

# Memorandum



**Date:** May 5, 2009

**To:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

Agenda Item No. 8(O)(1)(A)

**From:** George M. Burge  
County Manager

**Subject:** Recommendation for Approval to Award Contract No. RFP 660: Lease and Operation of Stephen P. Clark Center Pharmacy

## RECOMMENDATION

It is recommended that the Board of County Commissioners approve award of this contract to RDS Pharmacy Management, Inc., d/b/a Robert's Drug Store #4, to lease and operate a full service, drop-off/pick-up retail pharmacy at the Stephen P. Clark Center.

**CONTRACT NO:** RFP 660

**CONTRACT TITLE:** Lease and Operation of Stephen P. Clark Center Pharmacy

**DESCRIPTION:** The County is leasing out a 1,787 square foot retail space for a pharmacy located on the first floor of the Stephen P. Clark Center. The awarded lessee will operate a full service, retail pharmacy offering a high quality prescription drug dispensing service. Other items available will include snacks, candy and beverages; sundry items; health and beauty aids; personal assistance products such as medical equipment and supplies; personal care products such as small appliances; candles; magazines; greeting cards; Florida Lottery Tickets and Games; and related products.

**TERM:** Five years with two, two-year options to renew at the County's sole discretion.

**APPROVAL TO ADVERTISE:** November 14, 2008

**CONTRACT AMOUNT:** Estimated \$204,000 in revenue to the County for the initial five year contract period.

If the County exercises the two, two-year options-to-renew, the total contract value in revenue to the County will be approximately \$368,000.

**METHOD OF AWARD:** Awarded to the highest ranked responsive, responsible vendor based on the evaluation criteria established in the solicitation. A full and open competitive Request for Proposals process was used.

VENDOR RECOMMENDED  
FOR AWARD:

Vendor	Address	Principal
RDS Pharmacy Management, Inc. d/b/a Robert's Drug Store #4 (Local)	111 N.W. 1 Street Miami, FL 33128	Aiman I. Aryan

- PERFORMANCE DATA: There are no known performance issues.
- COMPLIANCE DATA: There are no known compliance issues.
- VENDOR NOT RECOMMENDED FOR AWARD: Walgreen Co.
- CONTRACT MEASURES: The Review Committee of October 10, 2008, recommended no measures since this contract is revenue generating.
- LIVING WAGE: The services being provided are not covered under the Living Wage Ordinance.
- USER ACCESS PROGRAM: The 2% User Access Program provision is not included as this contract is revenue generating.
- LOCAL PREFERENCE: Applied in accordance with applicable ordinance, but did not affect the outcome.
- PROJECT MANAGER: Victoria Johnson, General Services Administration
- ESTIMATED CONTRACT COMMENCEMENT DATE: Ten days after date adopted by the Board of County Commissioners, unless vetoed by the Mayor.
- DELEGATED AUTHORITY: If this item is approved, the County Mayor or designee will have the authority to exercise, at County Mayor's or designee's discretion, subsequent options-to-renew and other extensions in accordance with the terms and conditions of the contract.

**BACKGROUND**

Since August 2000, the County has leased out a retail space in the lobby of the Stephen P. Clark Center to operate a pharmacy. The pharmacy tenant changed multiple times due to a series of lessee issues such as business sales and closings. In July 2005, General Services Administration (GSA) issued a permit to lease and operate the pharmacy to RDS Pharmacy Management, Inc. d/b/a Robert's Drug Store #4 (the incumbent lessee). Upon expiration of the permit, the lessee began operating on a month-to-month arrangement. To procure a long-term solution, GSA engaged the Department of Procurement Management to solicit a lessee through a full and open competitive process.

  
Assistant County Manager

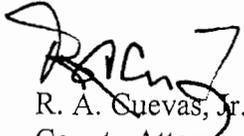


# MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

DATE: May 5, 2009

FROM:   
R. A. Cuevas, Jr.  
County Attorney

SUBJECT: Agenda Item No. 8(O)(1)(A)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(O)(1)(A)  
5-5-09

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH RDS PHARMACY MANAGEMENT, INC. D/B/A ROBERT'S DRUG STORE #4 TO LEASE AND OPERATE THE STEPHEN P. CLARK CENTER PHARMACY EXPECTED TO GENERATE APPROXIMATELY \$204,000.00 IN REVENUE TO THE COUNTY DURING THE INITIAL TERM, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN CONTRACT NO. RFP660

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the selection of RDS Pharmacy Management, Inc. d/b/a Robert's Drug Store #4, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions and any other rights contained therein.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman  
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro  
Carlos A. Gimenez  
Barbara J. Jordan  
Dorrin D. Rolle  
Katy Sorenson  
Sen. Javier D. Souto

Audrey M. Edmonson  
Sally A. Heyman  
Joe A. Martinez  
Natacha Seijas  
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Oren Rosenthal

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STEPHEN P. CLARK CENTER PHARMACY LEASE AGREEMENT

THIS AGREEMENT made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between RDS Pharmacy Management, Inc. d/b/a/ Roberts Drug Store #4, a corporation organized and existing under the laws of the State of Florida, having its principal office at 111 N.W. 1 Street, Miami, Florida (hereinafter referred to as the "Lessee"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County").

WITNESSETH:

WHEREAS, the County owns the Stephen P. Clark Center (the "SPCC") for the use by patrons, tenants, employees and visitors which facilities are administered for the County by its Director of the General Services Administration Department (the "Department"), or designee; and,

WHEREAS, the Lessee has offered to lease and operate a full service retail pharmacy (the "Pharmacy") at the SPCC in a manner that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposals (RFP) No. 660 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Lessee has submitted a written proposal dated December 8, 2008, hereinafter referred to as the "Lessee's Proposal" which is incorporated by reference herein; and,

WHEREAS, the proposal of the Lessee is recommended as being in the best interest of the County, and formed the basis for award of this Agreement,

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

1. **Use:** The County hereby grants unto the Lessee, and the Lessee hereby accepts from the County for the term, at the rate and upon the covenants and conditions as set forth herein to develop and operate the Pharmacy at the SPCC. Lessee shall use the Pharmacy only for the use permitted. The Lessee shall not conduct any business nor provide any services nor sell any item or product without

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the prior written approval of the Department, and any sales by the Lessee of services or items not specifically authorized in writing by the Department shall constitute a default. The unapproved services or items shall be discontinued immediately by the Lessee, as directed by the Department upon written notice. Lessee shall conduct its business at all times in accordance with this Agreement.

2. **Operations:** Lessee shall continuously and uninterruptedly use and operate for purposes outlined herein all of the Pharmacy other than such minor portions thereof as are reasonably required for storage and office purposes, and such storage and office space shall only be used in connection with the business conducted by Lessee in the Pharmacy; and will have on the premises adequately trained uniformed personnel for efficient service to customers.
3. **Limitations on Use:** Subject to Lessee's right to use the Pharmacy for the purposes specified in this Agreement, Lessee shall not suffer or permit the Pharmacy or any part thereof to be used in any manner, or anything to be done therein, or suffer or permit anything to be brought into or kept therein, which would in any way (i) violate any legal requirements or insurance requirements; (ii) cause structural injury to the Pharmacy or SPCC or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Pharmacy or SPCC; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating or air-conditioning of the Pharmacy or SPCC or the proper and economic functioning of any other common service facility or common utility of the Pharmacy or SPCC; (vi) impair or interfere with the physical convenience of any of the occupants of the Pharmacy or SPCC; or (vii) impair any of the Lessee's other obligations under this Agreement.
4. **Governmental Approvals:** If any governmental license or permit shall be required for the proper and lawful conduct of Lessee's business in the Pharmacy, or any part thereof, or if failure to secure such license or permit would in any way adversely affect the County, the Lessee at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by the County. Lessee shall at all times comply with the terms and conditions of each license and permit.

5. **Exclusivity/Non-exclusivity:** Any exclusive rights granted under this Agreement are exclusive only to the Pharmacy to be leased hereby. Additionally, Lessee has the exclusive right to sell prescription drugs, over the counter health and beauty aids and Florida Lotto tickets at this leased site. Other than its right to the exclusive items mentioned in this section, this Lease is non-exclusive in character and in no way prevents the County from authorizing or offering competitive services, products or items by other concessionaires or others in other premises owned and operated by the County or from authorizing other unrelated concession services as determined by the County within SPCC. This Agreement does not grant Lessee any rights to operate any other location or concession that may be made available by the County.
6. **Request for Proposal Incorporated:** The Lessee acknowledges that it has submitted to the County a proposal ("Lessee's Proposal") that was the basis for the award of this Agreement and upon which the County has relied and is incorporated herein by reference.
7. **Appendix and Exhibits:** The Appendix and Exhibits listed in this Paragraph and attached to this Agreement are hereby incorporated in and made a part of this Agreement:
  - Appendix A: Scope of Services
  - Exhibit A: Site Location
  - Exhibit B: Site Sketch
8. **Property Description:** The Pharmacy at the SPCC is approximately 1,787 square feet and located at 111 NW 1 Street, 1<sup>st</sup> Floor, Miami, Fl 33173 as shown on Exhibit A and B, attached hereto and incorporated herein by reference.
9. **Term:** The County hereby grants a Lease Agreement to the Lessee for a term of five (5) years, the premises described in this Agreement to be operated as a pharmacy pursuant to the Scope of Services. The term and Commencement Date of this Agreement shall begin on the date indicated in the first page of this Lease Agreement.
10. **Option to Renew:** The County, at its sole option, can renew the Agreement for two (2) additional two (2) year periods.

11. **Guaranteed Monthly Rent:** Lessee, in consideration of the use and operation of the Pharmacy, does hereby covenant and agree with the County to pay to the County without deduction or set off of any kind the sum of \$ 28,200.00 (plus applicable tax) per annum as Guaranteed Monthly Rent in monthly installments of \$ 2,350.00 (plus tax) on the first day of each month without billing. The Guaranteed Monthly Rent shall be adjusted upward starting at the end of the second anniversary Lease Agreement Year and at the start of each subsequent Option to Renew period, at a rate consistent with the latest Consumer Price Index (CPI), All Urban Consumers, All Items, Miami-Fort Lauderdale, FL area.
12. **Percentage of Monthly Gross Receipts:** In addition to the Guaranteed Monthly Rent, Lessee agrees to pay to the County, monthly, an amount equal to 0.5 % (plus tax if applicable) of monthly gross receipts (exclusive of prescription drugs), hereinafter referred to as "Percentage of Monthly Gross Receipts".
13. **Sales Tax:** The Lessee shall be liable for the prevailing State of Florida Sales and Use Tax imposed on payment (currently at the rate of 7%) on the amounts payable to the County, including Monthly Gross Receipts payments, under this Agreement. This Sales and Use Tax shall be payable to the County, when payment is due, the County in turn will remit same, less authorized handling deductions, to the State. Said tax is applicable to Guaranteed Monthly Rent unless otherwise determined by the State of Florida.
14. **Additional Taxes:** If at any time during the term of this Agreement or any renewal thereof, under the laws of the State of Florida, or any political subdivision thereof, a tax, charge, capital levy, or excise on the Guaranteed Monthly Rent (fixed minimum or additional) or percentage fees, or other tax (except income tax), however described, against the County on account of the payment or percentage fees payable herein, such tax, charge, capital levy, or excise on the Guaranteed Monthly Rent or other taxes shall be deemed to constitute real estate taxes on the Pharmacy and the premises for the purposes of this Paragraph.
15. **Taxes on Lessee's Personal Property:** Lessee shall be responsible for and shall pay before

delinquency all municipal, county, or state taxes assessed against any occupancy interest or personal property of any kind, owned by or placed in, upon or about the Pharmacy by Lessee.

16. **Late Payment Charge:** In the event that the Lessee fails to make any payments, within ten calendar days of the first day of the month, as required to be paid under the provisions of this Agreement, a late payment charge of \$100.00 per month shall be assessed. The right of the County to require payment of such late payment charge and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the County to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.
17. **Application of Payments:** Payments are applied to any unpaid balance in the following manner. Any accrued late fees are first deducted from the payment. The remaining payment balance is then applied proportionately to the Guaranteed Monthly Rent and Percentage of Monthly Gross Receipts and the associated sales and use tax. Any remaining balance in the payment will be applied to any other balance due.
18. **Worthless Check or Draft:** In the event that the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under this Agreement, the Lessee shall incur and pay a service charge of \$40.00 or five percent (5%) of the face amount of the check, whichever is greater. This amount will be in addition to any late fee's that might apply. For each such dishonored check, such payment to be made within not more than five (5) days from written notice of such default. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Department. A second such occurrence of dishonored check during the Agreement term will be a breach of contract and, at the County's option, will constitute a default allowing termination.
19. **Payment of Fees:** The Minimum Monthly Guaranteed Rent payable by Lessee to the County herein shall be payable in twelve (12) equal monthly installments on the first day of each month during the term of this Agreement. Such payments, as well as other amounts payable by Lessee to the County under the terms of this Agreement, all of which shall be deemed to be additional Minimum Monthly Guaranteed Rent for the purposes of collection only herein, shall be paid

promptly when due, without notice for any reason whatsoever and without abatement, except as hereinafter provided. Percentage of Monthly Gross Receipts shall be paid to the County on or before the 10th day following the end of each month during the term of this Agreement and on or before the 10th day of the month following the expiration or earlier termination of the term. All rental and percentage fees provided for in this Agreement shall be paid or mailed to:

Miami-Dade County  
General Services Administration  
Retail Leasing Manager  
111 NW 1<sup>st</sup> Street, Suite 2460  
Miami, FL 33128

(Checks shall be made payable to the "Miami-Dade County Board of County Commissioners.")

20. **Accord and Satisfaction:** No payment by Lessee or receipt by County of a lesser amount than any payment of Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts herein stipulated shall be deemed to be other than on account of the earliest stipulated Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts then due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts be deemed an accord and satisfaction. The County may accept such check or payment without prejudice to County's right to recover the balance of such Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts or pursue any other remedy provided in this Agreement, at law or in equity.

21. **Gross Receipts:**

A. Lease Agreement Year Defined: "Lease Agreement Year" means a twelve-month period beginning on the effective date of this Agreement.

B. Gross Receipts Defined: "Gross Receipts" means all receipts (exclusive of prescription drugs) from the sale of merchandise or services by Lessee, concessionaires of Lessee and sub-Lessee(s) of Lessee, sold in, upon or from the Pharmacy, including such sales as shall in good faith be credited by Lessee, its concessionaires, and sub-Lessee(s) in the regular course of its or their business to

personnel employed at the time of sale at the Pharmacy, including sub-concession lease agreements or contract employee payments to the Lessee and mail and telephone orders received at the Pharmacy and off-premises sales; but shall not be deemed to mean or include the following: amounts credited by Lessee or its concessionaires or sub-concessionaires for returned or defective merchandise; sales, excise and similar taxes; or the proceeds of sales of Lessee's trade fixtures, operating equipment or other property used by Lessee or its concessionaires in the operation of its business and not acquired or held by it for the purpose of sale. Sales shall be deemed to have been made when merchandise or services has been served, shipped or delivered or when charged against the purchaser on the books of Lessee, or its concessionaires whichever of such events shall first occur.

C. Lessee's Certification of Receipts: Lessee shall submit to County on or before the 10th day following the end of each month during the term of this Agreement and on or before the 10th day of the month following the expiration or earlier termination of this Agreement, a written statement, signed by Lessee and certified by it to be true and correct, showing the amount of Gross Receipts during the preceding month, along with a copy of the Sales and Use Tax Return filed with the Florida Department of Revenue. Lessee shall submit to County on or before the 60th day following the end of each calendar year of the Contract an Annual Written Statement, signed by Owner, CEO, or Financial officer of the Lessee and certified by it to be true and correct, setting forth the amount of Gross Receipts during the preceding Agreement Year, which statement shall also be duly certified by an independent Certified Public Accountant. The statement referred to herein shall be in such form and style and contain such details and breakdowns as County may reasonably determine or require.

D. Examination of Lessee's Books and Records: Such books and records as are necessary to determine the amount of any Percentage of Monthly Gross Receipts payable to County shall be subject to examination by County or its authorized representatives at reasonable times during Lessee's business hours, at County's expense and in such manner as not to interfere unreasonably with the conduct of Lessee's business. All information obtained by County or its authorized

representatives from Lessee's books and records shall be kept confidential by County and all such representatives except in connection with any mortgage or assignment of this Agreement for financing purposes or if subject to the requirements of Florida Public Records Act.

E. Lessee's Receipts Records: For the purpose of computing and verifying the Percentage of Monthly Gross Receipts due hereunder, Lessee shall prepare and keep, for a period of not less than three (3) years following the end of each Agreement Year, adequate books and records, including but not limited to those relating to inventories, purchases, and receipts of merchandise, and all sales and other pertinent transactions by Lessee. Lessee shall record at the time of sale each receipt from sales or other transactions, whether for cash or on credit, in one or more sealed cash register or registers having a cumulative total. Lessee shall keep, for at least three (3) years following the end of each Agreement Year, all pertinent original sales records, which records shall include (i) cash register tapes; (ii) serially-numbered sales slips; (iii) mail order; (iv) telephone orders; (v) settlement report sheets of transactions with subtenants, concessionaires, and licensees; (vi) records showing that merchandise returned by customers was purchased by such customers; (vii) receipts or other records of merchandise taken out on approval; (viii) income and sales tax returns; and (ix) such other records which would normally be examined and required to be kept by an independent accountant pursuant to generally accepted auditing standard in performing an audit of Lessee's Gross Receipts.

The acceptance by County of payments of Percentage of Monthly Gross Receipts or reports thereon shall be without prejudice and shall in no case constitute a waiver of County's right to examination of Lessee's books and records of its gross receipts and inventories of merchandise.

F. Audit of Lessee's Business Affairs and Records: County shall have the right to cause, upon five (5) days' written notice to Lessee, a complete audit to be made by a designated external auditing firm or other certified public accounting firm selected by the Department, or the Audit and Management Services Department of the County. Lessee shall make all such records available for said examination at the Pharmacy or at some other mutually agreeable location. If the result of such audit shall show that Lessee's statement of Gross Receipts for any period has been

understated, Lessee shall pay County the amount due. If such understatement is three percent (3%) or more, Lessee shall pay County the cost of such audit in addition to any deficiency payment required, plus ten percent (10%) of any such deficiency, all of which shall be collectible hereunder as payment. A report of the findings of said accountant shall be binding and conclusive upon County and Lessee. The furnishing by Lessee of any grossly inaccurate statement shall constitute a breach of this Agreement. Any information, excluding written documents, obtained by County as a result of such audit shall be held in strict confidence by County except in any proceeding or action to collect the cost of such audit or deficiency, or except in connection with any mortgage or assignment of this Agreement for financing purposes.

G. If Lessee fails to record, maintain, or make available sales supporting documentation as specified above, then Lessee shall be deemed to be in default of this Agreement.

- 22. **New Construction:** The Department’s approval is required prior to all construction, all installation and all use of facilities. All improvements shall become the property of the County. All construction shall be accomplished in accordance with the City of Miami and County permitting requirements.
- 23. **Security Deposit:** After the contract award and prior to any work under this Agreement, the Lessee shall furnish a Security Deposit equivalent to three (3) months Guaranteed Monthly Rent in the form of a cashier’s check payable to the Board of County Commissioners, redeemable at the end of the Agreement except for such conditions pertinent thereto. Additionally, if the County must draw upon the Security Deposit for owed to the County for this Agreement, Lessee hereby agrees to restore the Security Deposit to its original amount within seven (7) days of receiving notice by the County that the security was drawn upon. In the event the Lessee abandons its performance of the services herein, the County will retain the Security Deposit.
- 24. **Common Areas:**
  - a. **Common Areas** shall mean all areas, space, equipment and special services provided by the County on or off the land occupied by the Retail Complex (refers to the ground level of the

SPCC where retail outlets and government offices are located) for the common or joint use or benefit of Lessees of the SPCC, their employees, agents, customers, invitees and licensees, including but not limited to, open and enclosed courts and malls, landscaped and planted areas, and the equipment and facilities appurtenant to each of the aforesaid.

b. **Common Area Operating Costs** shall mean all costs and expenses of every kind and nature allocated to the Retail Complex paid or incurred by County or in connection with operating, managing, equipping, policing and protecting, lighting, repairing, replacing, and maintaining the Common Areas and the appurtenances and equipment therein. The allocation of such costs to the Retail Complex by the County shall be at the County's sole discretion. Such costs and expenses may include, but not be limited to, gardening; landscaping; illumination and maintenance of signs advertising or referring to the Leased Premises; cleaning; insurance coverage as the County may, in its sole discretion, from time-to-time deem proper; cost of personnel providing services in the Common Areas (including, but not limited to wages, unemployment taxes, social security taxes, employee benefits); supplies; operation of the Common Areas and equipment serving the property; and the cost of all personnel required to supervise, implement and accomplish all the foregoing.

c. **Common Area Maintenance and Escalation Charge:**

(1) Effective on the Commencement Date of this Agreement, and as additional rent hereunder, Lessee shall pay monthly to the County, on the first day of each month during the term of this agreement. Lessee's share of the Common Area Maintenance Costs is based on the County's estimate, subject to adjustment as hereinafter provided in Paragraph (2) below. Lessee's share of Common Area Maintenance Costs shall be the product which results by multiplying such Common Area Costs by the percentage that the gross square foot area of the Leased Premises is of the gross square foot area of all retail spaces located on the first floor of the Retail Leased Premises, as calculated by the County.

(2) Common Area Adjustment: Within one hundred twenty (120) days following the end of

each calendar year of the Pharmacy operation the County shall furnish to Lessee a statement showing the total Common Area Maintenance Costs for the calendar year just expired, the amount of Lessee's share of such Common Area Maintenance Costs, and payments made by Lessee during such calendar year under this Paragraph. If Lessee's share of such Common Area Maintenance Costs for such calendar year shall exceed Lessee's payments so made, Lessee shall pay to the County the deficiency within ten (10) days after receipt of said statement. If Lessee's payments shall exceed Lessee's share of such Common Area Maintenance costs as shown on such statement, Lessee shall be entitled to offset the excess against its next payment thereafter becoming due under this Agreement.

d. **Use of Common Areas:** Lessee and its concessionaires, sublessees, officers, employees, agents, customers and invitees shall have the right, in common with the County and all others to whom the County has granted or may hereafter grant rights or who shall otherwise have such rights, to use the Common Areas, subject to such reasonable Rules and Regulations as the County may from time to time impose. Lessee agrees to abide by such Rules and Regulations. The County shall have the right to limit, or otherwise schedule, deliveries to Lessee if, in the County's judgment, said limitation is necessary for the proper operation of the County or County's Leased Premises in the building.

25. **County Approval:** The Lessee agrees that it will obtain prior written approval from the Department in all of the following matters:

- A. Changes from originally approved specifications, pricing, activities, signage, merchandise and graphics.
- B. Equipment Lessee plans to install requiring any building modifications.
- C. Aesthetics of the Pharmacy.
- D. Any use of the County's, facility's or Pharmacy's name.
- E. Hours of Operation
- F. Uniforms to be used by employees which shall be consistent with or better than those

normally used by professionally operated pharmacies.

Should any of the above items be disapproved, Lessee may offer alternative solutions. The County reserves the right with stated just cause to require the Lessee to change within a stated time any and all items contained in this paragraph it deems in need of change, despite previous approval of same.

- 26. **Public Contact of Lessee's Employees:** Lessee's employees in contact with the public shall perform their duties in an efficient and courteous manner. Failure of an employee to do so shall be grounds for the County to require his or her removal from duties in the Pharmacy. Lessee's employees will not be considered agents of the County.
- 27. **Hours of Operation:** The Pharmacy shall operate five (5) days a week Monday thru Friday, continuously from 7:30am to 5:30pm, except on County designated holidays. The Lessee shall provide sufficient staff to provide customer service. The County's Project Manager may require a change in hours of operation, if, in the reasonable discretion of the County, such a change is desirable in providing the best service to the public.
- 28. **Pricing:** Lessee shall maintain the pricing schedule for goods and services submitted with its Proposal, which prices shall be comparable to those off-premises operation of its own company-owned or franchised stores in Miami-Dade County, if it is part of a chain, or comparable to similar type of operations if an independent or non-chain affiliated. Lessee will provide to the County a schedule of such proposed changes not later than ten (10) days prior to the intended implementation date, for approval or disapproval, at any time during the Lease Agreement Term when price changes are contemplated. Pricing for special events or services shall be expeditiously reviewed by the Department.
- 29. **Personnel:** The Lessee shall provide the Department with the name and telephone number of a management person of the Lessee who will be on call, at all time, for emergencies or other matters related to the operations under this Agreement. The Lessee shall ensure that all of its personnel are courteous and cooperative and present a neat, clean uniformed and professional appearance at all times. The Lessee shall ensure that all employees having public contact are able to understand and

communicate in spoken English. In the event the Lessee wishes to substitute personnel for the key personnel identified by the Lessee's Proposal, the Lessee must notify the County in writing and request written approval for the substitution at least ten business days prior to effecting such substitution.

30. **Signs:** The nature, size, shape and installation of Lessee's business signs within the Pharmacy or in, on or adjacent to the Pharmacy or SPCC must first be approved in writing by County. Said signage must also be approved by all governmental authorities having jurisdiction over the Pharmacy. All signs shall be removed by the Lessee at the termination of this Agreement and any damage or unsightly condition caused to premises because of or due to said signs shall be satisfactorily corrected or repaired by the Lessee. Signage must be maintained in good condition and appearance.
31. **On-Site Manager:** The Lessee shall employ a qualified full-time on-site manager having experience in the management of this type of operation, who shall be available during normal business hours, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibility of the Lessee under this Agreement and to accept service of all notices provided for herein.
32. **Quality of Lessee's Service:** The Lessee shall conduct its operations in an orderly manner and so as not to annoy, disturb, or be offensive to customers, patrons, or others in the immediate vicinity of such operations.

The Lessee shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, and upon objection of the County concerning the conduct, demeanor or appearance of any such person, Lessee shall immediately take all necessary steps to correct the cause of such objection.

Lessee shall take good care of said premises, shall use the same in a careful manner and shall, at its own cost and expense, keep, maintain, and repair and, upon the expiration of this Agreement or its termination in any manner, shall deliver said premises to the County in the same condition as at the commencement of this Agreement, with the exception of loss by fire or other casualty and with the

exception of leaving those interior improvements so agreed upon by the County to remain in place. Lessee shall furnish good, prompt and efficient service, adequate to meet all reasonable demands therefore.

It is expressly understood and agreed that the Lessee's operation shall not interfere in any manner with the use of public areas or infringe upon the normal method of operations of any other parties authorized to conduct business at or near the location. The Lessee agrees that a determination by the County will be accepted as final in evaluating whether its activities infringe on the rights of others and that Lessee will fully comply with any decisions on this matter.

33. **Monitoring Services:** The Department shall have the right, without limitation, to monitor and test the quality of services of the Lessee, including, but not limited to personnel and the effectiveness of its cash-handling procedures, through the use of the shopping service, closed circuit TV, and other reasonable means.

34. **Services/Equipment Provided by County:** The County shall provide access to the following:

- A. Electrical as existing.
- B. Water facilities as existing.
- C. Sewage collection facilities as existing.
- D. All fixtures presently located in the Pharmacy, with the exception of two beverage coolers and an ice cream cooler.

35. **Equipment and Services Provided by Lessee:** The Lessee, at its sole cost, shall provide at the Pharmacy:

A. Janitorial service within the Pharmacy.

The Lessee shall keep the Pharmacy and equipment clean at all times. If the Pharmacy and equipment are not kept clean in the opinion of the Department, the Lessee will be so advised and if corrective action if not immediately taken, the Department will cause the same to be cleaned and the Lessee shall assume responsibility and liability for such cleaning.

B. Maintenance service to air conditioning.

The Lessee shall contract a licensed air conditioning contractor to perform regular monthly

maintenance and necessary repairs to the separate air conditioning unit servicing the Pharmacy.

C. Pest extermination.

The Lessee shall follow the guidelines of the County's Integrated Pest Management program.

36. **Equipment Installed by Lessee:** The Lessee shall furnish and install all furnishings, fixtures and equipment necessary for the operation of the facilities. All furnishings, fixtures and equipment acquired for the facility shall be of a high quality as good as or better than that found at similar facilities. The County shall be afforded the opportunity to approve all furnishings, fixtures and equipment for the facility.

Any equipment, furnishings, signage and advertising installed by the Lessee shall be with the appropriate standards of decor at SPCC. Following the installation of any additional equipment, furnishing and improvements which the County may approve from time to time, Lessee shall provide to the County a statement setting forth the cost of such equipment, furnishings or improvements and the date upon which the installation of such equipment, furnishings and improvements was completed.

Lessee agrees that all new equipment, furnishings and improvements provided shall meet the requirements of all applicable building, fire, pollution and other related codes.

Lessee shall not alter or modify any portion of the Facility, the Pharmacy or the improvements constructed therein without first obtaining written approval from the County.

37. **Security and Protection:** The Lessee acknowledges and accepts full responsibility for the security and protection of its equipment, other personal property and money used in connection therewith. The County makes no warranties as to any obligation to provide security for the Pharmacy or SPCC, outside of standard security measures supplied by the County in general. Lessee may provide its own specialized security for the Pharmacy, subject to the County's written approval.

38. **Hurricane Preparedness:** The Lessee shall follow the County's emergency evacuation and hurricane plan as set forth for SPCC.

39. **Maintenance Responsibilities of Lessee, Appearance of Facility:** Lessee shall, at its sole cost

and expense, keep and maintain the Pharmacy in a clean and good condition. The provision of janitorial services and all interior maintenance within the Pharmacy are the sole and exclusive responsibility of the Lessee. Upon failure of the Lessee to maintain the Pharmacy as required in this Paragraph, the Department may, after fifteen days written notice to the Lessee, enter upon the Pharmacy and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus 25% for administrative costs, shall constitute additional rental(s), and shall be billed to and paid by the Lessee.

40. **Building Services:** The County has caused all necessary utility lines and services to be brought to the Leased Premises. Lessee shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of the SPCC as determined either by the public utility providing such service or by the County in the exercise of reasonable judgment. Lessee shall make all repairs caused by Lessee's negligence.
41. **Payment of Building Services:** Lessee agrees to pay for all charges for utility service used or consumed in or upon the Leased Premises including, but not limited to: electricity, gas, water and sewerage charges. To the extent that such charges are separately measured by metering or otherwise, Lessee agrees to pay the actual cost thereof, without addition or surcharge by the County. To the extent that such charges are not separately metered, Lessee agrees to pay Lessee's pro-rata share thereof. Lessee's pro-rata share for such services shall be computed by multiplying Lessee's share by the total charge for the service attributable to the County's Retail Leased Premises. For services or utilities not used by or provided to all Lessees of the SPCC, Lessee's pro-rata share shall be determined by dividing the charge among those permittees and lessees using the utility or service on the basis of relative area of their charge among those permittees and lessees using the utility or service on the basis of the relative area of their Leased Premises (excluding any storage or service area shown on Exhibit "A"). In the event Lessee uses a disproportionate amount of any utility or service provided under Paragraph 34 and not separately metered, the County shall have the right to engage a registered Professional Engineer to compute Lessee's utility usage, and determine an equitable utility charge to Lessee based upon such usage.

42. **Curtailement or Interruption of Service:** The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Lessee may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements in the judgment of County desirable or necessary to be made, or due to difficulty in obtaining supplies or labor or for any other cause beyond the reasonable control of the County. The work of such repairs, alterations, or improvements shall be prosecuted with reasonable diligence. The County shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Lessee or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of payment or other charges, nor damages, shall be claimed by Lessee by reason of the County's or other individual's interruption, curtailment or suspension of a utility service, nor shall this Agreement or any of Lessee's obligations hereunder be affected or reduced thereby.
43. **Damages:** Lessee shall repair all damages to the Pharmacy or SPCC caused by the Lessee, its employees, agents, contractors, or independent Lessees.
44. **Inspection by County:** The County shall have the authority to make periodic reasonable inspections of the Pharmacy, equipment, and operations during the normal operating hours thereof to determine if such are being maintained in a neat and orderly condition. The Lessee shall be required to make any improvements in cleaning or maintenance methods reasonably required by the County. Such periodic inspections may also be made at the County's discretion to determine whether the Lessee is operating in compliance with the terms and provisions of this Agreement.
45. **Right of Entry:** The County shall have the right to enter upon the Pharmacy at all reasonable times, whether or not during normal business hours, to examine same and to make such repairs, alterations, replacements, or improvements in the Pharmacy as the County deems necessary, but the County assumes no obligation to make repairs in the Pharmacy other than those expressly provided for in this Agreement. The County agrees, however, that any such repairs, alterations, replacements, or improvements shall be made with minimum amount of inconvenience to Lessee and that the County will diligently proceed therewith to completion. The County or the County's

agents shall also have the right to enter upon the Pharmacy at reasonable times to show them to actual or prospective mortgagees, operators, or Lessees of SPCC. During the one hundred and eighty (180) days prior to the expiration of the term of this Agreement, the County may show the Pharmacy to prospective operators. If, during the last ninety (90) days of the term of this Agreement, Lessee shall have removed all or substantially all of Lessee's property there from, the County may immediately enter, alter, renovate, and redecorate the Pharmacy without elimination or abatement of payment or other compensation and such action shall have no effect upon this Agreement.

46. **Damage or Destruction of Premises:** If either the Pharmacy, SPCC, or the building is partially damaged, but not rendered unusable for the purposes of this Agreement, the same shall with due diligence be repaired by the Lessee from proceeds of the insurance coverage and/or at its own cost and expense and a pro-rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of the Lessee's business interruption, shall be made. If the damage shall be so extensive as to render such premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the Lessee from the proceeds of the insurance coverage policy and/or at its own cost and expense, and for the period of Lessee's business interruption a pro-rata adjustment shall be made as to the Guaranteed Monthly Rent.

In the event the said premises are completely destroyed or so damaged that it will remain unusable for more than thirty (30) days, the Lessee and the County shall be under no obligation to repair and reconstruct the premises, and adjustment of the payment payable hereunder shall be proportionately made up to the time of such damage or destruction, and the portion of the Agreement which pertains to such destroyed property shall cease and terminate, and all adjustments which are proper including restoration of the site to a clean, neat and usable condition shall be made accordingly.

47. **County's Repair, Facility Repairs, Alterations and Additions by the County:** The County, as its responsibility, and at its expense (except if the damage is caused by Lessee, its employees, agents, or independent Lessees), shall make all repairs and replacements, structural and otherwise,

necessary, or desirable in order to keep in good order and repair the foundations, roofs and structural soundness of floors and walls of the Pharmacy and the Common Areas of SPCC. There shall be no allowance to Lessee for a diminution of monthly guarantee value for interruption of business and no liability on the part of the County by reason of inconvenience, annoyance, or injury to business arising from the County, Lessee or others making any repairs, alterations, addition, improvements, restorations, or replacements, in or to any portion of the Pharmacy or SPCC, or to fixtures, appurtenances, or equipment thereof. The County shall have the absolute right to make repairs, alterations, and additions to any structures and facilities, including the Pharmacy under this Agreement, free from any and all liability to the Lessee for loss of business or damages of any nature whatsoever during the making of such repairs, alterations, and additions. In making such repairs, alterations, and additions, the County shall take such reasonable measures as are necessary to minimize interference with Lessee's operations of the Pharmacy, for short term disruption of one week or less to Lessee's business where adequate accommodations can be made to minimize the inconvenience and injury to Lessee's business. If the Lessee's business is interrupted for more than one week, a pro rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of such interruption shall be made.

48. **Diminution for County's Repair:** Except as elsewhere specifically provided in this Agreement, there shall be no allowance to Lessee for a diminution of monthly guarantee value and no liability on the part of the County by reason of inconvenience, annoyance or interference with Lessee's business arising from the County or its agents making any repairs, replacements, alterations, decorations, additions or improvements in or to any portion of the Pharmacy or SPCC, or in or to fixtures, appurtenances or equipment thereof, provided such work (except in case of emergency and to the extent practical) does not unreasonably interfere with Lessee's use of the Pharmacy.
49. **Performance of Obligations:** Lessee covenants at all times during the term of this Agreement to perform promptly all of the obligations of Lessee set forth in this Agreement.
50. **Ingress and Egress:** Subject to rules and regulations, statutes and ordinances, and terms of this Agreement governing the use of the Pharmacy, Lessee, his agents and servants, patrons and

invitees, and his suppliers of service and furnishers of materials shall have right of ingress and egress to and from the premises.

51. **Assignment, and Successors in Interest:** Lessee shall not assign this Agreement or any portion thereof, nor any property associated with this Agreement without prior written approval of the County. Unapproved assignment shall be grounds for immediate termination of this Agreement. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on assignees and other successors as may be approved by the County.
- A. Lessee shall not enter into any sub-agreement for services required to be provided under this Agreement without prior written approval of the County. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on any sub-Lessees, including percentage payments on Gross Receipts as defined in this Agreement. Lessee shall be liable for acts and omissions by any sub-Lessee affecting this Agreement. The County reserves the right to require the removal of any sub-Lessee of the Lessee for any cause for which Lessee may be terminated.
- Any sub-agreement for Agreement services must be made available and accounted for through the Lessee so as to provide seamless service to the public as if provided directly by the Lessee.
52. **Ownership of Lessee:** The ownership of the Lessee is very important to the County. Therefore, the County reserves the right to terminate this Agreement at any time if more than 10% of the ownership of the Lessee has not been specifically approved by the County. The County may withhold approval of any proposed new owner for any reason it believes is in the best interests of the public. Lessee agrees to provide on 24-hour notice to the County an accurate list of all owners of the Lessee, showing the percentage of ownership of each owner, and, any change of corporate name or corporate ownership. If Lessee's, stock is listed on a major stock exchange, Lessee may be wholly or partially exempted from the list requirement of this paragraph at the discretion of the County.
53. **County's Property Insurance:** Any insurance the County may maintain shall not cover Lessee's improvements and betterments, contents, or other property of Lessee. Lessee shall not violate, or

permit the violation of, any condition imposed by any of the County's insurance policies, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Pharmacy which would increase the fire or other property or casualty insurance rate on the building or buildings in which the Pharmacy is located or the property therein over the rate which would otherwise then be in effect (unless Lessee pays the resulting increased amount of premium as provided under the further terms hereof), or which would result in insurance companies of good standing refusing to insure the same or any of such property in amounts and at normal rates reasonably satisfactory to the County. If, by reason of any act or omission on the part of Lessee, the rate of property insurance on the Pharmacy or SPCC or equipment or other property of the County shall be higher than it otherwise would be, Lessee shall reimburse the County, on demand, for that part of the premiums for property insurance paid by the County because of such act or omission on the part of Lessee, which sum shall be deemed additional payment for purposes of collection only.

54. **Lessee's Insurance:** The Lessee shall furnish to the Department Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440.

B. Public Liability Insurance on a comprehensive basis, including Products and Completed Operations, in an amount not less than \$ 1,000,000 per occurrence for bodily injury and property damage combined. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

D. Druggists Professional Liability Insurance in an amount not less than \$1,000,000 per

occurrence.

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

All Insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications as to management and financial strength:

The Company must be rated no less than “B” as to management, and no less than Class “V” as to strength, by the latest edition of Best’s Key Rating Guide, published by A.M. Best Company, Oldwiche, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

**Or**

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida,” issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

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

Award is contingent upon receipt from the Lessee of insurance documents within fifteen (15) calendar days after County Manager or designee approval. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Lessee shall be verbally notified of such deficiency and shall have an additional five (5) days to submit a corrected certificate to the County. If the Lessee fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after Board of County Commission approval, the Lessee shall be in Default of the contractual terms and condition and award of the contract will be rescinded, unless such time frame for submission has been

extended by the County.

The Lessee shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period; including any and all option years that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Lessee shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the contract until such time as the new or renewed certificates are received by the County in the manner prescribed in this Agreement; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

The Department reserves the right to reasonably amend the insurance requirements by the issuance of a notice in writing to the Lessee. Modification or waiver of any of the aforementioned requirements is subject to approval of the County's Risk Management Division.

55. **Indemnification:** The Lessee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Lessee or its employees, agents, servants, partners principals or subLessees. The Lessee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Lessee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Lessee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

56. **Liability for Damage or Injury:** The County shall not be liable for damage or injury which may be sustained by any party or persons on the Pharmacy other than the damage or injury solely caused by the negligence or intentional actions of the County, its agents and employees while in the course of County business, and as limited by Section 768.28, Florida Statutes.
57. **Termination by County:** The occurrence of any of the following may cause this Agreement to be terminated by the County upon the terms and conditions also set forth below:
- A. Termination upon written notice by the County:
    - i. Institution of proceedings in voluntary bankruptcy or reorganization by the Lessee.
    - ii. Institution of proceedings in involuntary bankruptcy against the Lessee if such proceedings continue for a period of ninety (90) days.
    - iii. Assignment by Lessee for the benefit of creditors.
    - iv. Abandonment or discontinuation of operations for more than a 24 hour period without prior written approval from the County.
    - v. The discovery of any misstatement in the Lessee's Proposal leading to award of this Agreement, which in the determination of the County significantly affects the Lessee's qualifications to perform under the Agreement
    - vi. Unapproved change of ownership interest in Lessee and/or failure to submit the ownership list within 24 hours upon the request of the County.
    - vii. Failure to cease any activity which may cause limitation of County's use of SPCC.
  - B. Termination after seven (7) calendar days written notice by the County either by posting on or at the Pharmacy and by certified or registered mail to any known address of Lessee set forth in this Agreement hereof for doing any of the following:
    - i. Non-payment of any sum or sums due hereunder after the due date for such payments; provided, however, that such termination shall not be effective if Lessee makes the required payment(s), including any late payment charges, during the seven (7) calendar day period following mailing of the written notice. Additionally, the County may sue for Guaranteed Monthly Rent and additional payment and Percentage of Monthly Gross

Receipts for the unexpired term of this Agreement.

- ii. Notice of any condition posing a threat to health or safety of the public or patrons and not remedied within the seven (7) calendar day period from receipt of written notice.
- C. Termination after fourteen (14) days written notice by the County either by posting on or at the Pharmacy or by certified or registered mail to the address of the Lessee set forth in this Agreement:
- i. Non-performance of any covenant of this Agreement other than non-payment of payment or performance fees and others listed in A and B above, and failure of the Lessee to remedy such breach within the fourteen (14) calendar day period from receipt of the written notice.
  - ii. A final determination in a court of law in favor of the County in litigation instituted by the Lessee against the County or brought by the County against Lessee.
- D. Revenue Control and Audit Defaults: The inability or failure of the Lessee to provide the County with an unqualified certified statement of Gross Receipts, or to strictly adhere to the revenue control procedures established in this Agreement shall constitute a non-curable default and in such event the County shall have the right to terminate this Agreement upon seven (7) calendar days written notice to the Lessee. In addition to termination for such default, the County shall be entitled to collect damages in the full amount of the Security Deposit required in this Agreement.
- E. Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has repetitively defaulted (4) four times within a 12 month period, in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Lessee, regardless of whether the Lessee has cured each individual condition of breach or default as provided herein above, the Lessee may be determined by the Director of the Department to be an "habitual violator". At the time that such determination is made, the Department shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefore. Such notice shall also advise the

Lessee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breach (es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, County may terminate this Agreement upon the giving of written notice of termination to the Lessee, such cancellation to be effective upon the tenth (10) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Lessee shall discontinue its operations at SPCC, and proceed to remove all its personal property in accordance with this Agreement.

In the event that the County terminates this Agreement by operation of any of the provisions as stated in this Agreement, then in addition to other rights and remedies available to the County under the law, the County may accelerate the rental payments under this Agreement, whereupon the entire balance owed by the Lessee under this Agreement shall become immediately due and payable without further notice or demand.

58. **Termination by Lessee:** Lessee shall have the right upon thirty (30) calendar days from receipt of written notice to the County by certified or registered mail to the address set forth in this Agreement to terminate this Agreement at any time after the occurrence of one or more of the following events:
- A. A breach by the County of any of the terms, covenants or conditions contained in this Agreement and the failure of the County to remedy such breach for a period of ninety (90) calendar days after receipt of written notice sent by registered or certified mail, return receipt requested, from the Lessee, of the existence of such breach.
  - B. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control, or use of SPCC, or any substantial part, or parts, thereof in such a manner as substantially to restrict Lessee's operations for a period

of ninety (90) calendar days or more.

59. **Cessation of Operation:** At the expiration or earlier termination of the term of this Agreement, Lessee shall peaceably cease all operations at the Pharmacy and shall ensure the Pharmacy is in as good a condition as the Pharmacy was on the Commencement Date of this Agreement, ordinary wear and tear and damage by condemnation, fire or other casualty excepted. Lessee shall deliver all keys for the Pharmacy to the County at the place then fixed for the payment and shall notify the County in writing of all combinations of locks, safes and vaults, if any, in the Pharmacy. Ordinary wear and tear shall be deemed not to include damage or injury caused by moving Lessee's property or trade fixtures into or out of the Pharmacy. Lessee's obligation to observe and perform the covenants set forth in this paragraph shall survive the expiration or earlier termination of the term of this Agreement.
60. **Termination of Contract:** Following the termination of this Agreement the Lessee, within fifteen (15) calendar days, or earlier if determined by the County, shall forthwith remove all of its personal property not acquired under the terms of this Agreement. Any personal property of Lessee not removed in accordance with this paragraph may be removed by the County for storage at the cost of the Lessee or shall constitute a gratuitous transfer of title thereof to the County for whatever disposition is deemed to be in the best interests of the County. The County shall not be liable to Lessee for the safekeeping of Lessee's personal property during or after termination of this Agreement. The County shall have the senior interest in the Lessee's personal property. Lessee shall not remove any equipment, supplies in bulk, or fixtures within the Pharmacy at any time without pre-approval in writing from the County. Lessee shall be liable to the County for the fair market value of any equipment, supplies in bulk, or fixtures removed without County pre-approved written permission. Lessee shall also be liable for any expenses incurred by the County in prosecuting any action against Lessee following unapproved item removal described above. Lessee shall also be liable to the County for any expenses incurred by the County in replacing any items wrongfully removed by Lessee. It is the intention of the parties to this Agreement that all furnishings and equipment purchased or leased by the Lessee except those permanently affixed to

buildings, as defined under the laws of the State of Florida, shall be the personal property of the Lessee. Upon the termination of this Agreement and the removal of all personal property by Lessee, the Lessee shall deliver said premises to the County in the condition set forth in this Paragraph.

61. **Unauthorized Operations:** If Lessee continued to use and operate the Pharmacy after the expiration of the term of this Agreement, or any option period, without a new Agreement reduced to writing and duly executed and delivered (even if Lessee shall have paid, and County shall have accepted, payment in respect to such unauthorized operations), Lessee shall be deemed to be operating and using the Pharmacy only from month-to-month, subject to all covenants, conditions, and agreements of this Agreement. If Lessee fails to surrender the Pharmacy upon the termination of this Agreement, then Lessee, in addition to any liabilities to County accruing there from, shall indemnify and hold harmless the County and its assigns and agents from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding Lessee on such failure.
62. **Lien:** The County shall have a lien upon all personal property of the Lessee on the Pharmacy to secure the payment to the County of any unpaid money accruing to the County under the terms of this Agreement.
63. **Limiting Legislative or Judicial Action:** In the event that any municipal, county, state, or federal body of competent jurisdiction passes any law, ordinance, or regulation in any way restricting or prohibiting the use of SPCC for the purposes of this Agreement, this Agreement will be null and void and unenforceable by any party to this Agreement and the County shall have no further liability under this Agreement. In the event that a referendum vote of the electorate of Miami-Dade County in any way restricts or prohibits the use of SPCC for the purposes of this Agreement, this Agreement will be null and void and unenforceable by any party to this Agreement and the County shall have no further liability under this Agreement. If the County deems the Agreement null and void by function of this Paragraph, the County will not be liable to the Lessee for damages arising there from and the County shall have no further liability under this Agreement.

64. **Non-Discrimination:** Lessee does hereby for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, covenant and agree that:

- i. No person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said Pharmacy, except as provided by law.
- ii. That in the construction of any improvements on, over, or under the premises and the furnishings of services thereon, no person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, except as provided by law.
- iii. That the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, Non-discrimination under programs receiving Federal Assistance through the County of Health, Education and Welfare - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the County shall have the right to terminate the Agreement and re-enter and repossess said Pharmacy thereon and hold the same as if said Agreement had never been made or issued. This provision shall not be effective, where applicable, until the procedures of Title 45, Code of Federal Regulations, Part 80, are followed and completed including exercise or expiration of appellate rights.

Lessee shall not discriminate against any employee or applicant for employment in the performance of the contract with respect to hiring, tenure, terms, conditions, or privileges of employment because of age, sex or physical handicap (except where based on a bona fide occupational qualification); or because of marital status, color, religion, national origin, or ancestry.

65. **No Waiver of Right to Enforce:** The waiver by County of any breach of any term, covenant, or

condition herein contained shall not be deemed to be a waiver of such term, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts hereunder by County shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Agreement, other than the failure of Lessee to pay the particular Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts so accepted, regardless of County's knowledge of such preceding breach at the time of acceptance of such Guaranteed Monthly Rent or additional payment or Percentage of Monthly Gross Receipts. No covenant, term, or condition of this Agreement shall be deemed to have been waived by County, unless such waiver is in writing by County, nor shall there be any accord and satisfaction unless expressed in writing and signed by both County and Lessee.

- 66. **Rules and Regulations:** The Lessee will observe, obey, and comply with all rules and regulations adopted by the County and all laws, ordinances and/or rules and regulations of other governmental units and agencies having lawful jurisdiction, which may be applicable to Lessee's operations under this Agreement. Failure to do so will constitute a breach of the Agreement.
- 67. **Notices:** Any notices submitted or required by this Lease Agreement shall be sent by registered or certified mail (or email or fax if provided below, with a hardcopy to the address below) addressed to the parties as follows or to such other address as either party may designate in writing, and where receipt of same is acknowledged by the receiving party.

- 1. To the County:
  - a) To the Project Manager (to mean the County Manager or the duly authorized representative designated to manage the Project):  
 Miami-Dade County  
 General Services Administration  
 111 NW 1<sup>st</sup> Street, Suite 2460  
 Miami, Florida 33128  
 Attn: Director  
 Phone: (305) 375-2495  
 Fax: (305) 375-4968

And

- b) To the Contract Manager (to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative designated to manage the Contract):

Miami-Dade County  
 Department of Procurement Management  
 111 N.W. 1<sup>st</sup> Street, Suite 1375  
 Miami, FL 33128-1974  
 Attention: Director  
 Phone: (305) 375-5548  
 Fax: (305) 375-2316

2. To the Lessee:

RDS Pharmacy Management, Inc. d/b/a/ Roberts Drug Store #4  
 111 N.W. 1st Street  
 Miami, FL 33128  
 Attention: Mr. Aiman I. Aryan  
 Phone: (305) 374-5120  
 Fax: (305) 374-5150  
 Email: aiman@robertsrx.com

or to such other address as either party may designate in writing, and where receipt of same is acknowledged by the receiving party. The County may alternatively provide notice by posting written notice on or at the Pharmacy. If attempted delivery of such notice by mail is thwarted by any avoidance of receipt or unavailability for receipt by the intended recipient, that notice will have the effect of being constructively received by the recipient.

68. **Authority Of The County's Project Manager**

- a) The Lessee hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Lessee shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous

order and regardless of whether the Lessee agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

- c) The Lessee must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Lessee and the Project Manager are unable to resolve their difference, the Lessee may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
  
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.
  
- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Lessee's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Lessee to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgment or to make a

determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Lessee. Except as such remedies may be limited or waived elsewhere in the Agreement, Lessee reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

- 69. **Interpretations:** This Agreement and the appendixes and attachments hereto, and other documents and agreements specifically referred to herein, constitute the entire, fully integrated Agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous verbal or written agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal agreements expressly and clearly incorporated by reference within the four corners of this Agreement. This Agreement may be amended only by written document, properly authorized by both parties and executed. This Agreement shall be interpreted as a whole unit and paragraph headings are for convenience only The Agreement shall not be construed in favor of one party or the other. All matters involving the Agreement shall be governed by laws of the State of Florida.
- 70. **Rights Reserved to County:** All rights not specifically granted to the Lessee by this Agreement are reserved to the County. The designation of any particular remedy for the County is without prejudice to any other relief available in law or equity, and all such relief is reserved to the County.
- 71. **Entirety of Agreement:** The parties hereto agree that this Agreement sets forth the entire Agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.
- 72. **Headings:** The headings of the various Paragraphs and Sections of this Agreement, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.
- 73. **Waiver:** Waiver of any breach shall not constitute waiver of any other breach. Invalidation of any

portion of this Agreement shall not automatically invalidate the entire Agreement.

74. **No Partnership or Agency:** The County and the Lessee are independent entities and the officers, employees, and agents of one are not, and shall not represent themselves to be, officers, employees, or agents of the other. This Agreement does not constitute and shall not be represented to constitute a partnership between the County and the Lessee.
75. **Choice of Venue:** Any litigation between the County and the Lessee relating in any way to this Agreement shall be brought and presented exclusively in a Court located in Miami-Dade County, Florida.
76. **Audits:** The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement. Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.
77. **Inspector General Reviews:**

***Independent Private Sector Inspector General Reviews***

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Lessee shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Lessee's prices and any

changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Lessee, its officers, agents, employees, subLessees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Lessee in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Lessee or any third party.

***Miami-Dade County Inspector General Review***

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Lessee. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted

above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Lessee, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Lessee from the Inspector General or IPSIG retained by the Inspector General, the Lessee shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Lessee's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subLessees and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

78. **Business Application and Forms:** The Lessee shall be a registered vendor with the County –

Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the Lessee to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Agreement, including any option years.

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

- 79. **Survival:** The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Lessee and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first herein above set forth.

Lessee

Miami-Dade County

By:   
 Name: Aiman Ayman  
 Title: President  
 Date: 3-18-2009  
 Attest: \_\_\_\_\_

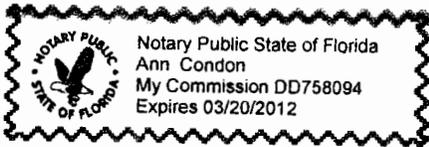
By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Corporate Secretary

Approved by County Attorney as to

Form and Legal Sufficiency

 305-679-5420



## SCOPE OF SERVICES

### 1. Introduction

The Lessee shall operate, a full service, drop-off/pick-up retail pharmacy (the Pharmacy) at the Stephen P. Clark Center located at, 111 NW 1<sup>st</sup> Street. The Pharmacy area is located on the first floor and contains 1,787 square feet which opens into the lobby. Included in the space for the Pharmacy are fixtures and equipment, such as shelving units, cash registers, displays, one refrigerator, and one cooler.

### 2. Objective

The Lessee shall have the use of the Pharmacy as shown on the attached building plan (see Exhibits A & B). The Lessee shall operate a first-class retail pharmacy offering a high level of service in dispensing prescription drugs and selling sundry items, health and beauty aids, personal assistance products including medical equipment and supplies, personal care products including small appliances, candles, magazines, greeting cards, soft drinks, Florida Lottery Tickets and Games, and related products. There will be a limited amount of retail space allowed for the sales of snacks, candy and beverages not to exceed 400 square feet. Lessee may also include prescriptions by mail service.

### 3. Requirements and Services to be Provided

#### A. Operation and Quality of Services The Lessee shall:

1. Demonstrate, to the satisfaction of the County, that the Lessee shall comply with the Florida Pharmacy Act, Chapter 465.018, F.S., at the time of the contract award, through the contract award, and is a continuing condition of award.
2. Have the Pharmacy in operational order and open for business within ninety days from the contract award.
3. Develop and submit a detailed operation and marketing plan to the Department for approval thirty days from contract award. At a minimum, the plan shall include the budget for operation and marketing of the Pharmacy including advertising, signage, marketing, and promotions. The marketing portion of the plan shall be updated monthly and submitted to the Department for approval and include the budget for marketing and promotions for the Pharmacy.
4. Operate the Pharmacy, at a minimum, five (5) days a week, Monday through Friday, continuously from 7:30am to 5:30pm, except on County, State and Federal designated holidays. Any changes in the hours of operation require the express written approval of the County.
5. Provide sufficient employees to provide prompt, courteous, and efficient service to Pharmacy patrons.
6. The Lessee shall maintain the Pharmacy in a first-class manner with an emphasis on cleanliness and appearance, such as keeping stored merchandise away from patron's view or leaving merchandise in cartons on the display shelves.

Appendix A

7. Employees shall be distinctively uniformed and displaying name tags so as to be distinguishable as the Lessee's employees.
8. Accept the health care insurance plans currently provided to County employees. The current health care providers for the County are AvMed Health Plan and JMH Health Plan. The County reserves the right to change its health care plan and/or providers.
9. Lessee shall provide, at no charge to the County, an on-line internet and telephone prescription drug re-ordering service for Pharmacy patrons effective within ninety days from the contract award.
10. The Lessee shall provide, operate, and maintain at no charge to the County a Point of Sale (POS) system including hardware and software that will, at a minimum, record and report total sales for the Pharmacy. The Lessee shall submit copies of sales reports to the Department along with the Lessee's Certification of Receipts (see Article 21.C.). The Lessee shall implement the POS within thirty days from the Contract award.

B. Facility Renovation and Maintenance

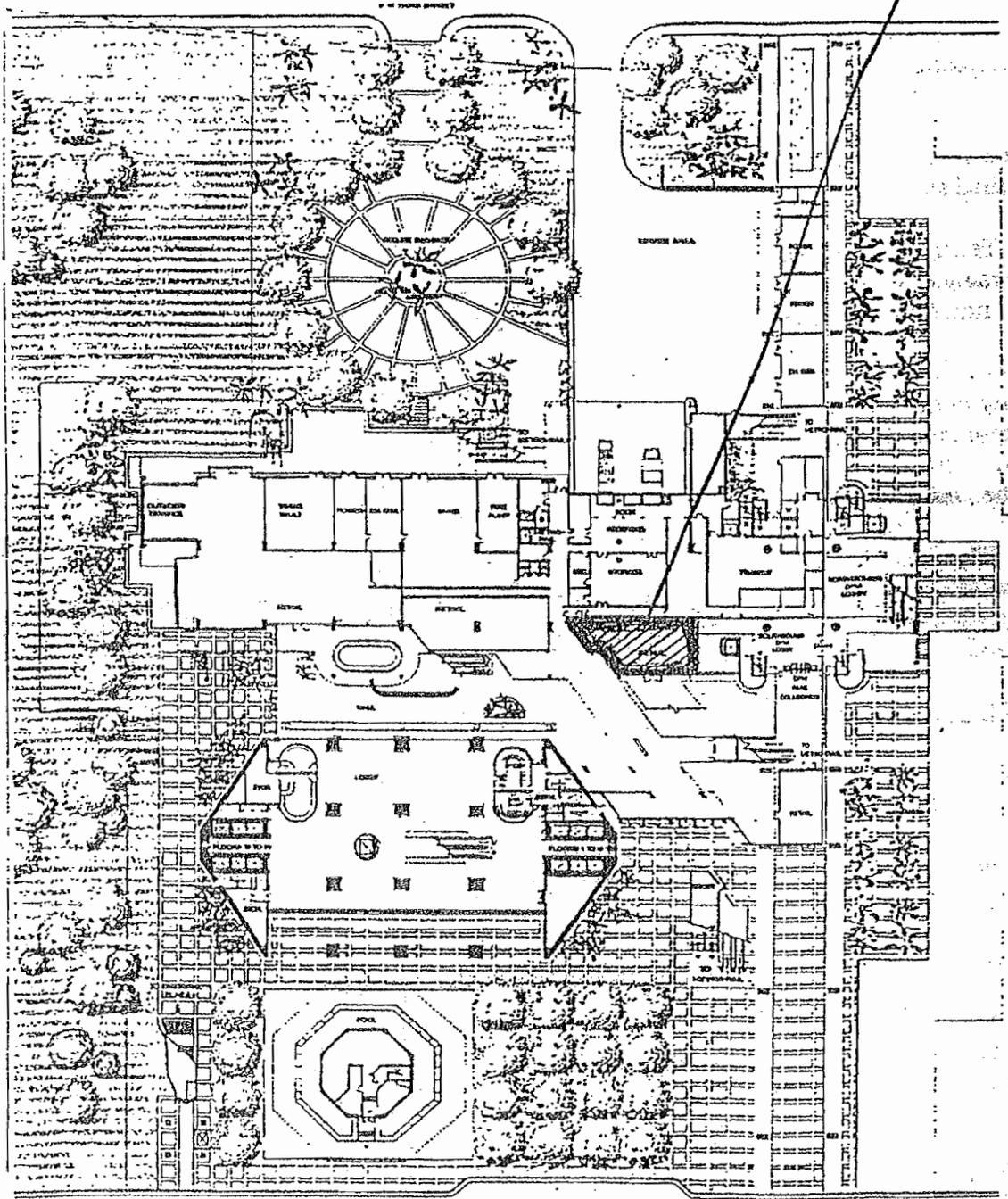
1. After contract award, the Lessee shall prepare, and submit for GSA approval, a proposed Conceptual Plan for the alteration/remodeling of the Pharmacy that includes creating a storage closet and painting. The alteration/remodeling shall be completed within ninety days from the contract award. No alterations, changes or additions to the premises shall be made by the Lessee without the prior written consent of the County. All work will be in compliance with applicable building codes and the American with Disabilities Act (ADA) and performed by licensed and insured contractors. In the event the Lessee fails to make necessary alterations, changes, additions, repairs, rebuilding, remodeling or repainting of the Pharmacy, the County may make the needed corrections, on behalf of the Lessee, and the expenses shall be the responsibility of the Lessee.
2. The Lessee shall keep and maintain the site in a clean and neat condition and shall retain the services of a qualified janitorial firm to clean the Pharmacy at least once per week. Janitorial services and interior maintenance including air conditioning maintenance and repairs shall be the responsibility and sole expense of the Lessee. The Lessee shall contract a licensed air conditioning contractor to perform regular monthly maintenance and necessary repairs to the separate air conditioning unit servicing the Pharmacy. The Lessee shall provide a copy of the air conditioning maintenance agreement with a licensed and insured air conditioning contractor within thirty days from the contract award.
3. The Lessee shall pay a prorated share of the Common Area Maintenance and Building Services Fees as further defined in the attached form of agreement.
4. The Lessee shall provide security for the Pharmacy at its own discretion. The County is not responsible for the Lessee's furnishing, fixtures, equipment, soft goods, or supplies.

C. Stock Items

The County has the exclusive right to approve any and all items to be sold, and to deny the sale of any items if and when the County so deems, at its sole discretion. There is no exception to this requirement. The Lessee shall immediately discontinue the sale of any item upon the request by the County.

# EXHIBIT "A"

SITE SPACE #106

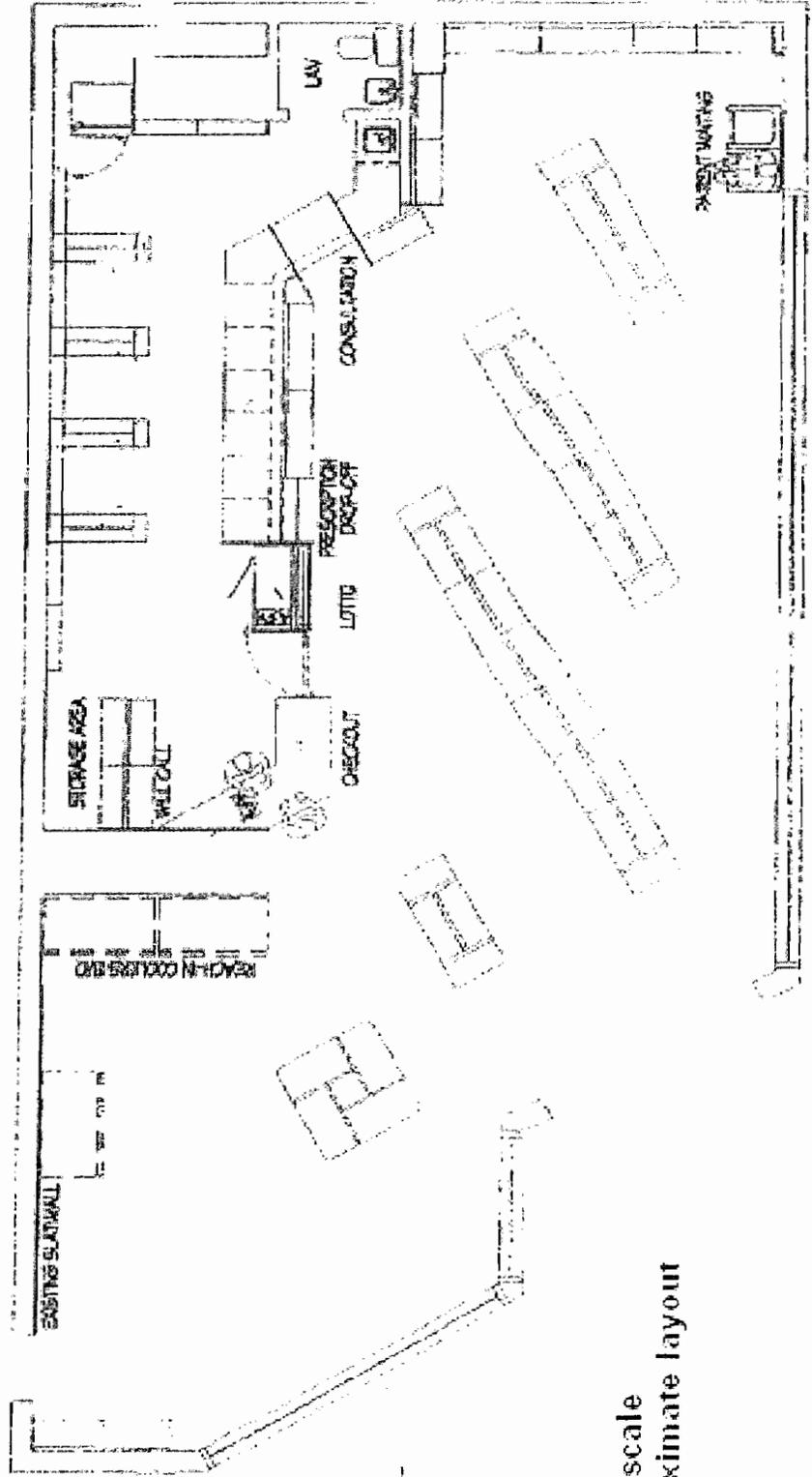


METRO-GADE CENTER /  
GOVERNMENT CENTER STATION

## GROUND LEVEL

ADDITIONAL INFORMATION AND NOTES  
DATE: 10/10/00  
DRAWN BY: [illegible]  
CHECKED BY: [illegible]  
SCALE: 1/8" = 1'-0"

# EXHIBIT "B"



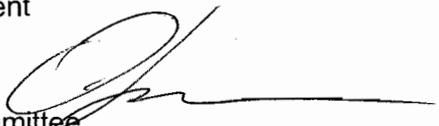
Not to scale  
Approximate layout

198516

**Date:** February 2, 2009

**To:** George M. Burgess  
County Manager

**Thru:** Miriam Singer, CPPO   
Director  
Department of Procurement Management

**From:** Amado Gonzalez   
Procurement Contracting Officer  
Chairperson, Evaluation/Selection Committee

**Subject:** Report of Evaluation/Selection Committee for RFP No. 660 Stephen P. Clark Center Pharmacy

The Evaluation/Selection Committee has completed the evaluation of proposals submitted in response to the above referenced Request for Proposals (RFP) following the guidelines published in the solicitation as summarized below.

**Committee meeting dates:**

- December 17, 2008 (kick-off meeting)
- January 7, 2009 (evaluation meeting)
- January 22, 2009 (oral presentations/final scoring)

**Verification of compliance with contract measures:**

Not applicable since the Review Committee did not assign any contract measures to this solicitation.

**Verification of compliance with minimum qualification requirements:**

The solicitation did not have any minimum qualification requirements.

**Summary of scores:**

The preliminary scores are as follows:

<i>Proposer</i>	<i>Technical Score</i> (max. 425)	<i>Price Score</i> (max. 75)	<i>Pre-Oral Presentations</i>		
			<i>Total Combined Score</i> (max. 500)	<i>Price/Cost Submitted</i>	
				Guaranteed Monthly Rent	Percentage of Monthly Gross Receipts
1. Walgreen Co.	359	49	408	\$2,531	0%
2. RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4	339	54	393	\$2,350	0.5%

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The Evaluation/Selection Committee decided to hold oral presentations. Upon conclusion of the oral presentations, the Evaluation/Selection Committee re-evaluated and re-ranked the proposals.

The final scores are as follows:

Post-Oral Presentations

<b>Proposer</b>	<b>Technical Score</b> <i>(max. 425)</i>	<b>Financial Score</b> <i>(max. 75)</i>	<b>Total Combined Score</b> <i>(max. 500)</i>	<b>Rates Submitted</b>	
				Guaranteed Monthly Rent	Percentage of Monthly Gross Receipts
1. RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4	357	55	412	\$2,350	0.5%
2. Walgreen Co.	331	44	375	\$2,531	0%

**Local Preference:**

Local Preference was considered in accordance with applicable ordinances, but did not affect the outcome, as no firm was within 5% of the highest ranked firm.

**Negotiations:**

The Evaluation/Selection Committee recommends that the County enter into negotiations with the proposer with the highest score, RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4. The following individuals will participate in the negotiations:

- Amado Gonzalez, Procurement Contracting Officer, DPM
- Victoria Johnson, Real Estate Officer, GSA
- Steven Mayers, Real Estate Advisor, GSA

**Justification for Recommendation:**

The Evaluation/Selection Committee determined that the recommended proposer, RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4 comprehensively demonstrates the capacity to effectively provide retail and pharmaceutical services, as evidenced by their proposal. RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4 proposed the highest Percentage of Monthly Gross Receipts and, at no cost to the County, offered additional services (e.g., utility bill pay, money gram, free delivery of prescriptions and periodic health screenings). The Evaluation/Selection Committee cited RDS Pharmacy Management, Inc.'s d/b/a Roberts Drug Store #4 assurances of committing an experienced team of professionals to provide personalized service to their patrons, as a desirable benefit to County.

Copies of the score sheets are attached for each Evaluation/Selection Committee member, as well as a composite score sheet.

Approved

  
George M. Burgess  
County Manager

2/12/09  
Date

Not Approved

\_\_\_\_\_  
George M. Burgess  
County Manager

\_\_\_\_\_  
Date

STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

COMPOSITE

SELECTION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	200	176	158
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	100	81	87
Proposer's approach to providing the services requested in this Solicitation		25	125	102	94
<b>TOTAL TECHNICAL POINTS</b> <i>(Total of technical rows above)</i>		85	425	359	339
<b>Price and Financial Criteria</b>					
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	75	49	54
<b>TOTAL POINTS</b>		100	500	408	393

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT: Anada Gonzalez 1/28/09

Chairperson \_\_\_\_\_  
Reviewed By Pearl P. Bethel 1/28/2009

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PRE-ORALS

RFP NO. 660

STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

STEVEN MAYERS (GSA)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	40	40
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	20	20
Proposer's approach to providing the services requested in this Solicitation		25	20	25
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		85	80	85
<b>Price and Financial Criteria</b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	9	15
<b>TOTAL POINTS</b>		100	89	100

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PRE-ORALS  
RFP NO. 660  
STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

ELVA MARIN (GSA)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	30	35
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	10	15
Proposer's approach to providing the services requested in this Solicitation		25	20	15
Total Technical Points (Total of technical rows above)		85	60	65
<u>Price and Financial Criteria</u>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	12
TOTAL POINTS		100	70	77

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PRE-ORALS  
RFP NO. 660

STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

KEVIN KIRWIN (PRD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	30	25
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	20	20
Proposer's approach to providing the services requested in this Solicitation		25	20	15
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		<b>85</b>	<b>70</b>	<b>60</b>
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	10
<b>TOTAL POINTS</b>		<b>100</b>	<b>80</b>	<b>70</b>

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PRE-ORALS  
RFP NO. 660

STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

AMY HORTON-TAVERA (OSBM)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	38	20
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	15	14
Proposer's approach to providing the services requested in this Solicitation		25	20	15
<b>Total Technical Points</b> (Total of technical rows above)		85	73	49
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	5
<b>TOTAL POINTS</b>		100	83	54

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PRE-ORALS  
RFP NO. 660  
STEPHEN P. CLARK CENTER PHARMACY  
EVALUATION OF PROPOSALS

CORALEE TAYLOR (SBD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	38	38
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	16	18
Proposer's approach to providing the services requested in this Solicitation		25	22	24
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		85	76	80
<u>Price and Financial Criteria</u>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	12
<b>TOTAL POINTS</b>		100	86	92

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Post-Orals

RFP NO. 660

STEPHEN P. CLARK CENTER PHARMACY  
ORAL PRESENTATION - EVALUATION OF PROPOSALS

COMPOSITE

SELECTION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	200	171	167
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	100	66	90
Proposer's approach to providing the services requested in this Solicitation		25	125	94	100
<b>TOTAL TECHNICAL POINTS</b> <i>(Total of technical rows above)</i>		<b>85</b>	<b>425</b>	<b>331</b>	<b>357</b>

Price and Financial Criteria

Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	75	44	55
<b>TOTAL POINTS</b>		<b>100</b>	<b>500</b>	<b>375</b>	<b>412</b>

SIGNATURE:

PRINT:

DATE:

*[Signature]*  
Amado Gonzalez 1/28/09

*[Signature]*  
Renee P. Betzel 1/28/09

Chairperson

Reviewed By

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Post-Orals  
RFP NO. 660  
STEPHEN P. CLARK CENTER PHARMACY  
ORAL PRESENTATION - EVALUATION OF PROPOSALS

STEVEN MAYERS (GSA)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	40	40
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	10	20
Proposer's approach to providing the services requested in this Solicitation		25	15	25
<b>Total Technical Points</b> (Total of technical rows above)		85	65	85
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	9	15
<b>TOTAL POINTS</b>		100	74	100

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Post-Orals  
RFP NO. 660  
**STEPHEN P. CLARK CENTER PHARMACY**  
**ORAL PRESENTATION - EVALUATION OF PROPOSALS**

ELVA MARIN (GSA)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	30	35
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	10	15
Proposer's approach to providing the services requested in this Solicitation		25	15	15
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		<b>85</b>	<b>55</b>	<b>65</b>

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Price and Financial Criteria

Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts	15	5	12
<b>TOTAL POINTS</b>	<b>100</b>	<b>60</b>	<b>77</b>

Post-Orals  
RFP NO. 660  
STEPHEN P. CLARK CENTER PHARMACY  
ORAL PRESENTATION - EVALUATION OF PROPOSALS

KEVIN KIRWIN (PRD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	25	30
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	15	20
Proposer's approach to providing the services requested in this Solicitation		25	20	20
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		<b>85</b>	<b>60</b>	<b>70</b>
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	10
<b>TOTAL POINTS</b>		<b>100</b>	<b>70</b>	<b>80</b>

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Post-Orals  
RFP NO. 660  
**STEPHEN P. CLARK CENTER PHARMACY**  
**ORAL PRESENTATION - EVALUATION OF PROPOSALS**  
**AMY HORTON-TAVERA (OSBM)**

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	38	24
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	15	17
Proposer's approach to providing the services requested in this Solicitation		25	22	16
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		<b>85</b>	<b>75</b>	<b>57</b>
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	6
<b>TOTAL POINTS</b>		<b>100</b>	<b>85</b>	<b>63</b>

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Post-Orals  
RFP NO. 660  
STEPHEN P. CLARK CENTER PHARMACY  
ORAL PRESENTATION - EVALUATION OF PROPOSALS

CORALEE TAYLOR (SBD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Walgreen Co.	RDS Pharmacy Management, Inc. d/b/a Roberts Drug Store #4
Proposer's relevant experience, qualifications, and past performance		40	38	38
Relevant experience and qualifications of key individuals, including key individuals of subcontractors, and the Pharmacist and Store Manager that will be assigned to this project, and experience and qualifications of subcontractors		20	16	18
Proposer's approach to providing the services requested in this Solicitation		25	22	24
<b>Total Technical Points</b> <i>(Total of technical rows above)</i>		85	76	80
<b><u>Price and Financial Criteria</u></b>				
Proposer's Financial capabilities, Pro-forma statement, Monthly Guarantee, and Percentage of Monthly Gross Receipts		15	10	12
<b>TOTAL POINTS</b>		100	86	92

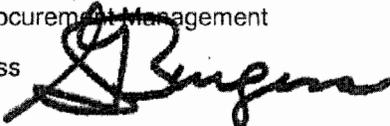
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# Memorandum



**Date:** December 22, 2008

**To:** Amado Gonzalez, Chairperson  
Department of Procurement Management

**From:** George M. Burgess  
County Manager 

**Subject:** Evaluation/Selection Committee for the General Services Administration Department  
Request for Proposals for the Stephen P. Clark Center Pharmacy - RFP No. 660  
(Addition)

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Please be advised that I am adding Victoria Johnson of the General Services Administration Department as a Non-Voting Technical Advisor to the above-referenced selection committee. Should you have any questions, please refer them to Sharon Ryland of the Department of Small Business Development.

Selection Committee

Amado Gonzalez, DPM (Non-Voting Chairperson)

Steven Mayers, GSA

Elva Marin, GSA

Kevin Kerwin, PRD

Amy Horton-Tavera, OSBM

Coralee Taylor, SBD

Robert Warren, GSA (Alternate)

Technical Advisor (Non-Voting)

Victoria Johnson, GSA

c: Miriam Singer, Director, DPM  
Wendi Norris, Director, GSA  
Jack Kardys, Director, PRD  
Jennifer Glazer-Moon, Director, OSBM  
Penelope Townsley, Director, SBD

# Memorandum



**Date:** December 10, 2008

**To:** Those Listed Below

**From:** George M. Burgess  
County Manager 

**Subject:** Evaluation/Selection Committee for the General Services Administration Department  
Request for Proposals for the Stephen P. Clark Center Pharmacy - RFP No. 660

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In accordance with Administrative Order 3-34, I am hereby appointing those listed below as the Selection Committee for the General Services Administration Department Request for Proposals for the Stephen P. Clark Center Pharmacy - RFP No. 660:

Selection Committee

Amado Gonzalez, DPM (Non-Voting Chairperson)  
Steven Mayers, GSA  
Elva Marin, GSA  
Kevin Kerwin, PRD  
Amy Horton-Tavera, OSBM  
Coralee Taylor, SBD  
Robert Warren, GSA (Alternate)

The Selection Committee will meet to review written or printed material regarding the qualifications of each of the certified firms as it relates to the requirements defined in the advertised document. If required, the Selection Committee will select several candidate firms meeting the published criteria, to make oral presentations at a properly noticed public hearing to the full Selection Committee.

The Selection Committee shall be responsible for evaluating, rating and ranking the proposals by each Committee member, based on the criteria and procedure contained in the advertised document. The Evaluation/Selection Committee will first evaluate and rank responsive proposals on the Technical (Quality) criteria. If responsive proposers are invited to make oral presentations, the Committee may re-rate and re-rank the proposals based upon the written documents combined with the oral presentation. You may utilize staff of the issuing department and the using agency to conduct a preliminary review of the proposals for responsiveness to the technical requirements. All requests for specific determinations shall be made in writing to the County Attorney's Office.

You are directed to assist me in the selection process considering the factors delineated in the advertised document. These factors may include methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performance of similar scope and size, proposer's detailed plans to meet the objectives of each task, activity, etc., pursuant to any schedule, proposer's previous County experience, history and experience of the firm or individual(s), understanding of the project and the County's objectives, responsiveness to the established requirements, and Cost/Revenue (normally separate and sealed). When the document requires the proposer to provide cost/revenue" in a separate sealed envelope, "cost/revenue" will be considered separately and after the other criteria have been evaluated.

If you are unable to participate in the Selection process, contact this office through Small Business Development (SBD) by memorandum documenting the reason why you cannot participate. Only in cases of dire urgency may you be excused from participation.

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The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. MDAD may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Following the oral presentation, or upon completion of the review process, the Committee shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the top recommended firm(s) based upon the reasoning and mathematical formula, if utilized, and attach supporting documentation and a summary sheet which MUST include the following information:

Name of firm(s)  
Quality Rating Score  
Price  
Adjusted Score (if applicable)  
Committee's Overall Ranking

This report should be submitted to me through the MDAD and SBD for review and consideration for further recommendation to the Board of County Commissioners.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, they are prohibited from having any communication with potential respondents and/or their representatives. Violation of this policy could lead to termination.

All questions must be directed to the staff contact person(s) designated by the issuing department.

c: Miriam Singer, Director, DPM  
Wendi Norris, Director, GSA  
Jack Kardys, Director, PRD  
Jennifer Glazer-Moon, Director, OSBM  
Penelope Townsley, Director, SBD

Selection Committee

Amado Gonzalez, DPM (Non-Voting Chairperson)  
Steven Mayers, GSA  
Elva Marin, GSA  
Kevin Kerwin, PRD  
Amy Horton-Tavera, OSBM  
Coralee Taylor, SBD  
Robert Warren, GSA (Alternate)

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MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR



Legislative Notes

**Agenda Item:** 8(O)1(A)

**File Number:** 090908

**Committee(s) of Reference:** Board of County Commissioners

**Date of Analysis:** April 23, 2009

**Type of Item:** Execution of Agreement

**Commission District**

District 5

**Summary**

This resolution executes a lease agreement with RDS Pharmacy Management, Inc., *d/b/a* Robert's Drug Store #4 (RDS) to lease and operate a full service, drop-off/pick-up retail pharmacy at the Stephen P. Clark Center.

**Background and Relevant Legislation**

In accordance with Miami-Dade County procurement guidelines, the Department of Procurement Management (DPM), is mandated to utilize a competitive bidding process whenever possible, pursuant to Administrative Order (AO) 3-38.

Since July 2005, RDS has leased 1,787 sq. ft. of retail space located on the first floor of the Stephen P. Clark Center to lease and operate a pharmacy. According to DPM, the 2005 Permit Agreement issued by General Services Administration (GSA) to RDS was for one year with an additional one year option to renew. This permit expired on July 18, 2007. The Permit Agreement had a provision allowing RDS to continue leasing on a month-to-month basis. Since 2007, RDS has operated the pharmacy on a month-to-month basis.

**Policy Change and Implication**

The applied method of award was to the highest ranked responsive, responsible vendor based on the evaluation criteria established in the solicitation. The solicitation did not have any minimum qualification requirements. Walgreen Co. is the vendor not being recommended for award under this contract. In the preliminary scoring (pre-oral presentations), Walgreen Co. ranked higher in the total combined scores for technical and price. In the post-oral presentations, RDS ranked higher in the total combined score for technical and price (see below).

	Total Preliminary Scoring (Pre-Oral)	Total Post-Oral Presentation Scoring
RDS	393	412
Walgreens Co.	408	375

Local preference was considered but did not affect the outcome, as no firm was within 5% of the highest ranked firm.

The scope of services require that the lessee provide, at no charge to the County, an on-line internet and telephone prescription drug re-ordering service, and a Point of Sales system.

Both Proposers offered additional services at no cost to the County and were considered as part of the evaluation. The proposed additional services from RDS include periodic health screenings, free prescription deliveries, bill payments, and Money Grams. According to DPM, a key point was that RDS offered a more personalized service concept.

**Budgetary Impact**

RDS will pay the County \$28,200.00 per annum as Guaranteed Monthly Rent (GMR) in monthly installments of \$2,350.00. The GMR will be adjusted at the end of the first year of the least agreement at a rate consistent with the latest Consumer Price Index (CPI).

In addition, RDS is offering the County 0.5% in monthly gross receipts.

According to the County Manager’s memo, this contract is estimated to generate \$204,000 in revenue for the initial five year contract period due to the 0.5% of RDS’ monthly gross receipts. Furthermore, if the two, two-year options-to-renew are exercised, the total contract value in revenue to the County is estimated to be approximately \$368,000.

Prepared by: Elizabeth N. Owens