



Special City Commission Meeting Agenda

150 NE 2nd Avenue | Deerfield Beach, FL, 33441 | 954-480-4200

Mayor Bill Ganz

Vice Mayor Michael Hudak

District 2 Commissioner Ben Preston

District 3 Commissioner Bernie Parness

District 4 Commissioner Todd Drosky

Thursday
December 15, 2022
7:00 PM

CALL TO ORDER & ROLL CALL

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

APPROVAL OF THE AGENDA

December 15, 2022

ZOOM MEETING

Join Zoom Meeting by clicking the below link:

<https://deerfield-beach.zoom.us/j/81259820908?pwd=dENGU084Q2wvdm1LNytOL1M2TIIRUT09>

Join Zoom Meeting via telephone by dialing:

Call-in Number: (301) 715-8592

Meeting ID: 812 5982 0908#

Participant ID: #

Passcode: 813671#

For complete instructions on joining and/or participating during Public Comment, please click the following link or attend in person in the City Commission Chambers:

Attachment: Zoom Instructions

DEPARTMENTAL BUSINESS

- 1. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Award of Invitation to Negotiate #22-41-PC for the sale of city property located at 1045 SW 11th Way to the top ranked firm, MBA Development Partners of Florida, LLC; approving the key business terms for the purchase and sale contract,**

which shall be subject to referendum approval; providing for implementation and an effective date.

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Manager

Attachment: MBA Development Partners of Florida, LLC

- 2. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, submitting to the City Electors a referendum question regarding the sale of approximately 3.75 acres of real property owned by the City located at 1045 SW 11th Way pursuant to Section 7.09(2) of the City Charter; providing for a referendum election to be held in conjunction with the regular municipal election on March 14, 2023; providing for requisite ballot language; providing a procedure for balloting; providing for notice; providing for implementation and an effective date.**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Manager

Attachment: March Referendum

COMMENTS BY ADMINISTRATION & LEGAL

- 3. Discussion regarding the pier restaurant lease.**

Sponsor: Office of the City Manager

Attachment: Pier Restaurant Lease

ADJOURNMENT

FUTURE CITY COMMISSION MEETINGS

Regular City Commission Meeting - Tuesday, January 10, 2023

Any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meetings or hearings will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and the evidence upon which the appeal is made. The above notice is required by State Law (F.S. 286.0105). Anyone desiring a verbatim transcript shall have the responsibility, at his/her own expense, to arrange for the presence of a certified court reporter at the hearing.



Special City Commission Meeting - December 15, 2022

DEERFIELD BEACH - YOU ARE HEREBY NOTIFIED that the **Special City Commission** meeting will be held on **Thursday, December 15, 2022, at 7:00 PM in the City Commission Chambers located at the City Hall Complex, 150 NE 2nd Avenue, Deerfield Beach, Florida.** A quorum of the City Commission will be physically present at the meeting and the City will be utilizing communications media technology with most City staff participating through video conferencing.

The December 15, 2022, Special City Commission meeting will proceed utilizing communications media technology; **however, the City Commission Chambers located at the City Hall Complex, 150 NE 2nd Avenue, Deerfield Beach, will be open to the public as an additional method** for speakers wishing to speak on items. A copy of the agenda for the December 15, 2022 meeting will be available at <http://www.deerfield-beach.com/1554/Meetings-Agendas>.

Attending and Viewing the City Commission Meeting:

This meeting will be broadcast live for members of the public. There are several options available to the public to attend/view the meeting:

- 1. In Person Attendance.** Attend in person in the City Commission Chambers.
- 2. Zoom**
 - a. Via Zoom Online** - Access to the meeting will begin at 6:45 PM on December 15, 2022.
 - i. Use the following link below to access the meeting via Zoom:
<https://deerfield-beach.zoom.us/j/81259820908?pwd=dENGU084Q2wvdm1LNytOL1M2TIIRUT09>
 - ii. The video camera display feature is disabled for public use
 - b. Via Zoom Telephone** - Join the meeting via telephone (audio only) using the Call-in number below, followed by the Meeting ID when prompted. No computer or access code is required.

Call-in Number: (301) 715-8592, Meeting ID: 812 5982 0908#, Participant ID: #, Passcode: 813671#

For more information on using Zoom, please visit Zoom Support at the following link:
<https://support.zoom.us/hc/en-us>.

3. YouTube

The meeting will also be available to the public via YouTube for audio and video access; however, public participation, i.e. comments are not possible. The link to watch the meeting via YouTube will be active no later than 6:45 PM on December 15, 2022, and can be found by clicking the camera icon in the Media column at <http://www.deerfield-beach.com/1554/Meetings-Agendas>.

Providing Public Comment:

Public participation is strongly encouraged. Your comments will be limited to three minutes per person. To participate, please choose the option best for you and remember to include your name and address for the record.

1. **In person** - Public comment may be given in the Commission Chambers during the applicable public comment portion of the meeting.
2. **Live Zoom Video Participation** - If attending via Zoom online, at the appropriate public comment period, click “raise hand” on the bottom of the “participants” tab, and your audio will be unmuted when you are recognized.
3. **Live Zoom Telephone Participation** - If attending via Zoom by telephone, at the appropriate public comment period, press *9 to “raise your hand” and your audio will be unmuted when you are recognized.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK NO LATER THAN 3 DAYS PRIOR TO THE MEETING AT (954) 480-4213 FOR ASSISTANCE.

Should you have any questions, please feel free to contact the City Clerk’s Office at 954.480.4213. For additional information on the agenda items for the Commission meeting, please visit www.dfb.city.



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1676

Agenda Date: 12/15/2022

Status: DEPARTMENTAL BUSINESS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Award of Invitation to Negotiate #22-41-PC for the sale of city property located at 1045 SW 11th Way to the top ranked firm, MBA Development Partners of Florida, LLC; approving the key business terms for the purchase and sale contract, which shall be subject to referendum approval; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

The City owns a +/-3.75 acre parcel located at 1045 SW 11th Way. The property had a lease that had been in place since 2003 with the Florida Atlantic Research and Development Authority (and subsequent sublessees) with the expectation that the lessee would develop the parcel. The lease had been extended a number of times since 2003, but a development project did not occur. On February 15, 2022, the Deerfield Beach City Commission voted to deny a proposed eighth extension to the lease for the 1045 SW 11th Way property. At the February 15th meeting and prior to denial, the lessee proposed paying the City \$3.2 million to extend the lease and place a 41,000 square foot office building on the site with a surface parking lot. At the same time, the City had contracted for a market appraisal for the parcel that indicated the property had an actual market value of \$6.5 million.

The City Commission indicated a desire to pursue other project options that would be of greater benefit to the City and directed staff to pursue the sale of this parcel to be developed by a private entity. Due to stipulations in the City of Deerfield Beach Charter, any city-owned property with a value greater than \$750,000 can not be sold or leased without the approval of 51% of eligible Deerfield Beach voters.

In May, the Commission approved the hiring of Colliers International, a highly experienced commercial brokerage firm, to represent the City in this real estate transaction, including the creation of an Invitation to Negotiate (ITN) procurement process and marketing of the opportunity. The City Manager designated an evaluation committee comprised of the Assistant City Manager, Director of Planning and Development Services and Director of Economic Development to review, evaluate and rank proposals.

The City engaged in an Invitation to Negotiate (ITN) procurement process for this solicitation. The ITN model was selected to encourage greater private sector competition, allow for flexibility in the types of proposals submitted, create a well-defined framework for evaluation of proposals, deliver a clear recommendation to the City Commission and provide flexibility to negotiate the specific details of the

Commission's selected proposal. Six responses were submitted. At the December 6th, 2022 Commission meeting, the Commission authorized staff to negotiate the key business terms and an agreement for the sale with the highest ranked proposer, MBA Development Partners of Florida, LLC ("MBA").

Current Activity

MBA's proposal is a "Live-Work-Play" mixed-use development comprised of medical and office space (60,000 square feet), workforce housing (120 units), hotel (105 rooms), convention and entertainment space (12,000 square feet) and retail/restaurant space (7,000 square feet) with structured parking adequate to meet the needs of the development. The proposal proposes purchasing the land from the City for \$6.5 million and proposes approximately \$7.5 million in park and other public improvements in the City. In addition to direct financial community benefit, MBA Development Partners of Florida, LLC ("MBA") will actively seek local and minority-owned businesses to provide labor, materials and supplies during construction and hold job fairs for ongoing employment opportunities as the project moves into operation. MBA estimates their proposed project will generate 1,224 jobs while it is under construction and 77 annual jobs once the project is in operation. Over the next 30 years, the development is projected to generate \$42 million in new taxes for the City of Deerfield Beach. The proposed project, which is subject to land use and zoning approvals, includes a green roof top, at-grade open spaces and an event center that will be accessible to the public, including enhanced connectivity and improvements to Mayo Howard Park.

MBA proposed a robust public outreach initiative to educate the public about the project in advance of the proposed March 14, 2023 referendum election date. MBA also committed to ongoing public outreach and input on the project as part of the land development process if their proposal is ratified by the voters of Deerfield Beach in a referendum. If the sale and project are approved, MBA projects project completion in the fourth quarter of 2027.

At the December 6th, 2022 meeting, the Commission approved MBA as the top ranked proposer, which allowed staff to clarify and negotiate the key business terms. The key business terms are being summarized for the Commission's approval and will be used as the outline for a more detailed agreement. This detailed agreement will be brought back to the Commission for approval at a later date.

Recommendation

We recommend Commission approval of the ITN award to MBA and approval of the key business terms related to MBA's proposal to purchase the City-owned property at 1045 SW 11th Way.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE AWARD OF INVITATION TO NEGOTIATE #22-41-PC FOR THE SALE OF CITY PROPERTY LOCATED AT 1045 SW 11TH WAY TO THE TOP RANKED FIRM, MBA DEVELOPMENT PARTNERS OF FLORIDA, LLC; APPROVING THE KEY BUSINESS TERMS FOR THE PURCHASE AND SALE CONTRACT, WHICH SHALL BE SUBJECT TO REFERENDUM APPROVAL; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, Invitation to Bid #22-41-PC (the “ITN”) for the sale of City owned property located 1045 SW 11th Way (the “Property”) was advertised in the legal notices section of the Sun-Sentinel on September 16, 2022, and the notice was also sent to five hundred eighty (580) prospective offerors via the e-Procurement Marketplace; and

WHEREAS, eleven (11) firms viewed the ITN documents; and

WHEREAS, on October 25, 2022 at 11:00 a.m., the Purchasing and Contract Administration Division along with the City’s Consultant, Colliers International Florida, LLC (the “Consultant”) unsealed the six (6) responses that were timely received, and reviewed the responses to ensure they met the ITN requirements; and

WHEREAS, on October 28, 2022, the Evaluation Committee met to review the proposals and shortlisted the firms in accordance with the weighted criteria stated in the ITN to four (4) firms, and determined to hear oral presentations from each of the shortlisted firms; and

WHEREAS, the Evaluation Committee meetings for the oral presentations and re-ranking the shortlisted firms based upon the oral presentations was held on November 16, 2022 to score the responses based on the weighted criteria stated in the ITN; and

WHEREAS, following the presentations and final rankings, the Evaluation Committee forwarded their recommendation to the City Commission to approve their rankings with MBA Development Partners of Florida, LLC, (“MBA”) as the top ranked firm; and

WHEREAS, on December 6, 2022, the City Commission the approved the Evaluation Committee’s final Rankings and authorized the City Manager and City Attorney to negotiate the key business terms and a purchase and sale agreement with MBA, the top ranked firm, to purchase the Property from the City, subject to referendum election approval (currently planned for March 14, 2023); and

WHEREAS, the City and MBA have negotiated the key business terms, attached as Exhibit “A”, for the City’s sale of the property to MBA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the award of the ITN to MBA for the sale of City owned property located 1045 SW 11th Way.

Section 3. The Key Business Terms, attached as Exhibit “A”, for the sale of the Property to MBA are hereby approved, together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The City Manager and City Attorney are hereby authorized to negotiate the Purchase and Sale Agreement with MBA, for the sale of the Property to MBA, contingent upon approval of the voters at a referendum election pursuant to Section 7.09 of the City Charter, and consistent with the terms of the ITN, together with such additional terms as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 5. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 6. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

MBA DEVELOPMENT PARTNERS OF FLORIDA, LLC

LETTER OF INTENT TO PURCHASE

Date: December 13, 2022

Property: Approximately 3.75 acres of land located at 1045 SW 11th Way, Deerfield Beach, Broward County, Florida

Folio Number 4842 12 53 0010

Buyer: **MBA Development Partners of Florida, LLC**, a Florida limited liability company, ("Buyer") with offices located in 888 SE 3rd Ave., Suite 200, Fort Lauderdale, FL 33316

Seller: **City of Deerfield Beach**, a Florida Municipal Corporation, ("City") with offices located at 150 NE 2nd Avenue, Deerfield Beach, FL 33441

Purchase Price: Six Million Five Hundred Thousand and 00/100 Dollars (\$6,500,000.00)

Community Enhancements: Seven Million Five Hundred Thousand and 00/100 Dollars (\$7,500,000) in community enhancements to be provided during the term of the project with completion of same to be in accordance with the terms of the comprehensive development agreement to be negotiated between the parties.

Deposit: \$105,000.00 deposit which consist of \$25,000 ITN fee and \$80,000 referendum deposit, (collectively the "**Deposit**"), which has previously been paid to the City.

The Deposit shall be non-refundable, except that the \$80,000 deposit shall be refundable if the sale is not approved at the referendum election.

An additional deposit in the amount of 5% of the purchase price shall be payable to the City within three business days of referendum approval ("Additional Deposit"). The Additional Deposit shall be credited towards the purchase price at closing. Additional deposits for other future milestones to be negotiated by the parties and included in the Purchase and Sale Agreement.

Due Diligence: The parties shall negotiate a purchase and sale Agreement consistent with this LOI (the "Purchase Agreement"). Upon the approval of the Purchase Agreement by the City Commission, the Buyer shall have sixty (60) days (the "**Due Diligence Period**") to perform all physical due diligence that it requires for purposes of determining, in Buyer's sole discretion, whether the Property is suitable for Buyer's intended use of the Property. During the Due Diligence Period and if Buyer elects to go forward with the Closing, from the end of the Due Diligence Period until the Closing Date, Buyer or Buyer's representative shall have the right to enter upon the Property, during reasonable business hours after giving reasonable notice to Seller and to make all inspections and investigations of the condition of the Property which it may deem necessary, including, but not limited to, structural investigation and testing, soil borings, percolation tests, environmental, engineering and topographical studies, and investigations the availability of utilities, all of which inspections and investigations shall be undertaken at Buyer's sole cost and expense ("**Property's**

Physical Condition”), which inspections shall be subject to Buyer agreeing to restore the Property as necessary and indemnify the City for any liabilities resulting from such inspections. During the Due Diligence Period, the Buyer may cancel the Purchase Agreement if the Buyer determines, in its reasonable discretion, that the Property’s Physical Condition is not suitable for the development and provides written notice of such determination and the basis of such determination to the City within the Due Diligence Period.

Entitlements: Within one hundred twenty (120) days from the approval of the City referendum election to sell the Property (the “**City Referendum**”), Buyer shall submit to the City, a preliminary site plan for the construction of the improvements on the Property in accordance with the plans submitted to the City in accordance with Buyer’s ITN22-41-PC proposal and related presentation to the City Commission for the mixed use development (the “**Proposed Improvements**”).

Commencing on the date of approval of the City Referendum, the Buyer will have an additional fifteen months, subject to extension by the parties, (the “**Entitlement Period**”) to receive the final Rezoning, Final Site Plan and Plat Approvals (defined below). During the Entitlement Period, Buyer shall diligently pursue Final Rezoning, Site Plan and Plat Approvals with plans generally consistent with the Proposed Improvements. If Buyer does not obtain Final Rezoning, Site Plan and Plat Approvals within the Entitlement Period after diligently pursuing such approvals, the Buyer may cancel, in its sole and absolute discretion, said Agreement during the Entitlement Period.

Closing: The Closing on the Property will occur sixty (60) days following the last to occur of: (i) the Final, non-appealable, Rezoning and Site Plan Approval by the City of Deerfield Beach; and (ii) the Final, non-appealable, Plat Approval by the Broward County Commission, (collectively the “**Final Site Plan and Plat Approvals**”); (the “**Closing Date**”).

Performance milestones for construction to be negotiated and included in Purchase and Sale Agreement.

Due Diligence Materials: Seller shall deliver to Buyer, within ten (10) days following the passage of the City Referendum, all evaluation materials in the City’s possession, relating to the Property including but not limited to the following (to the extent applicable):

1. Copy of all civil plans, studies, reports, surveys and analyses Seller knows of relating to the Property or Property condition, including engineering, structure, Hazardous Material, environmental, appraisals, site plans, boundary, topographic, architectural, radon tests, ADA surveys, traffic, demographic, concurrency, building, zoning, soil boring, marketing, and economic.
2. Copy of prior title policies, tax bill, insurance policies, and all warranties.
3. Any claims made or pending litigation for the past two years affecting the Property; and
4. Zoning Letters.

Survey: A current survey of the Property shall be handled by a surveyor selected by Buyer (“**Survey**”).

Conditions to Closing: Buyer's obligation to close is expressly conditioned upon the Final Site Plan and Plat Approvals, referenced hereinabove; Buyer shall submit to the City, a preliminary site plan for the construction of the improvements on the Property in accordance with the plans submitted to the City in accordance with Buyer's ITN22-41-PC proposal and related presentation to the City Commission for the mixed use development.

Location: The Closing shall take place at a location in Broward County chosen by the closing agent for the Buyer.

It is understood that this letter is a summary of terms and conditions of the proposed transaction. Any legal obligations shall arise only as set forth in the Purchase Agreement. Upon receipt of a fully executed copy of this Letter of Intent, we will instruct our legal counsel to prepare the appropriate Purchase Agreement for delivery to, and negotiation with, Seller. The Purchase Agreement shall be in form and substance satisfactory to both Buyer and Seller.

[SIGNATURES ON FOLLOWING PAGE]

The undersigned hereby acknowledge and agree to the foregoing:

BUYER:

WITNESSES:

MBA Development Partners of Florida, LLC,

By:_____

Its:_____

By:_____

Print name:_____

By:_____

Print name:_____

SELLER:

CITY OF DEERFIELD BEACH

By:_____

Its:_____

By:_____

Print name:_____

By:_____

Print name:_____



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1657

Agenda Date: 12/15/2022

Status: DEPARTMENTAL BUSINESS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, submitting to the City Electors a referendum question regarding the sale of approximately 3.75 acres of real property owned by the City located at 1045 SW 11th Way pursuant to Section 7.09(2) of the City Charter; providing for a referendum election to be held in conjunction with the regular municipal election on March 14, 2023; providing for requisite ballot language; providing a procedure for balloting; providing for notice; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

Section 38-126(c) of the Code of Ordinances states that the sale, lease or transfer of city-owned real property with a fair market value in excess of \$750,000.00 shall require approval by a majority of the qualified electors of the City voting at a regular city, general or special election in accordance with Section 7.09(2) of the City Charter.

The City owns a +/-3.75 acre parcel located at 1045 SW 11th Way. The property had a lease that had been in place since 2003 with the Florida Atlantic Research and Development Authority (and subsequent sublessees) with the expectation that the lessee would develop the parcel. The lease had been extended a number of times since 2003, but a development project did not occur. On February 15, 2022, the Deerfield Beach City Commission voted to deny a proposed eighth extension to the lease for the 1045 SW 11th Way property. At the February 15th meeting and prior to denial, the lessee proposed paying the City \$3.2 million to extend the lease and place a 41,000 square foot office building on the site with a surface parking lot. At the same time, the City had contracted for a market appraisal for the parcel that indicated the property had an actual market value of \$6.5 million.

The City Commission indicated a desire to pursue other project options that would be of greater benefit to the City and directed staff to pursue the sale of this parcel to be developed by a private entity. Due to stipulations in the City of Deerfield Beach Charter, any city-owned property with a value greater than \$750,000 can not be sold or leased without the approval of 51% of eligible Deerfield Beach voters.

In May, the Commission approved the hiring of Colliers International, a highly experienced commercial brokerage firm, to represent the City in this real estate transaction, including the creation of an Invitation to Negotiate (ITN) procurement process and marketing of the opportunity. The City Manager designated an evaluation committee comprised of the Assistant City Manager, Director of

Planning and Development Services and Director of Economic Development to review, evaluate and rank proposals.

The City engaged in an Invitation to Negotiate (ITN) procurement process for this solicitation. The ITN model was selected to encourage greater private sector competition, allow for flexibility in the types of proposals submitted, create a well-defined framework for evaluation of proposals, deliver a clear recommendation to the City Commission and provide flexibility to negotiate the specific details of the Commission's selected proposal. Six responses were submitted. At the December 6th, 2022 Commission meeting, the Commission authorized staff to negotiate an agreement with the highest ranked proposer, MBA Development.

Current Activity

MBA's proposal is a "Live-Work-Play" mixed-use development comprised of medical and office space (60,000 square feet), workforce housing (120 units), hotel (105 rooms), convention and entertainment space (12,000 square feet) and retail/restaurant space (7,000 square feet) with structured parking adequate to meet the needs of the development. The proposal proposes purchasing the land from the City for \$6.5 million and proposes approximately \$7.5 million in park and other public improvements in the City. In addition to direct financial community benefit, MBA Development Partners of Florida, LLC ("MBA") will actively seek local and minority-owned businesses to provide labor, materials and supplies during construction and hold job fairs for ongoing employment opportunities as the project moves into operation. MBA estimates their proposed project will generate 1,224 jobs while it is under construction and 77 annual jobs once the project is in operation. Over the next 30 years, the development is projected to generate \$42 million in new taxes for the City of Deerfield Beach. The proposed project, which is subject to land use and zoning approvals, includes a green roof top, at-grade open spaces and an event center that will be accessible to the public, includes enhanced connectivity and improvements to Mayo Howard Park.

MBA proposed a robust public outreach initiative to educate the public about the project in advance of the proposed March 14, 2023 referendum election date. MBA also committed to ongoing public outreach and input on the project as part of the land development process if their proposal is ratified by the voters of Deerfield Beach in a referendum. If the sale and project are approved, MBA projects project completion in the fourth quarter of 2027.

The proposal for sale of the property is being proposed to be placed on the March 14, 2023 item for voter approval.

Recommendation

Staff recommends approving the referendum for the Municipal Election on March, 14, 2023.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, SUBMITTING TO THE CITY ELECTORS A REFERENDUM QUESTION REGARDING THE SALE OF APPROXIMATELY 3.75 ACRES OF REAL PROPERTY OWNED BY THE CITY LOCATED AT 1045 SW 11TH WAY PURSUANT TO SECTION 7.09(2) OF THE CITY CHARTER; PROVIDING FOR A REFERNDUM ELECTION TO BE HELD IN CONJUNCTION WITH THE REGULAR MUNICIPAL ELECTION ON MARCH 14, 2023; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING A PROCEDURE FOR BALLOTING; PROVIDING FOR NOTICE; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, the City of Deerfield Beach owns a land parcel consisting of approximately 3.75 acres located at 1045 SW 11th Way (the “Property”), as legally described in the attached Exhibit “A”; and

WHEREAS, the City issued ITN #22-41-PC (the “ITN”) to solicit proposals to purchase the Property from the City; and

WHEREAS, on December 6, 2022, the City Commission approved the Evaluation Committee’s final Rankings and authorized the City Manager and City Attorney to negotiate the key business terms and a purchase and sale agreement with MBA Development Partners of Florida, LLC (“MBA”), the top ranked firm, to purchase the Property from the City, subject to referendum election approval (currently planned for March 14, 2023); and

WHEREAS, on December 15, 2022, the City Commission approved the award of the ITN to MBA and approved the key business terms for the Purchase and Sale Agreement between the City and MBA for the sale of the Property to MBA; and

WHEREAS, Section 7.09(2) of the City Charter requires any sale of City owned property with a fair market value in excess of \$750,000.00 to be approved by a majority of the qualified electors of the city voting at a regular city, general or special election; and

WHEREAS, the City Commission desires to call an election to allow the City’s qualified electors to vote at the next regular City municipal election on March 14, 2023 on the proposed sale of the Property to MBA in accordance with Section 7.09(2) of the City Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. That a referendum election is hereby called, to be held on Tuesday, March 14, 2023, in conjunction with the regular municipal election, to present to the qualified electors of the City of Deerfield Beach, the ballot question provided in Section 3 of this Resolution regarding the proposed sale of the Property to MBA.

Section 3. That the form of ballot for the proposed sale of the Property shall be substantially as follows:

Land Sale of 1045 SW 11th Way Parcel in Deerfield Beach.

Shall the City of Deerfield Beach sell the approximately 3.75 acre property located at 1045 SW 11th Way to MBA Development Partners of Florida, LLC for \$6.5 million for the purpose of creating a multi-use development with workforce housing, retail and restaurant space, a hotel, green-space and other public amenities?

_____ YES – For the sale of the property

_____ NO – Against the sale of the property

Section 4. Balloting shall be conducted between the hours of 7:00 a.m. to 7:00 p.m. on the date of the election. Absentee ballots shall be available. All qualified City electors who are timely registered in accordance with law shall be entitled to vote. The City Clerk is authorized to obtain any necessary election administration services from the Broward County (the "County") Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The City Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the provisions of this Resolution. Pursuant to Section 102.141, Florida Statutes, this election shall be canvassed by the City Clerk with assistance from the County Supervisor of Elections or as required by law.

Section 5. The notice of the election called for in Section 2 of this Resolution shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the City at least 30 days prior to said election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the week of the election, and shall be in substantially the following form:

NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. _____ ADOPTED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE CITY ON TUESDAY, THE 14TH DAY OF MARCH, 2022, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00

P.M., AT WHICH TIME THE FOLLOWING PROPOSAL SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY.

Ballot Question:

Land Sale of 1045 SW 11th Way Parcel in Deerfield Beach.

Shall the City of Deerfield Beach sell the approximately 3.75 acre property located at 1045 SW 11th Way to MBA Development Partners of Florida, LLC for \$6.5 million for the purpose of creating a multi-use development with workforce housing, retail and restaurant space, a hotel, green-space and other public amenities?

_____ YES – For the sale of the property

_____ NO – Against the sale of the property

Section 6. Copies of this Resolution are on file at the office of the City Clerk located at 150 NE 2nd Avenue, Deerfield Beach, Florida 33441, and are available for public inspection during regular business hours.

Section 7. The sale of the Property shall become effective only if the majority of the qualified electors voting on the Property sale question vote for its adoption, and the electoral approval shall be considered adopted and effective upon certification of election results.

Section 8. All Resolutions, or parts of Resolutions, in conflict with this Resolution are repealed to the extent of such conflict.

Section 9. The provisions of this Resolution are declared to be severable, and, if any section, sentence, clause and/or phrase of this Resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution, which shall remain in effect, it being the legislative intent that this Resolution shall stand despite the invalidity of any part.

Section 10. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

EXHIBIT "A"
LEGAL DESCRIPTION

DEERFIELD BEACH FAU-PLAT 2 178-29B PARCEL A RECORDED AS INSTRUMENT
NUMBER 105106236 IN OFFICIAL RECORDS BOOK 18656, PAGE 0822 OF THE
PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA

FOLIO NUMBER: 4842 12 53 0010

A/K/A 1045 SW 11TH WAY DEERFIELD BEACH, FL 33441



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1658

Agenda Date: 12/15/2022

Status: COMMENTS BY
ADMINISTRATION & LEGAL

In Control: City Commission

Title

Discussion regarding the pier restaurant lease.

Background/History

The City of Deerfield Beach entered into a lease agreement with Class Act Restaurant Group, LLC (Class Act) on March 7, 2013 to operate the Pier restaurant. The initial term of this lease expires on April 30, 2023. The initial term is for ten years, with the City's option to extend the lease for additional five-year terms if so desired. Without an extension, the terms provide that the City Manager may authorize an extension for a maximum period of 180 days past the date of lease expiration.

The initial year's lease rate was \$120,000 per year (\$10,000 per month) with an increase clause of at least 2% and no more than 4% annually based on the Producer Price Index for Commodities (PPI). In Fiscal Year 2022, Class Act paid \$161,917.21 in lease payments or \$13,493 a month.

Class Act does business as Deerfield Beach Cafe. The restaurant currently has 3.5 stars out of 5 on [Yelp.com](https://www.yelp.com) and is ranked #17 among Deerfield Beach restaurants on [TripAdvisor.com](https://www.tripadvisor.com). The existing restaurant is 2,478 square feet, consisting of 1,738 square feet of interior space and 740 square feet of outdoor seating overlooking the Atlantic Ocean.

Current Activity

As the end of the initial term of the lease approaches, City Commission is being asked for direction on several business items pertaining to the lease.

Option 1. Extend Current Lease

The Commission may direct the extension of the current lease for an additional five-year term. If the Commission is desirous of an extension, the staff would have to prepare an extension offer that would remain substantially the same except that the base rent may be increased. Class Act would have to agree to these terms in order for the extension offer to be executed. If the Commission does not desire to renew the lease, the lease would expire on April 23, 2023 and could only be extended for up to 180 days with a written notice by the City Manager.

Option 2. Competitive Solicitation

If the Commission desires to place the leased space out on the market for a new competitive solicitation, staff would prepare a new Request for Proposals (RFP) and put the opportunity out to bid. If the Commission desires to pursue this option, staff requests further direction from the Commission on three key business points that are not currently included in the lease, but may be desired based on feedback from the current lessee, restaurant patrons, social media posts, input from various South Florida restaurateurs and staff data and observations.

a.) Including the second story observation deck in the leased space. Over the past ten years, staff has received consistent input indicating a desire to have the observation deck be used as a restaurant service area. The second story has an unparalleled view of the beach and ocean. It

frequently has cooling breezes when the ground floor air is still. In 2019, a permanent roof was constructed over the observation deck at a cost of \$153,000. Since the permanent roof was installed, it is a more enjoyable vantage point that is out of the sun and the rain. Despite this, public interest in using the space for private parties is very poor. In Fiscal Year 2022, the observation deck was only reserved four times with revenues totaling \$2,000. Activating the observation deck with the ability to enjoy food and refreshments is a potential way to increase the beneficial use of the space and curtail ongoing undesirable security issues that arise including loitering, vandalism, and drug use. If included in the lease, the observation deck would add 1,311 square feet of leasable space to the restaurant. This would increase the total leased space by roughly 50 percent. If public access for special events is desired, public rental times could be incorporated into the terms of the lease.

b. Allowing the construction of a permanent awning over the boardwalk level outdoor seating area. Outdoor dining at the Deerfield Beach Cafe is very popular among restaurant patrons. However, due to the nature of Florida's unpredictable weather and practically constant onshore breezes, the outdoor seating area's current crank operated patio umbrellas aren't wind resistant and don't offer sufficient protection from passing rain storms. The outdoor dining patio measures approximately 16'x45' and, if covered, would result in an additional 675 square feet of reliably usable customer dining area that is currently part of the lease but not able to be used during all restaurant operating hours. The outdoor area seats approximately 50 patrons. At times, the patio seating spills over into the boardwalk area and interferes with the pedestrian walkway. Having a permanent awning with fixed structures would assist in more clearly defining the outdoor service area and contain the restaurant seating in the leased area. The cost of installing a permanent covering would be the responsibility of the restaurant lease holder, who would have to comply with the Florida Building Code and gain the approval of the Community Appearance Board. Allowing the deck to be rented for private parties could be negotiated as part of the lease. A permanent awning would also make the restaurant match the other existing restaurants on the Boardwalk (Oceans 234 and JB's on the Beach).

c. Allowing liquor to be served. The current lease only allows the sale of beer and wine. The Deerfield Beach Cafe is the only restaurant in the island commercial district that does not allow liquor to be served. Allowing the restaurant to operate with a full liquor license would bring the restaurant in line with surrounding businesses, allow different types of restaurants to operate in the leased space, provide additional options for restaurant patrons, and generate additional revenue.

All other conditions of the current lease would remain largely in place. If a competitive solicitation is desired, it is anticipated that an RFP would be issued with the revised terms, responses received and a new lessee recommendation brought back to City Commission in the Spring of 2023.

The pier restaurant is exempt from City Charter requirements for the sale or lease of City-owned property in excess of \$750,000.

Recommendation

Staff requests City Commission direction regarding the lease of the Pier restaurant.