

RESOLUTION NO. _____

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 FINANCE AND CITYWIDE PROJECTS COMMITTEE, AND WAIVING, BY 5/7TH VOTE, THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE AGREEMENT, SUBSTANTIALLY IN THE FORM ATTACHED TO THIS RESOLUTION, BETWEEN THE CITY AND THE MIAMI BEACH REDEVELOPMENT AGENCY (COLLECTIVELY, LANDLORD) AND THE MIAMI BEACH CHAMBER OF COMMERCE (TENANT), FOR THE USE OF APPROXIMATELY 935 SQUARE FEET OF CITY-OWNED PROPERTY (PREMISES), LOCATED AT 530 17TH STREET, MIAMI BEACH, FLORIDA, FOR A PERIOD OF TWO (2) YEARS AND TWENTY-FIVE (25) DAYS, COMMENCING RETROACTIVELY ON DECEMBER 7, 2016 AND ENDING ON DECEMBER 31, 2018.

WHEREAS, the Pennsylvania Garage is located at 1661 Pennsylvania Avenue and contains approximately 7,655 square feet of ground floor retail space (Retail Space) and 560 municipal parking spaces (Penn Garage); and

WHEREAS, the renovation of the convention center has displaced the Visitor Center of the Miami Beach Chamber of Commerce (Tenant);

WHEREAS, during the remainder of the renovation, due to its close proximity to the convention center, the Administration is proposing to relocate the Visitor Center into the northeastern 935 square feet of Penn Garage retail space a/k/a 530 17th Street (Premises); and

WHEREAS, upon further discussions, the Administration negotiated a new lease with Tenant, for an initial term of two (2) years and twenty-five (25) days, retroactively commencing December 7, 2016 and ending December 31, 2018; and

WHEREAS, the Administration submitted the agreed upon terms and conditions to the Finance and Citywide Projects Commission Committee (FCWPC) at its December 16, 2016 meeting, and the FCWPC recommended approving a new lease agreement with Tenant, containing the following essential terms:

Premises: 530 17th Street

Size: Approximately 935 square feet located at the northeastern portion of the Retail Space

Term: Two (2) years and twenty-five (25) days, commencing retroactively on December 7, 2016 and ending December 31, 2018.

Rental Rate: \$1.00 annually

Construction

Allowance: The Premises have been partitioned and prepared by the City at a cost of approximately \$13,000. Tenant shall accept the Premises in "as-is"

condition. Tenant shall be responsible for any additional costs associated with modifying the Premises to meet its requirements.

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 (90) days prior written notice.

WHEREAS, the Administration recommends the approval of a lease agreement, substantially in the form attached hereto as Exhibit "A", containing the essential terms outlined in this Resolution.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, following a duly advertised public hearing, hereby accept the recommendation of the Finance and Citywide Projects Committee, and waive, by 5/7ths vote, the competitive bidding requirement, finding such waiver to be in the best interest of the City; and approve and authorize the Mayor and City Clerk to execute a lease agreement, substantially in the form attached to this Resolution, between the City and the Miami Beach Redevelopment Agency (collectively, Landlord) and the Miami Beach Chamber of Commerce (Tenant), for the use of approximately 935 square feet of City-owned property (Premises), located at 530 17th Street, Miami Beach, Florida, for a period of two (2) years and twenty-five (25) days, commencing retroactively on December 7, 2016 and ending on December 31, 2018.

PASSED and **ADOPTED** this _____ day of _____ 2017.


ATTEST:

RAFAEL E. GRANADO, CITY CLERK

PHILIP LEVINE, MAYOR

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

1/3/17

Date

EXHIBIT A

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this ____ day of _____, 2017 (Lease, Lease Agreement), by and between the **CITY OF MIAMI BEACH**, ("The City") a Florida municipal corporation and Miami Beach Redevelopment Agency(The "RDA"), a public body corporate and politic, (hereinafter collectively referred to as "Landlord" or "City/RDA"), and the **MIAMI BEACH CHAMBER OF COMMERCE**, a Florida not-for-profit corporation, (hereinafter referred to as "Tenant").

1. Demised Premises.

The City/RDA, in consideration of the rentals hereinafter reserved to be paid and of the covenants, conditions and agreements to be kept and performed by the Tenant, hereby leases, lets and demises to the Tenant, and Tenant hereby leases and hires from the City/RDA, those certain premises (the "Demised Premises"), adjacent and part of the City/RDA-owned property located at 1661 Pennsylvania Avenue, Miami Beach, Florida 33139 which includes 7,655 square feet of ground floor retail space (the "Retail Space") and 560 municipal parking spaces (the "Penn Garage") (collectively the "Building"), having approximately 935 square feet, as depicted in Exhibit 1, and more fully described as follows:

The north-easterly 935 square feet of Unit 1, of Pennsylvania Garage Condominium, a Condominium, according to the Declaration thereof, as recorded in Official Records Book 28080, at Page 4536, of the Public Records of Miami-Dade County, Florida.

a/k/a 530 17 Street, Miami Beach, Florida 33139.

2. Term.

2.1. Tenant shall be entitled to have and to hold the Demised Premises for an initial term of two (2) years and twenty-five (25) days, commencing retroactively on the 7th day of December, 2016 (the "Commencement Date"), and ending on the 31st day of December, 2018. For purposes of this Lease Agreement, and including, without limitation, Subsection 2.2 herein, a "contract year" shall be defined as that certain period commencing on the 1st day of January, and ending on the 31st day of December.

2.2. Intentionally Omitted.

2.3. Notwithstanding anything in this subsection, or any other term or condition in this Lease Agreement, the City/RDA reserves the right, through its City Manager, to terminate this Lease Agreement, without cause and without

liability to the City/RDA, upon providing Tenant with ninety (90) days prior written notice.

- 2.4. This Lease does grant any additional parking privileges not already available to the general public; though receipt is not guaranteed, Tenant may apply for Garage Access cards at the City Parking Department at the Parking Department's standard rates.

3. Rent.

3.1. Base Rent:

Tenant's payment of Rent, as defined in this Section 3, shall commence on January 1st, 2017 (the "Rent Commencement Date").

- 3.1.1. The Base Rent for the Demised Premises shall be for One Dollar (\$1.00) per Contract Year and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto.

- 3.1.2. Intentionally Omitted

3.2. Additional Rent:

In addition to the Base Rent, as set forth in Section 3.1, Tenant shall also pay the following Additional Rent as provided below:

- 3.2.1. Landlord shall be responsible for any common area expenses for the property (not including Tenant's Taxes and Sales Taxes), Property real estate taxes, and insurance for the Property (not including Tenant's insurance requirements as set forth in Section 10).

3.2.2. Janitorial Services for Common Area Restrooms

Notwithstanding anything in section 3.2.1 or any other provision set forth herein, as Tenant is the sole tenant currently using the restroom facilities in Unit 1, until such time as another tenant moves into Unit 1, Miami Beach Chamber of Commerce shall be solely responsible for any all day to day janitorial maintenance of the restroom including restocking of sanitary supplies.

- 3.2.3. Intentionally Omitted

3.2.4. Tenant's Taxes and Sales Taxes.

Concurrent with the payment of the Base Rent and Additional Rent as provided herein, Tenant shall also pay any and all sums for all applicable tax(es), including without limitation, sales and use taxes and property real estate taxes, imposed, levied or assessed against the Demised Premises or Tenant's use of the Premises, or any other charge or payment required by any governmental authority having

jurisdiction there over, even though the taxing statute or ordinance may purport to impose such tax against the City/RDA.

3.2.5. Enforcement.

Tenant agrees to pay the Base Rent, Additional Rent, and any other amounts as may be due and payable by Tenant under this Agreement, at the time and in the manner provided herein, and should said rents and/or other additional amounts due herein provided, at any time remain due and unpaid for a period of fifteen (15) days after the same shall become due, the City/RDA may exercise any or all options available to it hereunder, which options may be exercised concurrently or separately, or the City/RDA may pursue any other remedies enforced by law.

4. Location for Payments.

All rents or other payments due hereunder shall be paid to the City at the following address:

City of Miami Beach
Finance Department
1700 Convention Center Drive, 3rd Floor
Miami Beach, Florida 33139

or at such other address as the City may, from time to time, designate in writing.

5. Intentionally Omitted

6. Intentionally Omitted

7. Use and Possession of Demised Premises.

7.1. Use of Demised Premises:

The Demised Premises shall be used by the Tenant solely for the purpose(s) of providing brochures, maps, tourism information, guidance, and general assistance with questions or issues regarding Greater Miami and the Beaches.

Tenant's uses and/or services provided in conjunction with the Demised Premises may require Tenant to interact, from time to time, with City of Miami Beach officials and employees, acting in their regulatory capacity. Notwithstanding the preceding, Tenant hereby represents and warrants to the City/RDA that it shall in no way, whether express or implied, give the impression that Tenant is in any way acting as an agent and/or representative of the City of Miami Beach or the Miami Beach Redevelopment Agency, nor that, by virtue of this Agreement, Tenant derives any special benefit and/or consideration from the City/RDA (acting in its regulatory capacity) with regard to Tenant's services to third parties.

Any violation of this Subsection 7.1 by Tenant shall be deemed as an automatic default under this Agreement and, notwithstanding any other provision set forth herein, shall entitle the City/RDA to automatically terminate this Agreement, without further notice to Tenant, and without liability to the City/RDA.

- 7.2. The Demised Premises may be open for operation seven (7) days a week, with hours of operation being as follows:

Hours of Operation: Sunday - Saturday: 9:00 AM to 5:00 PM

Nothing herein contained shall be construed to authorize hours contrary to the laws governing such operations. Any change in the days and/or hours of operation shall require the prior written consent of the City Manager; provided, however, that in no event shall the hours of operation extend earlier than 7:00 AM, or later than 11:00 PM.

- 7.3. It is understood and agreed that the Demised Premises shall be used by the Tenant during the Term of this Agreement only for the purpose(s)/use(s) set forth in Section 7 hereof, and for no other purpose(s) and/or use(s) whatsoever. Tenant will not make or permit any use of the Demised Premises that, directly or indirectly, is forbidden by law, ordinance or government regulation, or that may be dangerous to life, limb or property. Tenant may not commit (nor permit) waste on the Demised Premises; nor permit the use of the Demised Premises for any illegal purposes; nor commit a nuisance on the Demised Premises. In the event that the Tenant uses the Demised Premises (or otherwise allows the Demised Premises to be used) for any purpose(s) not expressly permitted herein, or permits and/or allows any prohibited use(s) as provided herein, then the City/RDA may declare this Agreement in default pursuant to Section 18 or, without notice to Tenant, restrain such improper use by injunction or other legal action.

8. Improvements.

- 8.1. Tenant accepts the Demised Premises in their present "AS IS" condition and may construct or cause to be constructed, such interior and exterior improvements and maintenance to the Demised Premises, as reasonably necessary for it to carry on its permitted use(s), as set forth in Section 7; provided, however, that any plans for such improvements shall be first submitted to the City Manager for his prior written consent, which consent, if granted at all, shall be at the City Manager's sole and absolute discretion. Additionally, any and all approved improvements shall be made at Tenant's sole expense and responsibility. All permanent (fixed) improvements to the Demised Premises shall remain the property of the City/RDA upon termination and/or expiration of this Agreement. Upon termination and/or expiration of this Agreement, all personal property and

non-permanent trade fixtures may be removed by the Tenant from the Demised Premises, provided that they can be (and are) removed without damage to the Demised Premises. Tenant will permit no liens to attach to the Demised Premises arising from, connected with, or related to the design and construction of any improvements. Moreover, such construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to the City/RDA. Any and all permits and or licenses required for the installation of improvements shall be the sole cost and responsibility of Tenant.

8.2. Notwithstanding Subsection 8.1, upon termination and/or expiration of this Agreement, and at City/RDA's sole option and discretion, any or all alterations or additions made by Tenant to or in the Demised Premises shall, upon written demand by the City Manager, be promptly removed by Tenant, at its expense and responsibility, and Tenant further hereby agrees, in such event, to restore the Demised Premises to their original condition prior to the Commencement Date of this Agreement.

8.3. The above requirements for submission of plans and the use of specific contractors shall not apply to improvements (which term, for purposes of this Subsection 8.3 only, shall also include improvements as necessary for Tenant's maintenance and repair of the Demised Premises) which do not exceed Five Hundred (\$500.00) Dollars, provided that the work is not structural, and provided that it is permitted by applicable law.

8.4. Intentionally Omitted

9. City/RDA's Right of Entry.

9.1. The City Manager, and/or his authorized representatives, shall have the right to enter upon the Demised Premises at all reasonable times for the purpose of inspecting same; preventing waste; making such repairs as the City/RDA may consider necessary; and for the purpose of preventing fire, theft or vandalism. The City/RDA agrees that, whenever reasonably possible, it shall use reasonable efforts to provide notice (whether written or verbal), unless the need to enter the Demised Premises is an emergency, as deemed by the City Manager, in his sole discretion, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons. Nothing herein shall imply any duty on the part of the City/RDA to do any work that under any provisions of this Agreement the Tenant may be required to perform, and the performance thereof by the City/RDA shall not constitute a waiver of the Tenant's default.

9.2. If the Tenant shall not be personally present to open and permit entry into the Demised Premises at any time, for any reason, and any entry thereon shall be necessary or permissible, the City Manager, and/or his authorized

representatives, may enter the Demised Premises by master key, or may forcibly enter the Demised Premises without rendering the City/RDA or such agents liable therefore.

- 9.3. Tenant shall furnish the City/RDA with duplicate keys to all locks including exterior and interior doors prior to (but no later than by) the Commencement Date of this Agreement. Tenant shall not change the locks to the Demised Premises without the prior written consent of the City Manager, and in the event such consent is given, Tenant shall furnish the City/RDA with duplicate keys to said locks in advance of their installation.

10. Tenant's Insurance Requirements.

- 10.1. Before beginning any work and throughout the term of the Agreement (including renewal periods), Tenant shall, at its sole cost and expense, comply with all insurance requirements of the City/RDA. It is agreed by the parties that Tenant shall not occupy the Demised Premises until proof of the following insurance coverage have been reviewed and approved by the City's Risk Manager. All insurance policies required below shall be issued by companies authorized to do business under the laws of the State of Florida. Provider shall indicate that insurance coverage has been obtained which meets the requirements as outlined below by submitting original certificates of insurance to the City's Risk Manager and Asset Manager respectively:

- 10.2. Worker's Compensation for all employees of the provider as required by Florida Statute 440 and Employer's Liability coverage in accordance with the Florida Statutory requirements.

- 10.3. Commercial General Liability on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence, for bodily injury and property damage. City of Miami Beach must be shown as an additional insured with respect to this coverage.

- 10.4. Additionally Tenant will be insured for the following coverage:

- 10.4.1. Intentionally Omitted

- 10.5. Intentionally Omitted

- 10.6. All-Risk property and casualty insurance, written at a minimum of eighty (80%) percent of replacement cost value and with replacement cost endorsement, covering all leasehold improvements installed in the Demised Premises by or on behalf of Tenant and including without limitation all of Tenant's personal property in the Demised Premises (including, without limitation, inventory, trade fixtures, floor coverings,

furniture, and other property removable by Tenant under the provisions of this Agreement).

10.7. Intentionally Omitted

10.8. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the provider.

10.9. Any insurance coverage required above must include a waiver of subrogation in favor of the City/RDA.

10.10. The company must be rated no less than "B+" as to management, and no less than "Class VII" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City Risk Management Division.

Certificate holder must read:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

10.11. Compliance with the foregoing requirements shall not relieve the vendor of his liability and obligation under this section or under any other section of this Agreement.

10.12. City/RDA reserves the right to impose additional reasonable insurance requirements as the City/RDA may deem necessary or in accordance with common practice.

10.13. The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days written notice to City/RDA and then subject to the prior written approval of the City's Risk Manager. Should Tenant fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the City/RDA may, at its sole discretion, obtain such insurance, and any sums expended by City/RDA in obtaining said insurance, shall be repaid by TENANT to City/RDA, plus ten percent (10%) of the amount of premiums paid to compensate City/RDA for its administrative costs. If Tenant does not repay City's expenditures within fifteen (15) days of demand, the total sum owed shall accrue interest at the rate of twelve percent (12%) until paid, and such failure shall be deemed an event of default hereunder.

10.14. Waiver of Subrogation.

Tenant hereby waives, on behalf of itself and its insurer(s) (none of which shall ever be assigned any such claim or be entitled thereto due to subrogation or otherwise), any and all rights of recovery, claim, action, or cause of action, against the City/RDA, its agents, officers, or employees, for any loss or damage that may occur to the Demised Premises, or any improvements thereto, or any personal property of such party therein, by reason of fire, the elements, or any other causes which are, or could or should be insured against under the terms of the standard fire and extended coverage insurance policies referred to in this Lease, regardless of whether such insurance is actually maintained and regardless of the cause or origin of the damage involved, including negligence of the City/RDA, its agents, officers, or employees.

The Tenant shall obtain from its respective insurer(s), under all policies of fire, theft, public liability, worker's compensation, and other insurance maintained at any time during the term hereof insuring or covering the Retail Space or any portion thereof or operations therein, a waiver of all rights of subrogation which the Tenant's insurer might have against the City/RDA, and the Tenant shall indemnify, defend, and hold harmless the City/RDA against any loss or expense, including reasonable attorneys' fees (appellate or otherwise) resulting from the failure to obtain such waiver.

11. Intentionally Omitted

12. Assignment and Subletting.

Tenant shall not have the right to assign the Lease or sublet the Demised Premises.

13. Operation, Maintenance and Repair.

13.1. Tenant shall be solely responsible for the operation, maintenance and repair of the Demised Premises. Tenant shall, at its sole expense and responsibility, maintain the Demised Premises, and all fixtures and appurtenances therein, and shall make all repairs thereto, as and when needed, to preserve them in good working order and condition. Tenant shall be responsible for all interior walls and the interior and exterior of all windows and doors, as well as immediate replacement of any and all plate glass or other glass in the Demised Premises which may become broken, using glass of the same or better quality.

13.1.1. The City/RDA shall be responsible for the maintenance of the roof, the exterior of the Building, the structural electrical and plumbing (other than plumbing surrounding any sink(s) and/or toilet(s), including such sink(s) and toilet(s) fixture(s), within the Demised Premises), the common areas and any HVAC systems shared by more than one tenant. The City/RDA shall maintain and/or repair those items that it is

responsible for, so as to keep same in proper working condition.

- 13.1.2. If the City/RDA provides a separate air-conditioning unit for the Demised Premises, Tenant agrees and understands that Tenant shall be solely responsible for the maintenance, repair and replacement of the heating/ventilation/air-conditioning (HVAC) equipment servicing the Demised Premises, at Tenant's sole expense.
- 13.1.3. Tenant further agrees and understands that, if the City/RDA provides a separate HVAC unit for the Demised Premises, the City/RDA, at its sole discretion, may require that Tenant obtain, at any time during the Term of this Agreement, and continuously maintain in good standing, at Tenant's expense, throughout the Term of this Agreement, a maintenance and repair contract, approved by the City/RDA, with a service company previously approved in writing by the City/RDA, providing for the preventative maintenance and repair of all HVAC equipment servicing the Demised Premises. In the event that the City/RDA notifies Tenant that it will require Tenant to contract for said maintenance and repair services, Tenant shall provide to the City/RDA, in writing, within ten (10) business days, the name(s) and telephone number(s) of service company(ies) for the City's review and approval. Tenant shall provide a copy of a current, enforceable and fully executed maintenance and repair contract, no later than ten (10) business days after receipt of the City's approval of the service company, as proof of Tenant's compliance with this provision.
- 13.2. All damage or injury of any kind to the Demised Premises, and including without limitation its fixtures, glass, appurtenances, and equipment (if any), or to the building fixtures, glass, appurtenances, and equipment, if any, except damage caused by the gross negligence and/or willful misconduct of the City/RDA, shall be the sole obligation of Tenant, and shall be repaired, restored or replaced promptly by Tenant, at its sole expense and to the satisfaction of the City/RDA.
- 13.3. All of the aforesaid repairs, restorations and replacements shall be in quality and class equal to or better than the original work or installations and shall be done in good and workmanlike manner.
- 13.4. If Tenant fails to make such repairs or restorations or replacements, the same may be made by the City/RDA, at the expense of Tenant, and all sums spent and expenses incurred by the City/RDA shall be collectable by the City/RDA and shall be paid by Tenant within three (3) days after submittal of a bill or statement therefore.
- 13.5. It shall be Tenant's sole obligation and responsibility to ensure that any renovations, repairs and/or improvements made by Tenant to the Demised

Premises comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.

- 13.6. Tenant Responsibilities for Utilities (not included within Operating Expenses). Tenant is solely responsible for, and shall promptly pay when due all charges for electricity, gas, cable, telephone, internet, janitorial garage service and any other utility service provided to the Demised Premises, including, without limitation, all hook-up fees and impact fees, **NOT** included as an Operating Expense (pursuant to Subsection 3.2.1).

In addition to other rights and remedies hereinafter reserved to the City/RDA, upon the failure of Tenant to pay for such utility services (as contemplated in this Subsection 13.6) when due, the City/RDA may elect, at its sole discretion, to pay same, whereby Tenant agrees to promptly reimburse the City/RDA upon demand.

In no event, however, shall the City/RDA be liable, whether to Tenant or to third parties, for an interruption or failure in the supply of any utilities or services to the Demised Premises.

- 13.7. **TENANT HEREBY ACKNOWLEDGES AND AGREES THAT THE DEMISED PREMISES ARE BEING LEASED IN THEIR PRESENT "AS IS" CONDITION.**

14. Governmental Regulations.

Tenant covenants and agrees to fulfill and comply with all statutes, ordinances, rules, orders, regulations, and requirements of any and all governmental bodies, including but not limited to Federal, State, Miami-Dade County, and City governments, and any and all of their departments and bureaus applicable to the Demised Premises, and shall also comply with and fulfill all rules, orders, and regulations for the prevention of fire, all at Tenant's own expense and responsibility. Tenant shall pay all cost, expenses, claims, fines, penalties, and damages that may be imposed because of the failure of Tenant to comply with this Section, and shall indemnify and hold harmless the City/RDA from all liability arising from each non-compliance.

15. Liens.

Tenant will not permit any mechanics, laborers, or materialman's liens to stand against the Demised Premises or improvements for any labor or materials to Tenant or claimed to have been furnished to Tenant's agents, contractors, or sub-tenants, in connection with work of any character performed or claimed to have performed on said Premises, or improvements by or at the direction or sufferance of the Tenant; provided however, Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give the City/RDA reasonable security as may be demanded by the City/RDA to insure payment thereof and prevent sale, foreclosure, or forfeiture of the Premises or improvements by reasons of such

non-payment. Such security need not exceed one and one half (1½) times the amount of such lien or such claim of lien. Such security shall be posted by Tenant within ten (10) days of written notice from the City/RDA, or Tenant may "bond off" the lien according to statutory procedures. Tenant will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at Tenant's own expense.

16. Intentionally Omitted.

17. Condemnation.

17.1. If at any time during the Term of this Agreement (including any renewal term hereunder) all or any part or portion of the Demised Premises is taken, appropriated, or condemned by reason of Eminent Domain proceedings, then this Agreement shall be terminated as of the date of such taking, and shall thereafter be completely null and void, and neither of the parties hereto shall thereafter have any rights against the other by reason of this Agreement or anything contained therein, except that any rent prepaid beyond the date of such taking shall be prorated to such date, and Tenant shall pay any and all rents, additional rents, utility charges, and/or other costs for which it is liable under the terms of this Agreement, up to the date of such taking.

17.2. Except as hereunder provided, Tenant shall not be entitled to participate in the proceeds of any award made to the City/RDA in any such Eminent Domain proceeding, excepting, however, Tenant shall have the right to claim and recover from the condemning authority, but not from the City/RDA, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reasons of the condemnation and for or on account of any cost or loss which Tenant might incur in removing Tenant's furniture and fixtures.

18. Default.

18.1. Default by Tenant:

At the City's option, any of the following shall constitute an Event of Default under this Agreement:

18.1.1. The Base Rent, Additional Rent, or any other amounts as may be due and payable by Tenant under this Agreement, or any installment thereof, is not paid promptly when and where due, and Tenant shall not have cured such failure within five (5) days after receipt of written notice from the City/RDA specifying such default;

18.1.2. The Demised Premises shall be deserted, abandoned, or vacated;

Tenant shall fail to comply with any material term, provision, condition or covenant contained herein other than the payment of rent and shall not cure such failure within thirty (30) days after the receipt of written notice from the City/RDA specifying any such default; or such longer period of time acceptable to the City/RDA, at its sole discretion;

18.1.3. Receipt of notice of violation from any governmental authority having jurisdiction dealing with a law, code, regulation, ordinance or the like, which remains uncured for a period of thirty (30) days from its issuance, or such longer period of time as may be acceptable and approved in writing by the City Manager, at his sole discretion;

18.1.4. Any petition is filed by or against Tenant under any section or chapter of the Bankruptcy Act, as amended, which remains pending for more than sixty (60) days, or any other proceedings now or hereafter authorized by the laws of the United States or of any state for the purpose of discharging or extending the time for payment of debts;

18.1.5. Tenant shall become insolvent;

18.1.6. Tenant shall make an assignment for benefit of creditors;

18.1.7. A receiver is appointed for Tenant by any court and shall not be dissolved within thirty (30) days thereafter; or

18.1.8. The leasehold interest is levied on under execution; or

19. Rights on Default.

19.1. Rights on Default:

19.1.1. In the event of any default by Tenant as provided herein, City/RDA shall have the option to do any of the following, in addition to and not in limitation of, any other remedy permitted by law or by this Agreement;

19.1.2. Terminate this Agreement, in which event Tenant shall immediately surrender the Demised Premises to the City/RDA, but if Tenant shall fail to do so the City/RDA may, without further notice, and without prejudice to any other remedy the City/RDA may have for possession or arrearages in rent or damages for breach of contract, enter upon the Demised Premises and expel or remove Tenant and its effects in accordance with law, without being liable for prosecution or any claim for damages therefore, and Tenant agrees to indemnify and hold harmless the City/RDA for all loss and damage which the City/RDA may suffer by reasons of such Agreement termination, whether through inability to re-let the Demised Premises, or otherwise.

19.1.3. Declare the entire amount of the Base Rent and Additional Rent which

would become due and payable during the remainder of the term of this Agreement to be due and payable immediately, in which event Tenant agrees to pay the same at once, together with all rents therefore due, at the address of the City, as provided in the Notices section of this Agreement; provided, however, that such payment shall not constitute a penalty, forfeiture, or liquidated damage, but shall merely constitute payment in advance of the rents for the remainder of said term and such payment shall be considered, construed and taken to be a debt provable in bankruptcy or receivership.

- 19.1.4. Enter the Demised Premises as the agent of Tenant, by force if necessary, without being liable to prosecution or any claim for damages therefore; remove Tenant's property there from; and re-let the Demised Premises, or portions thereof, for such terms and upon such conditions which the City/RDA deems, in its sole discretion, desirable, and to receive the rents therefore, and Tenant shall pay the City/RDA any deficiency that may arise by reason of such re-letting, on demand at any time and from time to time at the office of the City/RDA; and for the purpose of re-letting, the City/RDA may (i) make any repairs, changes, alterations or additions in or to said Demised Premises that may be necessary or convenient; (ii) pay all costs and expenses therefore from rents resulting from re-letting; and (iii) Tenant shall pay the City/RDA any deficiency as aforesaid.
- 19.1.5. Take possession of any personal property owned by Tenant on said Demised Premises and sell the same at public or private sale, and apply same to the payment of rent due, holding Tenant liable for the deficiency, if any.
- 19.1.6. It is expressly agreed and understood by and between the parties hereto that any installments of rent accruing under the provisions of this Agreement which shall not be paid when due shall be subject to a late charge of Fifty and 00/100 (\$50.00), plus interest at the rate of eighteen (18%) percent per annum, or the maximum amount allowable under Florida law, whichever is lesser, from the due date of payment until such time as payment is actually received by the City/RDA. Any failure on the City's behalf to enforce this Section shall not constitute a waiver of this provision with respect to future accruals of past due rent.
- 19.1.7. If Tenant shall default in making any payment of monies to any person or for any purpose as may be required hereunder, the City/RDA may pay such expense but the City/RDA shall not be obligated to do so. Tenant, upon the City's paying such expense, shall be obligated to forthwith reimburse the City/RDA for the amount thereof. All sums of money payable by Tenant to the City/RDA hereunder shall be deemed as rent for use of the Demised Premises and collectable by the City/RDA from Tenant as rent, and shall be due from Tenant to the

City/RDA on the first day of the month following the payment of the expense by the City/RDA.

- 19.1.8. The rights of the City/RDA under this Agreement shall be cumulative but not restrictive to those given by law and failure on the part of the City/RDA to exercise promptly any rights given hereunder shall not operate to waive or to forfeit any of the said rights.

19.2. Default by City/RDA:

The failure of the City/RDA to perform any of the covenants, conditions and agreements of this Agreement which are to be performed by the City/RDA and the continuance of such failure for a period of thirty (30) days after notice thereof in writing from Tenant to the City/RDA (which notice shall specify the respects in which Tenant contends that the City/RDA failed to perform any such covenant, conditions and agreements) shall constitute a default by the City/RDA, unless such default is one which cannot be cured within thirty (30) days because of circumstances beyond the City's control, and the City/RDA within such thirty (30) day period shall have commenced and thereafter shall continue diligently to prosecute all actions necessary to cure such defaults.

However, in the event the City/RDA fails to perform within the initial thirty (30) day period provided above, and such failure to perform prevents Tenant from operating its business in a customary manner and causes an undue hardship for Tenant, then such failure to perform (regardless of circumstances beyond its control) as indicated above, shall constitute a default by the City/RDA.

19.3. Tenant's Rights on Default.

If an event of the City's default shall occur, Tenant, shall have the right to terminate this Agreement (and all of its obligations hereunder by giving notice of such election to the City/RDA, whereupon this Agreement shall terminate as of the date of such notice).

20. Laws:

20.1. Compliance.

Concessionaire shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations (including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations, as same may be amended from time to time.

20.2. No Discrimination.

Concessionaire hereby agrees hereby agrees to comply with City of Miami Beach Human Rights Ordinance, as codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in

employment, housing, public accommodations, or public services, on the basis of actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, familial and marital status, age, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, political affiliation, or disability.

21. Indemnity Against Costs and Charges.

21.1. Tenant shall be liable to the City/RDA for all costs and charges, expenses, reasonable attorney's fees, and damages which may be incurred or sustained by the City/RDA, by reason of Tenant's breach of any of the provisions of this Agreement. Any sums due the City/RDA under the provisions of this item shall constitute a lien against the interest of the Tenant and the Demised Premises and all of Tenant's property situated thereon to the same extent and on the same conditions as delinquent rent would constitute a lien on said premises and property.

21.2. If Tenant shall at any time be in default hereunder, and if the City/RDA shall deem it necessary to engage an attorney to enforce the City's rights and Tenant's obligations hereunder, Tenant will reimburse the City/RDA for the reasonable expenses incurred thereby, including, but not limited to, court costs and reasonable attorney's fees, whether suit be brought or not and if suit be brought, then Tenant shall be liable for expenses incurred at both the trial and appellate levels.

22. Indemnification Against Claims.

22.1. Tenant shall indemnify and save the City/RDA harmless from and against any and all claims or causes of action (whether groundless or otherwise) by or on behalf of any person, firm, or corporation, for personal injury or property damage occurring upon the Demised Premises or upon any other land or other facility or appurtenance used in connection with the Demised Premises, occasioned in whole or in part by any of the following:

22.1.1. An act or omission on the part of Tenant, or any employee, agent, contractor, invitee, guest, assignee, sub-tenant or subcontractor of Tenant;

22.1.2. Any misuse, neglect, or unlawful use of the Demised Premises by Tenant, or any employee, agent, contractor, invitee, guest, assignee, sub-tenant or subcontractor of Tenant;

22.1.3. Any breach, violation, or non-performance of any undertaking of Tenant under this Agreement;

22.1.4. Anything growing out of the use or occupancy of the Demised Premises by Tenant or anyone holding or claiming to hold through or

under this Agreement.

- 22.2. Tenant agrees to pay all damages to the Demised Premises and/or other facilities used in connection therewith, caused by Tenant or any employee, agent, contractor, guest, or invitee of Tenant.

23. Signs and Advertising.

Without the prior written consent of the City Manager, which consent, if given at all, shall be at the City Manager's sole and absolute discretion, Tenant shall not permit the painting and display of any signs, plaques, lettering or advertising material of any kind on or near the Demised Premises. All additional signage shall comply with signage standards established by the City and comply with all applicable building codes, and any other municipal, County, State and Federal laws.

24. Effect of Conveyance.

The term "City", "RDA", and/or "Landlord" as used in the Agreement means only the owner for the time being of the land and building containing the Demised Premises, so that in the event of any sale of said land and building, or in the event of a lease of said building, the City/RDA shall be and hereby is entirely freed and relieved of all covenants and obligations of the City/RDA hereunder, and it shall be deemed and construed without further agreement between the parties, or between the parties and the purchaser at such sale, or the lease of this building, that the purchaser or Tenant has assumed and agreed to carry out all covenants and obligations of the City/RDA hereunder.

25. Damage to the Demised Premises.

- 25.1. If the Demised Premises shall be damaged by the elements or other casualty not due to Tenant's negligence, or by fire, but are not thereby rendered untenable, as determined by the City Manager, in his sole discretion, in whole or in part, and such damage is covered by the City's insurance, if any, (hereinafter referred to as "such occurrence"), the City/RDA, shall, as soon as possible after such occurrence, utilize the insurance proceeds to cause such damage to be repaired and the Rent (Base Rent and Additional Rent) shall not be abated. If by reason of such occurrence, the Demised Premises shall be rendered untenable, as determined by the City Manager, in his sole discretion, only in part, the City/RDA shall as soon as possible utilize the insurance proceeds to cause the damage to be repaired, and the Rent meanwhile shall be abated proportionately as to the portion of the Demised Premises rendered untenable; provided however, that the City/RDA shall promptly obtain a good faith estimate of the time required to render the Demised Premises tenantable and if such time exceeds sixty (60) days, either party shall have the option of canceling this Agreement.

- 25.2. If the Demised Premises shall be rendered wholly untenable by reason

of such occurrence, the City/RDA shall have the option, but not the obligation, in its sole discretion, to utilize the insurance proceeds to cause such damage to be repaired and the Rent meanwhile shall be abated. However, the City/RDA shall have the right, to be exercised by notice in writing delivered to Tenant within sixty (60) days from and after said occurrence, to elect not to reconstruct the destroyed Demised Premises, and in such event, this Agreement and the tenancy hereby created shall cease as of the date of said occurrence, the Rent to be adjusted as of such date. If the Demised Premises shall be rendered wholly untenable, Tenant shall have the right, to be exercised by notice in writing, delivered to the City/RDA within thirty (30) days from and after said occurrence, to elect to terminate this Agreement, the Rent to be adjusted accordingly.

Notwithstanding any clause contained in this Section 25, if the damage is not covered by the City's insurance, then the City/RDA shall have no obligation to repair the damage, but the City/RDA shall advise Tenant in writing within thirty (30) days of the occurrence giving rise to the damage and of its decision not to repair, and the Tenant may, at any time thereafter, elect to terminate this Agreement, and the Rent shall be adjusted accordingly.

26. Quiet Enjoyment.

Tenant shall enjoy quiet enjoyment of the Demised Premises and shall not be evicted or disturbed in possession of the Demised Premises so long as Tenant complies with the terms of this Agreement.

27. Waiver.

27.1. It is mutually covenanted and agreed by and between the parties hereto that the failure of the City/RDA to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Agreement, or to exercise any option herein conferred, will not be considered or construed as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.

27.2. A waiver of any term expressed herein shall not be implied by any neglect of the City/RDA to declare a forfeiture on account of the violation of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

27.3. The receipt of any sum paid by Tenant to the City/RDA after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and

construed as payment for use and occupation, and not as Rent, unless such breach be expressly waived in writing by the City/RDA.

28. Notices.

The addresses for all notices required under this Agreement shall be as follows, or at such other address as either party shall be in writing, notify the other:

LANDLORD: City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

With copy to: Office of Real Estate
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

TENANT: Jerome Libbin, President
Miami Beach Chamber Of Commerce
1920 Meridian Ave, 3rd Floor
Miami Beach, Florida 33139

All notices shall be hand delivered and a receipt requested, or by certified mail with Return receipt requested, and shall be effective upon receipt.

29. Entire and Binding Agreement.

This Agreement contains all of the agreements between the parties hereto, and it may not be modified in any manner other than by agreement in writing signed by all the parties hereto or their successors in interest. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon the City/RDA and Tenant and their respective successors and assigns, except as may be otherwise expressly provided in this Agreement.

30. Provisions Severable.

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

31. Captions.

The captions contained herein are for the convenience and reference only and shall not be deemed a part of this Agreement or construed as in any manner limiting or amplifying the terms and provisions of this Agreement to which they relate.

32. Number and Gender.

Whenever used herein, the singular number shall include the plural and the plural shall include the singular, and the use of one gender shall include all genders.

33. Limitation of Liability.

The City/RDA desires to enter into this Agreement only if in so doing the City/RDA can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City/RDA of this Agreement, so that its liability for any such breach never exceeds the sum of one hundred (\$100.00) Dollars. Tenant hereby expresses its willingness to enter into this Agreement with Tenant's recovery from the City/RDA for any damage action for breach of contract to be limited to a maximum amount of \$100.00. Accordingly, and notwithstanding any other term or condition of this Agreement, Tenant hereby agrees that the City/RDA shall not be liable to Tenant for damage in an amount in excess of \$100.00 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City/RDA by this Agreement. Nothing contained in this Section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

34. Surrender of the Demised Premises.

Tenant shall, on or before the last day of the Term herein demised, or the sooner termination thereof, peaceably and quietly leave, surrender and yield upon to the City/RDA the Demised Premises, together with any and all equipment, fixtures, furnishings, appliances or other personal property, if any, located at or on the Demised Premises and used by Tenant in the maintenance, management or operation of the Demised Premises, excluding any trade fixtures or personal property, if any, which can be removed without material injury to the Demised Premises, free of all liens, claims and encumbrances and rights of others or broom-clean, together with all structural changes, alterations, additions, and improvements which may have been made upon the Demised Premises, in good order, condition and repair, reasonable wear and tear excepted, subject, however, to the subsequent provisions of this Section. Any property which pursuant to the provisions of this Section is removable by Tenant on or at the Demised Premises upon the termination of this Agreement and is not so removed may, at the option of the City/RDA, be deemed abandoned by Tenant, and either may be retained by the City/RDA as its property or may be removed and disposed of at the sole cost of the Tenant in such manner as the City/RDA may see fit. If the Demised Premises and personal property, if any, be not surrendered at the end of the Term as provided in this Section, Tenant shall make good the City/RDA all damages which the City/RDA shall suffer by reason thereof, and shall indemnify and hold harmless the City/RDA against all claims made by any succeeding tenant or purchaser, so far as such delay is occasioned by the failure of Tenant to surrender the Demised Premises as and when herein required.

35. Time is of the Essence.

Time is of the essence in every particular and particularly where the obligation to

pay money is involved.

36. Venue:

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

CITY/RDA AND TENANT HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT THE CITY/RDA AND TENANT MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT.

37. Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from your County Public Health Unit.

38. No Dangerous Materials.

Tenant agrees not to use or permit in the Demised Premises the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida. Any such substances or materials found within the Demised Premises shall be immediately removed.

Tenant shall indemnify and hold the City/RDA harmless from any loss, damage, cost, or expense of the City/RDA, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Tenant of any "hazardous substance" or "petroleum products" on, in or upon the Demised Premises as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder. The provisions of this Section 38 shall survive the termination or earlier expiration of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

FOR Landlord:

**MIAMI BEACH REDEVELOPMENT
AGENCY, a public body corporate and
politic,**

ATTEST:

By: _____
Secretary

Date

Philip Levine, Chairman

FOR TENANT:

**MIAMI BEACH CHAMBER OF
COMMERCE**

ATTEST:

By: _____
Witness

Print Name

Date

President

EXHIBIT 1

Demised Premises

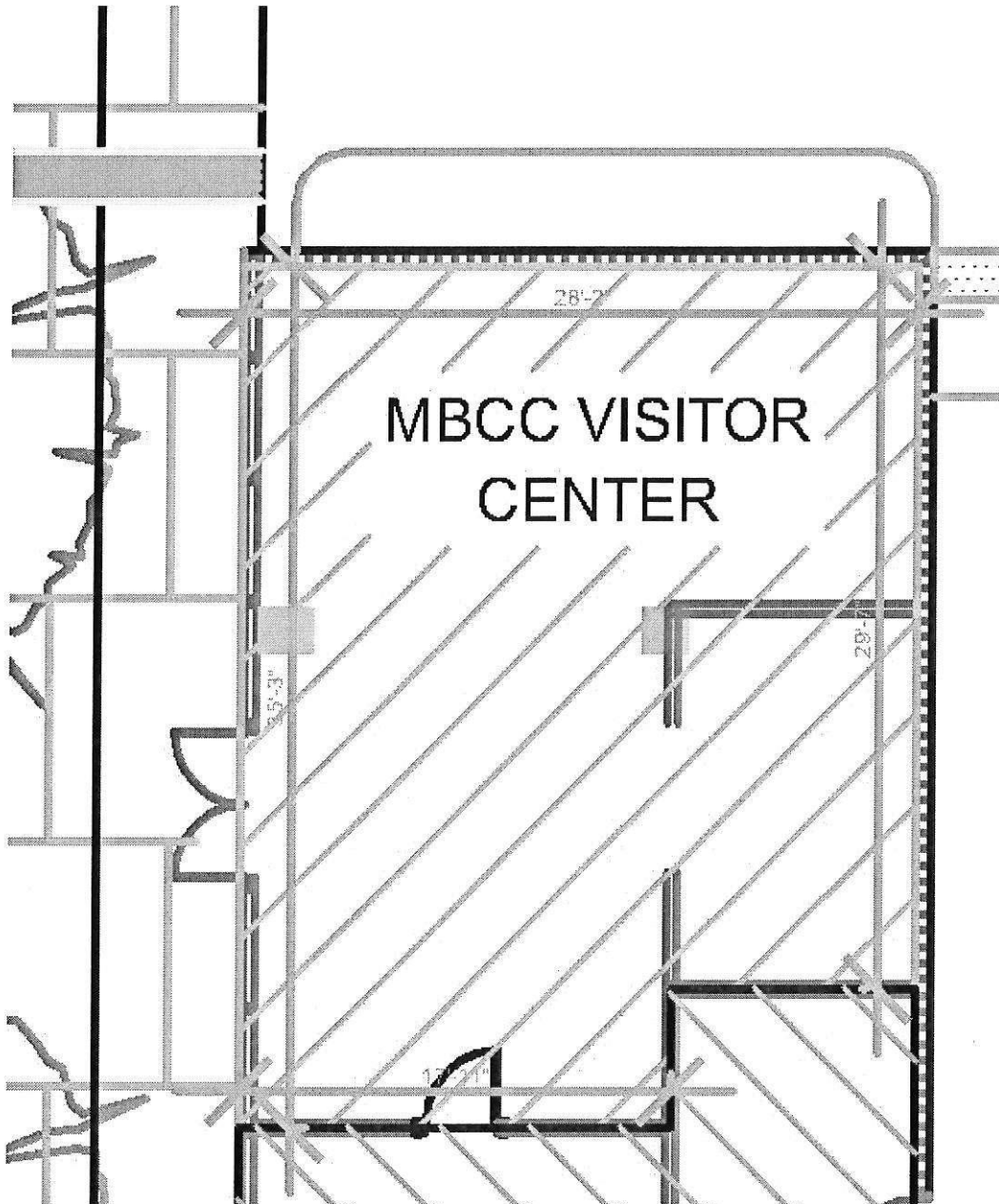
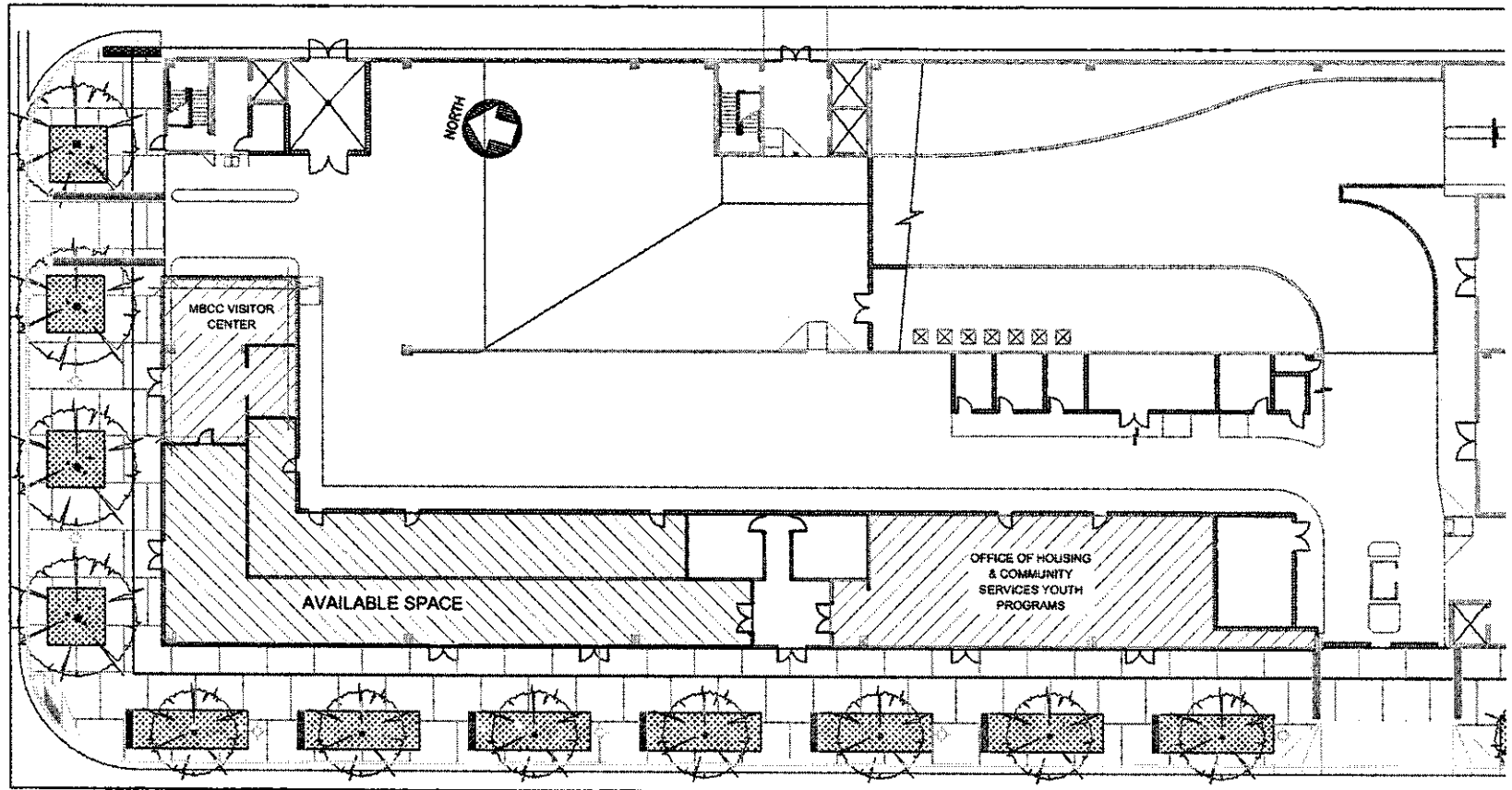
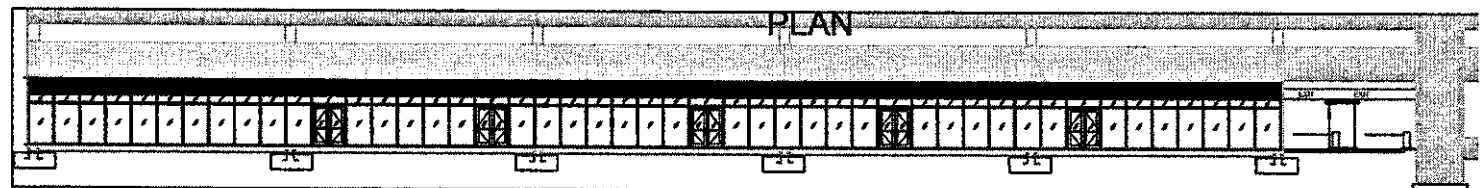


EXHIBIT 1a
UNIT 1



PENNSYLVANIA AVENUE
GARAGE RETAIL SPACE SITE



RETAIL SPACE WEST ELEVATION