

RESOLUTION NO. _____

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 ____ day of May 2022.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4-27-22

Date

