY PROPOSED TRANSFER/SALE OF THE PROJECT WILL STILL BE SUBJECT TO THE PROVISIONS OF THE LEASE INCLUDING, WITHOUT LIMITATION, SECTIONS 10.3-10.6 OF THE LEASE, WHICH INCLUDE AN ADDITIONAL NOTICE PROVISION (SECTION 10.5) WITH THE DETAILS OF THE PROPOSED BUYER AND TRANSACTION.

CITY OF MIAMI BEACH, FLORIDA,

a municipal corporation of the State of Florida

By: 

Name: Alina T. Hudak

Title: City Manager

Date: 5/17/22

5

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney 

05/17/22
Date

RESOLUTION NO. 2022-32136

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO DECLINE, IN WRITING, THE RIGHT OF FIRST OFFER TRANSACTION, AS REQUIRED PURSUANT TO THE TERMS OF SECTION 36.2 OF THE AGREEMENT OF LEASE (GROUND LEASE) BETWEEN THE CITY (OWNER) AND CLPF – LINCOLN, LLC (TENANT), INVOLVING THE SALE OF THE PROJECT LOCATED AT 1691 MICHIGAN AVENUE (THE LINCOLN) FOR THE TOTAL PURCHASE PRICE OF \$92,500,000; FURTHER, RESCINDING RESOLUTION NO. 2014-28486, WHICH AUTHORIZED AN AMENDMENT TO THE GROUND LEASE FOR THE PURPOSE OF DEVELOPING A MINIATURE GOLF PROJECT AT THE LINCOLN WHICH WAS NEVER DEVELOPED.

WHEREAS, on January 5, 1998, the City issued RFP No. 20-97/98, seeking proposals for the development of Public-Private Parking Facilities; and

WHEREAS, on July 7, 1999, the Mayor and City Commission adopted Resolution No. 99-23236, approving the Agreement of Lease and the Development Agreement between the City and Lincoln Plaza Partners, LLC, for the development of a mix-use project, located at Michigan and Jefferson Avenue, between Lincoln Lane and 17th Street (the "Land"); and

WHEREAS, an Agreement of Lease was executed between the City, as Owner/ground lessor, and Lincoln Plaza Partners LLC, a Florida limited liability company, as Tenant/ground lessee, dated September 1, 1999 ("Ground Lease"), under which Ground Lease Tenant agreed to develop a commercial project, consisting of an office building, a parking garage, and ground floor retail space (collectively the "Project"), which Project is currently located at 1691 Michigan Avenue, and commonly referred to as "The Lincoln" (the Land and Project shall be collectively referred to herein as the "Premises"); and

WHEREAS, pursuant to the Ground Lease, Tenant leases the land from the City and Tenant holds ownership and title to the Project, and upon the expiration of the Ground Lease, ownership of, and title to the Project automatically vests in the City, without the payment of consideration therefor; and

WHEREAS, the Ground Lease has an initial term of 50 years, expiring September 30, 2052, plus two automatic renewal options for 20 years each (unless the Tenant is in default or notifies the City within the last twenty-four (24) months of the end of the term in question, indicated they will not exercise their option); and

WHEREAS, on December 20, 2000, the Mayor and City Commission adopted Resolution No. 2000-24220, approving the sale of the Project and the Assignment and Assumption of the Ground Lease from Lincoln Plaza Partners, LLC to LNR Jefferson, LLC, which entity later changed its name to The Lincoln, LLC; and

WHEREAS, on or about July 18, 2006, The Lincoln LLC sold the Project and assigned its leasehold interest in the Land to Lincoln Miami Beach Investments, LLC, a Delaware limited liability company; and

WHEREAS, on November 17, 2006, Lincoln Miami Beach Investment, LLC changed its name to OIK Lincoln Miami Beach Investment, LLC, and thereafter, on June 17, 2009, merged with 1691 Michigan Ave Investment LP, a Delaware limited liability partnership; and

WHEREAS, on February 12, 2014, the Mayor and City Commission approved Resolution No. 2014-28486, authorizing the Mayor and City Clerk to execute Amendment No. 1 to the Ground Lease, modifying the Scope of Use under the Ground Lease by reducing the minimum number of parking spaces required for the parking garage facility, from 700 to 645 spaces; increasing the minimum number of parking spaces required to be maintained at all times for use by the general public from 100 to 155 parking spaces; and further increasing the monthly parking spaces for members of the general public from 50 to 75, in connection with the development of a miniature golf project at the sixth floor of the garage with the subtenant, City Middle, LLC; and

WHEREAS, the miniature golf project was never developed; therefore, Amendment No. 1 was never executed; and

WHEREAS, on January 13, 2016, the Mayor and City Commission adopted Resolution No. 2016-29268, declining the Owner's Reciprocal Right of First Refusal and approving the sale of the Project to CLPF-Lincoln, LLC, a Delaware limited liability company ("Tenant"), subject to the Administration's successful completion of its evaluation of the proposed purchaser; and

WHEREAS, the Ground Lease was further assigned to Tenant by an Assignment and Assumption of Ground Lease dated April 8, 2016 (the Ground Lease, as amended and assigned, shall be referred to as the "Lease"); and

WHEREAS, The Project contains three principal uses: (i) a parking garage with 709 parking spaces, (ii) 43,166 square feet of ground retail space, and (iii) 118,658 square feet of office space; and

WHEREAS, on April 5, 2022, the City received an Offer Notice pursuant to Section 36.2 of the Lease, notifying the City that Tenant desires to sell its leasehold interest in the Premises; and

WHEREAS, pursuant to Section 36.2(b) of the Lease, Tenant will not consummate any offer from a third party to purchase the Tenant's estate in the Premises ("Right of First Offer Transaction") until the earlier to occur: (i) the expiration of 45 days following Owner's receipt of this Offer Notice, or (ii) receipt by Tenant of a notice by Owner declining to consummate the Right of First Offer Transaction; and

WHEREAS, The Offer Notice contained the following information:

Owner of Ground Lease:	City of Miami Beach
Seller:	CLPF-Lincoln, LLC
Purchase Price:	\$92,500,000 cash transaction; and

WHEREAS, in accordance with Article 36.2 of the Lease, the City has until May 20, 2022 to elect, in writing, whether or not to consummate the Right of First Offer Transaction, at the same price and upon such other material terms set forth in the Offer Notice ("Offer"); and

WHEREAS, the cost to reconstruct a facility of this size with a mixed-use concept will cost approximately \$36M, plus tenant Improvements and leasing fees; and

WHEREAS, considering that the Offer materially exceeds the cost to construct a City-owned parking, office, and retail facility and that the Premises will revert back to the City at the end of the Lease term, the City Manager recommends that the City decline the Right of First Offer Transaction; and rescind Resolution No. 2014-28486, that approved Amendment No. 1 to the Lease, for the purpose of developing a miniature golf project at The Lincoln which was never developed; and

WHEREAS, following the City's rejection of the Right of First Offer Transaction, pursuant to Section 10.5 ("Required Notices") of the Lease, the proposed transfer and/or sale of the Project requires written notice to the City, as Owner, with the identity of the transferor, transferee, nature of the transaction, percentage of interest conveyed and such other information requested by the City ("Notice of Sale"); and

WHEREAS, since the City will have sixty (60) days to respond to the Notice of Sale, the City Administration will then submit the proposed sale of the Project for approval by the City Commission, subject to the City Administration conducting its due diligence, at the sole expense of Tenant, to investigate whether or not the proposed purchaser qualifies as a "Permitted Buyer" under Section 10.3 of the Lease.

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 authorize the City Manager to decline, in writing, the Right of First Offer Transaction, as required pursuant to the terms of Section 36.2 of the Agreement of Lease (Ground Lease) between the City (Owner) and CLPF – Lincoln, LLC (Tenant), involving the sale of the Project located at 1691 Michigan Avenue (The Lincoln) for the total purchase price of \$92,500,000; further, rescind Resolution No. 2014-28486, which authorized an amendment to the Ground Lease for the purpose of developing a miniature golf project at The Lincoln which was never developed.

PASSED and ADOPTED this 4 day of May 2022.



Dan Gelber, Mayor

ATTEST:



MAY 10 2022

Rafael E. Granado, City Clerk



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4-27-22

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Alina T. Hudak, City Manager
DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO DECLINE, IN WRITING, THE RIGHT OF FIRST OFFER TRANSACTION, AS REQUIRED PURSUANT TO THE TERMS OF SECTION 36.2 OF THE AGREEMENT OF LEASE (GROUND LEASE) BETWEEN THE CITY (OWNER) AND CLPF – LINCOLN, LLC (TENANT), INVOLVING THE SALE OF THE PROJECT LOCATED AT 1691 MICHIGAN AVENUE (THE LINCOLN) FOR THE TOTAL PURCHASE PRICE OF \$92,500,000; FURTHER, RESCINDING RESOLUTION NO. 2014-28486, WHICH AUTHORIZED AN AMENDMENT TO THE GROUND LEASE FOR THE PURPOSE OF DEVELOPING A MINIATURE GOLF PROJECT AT THE LINCOLN WHICH WAS NEVER DEVELOPED.

SUPPORTING SURVEY DATA

n/a

FINANCIAL INFORMATION

n/a

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Facilities and Fleet Management

ATTACHMENTS:

Description

- Memo

- Resolution
- Exhibit A

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139,
www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Honorable Mayor Dan Gelber and Members of the City Commission

FROM: Alina T. Hudak, City Manager

DATE: May 4, 2022

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO DECLINE, IN WRITING, THE RIGHT OF FIRST OFFER TRANSACTION, AS REQUIRED PURSUANT TO THE TERMS OF SECTION 36.2 OF THE AGREEMENT OF LEASE (GROUND LEASE) BETWEEN THE CITY (OWNER) AND CLPF – LINCOLN, LLC (TENANT), INVOLVING THE SALE OF THE PROJECT LOCATED AT 1691 MICHIGAN AVENUE (THE LINCOLN) FOR THE TOTAL PURCHASE PRICE OF \$92,500,000; FURTHER, RESCINDING RESOLUTION NO. 2014-28486, WHICH AUTHORIZED AN AMENDMENT TO THE GROUND LEASE FOR THE PURPOSE OF DEVELOPING A MINIATURE GOLF PROJECT AT THE LINCOLN WHICH WAS NEVER DEVELOPED.**

BACKGROUND

On January 5, 1998, the City issued RFP No. 20-97/98, seeking proposals for the development of Public-Private Parking Facilities. On July 7, 1999, the Mayor and City Commission adopted Resolution No. 99-23236, approving the Agreement of Lease and the Development Agreement between the City and Lincoln Plaza Partners, LLC, for the development of a mix-use project, located at Michigan and Jefferson Avenue, between Lincoln Lane and 17th Street (the "Land").

An Agreement of Lease was executed between the City, as Owner/ground lessor, and Lincoln Plaza Partners LLC, a Florida limited liability company, as Tenant/ground lessee, dated September 1, 1999 ("Ground Lease"), under which Ground Lease Tenant agreed to develop a commercial project, consisting of an office building, a parking garage, and ground floor retail space (collectively the "Project"), which Project is currently located at 1691 Michigan Avenue, and commonly referred to as "The Lincoln" (the Land and Project will be collectively referred herein to as the "Premises"). Pursuant to the Ground Lease, Tenant leases the land from the City and Tenant holds ownership and title to the Project, and upon the expiration of the Ground Lease, ownership of, and title to the Project automatically vests in the City, without the payment of consideration.

The Ground Lease has an initial term of 50 years, expiring September 30, 2052, plus two automatic renewal options for 20 years each, unless the Tenant is in default or notifies the City within the last twenty-four (24) months of the end of the term in question, indicated they will not exercise their option.

On December 20, 2000, the Mayor and City commission adopted Resolution No. 2000-24220, approving the Sale and Assignment and Assumption of the Ground Lease from Lincoln Plaza Partners, LLC to LNR Jefferson, LLC. On October 5, 2005, LNR Jefferson, LLC changed its name to The Lincoln, LLC.

On or about July 18, 2006, The Lincoln LLC sold the Project and assigned its leasehold interest in the Land to Lincoln Miami Beach Investments, LLC, a Delaware limited liability company.

On November 17, 2006, Lincoln Miami Beach Investment, LLC changed its name to OIK Lincoln Miami Beach Investment, LLC, and thereafter, on June 17, 2009, merged with 1691 Michigan Ave Investment LP, a Delaware limited liability partnership.

On February 12, 2014, the Mayor and City Commission approved Resolution No. 2014-28486, authorizing the Mayor and City Clerk to execute Amendment No. 1 to the Ground Lease, modifying the Scope of Use under the Ground Lease by reducing the minimum number of parking spaces required for the parking garage facility, from 700 to 645 spaces; increasing the minimum number of parking spaces required to be maintained at all times for use by the general public from 100 to 155 parking spaces; and further increasing the monthly parking spaces for members of the general public from 50 to 75, in connection with the development of a miniature golf project at the sixth floor of the garage with the subtenant, City Middle, LLC. City Middle, LLC never developed the miniature golf project; therefore, Amendment No. 1 was never executed.

On January 13, 2016, the Mayor and City Commission adopted Resolution No. 2016-29268, declining the Owner's Reciprocal Right of First Refusal and approving the sale of the Project to CLPF-Lincoln, LLC, a Delaware limited liability company ("Tenant"), subject to the Administration's successful completion of its evaluation of the proposed purchaser. The Ground Lease was further assigned to Tenant by an Assignment and Assumption of Ground Lease dated April 8, 2016 (the Ground Lease, as amended and assigned, shall be referred to as the "Lease").

The Lincoln Project contains three principal uses: (i) a parking garage with 709 parking spaces, (ii) 43,166 square feet of ground retail space, and (iii) 118,658 square feet of office space.

ANALYSIS

On April 5, 2022, the City received an Offer Notice pursuant to Section 36.2 of the Lease, notifying the City that Tenant desires to sell its leasehold interest in the Premises.

Pursuant to Section 36.2(b) of the Lease, Tenant will not consummate any offer from a third party to purchase the Tenant's estate in the Premises ("Right of First Offer Transaction") until the earlier to occur: (i) the expiration of 45 days following Owner's receipt of this Offer Notice, or (ii) receipt by Tenant of a notice by Owner declining to consummate the Right of First Offer Transaction.

The Offer Notice contained the following information:

Owner of Ground Lease:	City of Miami Beach
Seller:	CLPF-Lincoln, LLC
Purchase Price:	\$92,500,000 cash transaction

In accordance with Article 36.2 of the Lease, "Owner's Reciprocal Right of First Refusal", the City

also has the right to elect, in writing, whether to consummate the Right of First Offer Transaction, at the same price and upon such other material terms set forth in the Offer Notice ("Offer"). The City has until May 20, 2022 to exercise in writing whether or not to consummate the Right of First Refusal.

The cost to reconstruct a facility of this size with a mixed-use concept will cost approximately \$36M, plus tenant improvement and leasing fees. Considering that the Offer materially exceeds the cost to construct a City-owned parking, office, and retail facility and that the Project will revert to the City at the end of the Lease term, the City Manager recommends that the City decline the Right of First Offer Transaction.

Following the City's rejection of the Right of First Offer Transaction, pursuant to Section 10.5 ("Required Notices") of the Lease, the proposed transfer and/or sale of the Project requires written notice to the City, as Owner, with the identity of the transferor, transferee, nature of the transaction, percentage of interest conveyed and such other information requested by the City ("Notice of Sale"). The City will have sixty (60) days from receipt of the Notice of Sale to consent to the sale. Following receipt of the Notice of Sale, the City Administration will submit the proposed sale of the Project for approval by the City Commission, subject to the City Administration conducting its due diligence, at the sole expense of Tenant, to investigate whether or not the proposed purchaser qualifies as a "Permitted Buyer" under Section 10.3 of the Lease.

CONCLUSION

Based upon the foregoing, the City Manager recommends that the Mayor and City Commission adopt the Resolution approving and authorizing the City Manager to decline, in writing, the Owner's Right of First Refusal, relating to the purchase of The Lincoln for the total sales price of \$92,500,000.00, as required pursuant to the terms of Article 36.2 of the Agreement; and rescinding Resolution No. 2014-28486, that authorized an amendment to the Lease, for the purpose of developing a miniature golf project at The Lincoln which was never developed.

Attachments

Resolution
"A" Offer Notice from Tenant

Exhibit A

FAILURE TO RESPOND TO THIS REQUEST WITHIN THE TIME PERIOD PROVIDED IN THE LEASE AGREEMENT BETWEEN CITY OF MIAMI BEACH, FLORIDA AND CLPF - LINCOLN, LLC SHALL CONSTITUTE AUTOMATIC APPROVAL OF THE MATTERS DESCRIBED HEREIN WITH RESPECT TO SECTION 36.2 OF SUCH LEASE AGREEMENT.

April 5, 2022

Sent Via UPS and Hand Delivery

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
Suite 700
1401 Brickell Avenue
Miami, Florida 33131
Attention: Joel N. Minsker, P.A.

Re: Lease Agreement (as amended and assigned, the "Lease") between CITY OF MIAMI BEACH, FLORIDA, a municipal corporation duly organized and existing under the laws of the State of Florida ("Owner"), and CLPF - Lincoln, LLC, a Delaware limited liability company (successor in interest to 1691 Michigan Ave Investment LP) ("Tenant"), dated September 1, 1999, with respect to the property located at 1691 Michigan Avenue, Miami Beach, Florida (the "Premises"); capitalized terms used but not otherwise defined herein have the meanings given such terms in the Lease.

Dear Sir or Madam:

Pursuant to Article 36.2(a) of the Lease, Tenant hereby notifies Owner that Tenant desires to sell its leasehold interest in the Premises. This notice constitutes an Offer Notice described in Article 36.2(a) of the Lease. Pursuant to Article 36.2(b) of the Lease, Tenant will not consummate any offer from a third party to purchase the Premises until the earlier to occur of (i) the expiration of 45 days following Owner's receipt of this Offer Notice, or (ii) receipt by Tenant of a notice by Owner declining to consummate the Right of First Offer Transaction. In the event that Owner elects not to consummate the Right of First Offer Transaction, Tenant kindly requests that Owner promptly provide a written statement to Tenant of such intention by countersigning in the applicable signature block below.

Pursuant to Section 36.2(a) and Exhibit 36.2(a) of the Lease, the terms of this Offer Notice are as follows:

1. Purchase Price - \$92,500,000
2. Closing Date - The closing of the purchase shall take place on a date designated by Tenant, but in any event not less than sixty (60) days nor more than ninety (90) days following the date Tenant executes a purchase agreement with Owner. If Owner declines to be the purchaser of this Right of First Offer Transaction, Tenant will likely consummate the sale to a third party at an earlier date.
3. Deed: Title - At the closing, Tenant shall convey to the Owner (i) all of Tenant's right, title and interest in and to the Premises by a special warranty deed and (ii) all of Tenant's right, title and interest in and to this Lease by an assignment of lease. The form of such deed and assignment of lease shall be mutually acceptable to Tenant and Owner but shall not in any event provide for any representations by Tenant other than a representation that Tenant has not theretofore transferred or assigned the items being transferred or conveyed thereby and representations and warranties customarily contained in a special warranty deed. Tenant's Interest in the Premises and the Lease shall be conveyed to Owner subject to all liens encumbrances and other matters then affecting the title thereto and any state of facts a survey may reveal (but in all cases subject to Tenant's obligations under Section 2.2 of the Lease). Tenant shall also execute all other documents customarily used in real estate transactions in Miami-Dade County, Florida.
4. Rent: Prorations - At the closing of the purchase, all Rental and/or Impositions shall be prorated through the date of closing and paid by the party entitled thereto. If Owner declines to be the purchaser of this Right of First Offer Transaction, the expenses will be customarily prorated as in other real estate transactions in Miami-Dade County, Florida, including buyer receiving a credit with respect to Tenant's post-closing obligations under existing space leases for tenant inducement costs.
5. Expenses - Each party shall pay its own attorneys' fees. All title charges, recording fees, survey charges and other expenses incurred in connection with the purchase shall be paid by Owner. Tenant shall pay transfer taxes (including documentary stamp taxes and Miami-Dade County surtax) payable in connection with the purchase. If Owner declines to be the purchaser of this Right of First Offer Transaction, then in a sale transaction to a third party purchaser, (i) Tenant shall pay transfer taxes (including documentary stamp taxes and Miami-Dade County surtax) and the recording fees relating to any title clearing documents necessary to consummate the sale, Tenant's attorneys' fees, any fees and expenses required to be paid to Owner for its consent, any brokerage commission due to the broker used in the transaction, and 50% of escrow fees and (ii) the third party purchaser shall pay fees and premium for title insurance, survey charges and 50% of escrow fees.

If you have any questions or need additional information, feel free to contact us at 214-775-7668.

[Signature Page Attached]

Sincerely,

CLPF - LINCOLN, LLC,
a Delaware limited liability company

By: Clarion Lion Properties Fund Holdings, L.P.,
a Delaware limited partnership
Its: Sole Member

By: CLPF-Holdings, LLC,
a Delaware limited liability company
Its: General Partner

By: Clarion Lion Properties Fund Holdings REIT,
LLC, a Delaware limited liability company
Its: Sole Member

By: Clarion Lion Properties Fund, LP,
a Delaware limited partnership
Its: Managing Member

By: Clarion Partners LPF GP, LLC, a
Delaware limited liability company
Its: General Partner

By: Clarion Partners, LLC,
a New York limited liability company
Its: Sole Member

By: Jon Gelb
Name: Jon Gelb
Title: Authorized Signatory

WITH COPIES TO:

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
Suite 700
1401 Brickell Avenue
Miami, Florida 33131
Attention: Joel N. Minsker, P.A.

The City of Miami Beach, Florida does hereby elect NOT to consummate the Right of First Offer Transaction set forth in this Offer Notice.

CITY OF MIAMI BEACH, FLORIDA,

a municipal corporation of the State of Florida

By: _____

Name: _____

Title: _____

EXHIBIT B

PERMITTED BUYER CFO LETTER

STARWOOD XII MANAGEMENT GP, L.L.C.

2340 Collins Avenue
Miami Beach, FL 33139

May 23, 2022

To Whom It May Concern:

I, James Allen, Chief Financial Officer of the Funds of Starwood XII Management GP, L.L.C., which manages, directly or indirectly, certain entities comprising the fund known as Starwood Distressed Opportunity Fund XII (“SOF-XII”), hereby certify to my actual knowledge, as of date hereof that SOF-XII has a net worth in excess of \$10 billion USD. Such net worth amount includes, without limitation, uncalled capital commitments of the investors in SOF-XII in excess of \$5 billion USD.

Respectfully,

STARWOOD XII MANAGEMENT GP, L.L.C.



James Allen
Chief Financial Officer of the Funds
203-422-7711
Email: jallen@starwood.com

EXHIBIT C

FORM OF ASSUMPTION OF LEASE AGREEMENT

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

RECORDING REQUESTED BY:

Mayer Brown LLP
214 North Tryon Street, Suite 3800
Charlotte, North Carolina 28202
Attn: David B.H. Saye, Esq

**WHEN RECORDED
RETURN TO:**

[Space Above for Recorder]

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

(1691 MICHIGAN AVENUE)

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (this "Agreement") is made and entered into as of _____, 2022 (the "Effective Date"), by and between CLPF – LINCOLN, LLC, a Delaware limited liability company ("Assignor"), whose address is c/o Clarion Partners, LLC, 230 Park Avenue, New York, NY 10169 and _____, a _____ ("Assignee"), whose address is c/o _____. All initial capitalized terms used but not otherwise defined herein shall have the respective meanings given to them in the Purchase Agreement (as hereinafter defined).

RECITALS

A. Assignor and Assignee have entered into that certain Purchase and Sale Agreement dated as of _____ (as amended, the "Purchase Agreement"), pursuant to which, among other things, Assignor has agreed to sell, assign, transfer, convey and deliver to Assignee, and Assignee has agreed to purchase and accept from Assignor, all right, title and interest of Assignor in that certain Ground Lease (as defined below) with respect to the real property located at 1691 Michigan Avenue, Miami Beach, Florida, as legally described on Exhibit A attached hereto and by this reference made a part hereof (the "Property").

B. Pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee all of Assignor's right, title and interest in and to all of the Assignor's leasehold estate under that certain Lease by and between City of Miami Beach, Florida a municipal corporation, as Owner/Landlord, and Lincoln Plaza Partners, LLC, a Florida limited liability company, as Tenant, dated September 1, 1999; as memorialized by that certain Agreement of Lease dated September 1, 1999 and recorded September 3,

1999 in the Public Records of Miami-Dade County, Florida (the "Official Records") Book 18770, Page 447; as assigned by Tenant to LNR Jefferson, LLC, a Florida limited liability company ("LNR"), in that certain Assignment and Assumption Agreement recorded June 5, 2001 in Official Records Book 19700, Page 3095; as consented to in that certain Consent to Assignment and Assumption by City of Miami Beach Florida recorded May 17, 2001 in Official Records Book 19669, Page 1035; as assigned by LNR to 1691 Michigan Ave Investments LP, a Delaware limited partnership ("1691 Michigan Ave") (formerly known as Lincoln Miami Beach Investments, LLC, a Delaware limited liability company) in that certain Assignment and Assumption of Ground Lease recorded July 20, 2006 in Official Records Book 24738, Page 4073; as further assigned by 1691 Michigan Ave to Assignor in that certain Assignment and Assumption of Ground Lease recorded April 15, 2016 in Official Records Book 30039, Page 4656 (collectively, and as heretofore modified, extended, renewed or replaced, the "Ground Lease"), in each case with respect to the Property, and Assignee has agreed to assume such Ground Lease, as more particularly set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and set forth in the Purchase Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, subject to the terms and conditions set forth herein and in the Purchase Agreement, hereby agree as follows:

1. Assignment. Upon the terms and subject to the conditions of the Purchase Agreement, and in reliance upon the representations, warranties, covenants and agreements set forth therein, effective as of the Effective Date, Assignor hereby sells, assigns, transfers, sets over and delivers unto Assignee, as lessee, all of Assignor's right, title and interest in and to all of the Assignor's leasehold estate and interest under the Ground Lease, together with all the right, title, interest and estate of Assignor in and to the Property and premises demised by and described in the Ground Lease, and all improvements and appurtenances situated on or used, occupied and enjoyed in connection with the Ground Lease and the land thereby demised, and all other rights of the Assignor under the Ground Lease ("Sale").

2. Representations, Warranties and Covenants. Assignor represents and warrants to Assignee that Assignor is the owner of the leasehold estate under the Ground Lease (the "Leasehold Estate") and other interests being assigned hereby, and that such Leasehold Estate and other interests are free and clear of all liens, charges and encumbrances other than the Ground Lease, the Leases (as defined in the Purchase Agreement) and those items listed in Exhibit B attached hereto and incorporated herein by this reference (the "Permitted Exceptions"), and subject to the Permitted Exceptions, Assignor will warrant and defend title to the Leasehold Estate unto Assignee, its successors and assigns, against any person or entity asserting any adverse claim by, through or under Assignor, but against none other.

3. Assumption. Assignee hereby accepts the assignment of the Ground Lease, and hereby assumes and agrees to perform all of the duties and obligations of Assignor under the Ground Lease, and further agrees to be liable and subject to all conditions and restrictions to which Assignor is subject to under said Ground Lease.

4. Survival. The provisions of this Agreement shall survive the Closing.

5. Further Assurances. Assignor and Assignee hereby agree and covenant that they will, at any time and from time to time after the date hereof, upon the reasonable request of the other party hereto, execute and deliver such further instruments or documents of assignment, conveyance and transfer as may be reasonably necessary to implement and effect the assignment and assumption of the Ground Lease contemplated by this Agreement and the Purchase Agreement.

6. City's Required Consents.

- (a) Rejection of Right of First Offer. On _____, the Mayor and City Commission adopted City Resolution No. _____, attached hereto and made a part hereof as Exhibit C, whereby the Mayor and City Commission authorized the City Manager to decline, in writing, the Right of First Offer Transaction, as required pursuant to Section 36.2 of the Ground Lease, and as further evidenced by the City Manager's letter, attached hereto and made a part hereof as Exhibit D.

- (b) Consent to Sale to Assignee. Additionally, on _____, pursuant to Resolution No. _____, the Mayor and City Commission also approved the Sale, subject to and conditioned upon the City's successful completion of its evaluation of Assignee, in accordance with Article 10 of the Ground Lease (the "City's Due Diligence"); and payment to the City of its reasonable costs incurred in connection with the Sale including, without limitation, reimbursement of the City's Due Diligence costs. The City's consent to the Sale shall not be deemed a consent to any subsequent assignment or subletting, nor shall it be deemed or construed to be a waiver of any of the restrictions or limitations on assignment and subletting set forth in the Ground Lease.

7. Miscellaneous.

- (a) This Agreement may not be amended or modified other than by an instrument in writing signed by Assignor and Assignee and only if consented to by Owner.

- (b) This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, expressed or implied, shall give or be construed to give any person or entity, other than the parties hereto and such successors and assigns, any legal or equitable rights hereunder.

- (c) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida without giving effect to the choice of law principles thereof, including all matters of construction, validity and performance.

- (d) For the convenience of the parties hereto, this Agreement may be executed in any number of counterparts, each such counterpart being deemed an original, and all such counterparts shall together constitute the same agreement.

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Exhibit A to Assignment and Assumption of Ground Lease

Legal Description of the Property

Exhibit B to Assignment and Assumption of Ground Lease

Permitted Exceptions

Exhibit C to Assignment and Assumption of Ground Lease
City Resolution No. _____

[See attached]

Exhibit D to Assignment and Assumption of Ground Lease
City Manager's Letter Declining the Right of First Offer under the Ground Lease

[See attached]