

RESOLUTION NO. 2003- 35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY TO AMEND THE COMMERCIAL LEASE BETWEEN THE CITY OF MARATHON, FLORIDA AND DEWEY O. BROBERG, JR., TRUST AND MARY LOU BROBERG TRUST; AUTHORIZING THE MAYOR TO EXECUTE SAID AMENDMENT; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon, Florida (the "City") entered into an agreement with the Dewey O. Broberg, Jr., Trust and the Mary Lou Broberg Trust (the "Lessor") on April 4, 2001 for municipal office purposes (the "Agreement"); and

WHEREAS, the Agreement is set to expire on April 30, 2003; and

WHEREAS, the Amendment to the Agreement, in substantially the form and substance that is attached hereto as Exhibit "A," modifies the real property to be leased by the City; and

WHEREAS, the City Council finds that the renewal and amendment of the Agreement is in the best interest of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Term. The term of this Agreement shall commence on May 1, 2003 and shall continue through April 30, 2004.

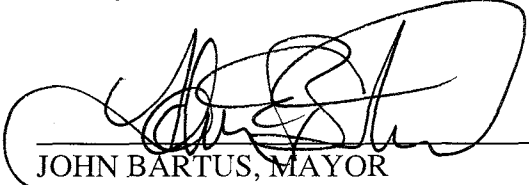
Section 3. Premises. In addition to leasing Units 5 and 6 of 100th Street Center, the City shall also lease Unit 1, 100th Street Center.

Section 4. Approval of Agreement. The Amendment to the Agreement between City and Lessor, in substantially the form and substance that is attached hereto as Exhibit "A" together with such non-material changes as may be acceptable to the City Manager, and approved as to form and legality by the City Attorney, is approved. The Mayor is authorized on behalf of the City to execute the Amendment.

Section 5. Appropriation. The City Manager is authorized to expend budgeted funds to implement the terms and conditions of the Amendment.

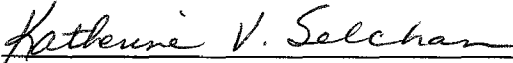
Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 4th day of February, 2003.




JOHN BARTUS, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY



CITY ATTORNEY

AMENDMENT TO COMMERCIAL LEASE

THIS AMENDMENT TO COMMERCIAL LEASE (the "Amendment") is entered into this ___ day of February, 2003, by and between the **DEWEY O. BROBERG, JR., TRUST and the MARY LOU BROBERG TRUST** (the "Lessor") and the **CITY OF MARATHON**, a Florida municipal corporation (the "Lessee").

RECITALS:

1. On April 4, 2001, Lessor and Lessee entered into that certain Commercial Lease (the "Lease") concerning real property located at 10045 and 10055 Overseas Highway, Marathon, Florida (the "Premises"); and
2. The term of the Lease is set to expire on April 30, 2003 (the "Term").
3. The parties have agreed to enter into this Amendment to extend the Term of the Lease and modify certain terms and conditions of the Lease.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are true and correct and hereby incorporated herein by reference.
2. Conflict. In the event of any conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall control.
3. This Lease. All references in this Amendment to "this Lease" shall include this Amendment.
4. Premises. The Premises, as that term is defined in the Lease, shall hereinafter be defined as follows: Units 5, 6 and 10^{NB}, 100^{NB}th Street Center, commonly known as 10045, 10055 and 100~~0~~⁵ Overseas Highway, Marathon, Monroe County, Florida.
5. Term. The Lease is hereby modified to extend the Term to April 30, 2004 (the "Termination Date").
6. Renewal. Provided Lessee is not in default hereunder, the parties acknowledge and agree that Lessee shall have the option to renew the Lease for two (2) additional one (1) year renewal periods. Such renewals shall be exercised in writing by Lessee no later than ninety (90) days prior to the Termination Date or applicable renewal period.

7. Rent. In addition to the base rent for Units 5 and 6 pursuant to the Lease, the monthly base rent for Unit 10 shall be One Thousand ~~Two~~⁹⁰ Hundred and No/100 Dollars (\$1,200.00) plus Four Hundred and No/100 Dollars (\$400.00) per month representing Lessee's pro rata share of expenses.

8. Rent Increase. Beginning on May 1, 2003 for Units 5 and 6, and for the entire Premises each May 1st thereafter during the term of the Lease, the base rent for the Premises shall increase by four percent (4%).

9. Option to Purchase. The parties acknowledge and agree that Lessee shall have the option to purchase the real property on which the Premises is located (the "Property") at any time throughout the Lease upon such terms and conditions as mutually agreed to by the parties.

10. Right of First Refusal. During the Term of the Lease, in the event Lessor negotiates the basic business terms of the sale of the Property with a prospective purchaser, Lessor shall promptly notify Lessee of such negotiations in writing, and such written notice shall state the name of the prospective purchaser and the essential business terms upon which the Lessor is prepared to sell the Property. Lessee shall then have a period of thirty (30) business days from the date of delivery of Lessor's written notice to notify the Lessor in writing of Lessee's election to purchase the Property for the purchase price agreed to with the prospective purchaser.

11. Termination. In the event Lessee does not exercise its right of first refusal, as outlined above, and Lessor sells the Property at any time during the term of the Lease, Lessor may cancel the Lease by giving Lessee six (6) months written notice.

12. Ratification. Except as set forth in this Amendment, the Agreement remains unmodified and in full force and effect and all the terms and conditions set forth in the Agreement are ratified by the parties.

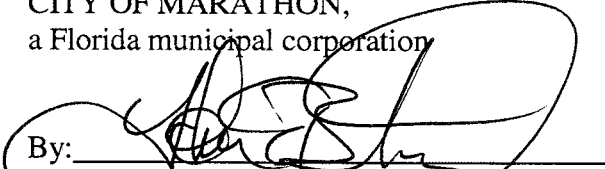
13. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. A facsimile copy of this Amendment and any other signatures hereon shall be considered for all purposes as originals. Except as expressly modified by this Amendment, the terms and provisions of the Lease remain unmodified and are in full force and effect.

[Acknowledgments on following page]

IN WITNESS WHEREOF, this Lease has been executed by the parties as of the date set forth on the first page of this Lease.

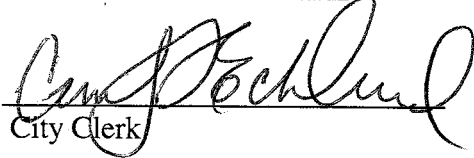
LESSEE:

CITY OF MARATHON,
a Florida municipal corporation

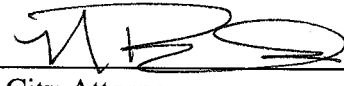
By: 
JOHN BARTUS, MAYOR

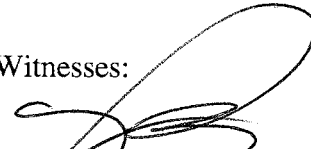
Print Name: _____

Print Name: _____

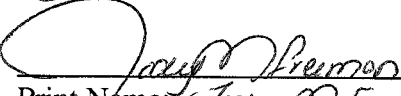
ATTEST: 
City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 
City Attorney

Witnesses:


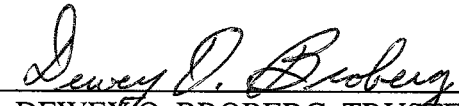
Print Name: Paul H. Maroney



Print Name: Joey M Freeman

LESSOR:

DEWEY O. BROBERG, JR., TRUST and
MARY LOU BROBERG TRUST

By: 
DEWEY O. BROBERG, TRUSTEE

[Notary acknowledgments on following page]

STATE OF FLORIDA)
SS:
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 16 day of February, 2003, by **JOHN BARTUS, Mayor of the CITY OF MARATHON, a Florida municipal corporation,** on behalf of the corporation, who (check one) is [] personally known to me or [] has produced a Florida drivers license as identification.

Notary Public, State of Florida

Print Name



Susan Thomas
My Commission CC896541
Expires February 08, 2004

My commission expires:

STATE OF FLORIDA)
SS:
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 14th day of February, 2003, by **DEWEY O. BROBERG, as Trustee of the DEWEY O. BROBERG, JR., TRUST and MARY LOU BROBERG TRUST,** on behalf of the Trusts, who (check one) [] is personally known to me or has [] produced _____ as identification.

Notary Public, State of Florida

Print Name

Richard A Malafy

My commission expires:

