

**Holocaust Memorial Community Learning Center  
Lease Extension and Expansion  
Proposed Term Sheet  
March \_\_, 2021**

**1. Overview of Transaction Structure and Project:**

- a. The City of Miami Beach, Florida (the “City”) and Greater Miami Jewish Federation, Inc., as lessee (“Federation”) are parties to that certain ninety-nine (99) year Holocaust Memorial Lease, dated as of March 8, 2000, by and between the City, as lessor, and the Holocaust Memorial Committee, Inc., a Florida corporation not for profit, as lessee (“Original Lessee”) as amended by that certain Amendment No. 1 to the Lease Agreement dated as of July 20, 2010, as assigned by Original Lessee to the Federation pursuant to that certain Assignment of Lease dated as of March 14, 2008 (collectively, the “Existing Lease”) for the operation and maintenance of the Holocaust Memorial (the “Memorial”) located at 1933-45 Meridian Avenue, Miami Beach, Florida.
- b. The City owns a surface parking lot located at 775 19<sup>th</sup> Street, Miami Beach, which is adjacent and contiguous to the Memorial and contains twenty-two (22) surface parking spaces, five (5) of which are designated for use by the Memorial. The Federation wishes to lease the parking lot from the City for the purposes described in Section 1.d. below.
- c. The transaction will be structured as an amendment to the Existing Lease. The Federation has requested that the City amend the Existing Lease to extend the lease term for an additional twenty-one (21) years for a total lease term of ninety-nine (99) years from the effective date of the lease amendment and to expand the leased premises to include approximately twelve thousand (12,000) additional square feet of space adjacent to the Memorial (the “Additional Premises”), on which the City-owned surface parking lot is located and on which the Federation intends to develop the Project (as defined herein) (collectively, the “Lease Amendment” and the Existing Lease, as amended by the Lease Amendment, is the “Lease”).
- d. The Federation, at its sole cost and expense, intends to develop, construct, operate and maintain within the Additional Premises a community learning center consisting of approximately seven thousand (7,000) square feet of enclosed, “under air” space for learning and education space, exhibition space (both temporary and permanent) and performance space and outdoor landscaped areas (collectively, the “Project”) to activate the Memorial through interactive and other programming to reach broader audiences by educating students and the public about tolerance, human rights and the need for global understanding and community. If realized, the Project would be sited directly across from the City’s PRIDE Park and would serve to promote the City of Miami Beach as a destination not only for convention

guests and tourists but as a community which places value on civic engagement, education and culture.

- e. The Lease Amendment shall be subject to, and comply with, Chapter 82, Article II, Sections 82-36 through 82-40 of the City Code, and requires approval by sixty percent (60%) of the voters voting in a Citywide referendum pursuant to Section 1.03(b)(3) of the City Charter (the “Referendum”).

## **2. Lease Amendment:**

- a. **Term:** The term of the Existing Lease currently expires on March 7, 2099. The Lease Amendment will extend the term of the Lease of the existing premises under the Existing Lease and the Additional Premises to expire ninety-nine (99) years after the effective date of the Lease Amendment. If the Referendum is successful, the effective date of the Lease Amendment shall occur upon execution of the Lease Amendment by the parties, approval thereof by the City Commission in accordance with City Code and adoption by the City Commission of a resolution accepting the certification of the official results of the successful Referendum.
- b. **Annual Rent:** Consistent with the Existing Lease, the annual rent will remain at Ten Dollars (\$10.00)/year for the entire leased premises.
- c. **Use:** The Additional Premises will be used by the Federation solely and exclusively as an educational center to provide educational and cultural exhibits, events and programming compatible with and complementing the Memorial and the ancillary uses set forth below and for no other purposes or uses whatsoever. The permitted ancillary uses shall be limited to a gift pavilion for the sale of commemoratives, pictures and other like items of personal property and a café not to exceed one thousand (1,000) square feet serving light fare. No other uses or purposes shall be permitted.
- d. **No Additional Amendments:** Except as set forth herein or otherwise reasonably necessary in connection with the Project, the parties do not intend to modify the terms of the Existing Lease.

## **3. The Project:**

- a. City Commission shall approve a concept plan design of the Project as part of its approval of the Lease Amendment (the “Concept Plan”). The Concept Plan will be included as an exhibit to the Lease Amendment.
- b. The term of the Federation’s possession of the Additional Premises shall commence immediately following, and commencement of construction shall be subject to, the Federation’s satisfaction of certain conditions reasonably determined by the City and to be further described in the Lease Amendment, including without limitation, the following:
  - (i) Required Approvals, as further described below;

- (ii) The Federation's delivery to the City of payment and performance bonds in form and substance reasonably acceptable to the City and naming City as co-obligee;
  - (iii) The Federation's delivery to the City of a budget reflecting the costs to complete construction of the Project in accordance with the Lease Amendment;
  - (iv) City's approval of the general contractor/design builder for the Project, with such approval not to be unreasonably withheld so long as the contractor has bonding capacity in excess of \$25 million and has successfully completed at least two projects of similar size and scope within the last five (5) years;
  - (v) The Federation's delivery to the City of the fully executed general construction contract for the Project with the approved general contractor/design builder reflecting a guaranteed maximum price that does not exceed the costs set forth in the budget; and
  - (vi) The Federation's delivery to the City of evidence satisfactory to the City that the Federation has sufficient funds to complete construction of the Project in accordance with the budget and the Lease Amendment.
- c. Promptly following the Federation's satisfaction of the conditions to possession of the Additional Premises, the Federation shall commence construction of the Project and thereafter, diligently and continuously pursue completion of the Project in accordance with the Lease Amendment and all applicable laws.
- d. Prior to the Federation's satisfaction of the conditions to possession of the Additional Premises and commencement of construction of the Project, the City shall have the right to use the Additional Premises as a surface parking lot.

#### **4. Project Approvals and Milestones:**

- a. Zoning: No changes to the existing zoning of the Additional Premises are contemplated in connection with the Project.
- b. Required Approvals:
  - (i) The City Commission shall have approved the Concept Plan as part of the Lease Agreement described above.
  - (ii) The City Manager shall have approved the proposed plans and specifications, which approval will not be unreasonably withheld or delayed provided such proposed plans and specifications conform to the approved Concept Plan. Any [material] [*Parties continuing to discuss*] modifications to the approved Concept Plan must be approved by the City Commission, in its [sole] [reasonable] [*Parties continuing to discuss*] discretion.

- (iii) The Federation, at its sole cost, is responsible for obtaining all governmental approvals for the design, development and construction of the Project, including without limitation, Design Review Board (“DRB”) approval. Promptly following the City Manager’s approval of the proposed plans and specifications (the “Approved Plans”), the Federation shall submit the Approved Plans to DRB for approval and thereafter diligently pursue such approval. To the extent DRB requires any revisions to the Approved Plans that do not conform to the approved Concept Plan, such revisions shall be subject to the City Commission’s approval in its sole discretion.

c. Project Milestones:

- (i) Target Date for DRB Approval: within twenty-four (24) months after the Effective Date (plus 1 month to exhaust all appeals);
- (ii) Target Date for issuance of final building permit and commencement of construction of the Project: twenty-four (24) months after DRB Approval;
- (iii)[Outside date for issuance of final building permit and commencement of construction of the Project: [ ] months after DRB Approval;] [*Parties continuing to discuss*]
- (iv)Target date for completion of construction and issuance of TCO for the Project: thirty-six (36) months after commencement of construction;
- (v) [Outside date for completion of construction and issuance of TCO for the Project: [ ] months after commencement of construction;] [*Parties continuing to discuss*]
- (vi)Such other development milestones as the parties may mutually agree to be set forth in the Lease Amendment. The Project milestones will be subject to reasonable extension for unavoidable delays and force majeure events as further described in the Lease Amendment.

**5. Project Costs and Financing:**

- a. The Federation, at its sole cost, shall be responsible for all costs and expenses in connection with the development, construction, completion, operation and maintenance of the Project, including demolition of any existing improvements on the Additional Premises, including asphalt paving.
- b. The Federation shall self-fund the Project and shall not obtain any third party financing.
- c. The City is not and shall not be required to provide any funding or financing for the Project, including without limitation, any tax credits and/or subsidies.

**6. Condition of Property/Environmental**

- a. The Federation accepts the Additional Premises in their AS IS, WHERE IS, and WITH ALL FAULTS condition, including without limitation, environmental condition, and all latent or patent defects, without any representation or warranty of any kind, express or implied, or arising by operation of law.
- b. The City will provide any environmental reports in the City's possession for the Additional Premises.

**7. Termination Rights:**

- a. The Federation may terminate the Lease Amendment for convenience at any time prior to issuance of the building permit for the Project.
- b. The City will not have the right to terminate the Lease Amendment for convenience. City will have the right to terminate the Lease Amendment as a result of any default by the Federation as further described herein and in the Lease Amendment.

**8. Other:**

- a. Legal Description and Parking Analysis: The Additional Premises shall be surveyed and a legal description created by a licensed surveyor approved by the City. The Federation acknowledges that the lease of the Additional Premises shall be subject to the City's receipt of a parking bond covenant analysis acceptable to the City and performed by a parking consultant approved by the City. The Federation shall pay the costs of such survey and parking analysis.
- b. Naming Rights: Naming rights for the exterior of the Additional Premises and any significant interior areas (e.g., any auditorium or exhibit hall) shall require City Commission approval, which shall not be unreasonably withheld.
- c. Parking: Offsite parking arrangements for the Project to be mutually agreed by the parties and memorialized in the Lease Amendment and further documentation to be mutually agreed by the parties.
- d. Excluded Area: The Additional Premises will not include a portion of the existing surface parking lot of approximately [thirty (30)] [fifteen (15)] [*Parties continuing to discuss*] feet in width along the Eastern boundary of the Additional Premises which excluded area will be retained by the City and used for access and utility purposes.
- e. Transfers: Consistent with the Existing Lease, the Federation shall not sublease, assign or otherwise transfer any of its interests in the Additional Premises or permit any change in the not for profit status of the Federation or any transfer of any of the direct or indirect ownership interests of the Federation during the term of the Lease without prior written approval by the City, which may be granted or withheld in the City's sole discretion.

- f. Default: The Federation shall be in default of the Lease Amendment if the Federation fails to comply with the Lease Amendment, including, without limitation, failure to satisfy conditions to possession of the Additional Premises and construction prior to commencement of construction and failure to satisfy the [Outside Dates for] [*Parties continuing to discuss*] Project milestones; unpermitted transfers. City's remedies for the Federation's default under the Lease Amendment will include, without limitation, termination of the Lease Amendment. In connection with any such termination following the commencement of construction, the Federation shall to restore the Additional Premises to the condition existing prior to the execution of the Lease Amendment so that the Additional Premises may be fully utilized by the City as a surface parking lot and the Federation shall reimburse the City for any losses or damages suffered as a result of the Federation's failure to complete construction in accordance with the Lease Amendment, to be further described in the Lease Amendment. In connection with certain defaults for failure to meet Project milestones, in lieu of termination, City may agree to accept payment of liquidated damages by the Federation for a specified period before exercising its right to terminate the Lease Amendment as a result of such defaults. Such liquidated damages shall be reasonably determined by the City and further described in the Lease Amendment.
- g. Indemnity: The Federation will indemnify, hold harmless and defend the City for any claims, losses, damages, liabilities, fees, costs and expenses (including reasonable attorneys' fees, costs and expenses) in connection with any lawsuit challenging the validity of the Lease Amendment, any governmental approvals of the Project and/or the failure of the Federation to complete construction in accordance with the Lease Amendment, each at the Federation's sole cost and expense and using legal counsel reasonably acceptable to the City. The foregoing indemnity will survive the expiration or earlier termination of the Lease Amendment.
- h. Reimbursement: The Federation agrees to reimburse the City for, or at City's option, pay directly, on a monthly basis, all out of pocket costs and expenses incurred by the City in connection with the due diligence and negotiation of the proposed amendment to the Lease and development of the Project, including fees for the City's parking rate consultant analysis; the City's outside counsel and paralegal fees; and any surveys, environmental assessments (if any), title searches, and other reviews engaged by the City, all as further described in the reimbursement agreement between the parties.