

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES,
ENTITLED "ADMINISTRATION" BY AMENDING SECTION
2-941, TO AMEND CERTAIN PROVISIONS RELATED TO
THE NEGOTIATION OF A LEASE OF CITY PROPERTY;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
REPEAL OF INCONSISTENT PROVISIONS; PROVIDING
FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West finds that it is necessary to clarify and adjust the provisions for negotiation of certain long-term leases of City property; and

WHEREAS, Section 2-941(b) of the Code of Ordinances prevents existing Lessees from commencing the re-negotiation of a lease sooner than one year prior the expiration of the current term; and

WHEREAS, the current one-year requirement may not provide a sufficient planning horizon for current lessees to develop long term plans for the property and to obtain financing commitments for substantial improvements required by such planning; and

WHEREAS, this amendment will allow the City to renegotiate a lease more than one year prior to expiration, when a tenant expresses an intent to make improvements to city-owned property in excess of \$500,000.00.

WHEREAS, an amendment to section 2-941 of the Code of Ordinances will promote the welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 2-941 of the Code of Ordinances is hereby amended as follows*:

Sec. 2-941. - Leases.

a) Without referendum, the city as lessor may lease real property and improvements thereon in the city for a term of up to and including ten years and, in the Caroline Street Corridor and Bahama Village Redevelopment Area and among those properties exsessed by the United States Navy during the local redevelopment authority process, for a term of up to and including 20 years. In all redevelopment areas, leasing by the city or its redevelopment agency shall be conducted in accordance with procedures of notice and solicitation as determined in state statutes. The renegotiation of a lease of an existing tenant prior to its

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

expiration is deemed not a disposition of property pursuant to F.S. §163.380(1) and (4). All leases of the Key West Bight existing as of the effective date of Ordinance No. 98-7 (March 3, 1998) are ratified and found to be in substantial compliance with law and ordinance.

(b) With respect to leases of the city as lessor in areas of the city other than its redevelopment areas, the city shall enter into negotiations with an existing tenant for a new lease if the tenant desires lease renewal. At the commencement of renewal negotiations, the city manager shall provide public notice thereof by newspaper advertisement. These negotiations may ~~shall~~ commence not sooner than three years ~~one year~~ prior to expiration, but not later than one year prior to expiration; provided, however, that any existing tenant that has invested at least \$500,000.00 in building, structural, and/or site improvements in the immediately preceding twenty-four (24) months and proposes to invest at least \$500,000.00 in future building, structural, and/or other site improvements to be completed within twenty-four (24) months from the execution of the lease renewal/amendment as a condition of the proposed lease renewal ~~in the process of a renewal negotiation as~~

~~of July 1, 2005,~~ shall be exempt from ~~this~~ these time limitations. Any new lease must be approved by the city commission, after public notice, not later than 60 days after the expiration of the existing lease. If lease negotiations for the renewal with the existing tenant are not completed or if the existing tenant desires not to renew, the city shall advertise for requests for proposals pursuant to sections 2-826 through 2-844.

(c) All other city leases must be advertised for requests for proposals unless: (i) the city commission finds that the best use of the property would be achieved without resort to the bidding process; or (ii) the city manager recommends waiver in consideration of the economic interests of the city. In order for the city to lease property below market rate in any circumstance, a public benefit must be shown on the record, and the lease must be approved by a supermajority vote of the city commission.

(d) Whenever the city commission is to consider a lease renewal, the city manager shall submit to the city commission a report on total lease payments over the term of the lease and a history of the city's or CRA's leasing experience with the tenant, including a chronicle of lease violations and payment delinquencies, if any.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held
this _____ day of _____, 2018.

Read and passed on final reading at a regular meeting held
this _____ day of _____, 2018.

Authenticated by the presiding officer and Clerk of the
Commission on _____ day of _____, 2018.

Filed with the Clerk _____, 2018.

Mayor Craig Cates	_____
Vice Mayor Clayton Lopez	_____
Commissioner Sam Kaufman	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CLAYTON LOPEZ, VICE MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK