



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Raul J. Aguila, Interim City Manager

DATE: April 21, 2021

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY ADVERTISED PUBLIC HEARING, ACCEPTING THE RECOMMENDATION OF THE CITY'S FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AND WAIVING, BY 5/7TH VOTE, THE FORMAL COMPETITIVE BIDDING REQUIREMENT IN SECTION 82-39(a) OF THE CITY CODE, FINDING THAT THE PUBLIC INTEREST WOULD BE BETTER SERVED BY WAIVING SUCH CONDITION, AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE LEASE AGREEMENT, DATED AUGUST 12, 2019, AMONG THE CITY OF MIAMI BEACH, THE RDA (COLLECTIVELY, LANDLORD) AND MOONLIGHTER FABLAB, INC. (TENANT) FOR USE OF APPROXIMATELY 6,720 SQUARE FEET OF RETAIL SPACE, LOCATED AT 1661 PENNSYLVANIA AVENUE (DEMISED PREMISES); SAID AMENDMENT INCREASING THE SIZE OF THE DEMISED PREMISES, BY ADDING THE REMAINING 935 SQUARE FEET OF AVAILABLE SPACE AT THE PROPERTY, FOR USE OF A TOTAL OF 7,655 SQUARE FEET.**

RECOMMENDATION

The Administration recommends that the Mayor and City Commission adopt the Resolution.

BACKGROUND

The City owns the Pennsylvania Avenue Garage Condominium, located at 1661 Pennsylvania Avenue, Miami Beach, Florida 33139, which includes Unit 1, a municipal garage (the "Penn Garage"), having approximately 560 parking spaces, and Unit 2, which includes Suites A-G, and has a total of approximately 7,655 square feet of ground floor retail space (the "Retail Space"). In September 2011, the City executed a lease agreement for the retail space with Penn 17, LLC ("Penn 17") for a period of ten (10) years. When Penn 17 failed to make the required rent payments under the lease, the City terminated the lease in March 2015, and Penn 17 vacated the space in July 2015.

Since that time, the City has utilized the space for various purposes such as EnerGov training; temporary offices for Code Compliance and Housing & Community Services; and as a temporary location for the Miami Beach Chamber of Commerce (MBCC) Visitor's Center. The MBCC Visitor Center currently occupies the northeasterly 935 square feet area of the Retail Space.

Moonlighter Fablab, Inc. d/b/a Moonlighter Makerspace (Moonlighter) is a Miami-based 501(c)3 non-profit Science, Technology, Engineering, Arts & Math (STEAM) education center and digital fabrication lab. On December 21, 2018 Moonlighter submitted a Letter of Intent seeking to occupy the Retail Space to provide public benefit offerings. On January 25, 2019, the Finance and Citywide Projects Committee (FCWPC) was receptive to activating the unused Retail Space with the tech workspace collaborative and recommended in favor of approving a new lease.

On March 13, 2019, pursuant to Resolution No. 2019-30761, the City Commission and RDA approved a lease with Moonlighter for use of the remaining 6,720 square feet of the Retail Space (Moonlighter Demised Premises), for the purpose of providing an innovative public space combining a STEAM education center, co-working space, and digital fabrication lab. Moonlighter executed a lease for a term of three (3) years, for 6,720 square feet of the retail space. The term would commence on the date the City tenders possession of the entire Premises. However, Moonlighter has not been able to move into the area because in order to use the Demised Premises, the City would have to install a devising wall to separate the spaces from the adjacent premises (Miami Beach Chamber of Commerce). In addition, construction work related to the existing kitchen equipment and related systems would also need to be completed. The improvements total approximately \$80,000 in costs. In the alternative, Moonlighter would have to secure a change of use (i.e., Light Industrial) in order to share the use of the Retail Space with MBCC Visitor Center.

ANALYSIS

On February 19, 2021, the Finance and Economic Resiliency Committee (FERC) discussed expanding Moonlighter to the northeasterly 935 square feet area of the Retail Space, previously occupied by the MBCC Visitor Center. Furthermore, the Committee also recommended in favor of relocating the MBCC Visitor Center to the 721 square feet ground floor retail space at the Anchor Shops, located at 100 16th Street, Suite No. 6, Miami Beach, Florida. This availed the space (935 square feet) once occupied by MBCC in Pennsylvania Garage and would allow Moonlighter to use the entire Retail Space without the need to construct a devising wall or going through the expense of applying for a change of use for the Moonlighter Demised Premises.

Accordingly, the Moonlighter and the Administration have negotiated the following essential terms for an Amendment to the Lease Agreement with Moonlighter to include the remaining 935 square foot area of Pennsylvania Garage.

The proposed basic terms and conditions of the Amendment are as follows:

Premises:	1661 Pennsylvania Avenue Miami Beach, Florida 33139
Size:	Approximately 7,655 square feet
Term:	Three (3) years and two (2) one (1) year terms, commencing on the date in which the City delivers possession of the Premises (Commencement Date).
Rental Rate:	One Dollar (\$1.00) annually

- Additional Rent:** In addition to the Base Rent, Tenant shall also pay the Property Tax Payment, sales and uses taxes
- Maintenance:** Tenant shall be solely responsible for the operation, maintenance and repair of the Demised Premises; Tenant shall maintain all fixtures and appurtenances, interior walls, windows and doors; the City maintain the exterior structure, including roof, exterior plumbing, exterior painting and A/C units shared by more than one tenant;
- Utilities/Insurance:** The City pays for the utilities (electricity and water and sewer expenses) at an approximate value of \$763.86; The City pays for insurance costs; the Tenant unconditionally agrees to reimburse the City for any increase in the costs associated with Tenant's occupancy;
- Termination Option:** The City reserves the right, through its City Manager, to terminate the Lease Agreement, at any time, without cause and without liability to the City, upon providing Tenant with ninety (180) days prior written notice.

City Manager Recommendation

The City Manager recommends that the Mayor and City Commission waive the formal competitive bidding requirement, by a 5/7ths vote, as permitted under Section 82-39(a) of the City Code, as being in the best interest of the City.

CONCLUSION

In consideration of the foregoing, the Administration recommends, following a duly advertised public hearing, that the Mayor and City Commission accept the recommendation of the City's Finance and Economic Resiliency Committee, and waive by 5/7th vote, the formal competitive bidding requirement in section 82-39(a) of the City Code, finding that the public interest would be better served by waiving such condition; and approve and authorize the Mayor and City Clerk to execute Amendment No. 1 to the Lease Agreement, dated August 12, 2019 among the City of Miami Beach, the RDA (collectively, Landlord) and Moonlighter Fablab, Inc. (Tenant) for approximately 6,720 square feet of retail space, located at the 1661 Pennsylvania Avenue (Demised Premises); said Amendment increasing the size of the Demised Premises, by adding the remaining 935 square feet of available space at the Property, for use of the a total 7,655 square feet.

Attachments

Exhibit A: Amendment No. 1 to the Lease Agreement