MEMORANDUM

Agenda Item No. 8(F)(1)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	September 1, 2015
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution approving award of Lease Agreement with JMR Foods, Inc. with a positive fiscal impact to the County of at least $415,635.95 for the initial term of five years and six months and the one five-year renewal term for the development, operation, and maintenance of a food service facility at the Children's Courthouse Building; and authorizing the County Mayor to execute same and exercise all rights contained in the lease agreement, including renewal and extension options; directing the County Mayor to provide to the Property Appraiser's Office, within 30 days of its execution, a copy of the lease agreement

The accompanying resolution was prepared by Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Approval to Award a Lease Agreement to JMR Foods, Inc. for Operation of a Food Service Facility at the Children's Courthouse Building Located at 155 NW 3 Street, Miami, Florida

Recommendation

It is recommended that the Board of County Commissioners (Board) approve award of a Lease Agreement with JMR Foods, Inc. (JMR) for the development, operation and maintenance of a food service facility at the new Children's Courthouse Building located at 155 NW 3 Street, Miami, Florida.

Award of the Lease Agreement to JMR is based upon the results of a full and open competitive solicitation, *Contract No. 00070*. The leased space will be delivered to JMR in an undeveloped condition, and it will be JMR's responsibility to develop the space, including the provision of all necessary equipment and furnishings to run a food service facility. Under the Lease Agreement, JMR's responsibilities include, but are not limited to:

- Operating a food service facility Monday through Friday, except on County, state or federal designated holidays, during hours approved by the County;
- Employing a sufficient number of trained personnel for the delivery of quality customer service;
- Employing a qualified full-time, on-site manager who shall be available during normal business hours and be delegated authority to ensure the competent performance of lease obligations;
- Making payments for all charges for utility service used or consumed in or upon the leased premises, including electricity, gas and water and sewer; and
- Providing janitorial services to maintain the cleanliness of the premises and equipment.

Scope

The food service facility will serve employees and visitors of the Children's Courthouse Building, located in District 3, which is represented by Commissioner Audrey M. Edmonson.

Fiscal Impact/Funding Source

The fiscal impact for the initial five-year and six-month term is projected to be $194,089.84 in revenue to the County. The initial six-month period shall be used by JMR for the build-out of the food service facility. The projected amount includes a guaranteed rent of $2,500.00 per month in the initial year, once the facility is in operation. The guaranteed rent increases automatically by three (3) percent each subsequent year during the five-year period, including the optional five-year renewal term. Additionally, on a monthly basis, the vendor will pay the County one (1) percent of gross receipts. If the County exercises the five- year option to renew term, the cumulative revenue projection is $415,635.95.

Market Rental Value

Pursuant to Resolution No. R-333-15, the Internal Services Department conducted a survey to determine the market rental value of the leased premises. The survey identified the following food service facilities that are situated in County-owned buildings located in very close proximity to the Children's Courthouse:

- Rose's Café, located in the Tax Collector's Office Building, 220 NW 3 Avenue, Miami, Florida, pays $1,000.00 per month plus five (5) percent of the monthly gross receipts; and
- Bottega Express, also owned by JMR, located in the Stephen P. Clark Center, 111 NW 1 Street, Miami, Florida, pays the greater of $2,100.00 per month or a percentage of annual gross receipts based on a sliding scale (four (4) percent up to $1.5 million; six (6) percent from $1.5 up to $2 million, 10 percent from $2 million up to $3 million, and 12 percent over $3 million).

Track Record/Monitor
The Contract Manager is William Pupo of the Real Estate Division of the Internal Services Department. Andrew Zawoyski, CPPO, of the Internal Services Department is the Procurement Contracting Officer. A copy of this Lease Agreement will be transmitted to the Property Appraiser's Office within 30 days of its execution.

Delegated Authority
If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise at their discretion, subsequent options to renew, early terminations, and extensions in accordance with the terms and conditions of the Lease Agreement.

Vendor Recommended for Award
A Request for Proposals was issued under full and open competition on September 18, 2014. Seven (7) proposals were received in response to the solicitation. Following evaluation of proposals, the Evaluation/Selection Committee recommended that negotiations begin with JMR, the highest ranked proposer. After negotiations, JMR is recommended for award, as the vendor is the highest ranked, responsive and responsible proposer.

Awardee	Address	Principal
JMR Foods, Inc.	111 NW 1 Street Miami, FL	Jorge Prieto

Vendors Not Recommended for Award

Proposers	Reason for Not Recommending
Subway, Inc.	Submitted a No Bid*
Vizcarra Hospitality, LLC	
Pasha's Courthouse, LLC	Evaluation Scores/Ranking
Gourmet Chef on Tour, Corp.	
FDOE Division of Blind BBE	
NASA Holdings of Miami, Inc.	
Enticing Corporation, Inc.	
Rose's Delight, Inc.	

*A No Bid means the vendor responded indicating it would not be providing an offer.

Due Diligence
Pursuant to Resolution R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine contractor responsibility, including verifying corporate status and that there are no performance or compliance issues. The lists that were referenced include convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to contractor responsibility.

Applicable Ordinances and Contract Measures
No measures apply as this is a revenue-generating Lease Agreement.

Cancellation Provision
The County may cancel the Lease Agreement for any reason or cause that is deemed a breach of contract under the terms and conditions of the Lease Agreement.

Effective Dates
The effective date of the Lease Agreement shall be the date that the Lease Agreement is executed by the County, subsequent to approval by the Board.

Lease Conditions
JMR is responsible for all costs associated with the development, operation and maintenance of the food service facility. There are no County funds available for this project.

Attachment

Edward Marquez
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 1, 2015

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

SUBJECT: Agenda Item No. 8(F)(1)

Please note any items checked.

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)
9-1-15

RESOLUTION NO. _____

RESOLUTION APPROVING AWARD OF LEASE AGREEMENT WITH JMR FOODS, INC. WITH A POSITIVE FISCAL IMPACT TO THE COUNTY OF AT LEAST $415,635.95 FOR THE INITIAL TERM OF FIVE YEARS AND SIX MONTHS AND THE ONE FIVE-YEAR RENEWAL TERM FOR THE DEVELOPMENT, OPERATION, AND MAINTENANCE OF A FOOD SERVICE FACILITY AT THE CHILDREN'S COURTHOUSE BUILDING; AND AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE SAME AND EXERCISE ALL RIGHTS CONTAINED IN THE LEASE AGREEMENT, INCLUDING RENEWAL AND EXTENSION OPTIONS; DIRECTING THE COUNTY MAYOR OR DESIGNEE TO PROVIDE TO THE PROPERTY APPRAISER'S OFFICE, WITHIN 30 DAYS OF ITS EXECUTION, A COPY OF THE LEASE AGREEMENT

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:

Section 1. Pursuant to Fla. Stat. § 125.35, this Board finds that, after a competitive solicitation process (Contract No. 00070), it is in the best interest of the County to enter into the Lease Agreement with JMR Foods, Inc.

Section 2. This Board approves the award of the Lease Agreement with JMR Foods, Inc. for and on behalf of the County, in substantially the form attached hereto and incorporated herein, for an initial term of five years and six months and one five-year renewal term with a positive fiscal impact to the County of at least $415,635.95 for the development, operation and maintenance of a food service facility at the Children's Courthouse Building.

Section 3. This Board authorizes the County Mayor or designee to execute the Lease Agreement and exercise all rights contained in the Lease Agreement, including renewal and extension options, except where the Lease Agreement expressly reserves a right to the Board of County Commissioners.

Section 4. Consistent with Resolution No. R-791-14, the County Mayor or designee is directed to, within 30 days of the County's execution of the Lease Agreement, provide a copy of the Lease Agreement to the County Property Appraiser's Office.

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:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of September, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Agreement"), made and entered into this _____ day of _____, 2015, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County"), whose Contract Liaison will be the Internal Services Department (The "Department") and JMR Foods, Inc., (the "Lessee"),

WITNESSETH:

WHEREAS, the County owns the Children's Courthouse Building ("Children's Courthouse Building" or "Building") located at 155 NW Third St., Miami, Florida, 33128; and

WHEREAS, the Lessee has offered to lease and operate the Food Service Facility in the Children's Courthouse Building in a manner that shall conform to the Scope of Services (Appendix A), Miami-Dade County Request for Proposals (RFP) No. 00070, and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Lease Agreement;

WHEREAS, Lessee has submitted a written proposal dated October 25, 2014 hereinafter referred to as the "Lessee's Proposal" which is incorporated by reference herein; and,

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

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

1. **Definitions:** The following words and expressions used in this Lease Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Contract Manager" to mean Miami-Dade County's Internal Services Department, Assistant Director, or the duly authorized representative designated to manage Contract No. 00070.

b) The words "Date of Beneficial Occupancy" to mean the date on which substantial completion of the Food Service Facility has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) that enables the Lessee to occupy or utilize the Food Service Facility in a manner for its intended use.

c) The word "Days" to mean Calendar Days.

d) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

e) The word "County" to mean Miami-Dade County.

f) The words "Lease Agreement" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFP No. 00070 and all associated addenda and attachments, the Lessee's Proposal, and all other attachments hereto and all amendments issued hereto.

g) The words "Lease Agreement Effective Date" or "Effective Date" to mean the commencement date of this Lease Agreement, and shall begin on the date indicated in the first page of this Lease Agreement. The Lessee shall have up to six (6) months starting from the Lease Agreement Effective Date to open the Food Service Facility for operation.

h) The words "Lease Agreement Year" to mean each twelve-month period starting from the Lease Agreement Effective Date and the first Lease Agreement Year shall commence immediately upon the Lease Agreement Effective Date. Each new Lease Agreement Year begins on the one year anniversary of the Lease Agreement Effective Date.

i) The words "Lease Operations Year" to mean each twelve month period starting from the Date of Beneficial Occupancy and the first Lease Operations Year shall commence immediately upon the Date of Beneficial Occupancy. Each new Lease Operations Year begins on the one year anniversary of the Date of Beneficial Occupancy.

j) The word "Lessee" to mean the corporate entity JMR Foods, Inc. and its permitted successors and assigns.

k) The words "Notice to Proceed Date", as identified in a separate letter from the County to the Lessee, is the date the Lessee can proceed with the Work, and follows the County's receipt of the Security Deposit and the County approval of any and all insurance and bond certificates as required herein.

l) The words "Project Manager" to mean Miami-Dade County's Internal Services Department, Real Estate Development Division Director or the duly authorized representative designated to manage the Lease Agreement.

m) The words "Scope of Services" to mean the document appended hereto as Appendix A. which details the work to be performed by the Lessee.

n) The words "Subcontractor" or "Sub-consultant" to mean any person, entity, firm or corporation, other than the employees of the Lessee, who furnishes labor and/or materials, in connection with the Services, whether directly or indirectly, on behalf and/or under the direction of the Lessee and whether or not in privity of Lease Agreement with the Lessee.

o) The words "Work", "Services", or "Project" to mean all documentation and any items of any nature submitted by the Lessee to the County's Project Manager for review and approval pursuant to the terms of this Lease Agreement, and all matters and things required to be done by the Lessee in accordance with the provisions of this Lease Agreement.

p) The words "Common Areas" shall mean all areas, space, equipment and special services provided by the County on or off the land occupied by the Children's Courthouse Building for the common or joint use or benefit of Lessees of the Children's Courthouse Building, 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.

2. **Leased Premises:** County hereby leases to Lessee and Lessee hereby leases from County for the term, at the rental, and upon the covenants and conditions set forth in this Lease Agreement, the Leased Premises in County's "Children's Courthouse Building," a portion of the buildings outlined on the Plan of Leased Premises attached hereto as Exhibit A and incorporated herein by reference, hereinafter referred to as the "Leased Premises." Said

Leased Premises is a total of 1,736 square feet located on the first floor of the Children's Courthouse Building. The Leased Premises extend to the interior faces of all exterior walls and the centerline of walls between the Leased Premises and the Common Areas and Public Areas, or to any line shown on Exhibit A where there is no wall, or to the centerline of those walls (or prolongation thereof) separating the Leased Premises from other Leased Premises or Common or Public Areas in the County's Courthouse Building's Leased Premises; together with the appurtenances specifically granted in this Lease Agreement, including the use in common with others of the Public Areas as hereinafter more fully provided, but reserving and excepting to County (i) the use (a) the exterior faces of the exterior walls, (b) the ceiling, and (c) the space between the lower surface of the floor slab of any higher floor and the Lessee's finished ceilings; and (ii) the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through the Leased Premises in locations which will not substantially interfere with Lessee's use thereof, and serving other parts of the County's Courthouse Building.

Addition of Temporary Locations: The County reserves the right to require the Lessee to provide, and cause to be operated, temporary locations. Prior to the Date of Beneficial Occupancy, the Lessee will not pay any rent for these locations. After Date of Beneficial Occupancy any such temporary location(s) rent is subject to negotiations considering square footage and the terms of Articles 16 and 17 in this Agreement. All such concepts, plans, fixtures, equipment and merchandising are subject to review and approval by the Department and, to the extent necessary, other County agencies.

3. Use: The County hereby grants unto the Lessee, and the Lessee herby accepts from the County for the term, at the rate and upon the covenants and conditions as set forth herein to

develop and operate a food service facility in the Leased Premises. Lessee shall use the Leased Premises only for the uses contained in the Lessee's Proposal in response to RFP 00070. The Lessee shall not provide any services or sell any item or product without the prior written approval of the County and any sales by the Lessee of services or items not specifically authorized in writing by the County shall constitute a default. The unapproved services or items shall be discontinued immediately by the Lessee upon written notice from the County. Lessee shall conduct its business at all times in accordance with this Lease Agreement.

4. **Operations:** Except when and to the extent that the Leased Premises may be untenantable by reason of damage by fire or other casualty, Lessee shall continuously and uninterruptedly use, occupy and operate for food service purposes all of the Leased Premises other than such minor portions thereof as are reasonably required for storage and office purposes, and such storage and office space only in connection with the business conducted by Lessee in the Leased Premises; and will have on the premises adequately trained personnel for efficient service to customers.

5. **Limitations on Use:** Subject to Lessee's right to use the Leased Premises for the purposes specified in Article 3, Lessee shall not suffer or permit the Leased Premises 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 Courthouse Building or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Buildings; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating, or air-conditioning of the Courthouse Building or

the proper and economic functioning of any other common service facility or common utility of the Building; (vi) impair or interfere with the physical convenience of any of the occupants of the Building; and/or (vii) impair any of the Lessee's other obligations under this Lease Agreement.

6. **Governmental Approvals:** If any governmental license or permit shall be required for the proper and lawful conduct of Lessee's business in the Leased Premises, or any part thereof, and if failure to secure such license or permit would in any way adversely affect the County, 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.

7. **Clean Condition:** Throughout the term of this Lease Agreement, Lessee, at its sole cost and expense, will keep the Leased Premises clean and in good condition and order.

8. **Exclusivity/Non-Exclusivity:** The rights granted under the Lease Agreement are exclusive only to the Leased Premises. This Lease Agreement is non-exclusive in character and in no way prevents the County from authorizing the sale or offering of competitive services, products or items by other concessionaires or others in other premises at the Courthouse Building. The Lessee shall have no rights to any other location or concession that may be made available by the County.

9. **Request for Proposal Incorporated:** The Lessee acknowledges that it has submitted to the County a proposal ("Proposal") in response to RFP No. 00070 that was the basis for the award of this Lease Agreement and upon which the County has relied. The Proposal of the Lessee ("Lessee's Proposal"), where not inconsistent with the terms of this Lease, is hereby incorporated into this Lease Agreement by reference.

10. **Order of Precedence:** If there is a conflict between or among the provisions of this Lease Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) Scope of Services (Appendix A), 3) Miami-Dade County's RFP No. 00070 and any associated addenda and attachments thereof, and 4) the Lessee's Proposal.

11. **Exhibits:** The Exhibits listed in this Article and attached to this Lease are hereby incorporated in and made a part of this Lease:

Exhibit A: Lessee's Floor Plan
Exhibit B: Rules and Regulations
Exhibit C: Payment and Performance Form

12. **Term:** The County hereby agrees to lease to Lessee and Lessee hereby agrees to lease from County the Leased Premises for a term of five (5) years and six (6) months commencing on the Lease Agreement Effective Date and terminating five (5) years and six (6) months thereafter. Upon receipt of the Security Deposit and Lessee's Insurance Certificate for insurance requirements the County will issue a Notice to Proceed, which will allow the Lessee to enter and begin occupying the Leased Premises.

13. **Option to Renew:** The County, at its sole discretion, reserves the right to exercise the option to renew this Lease Agreement for an additional five (5) years. The County reserves the right to exercise its option to extend this Lease Agreement for up to one hundred and eighty (180) calendar days beyond the current Lease Agreement period and will notify the Lessee in writing of this extension. This Lease Agreement may be extended beyond the initial one hundred and eighty (180) calendar day extension by mutual agreement between the County and the Lessee, upon approval by the Board of County Commissioners.

14. **Security Deposit:** Lessee shall furnish a Security Deposit in cash or cashier's check equal to three (3) months base rent, redeemable at the end of the Lease term except for such conditions pertinent thereto, or in such other media, as further described, acceptable to the County. The Lessee may, in lieu of a Security Deposit with the County, provide a Performance Bond (Exhibit C) or Irrevocable Letter of Credit in the same amount. This bond or Letter of Credit will be conditioned on the full and faithful performance of all covenants of this Lease Agreement. In the event that Lessee abandons performance or fails to perform as required, the County will execute on the Bond, draw upon the irrevocable letter of credit or retain the cash deposit, whichever is the case, and Lessee will be responsible for the balance of the debt, if any, that is owed. Additionally, if the County must draw upon any portion of the form of security provided, Lessee hereby agrees to restore the security to its original amount within seven (7) days of receiving notice by the County that the security was drawn upon.

15. **Guarantee Monthly Rent:** Commencing 180 days from the Lease Agreement Effective Date or the Date of Beneficial Occupancy, whichever occurs first, Lessee, in consideration of the use and occupancy of the Leased Premises, does hereby covenant and agree to pay to County without deduction or set off of any kind the sum of $2,500 per month, to be paid on the first day of each month without billing. Commencing on the first day of the second Lease Agreement Year and every Lease Agreement Year thereafter, including each year of the five (5) year renewal option term, the Guaranteed Monthly Rent shall be adjusted upward at a rate of 3%.

16. **Percentage of Monthly Gross Receipts:** In addition to the Guaranteed Monthly Rent, Lessee agrees to pay to the County, monthly, an amount equal to 1% of monthly Gross

Receipts hereinafter referred to as "Additional Rent" within 10 days following the end of each month during the term of this Lease Agreement.

17. **Sales Tax:** The Lessee shall be liable for the prevailing State of Florida Sales and Use Tax imposed on rent (currently at the rate of 7.0%) on the amounts payable to the County under this Agreement. This Sales and Use Tax shall be payable to the County, when rent is due, which in turn will remit same, less authorized handling deductions, to the State. Said tax is applicable to Monthly Rent Guarantee unless otherwise determined by the State of Florida.

18. **Additional Taxes:** If at any time during the term of this Lease 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 rents (fixed), or other tax (except income tax), however described, shall be levied or assessed by the City of Miami in Miami-Dade County or Special Taxing district or said political subdivision against the County on account of the rent payable herein, such tax, charge, capital levy, or excise on rents or other taxes shall be deemed to constitute real estate taxes on the Leased Premises for the purposes of this Article.

19. **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 Leased Premises by Lessee.

20. **Late Payment Charge:** In the event that the Lessee fails to make any payments on time, by the due date, as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, a late payment charge of $100.00 per month for each payment due to the County shall be assessed from the original due date until the County actually receives payment. 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 Lease, or to pursue other remedies provided by law.

21. **Application of Payment:** 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 or Percentage of Monthly Gross Receipts, including the associated sales and use taxes. Any remaining balance in the payment will be applied to any other balance due.

22. **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 Lease, the Lessee shall incur and pay a service charge, pursuant to Florida Statutes (F.S. 1995, 832.07) of twenty-five dollars ($25.00), if the face value does not exceed fifty dollars ($50.00); thirty dollars ($30.00), if the face value exceeds fifty dollars ($50.00) but does not exceed three hundred dollars ($300.00); forty dollars ($40.00), if the face value exceeds three hundred dollars ($300.00); or an amount of up to or five percent (5%) of the face amount of the check, whichever is greater. For each such dishonored check, such payment to be made not more than five (5) days from advice of such default. Further, in such event, the County may require that future payments required pursuant to this Lease be made by cashier's check or other means acceptable to the County. A second such occurrence of dishonored check during the lease term may be constituted a breach of contract and, at the County's option, would constitute a default allowing termination.

23. Payment of Rent: All payments provided for in this Lease Agreement shall be paid promptly when due, without notice for any reason whatsoever and without abatement. All payments shall be hand delivered or mailed to:

Miami-Dade County
Internal Services Department
Real Estate Development Division
111 NW 1st Street, Suite 2460
Miami, FL 33128
Attn: Real Estate Manager

(Checks shall be made payable to the "Miami-Dade County Internal Services Department".)

24. Accord and Satisfaction: No payment by Lessee or receipt by County of a lesser amount than any payment of Base Rent and Percentage of Monthly Gross Receipts, or additional payment herein stipulated shall be deemed to be other than on account of the earliest stipulated Base Rent and Percentage of Monthly Gross Receipts, due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Base Rent and Percentage of Monthly Gross Receipts, or additional payment 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 Base Rent and Percentage of Monthly Gross Receipts, or additional payment or pursue any other remedy provided in this Lease Agreement, at law or in equity. No covenant, term, or condition of this Lease Agreement shall be deemed to have been waived by County, unless such waiver is in writing by County, and there shall not be any accord and satisfaction unless expressed in writing and signed by both County and Lessee

25. Gross Receipts:

A. Lease Agreement Year Defined: "Lease Agreement Year" means a twelve (12) month period beginning on the Commencement Date.

B. Gross Receipts Defined: "Gross Receipts" means all sales of food, beverage, merchandise by Lessee, concessionaires of Lessee and any sublessee of Lessee, sold in, upon or from the Leased Premises, including such sales as shall in good faith be credited by Lessee, its concessionaires, and sublessees in the regular course of its or their business to personnel employed at the time of sale at the Leased Premises, including also mail, email and telephone orders received at the Leased Premises and off-premises sales; but shall not be deemed to mean or include the following: amounts credited by Lessee or its concessionaires or sublessees for returned or defective merchandise; allowances to customers; trade and other discounts; sales, excise and similar taxes; workroom charges for alterations, repairs, or installation of merchandise sold or similar services; charges for making deliveries, shipments or transfers of merchandise; charges for cashing or issuing checks and money orders; carrying charges on time sales; charges for inter-store transfers of merchandise; or the proceeds of sales of Lessee's trade fixtures, operating equipment or other property used by Lessee or its concessionaires or sublessees 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 has been served, shipped or delivered or when charged against the purchaser on the books of Lessee, or its concessionaires or sublessees, whichever of such events shall first occur.

C. Lessee's Certification of Sales: Lessee shall submit to County on or before the tenth (10th) day following the end of each month during the term of this Lease Agreement and on or before the tenth (10th) day of the month following the expiration or earlier termination of the term, 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 sixtieth (60th) day following the end of each of each Lease Agreement Year 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 Lease Agreement Year. 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 Fee 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 are subject to the requirements of Florida Public Records Act.

E. Lessee's Sales Records: For the purpose of computing and verifying the Percentage Rent due hereunder, Lessee shall prepare and keep, for a period of not less than three (3) years following the end of each Lease 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 Lease 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 Fee 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 County, or the Internal Auditing Department of the County. Lessee shall make all such records available for said examination at the Leased Premises 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 rent. 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 Lease. 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 Lease 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 under this Article 25(G).

26. 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 Buildings 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.

27. 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, and 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 Leased Premises. For services or utilities not used by or provided to all Lessees of the Children's Courthouse Building, 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. In the event Lessee uses a disproportionate amount of any utility or service provided under Article 43 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.

28. **Curtailment 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 rent 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 Lease Agreement or any of Lessee's obligations hereunder be affected or reduced thereby.

29. **Common Areas:** Lessee and its concessionaires, Sub-Lessees, 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.

30. County's Work: County shall not perform any further work in the Leased Premises.

31. New Construction: The County's approval is required prior to all construction, all installation and all use of facilities. All improvements shall become the property of the Landlord. All construction shall be accomplished in accordance with the County or municipal permitting requirements.

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

A. Changes from the Lessee's Proposal

B. Changes from originally approved specifications, pricing, activities, signage, merchandise, menus, hours of operation and graphics.

C. Equipment Lessee plans to install requiring any building modifications.

D. Any modifications to the Leased Premises, the site, or signage outside of the Leased Premises.

Should any of the above items be disapproved, Lessee may offer alternative solutions. The Landlord 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.

33. Lessee's Work and Lessee's Design Criteria: All work other than County's Work shall be accomplished by Lessee at Lessee's sole expense and in accordance with the plan and specifications, hereinafter referred to in this Article, prepared by Lessee's architect in conformity with the description of Lessee's Work and Lessee's Design Criteria therefore set forth respectively in the Final Conceptual plan as approved by the County. Within not more than sixty (60) days following the Commencement Date, Lessee shall submit to the County, for its review and approval, disapproval or modification, detailed plans, specifications, contract documents and construction cost estimates for the Improvements, prepared by an architectural or engineering firm registered in the State of Florida. The submission of said detailed plans, specifications, contract documents and construction cost estimates is as stipulated in Lessee's Proposal and any updates forwarded to County. Lessee's Work shall be performed in accordance with the approved working plans and specifications and the Final Conceptual Plan and shall be completed within the Days for Completion of Lessee's Work specified in the Final Conceptual Plan. To the end that there shall be no labor disputes which would interfere with any part thereof, including, but not limited to, the Leased Premises, in performing any work in or about the Leased Premises, including without limitation, any such work referred to in this Lease Agreement, any other work which Lessee does whether or not such work is permitted or required pursuant to the Lease, Lessee agrees to engage the services of only such contractors, subcontractors who are approved in writing by the County prior to commencement of construction. Furthermore, only those contractors and subcontractors as have been duly licensed by the State of Florida or Dade County and which have been approved by County may perform any portion of Lessee's Work for Lessee in or upon the Leased Premises prior to

commencement of construction. No contractor will be approved that has commenced construction prior to County's approval.

34. **Certain Construction Contract Terms (if Applicable):** All contracts entered into by the Lessee for the construction of the Improvements as stipulated in the final Conceptual Plan approved in writing by the County shall require completion of the Improvements within a specified time period following the execution of said contract(s) and shall contain, unless otherwise authorized by the County, reasonable and lawful provisions for the payment of actual and liquidated damages in the event contractor(s) fails to complete the construction on time. The Lessee agrees that it will use its best efforts to take all necessary action available under such construction contract to enforce the timely completion of the work covered thereby. Further, all such contracts shall contain provisions requiring retaining of ten percent (10%) of contractor billings or such lesser percentage amount as may be authorized by the County in writing (if applicable).

35. **Construction Bonds or Escrow Deposit:** Unless the County, in writing, specifically authorizes otherwise, all contracts for the construction of improvements shall require that the Lessee obtain from construction contractors a separate performance and payment bond in the full amount of the Improvements, to assure completion of the contract work and payment of the costs thereof, free and clear of all claims, liens and encumbrances of subcontractors, laborers, mechanics, suppliers and materialmen, with the County and the Lessee named as dual obligees thereunder. In lieu of a construction bond, the Lessee will deposit in escrow with County the estimated sum required to complete Lessee's Work. If such deposit shall be made, upon the satisfactory completion of all work and installations and the submission of proof that all bills in connection therewith have been paid, County

shall release such funds from escrow. County, in its sole discretion, may release portions of such escrow deposit to pay bills as the work and installation progress. Prior to the commencement of any construction of the Improvements or any phase thereof, the Lessee shall provide to the County with a performance and payment bond for the estimated sum required to complete Lessee's Work.

36. Remedies for Lessee's Failure or Delay to Submit Plans or Perform Work: If Lessee fails or omits to make timely submission to County of any plans or specifications or delays in submitting or supplying information, or in giving authorizations or in performing or competing Lessee's Work, or fails to open for business on the Beneficial Occupancy Date, the County, in addition to any other right or remedy it may have at law or in equity, may pursue any one or more of the following remedies:

A. Until Lessee shall have commenced Lessee's Work, County may give Lessee at least ten (10) days written notice that if a specified failure, omission or delay is not cured by the date therein stated this Lease shall be deemed canceled and terminated. If such notice shall not be complied with this Lease shall, on the date stated in such notice, ipso facto be canceled and terminated, without prejudice to County's rights hereunder.

B. County may, after written notice of its intention to do so, at Lessee's cost and expense, including, without limitation, expense for such overtime as County's Architect may deem necessary, proceed with the completion of any such plans or specifications or Lessee's Work, as the case may be, and such performance by County, shall have the same effect hereunder as if the desired plans, specifications, information, approval, authorization, work or other action by Lessee had been done as herein required. For such purpose, County may enter upon the Leased Premises and take possession thereof

and of all materials, appliances, equipment thereon and employ such other contractors and subcontractors, as it may elect, to complete Lessee's Work and Lessee shall indemnify and hold County harmless from any liability that may be incurred thereby to Lessee's contractors or subcontractors.

C. County may give notice to Lessee (notwithstanding that such notice is not otherwise required hereunder), that the term of Lease will be deemed to have commenced, that the date, to be therein specified, when the same would have commenced if Lessee had made timely submission of supply of plans, specification, estimates or other information or approval of any thereof. On and after the date so specified, County shall be entitled to be paid the Rent and any other charges which are payable hereunder by Lessee during the term of this Lease.

D. County may require Lessee to pay to County, as additional rent hereunder, the cost to County of completing the Leased Premises in accordance with the terms and provisions of this Lease over and above what would have been such cost had there been not such failure.

In exercising any of the foregoing remedies, County shall be entitled to retain and have recourse to any bond or security deposit provided by Lessee under Article 14 hereof.

37. Ownership of Improvements: Upon the expiration or earlier termination of this Lease Agreement for any reason, all existing and future County installed fixtures, equipment, improvements and appurtenances attached to or built into the Leased Premises in such a manner as to become part of the freehold, whether or not by or at the expense of Lessee, shall become and remain a part of and be surrendered with the Leased Premises. Any furniture, furnishing, equipment or other articles of movable personal property owned by

Lessee and located in the Leased Premises, shall be and shall remain the property of Lessee and may be removed by it at any time during the term of this Lease Agreement so long as Lessee is not in default of any of its obligations under this Lease Agreement, and the same have not become a part of the freehold, and so long as such does not materially affect Lessee's ability to use said Leased Premises and conduct its business as provided herein. However, if any of Lessee's property is removed and such removal causes damage to the Leased Premises, Lessee shall repair or pay the cost of repairing any damage to the Leased Premises resulting from such removal. Any property belonging to Lessee and not removed by Lessee at the end of the Lease Term or a renewal, if applicable, shall, at the election of the County, be deemed to be abandoned by Lessee, and the County may keep or dispose of such property and restore the Leased Premises to good order within ten (10) days after billing therefore. At the expiration of the term of this Lease Agreement, Lessee shall deliver to the County the keys and combinations to all safes, cabinets, vaults, doors and other locks left by Lessee on the Leased Premises.

38. Lessee's Changes:

A. Conditions for Making Changes: After Commencement Date, and subject to approval of the County in writing, Lessee may at any time, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively called "changes" and, as applied to changes provided in this Article, "Lessee's Changes"), in and to the Leased Premises, excluding structural changes, as Lessee reasonably may consider necessary for the conduct of its business in the Leased Premises, subject to approval by the County, additional to the following conditions:

i. the outside appearance or structural integrity of the Buildings shall not be affected;

ii. no part of the Buildings not included within the Leased Premises shall be physically affected;

iii. the proper functioning of any of the material, electrical, sanitary, fire protection, and other service systems shall not be adversely affected;

iv. in performing the work involved in making such changes, Lessee shall be bound by and observe all of the conditions and covenants contained in this Article; and

v. at the expiration or any earlier termination of this Lease Agreement, on the County's written request, Lessee shall restore the Leased Premises to their condition prior to the making of any change permitted by this Article, reasonable wear and tear excepted, unless waived by the County in writing.

B. Approvals for Changes, Cost and Insurance: Lessee, at its expense, shall obtain all necessary governmental permits and certificates for the commencement of prosecution of Lessee's Changes and for final approval thereof upon completion, and shall cause Lessee's Changes to be performed in compliance therewith, and with all applicable laws and requirements of public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using materials and equipment at least equal in quality and class to the original installations of the Project, and so as not to impose any additional expense upon the County. Throughout the performance of Lessee's Changes, Lessee shall carry, or cause to be carried, insurance as set forth in Article 66. If any of Lessee's Changes shall involve the removal of any fixtures, equipment or property in the Leased Premises which are the County's Property, such fixtures, equipment or other property shall be promptly replaced, at Lessee's expense, with fixtures, equipment or other property of like utility and at least equal value unless

the County shall otherwise expressly consent in writing.

39. Violations, Liens, and Security Interests: Lessee, at its expense, and with diligence and dispatch, shall secure the cancellation or discharge of all notices of violation arising from or otherwise connected with Lessee's Changes or operations in the Leased Premises which shall be issued by any public authority having or asserting jurisdiction. Lessee shall promptly pay its contractors and materialmen for all work and labor done at Lessee's request. Should any such lien be asserted or filed, regardless of the validity of said liens or claims, Lessee shall bond against or discharge the same within ten (10) days of the filing of said encumbrance. In the event Lessee fails to remove or bond against said lien by paying the full amount claimed, Lessee shall pay the County upon demand any amounts paid out by the County, including the County's costs, expenses and Counsel fees. Lessee further agrees to hold the County harmless from and to indemnify the County against any and all claims, demands and expenses, including attorney's fees, by reason of any claim of any contractor, subcontractor, materialman, laborer or any other third person with whom Lessee has contracted, or otherwise is found liable for, in respect to the Leased Premises. Nothing contained in this Lease Agreement shall be deemed, construed or interpreted to imply any consent or agreement on the part of the County to subject the County's interest or estate to any liability under any mechanic's or other lien asserted by any contractor, subcontractor, materialman or supplier thereof against any part of the Building or any of the buildings or improvements thereon (inclusive of the Leased Premises) and each such contract shall provide that the contractor must insert a statement in any subcontract or purchase order that the contractor's contract so provides for waiver of lien and that the subcontractor, materialman and supplier agree to be bound by such provision.

40. Lessee's Repairs and Maintenance: Lessee, at its expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural or otherwise, in and about the Leased Premises, Common Area, and Building as shall be required by reason of (i) the performance by Lessee of any work on the Leased Premises; (ii) the installation, use or operation of Lessee's property; (iii) Lessee's portion of the utility lines in the Leased Premises, if damaged due to Lessee's negligence; (iv) the moving of Lessee's Property in or out of the Buildings; (v) the misuse or neglect of the Leased Premises by Lessee or any of its employees, agents or contractors, including the failure or neglect of Lessee to make the repairs required by the succeeding subsection hereof. Such repairs, other than those required to be made by the County under Article 58, as may be necessary to maintain the Leased Premises and Lessee's property in as good order, condition, and repair as they are at the Commencement Date. Lessee shall, if due to its negligence, be responsible for repairs, maintenance, and replacements including all utility systems, serving same and appurtenances thereto, and shall keep them at all times neat, clean and in good repair, free from filth, overloading, danger of fire, explosion, or any nuisance, and return the same to the County, after removing all its property therefrom, at the expiration of the Lease Agreement Term, in as good condition as when received by Lessee, ordinary wear and use and casualty loss due to causes beyond Lessee's control excepted. Lessee agrees that it will cause no damage to foundations, roofs, walls or floors, and if it does, it will be liable to the County for the cost of repairs. If the Leased Premises are not surrendered as aforesaid, in addition to all other rights given to the County herein or by law:

i. The County may, at its option, restore the Leased Premises to good order and condition and Lessee shall pay to the County within ten (10) days after billing

therefore, as additional rent, the expense of such restoration; and

ii. Lessee shall indemnify and hold harmless the County against any and all claims, demands, loss, or damage, including attorney's fees, resulting from the delay by Lessee in surrendering the Leased Premises including, but not limited to, claims made by any succeeding Lessee or Lessor based on such delay.

iii. Lessee shall pay to County as liquidated damages for any holdover, in addition to amounts paid pursuant to (ii) above, double rent (including Monthly Guarantee Rent and Percentage Fee in an amount at least equal to the average yearly Percentage Fee therefore paid by Lessee).

Lessee's obligation to perform this covenant shall survive the termination of this Lease.

41. **Facilities:** The Lessee hereby agrees to submit for approval by the County detailed plans and specifications for any anticipated leasehold improvements and shall construct the improvements in accordance with the approved plans. All equipment and personal property furnished by Lessee shall be of good quality and suitable for its purpose. The County shall have the right to require substitute equipment of personal property when such action is deemed necessary or desirable. Equipment acquired by the Lessee by purchase from the County that is unsuitable for Lessee's operation may be replaced with other equipment or personal property of the Lessee's choice, subject to the above conditions. It shall be the responsibility of the Lessee to coordinate activities with the County during any periods of construction and normal operations. The Lessee agrees to maintain said Leased Premises in the same condition, order, and repair as at the commencement of operations or after improvements, excepting only reasonable wear and tear arising from the use thereof under this Lease Agreement.

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

A. Changes from originally approved specifications, activities, signage, and graphics.

B. Equipment Lessee plans to install requiring any building modifications.

C. Any use of the County's, or Building's name.

D. hours of daily operation;

E. uniforms to be used by employees; and

F. The decor of the Leased Premises and all signs to be installed, erected, or displayed in or on the Buildings, and any changes thereto at any time during the term of this Lease. 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 Article it deems in need of change, despite previous approval of same.

43. **Public Contact of Lessee's Employees:** Lessee's employees in contact with the public shall perform their duties in an efficient and courteous manner. Lessee's employees will not be considered agents of the County.

44. **Hours of Operation:** The Tenant shall operate the Food Service Facility, at a minimum, five (5) days a week Monday thru Friday, as further detailed in the County approved Lessee's Operation Manual, except on County, State and Federal designated holidays. Hours of operation may be changed as deemed appropriate by the Lessee, and approved by the County. The Lessee shall provide sufficient staff to provide quality 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.

45. **Pricing:** Lessee shall maintain the pricing schedule as approved by the County, with prices comparable to those off-premises operations of its own company-owned or franchised stores in Miami-Dade County, if it is part of a company owned or franchised group of stores, or comparable to similar type operations if an independent or non-chain or franchise affiliated; and, in any effort to change prices 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 , not to be unreasonably withheld, at any time during the Lease Term when price changes are contemplated.

46. **Personnel:** The Lessee shall provide the County with the name and telephone number of a management person of the Lessee who will be on call, at all times, for emergencies or other matters related to the operations under this Lease. The Lessee shall ensure that all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times.

47. **On-Site Manager:** Throughout the term of this Lease or any extensions thereof, 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 Lease and to accept service of all notices provided for herein.

48. **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 Leased Premises, shall use the same in careful manner and shall, at its own cost and expense, keep, maintain, and repair (excluding normal wear and tear) and, upon the expiration of this Lease Agreement or its termination in any manner, shall deliver said Leased Premises to the County in the same condition as at the commencement worse condition than the same was at the commencement of this Lease Agreement, with the exception of loss by fire or other casualty and ordinary wear and tear. Lessee shall furnish good, prompt and efficient service, adequate to meet all reasonable demands therefore. The Lessee shall not conduct any business or activity not specifically authorized by this Lease Agreement in the Leased Premises, unless approved by the County. It is expressly understood and agreed that the said operation shall not interfere in any manner with the use of the public area 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.

49. **Monitoring Services:** The County 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 a shopping service, and other reasonable means.

50. **Services/Equipment Provided by County:** The County shall provide the following:
A. electrical as existing;

B. water facilities as existing;

C. sewage collection facilities as existing; and

D. waste collection hours

51. Equipment and Services Provided by Lessee: The Lessee, at its sole cost, shall provide:

A. Janitorial Service maintaining the Leased Premises and equipment clean at all times. If the Leased Premises and equipment are not kept clean in the opinion of the County, the Lessee will be so advised, and if corrective action if not immediately taken, the County will cause the same to be cleaned and the Lessee shall assume responsibility and liability for such cleaning.

B. Extermination Service for Leased Premises.

52. Equipment Installed by Lessee: Any equipment. furnishings, signage and advertising installed by the Lessee shall be in keeping with the appropriate standards of decor at the Buildings and must be approved by the County prior to installation, which approval shall not be unreasonably withheld. The Lessee shall not install, remove or replace the equipment or furnishings without notification to, and prior approval, by the County, which approval shall not be unreasonably withheld. 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 Leased Premises or the improvements constructed therein without first obtaining written approval from the County.

53. **Maintenance Responsibilities of Lessee, Appearance of Leased Premises:** Lessee shall, at its sole cost and expense, keep and maintain the Leased Premises in a clean and sanitary condition during the term of this Lease Agreement and any extension thereof. The provision of janitorial services and all interior maintenance within the Leased Premises are the sole and exclusive responsibility of the Lessee. Upon failure of the Lessee to maintain the Leased Premises as required, the County may, after fifteen (15) days written notice to the Lessee, enter upon the Leased Premises and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus twenty-five percent (25%) for administrative costs, shall constitute additional rental(s), and shall be billed to and paid by the Lessee.

54. **Damages:** Lessee shall repair all damages to the leased or non-leased portions of the Leased Premises/Building caused by the Lessee, its employees, agents, or independent contractors.

55. **Quiet Enjoyment of Leased Property:** The County covenants and agrees that so long as no default exists in the performance of Lessee's covenants and agreements contained herein, Lessee may peaceably and quietly hold and enjoy the Leased Premises and all parts thereof for that portion of the Lease Term, free from eviction or disturbance by the County or any person claiming under, by, or through the County.

56. **Subordination:** The County shall have the right to transfer, mortgage, assign, pledge, and convey in whole or in part the Leased Premises, this Lease Agreement and all rights of the County existing and to exist, and rents and amounts payable under the provisions hereof;

and nothing herein contained shall limit or restrict any such right, and the rights of the Lessee under this Lease Agreement shall be subject and subordinate to all instruments executed and to be executed in connection with the exercise of any such right of the County, including, but not limited to, the lien of any mortgage, deed of trust, lease, or security agreement now or hereafter placed upon the Leased Premises and to all renewals or modifications thereof. This Article shall be self-operative and no further instrument or subordination shall be required. Lessee covenants and agrees, if requested, to execute and deliver upon demand such further instruments confirming such subordination of this Lease Agreement to the lien of any such mortgage, deed of trust, permit, or security agreement as shall be requested by the County and/or any mortgagee, proposed mortgagee, or holder of any security agreement. Lessee hereby irrevocably appoints the County as its attorney in fact to execute and deliver any such instrument for and in the name of the Lessee.

57. **Damage or Destruction of Leased Premises:** If either the Leased Premises or the Building are partially damaged due to Lessee's negligence, but not rendered unusable for the purposes of this Lease 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. If the damage shall be so extensive as to render such Leased 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. In the event the said Leased Premises and/or Building are completely destroyed due to Lessee's negligence, Lessee shall repair and reconstruct the premises so that they equal the condition of the Leased Premises and/or Building on the date possession was given to Lessee, and pay the County a rent based on

the last Gross Receipts achieved, which reflects the County's income on the property preceding the date of destruction, for the remainder of time the Leased Premises remain untenantable. In lieu of reconstructing, Lessee shall reimburse the County all expenses incurred by the County in restoring the Leased Premises to their original condition, plus Rent in accordance with the Lease Agreement, until the Leased Premises have been leased to another vendor or possession returned to Lessee. The election of remedies shall be at the sole discretion of the County.

58. **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), 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 Leased Premises and the Common Areas of the Building. There shall be no allowance to Lessee for a diminution of rental 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 Building and/or Leased Premises, or in or to fixtures, appurtenances, or equipment thereof. The County shall be under no obligation to make any such repairs until and unless Lessee notifies the County in writing and the County agrees, of the necessity therefore, in which event the County shall have a reasonable time thereafter to make such repairs. Notwithstanding any other provision of this agreement to the contrary, Lessee's rent shall abate to the extent, and for such period of time, as all or any portion of the Leased Premises

and/or Building are rendered untenantable by reason of any cause for which the County is legally liable.

59. **Diminution for County's Repair:** Except as elsewhere specifically provided in this Lease Agreement, there shall be no allowance to Lessee for a diminution of rental 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 Leased Premises and/or Building, 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 Leased Premises and/or Building.

60. **Performance of Obligations:** Lessee covenants at all times during the term of this Lease Agreement to perform promptly all of the obligations of Lessee set forth in this Lease Agreement.

61. **Ingress and Egress:** Subject to rules and regulations, statutes and ordinances, and terms of this Lease Agreement governing the use of the facility, Lessee, its 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 Leased Premises.

62. **Assignment, Subletting, and Successors in Interest:** Lessee shall not assign, sublet, mortgage, pledge nor otherwise encumber this Lease Agreement nor any portion thereof, nor any property associated with this Lease Agreement without prior written approval of the County. Unapproved assignment, subletting, mortgaging, pledging or encumbering shall be grounds for immediate termination of this Lease Agreement. It is agreed that all terms and conditions of this Lease Agreement shall extend to and be binding on assignees,

sublessees and other successors as may be approved by the County. Lessee shall be liable for acts and omissions by any sublessee affecting this Lease Agreement. The County reserves the right to directly terminate (and evict or pursue any applicable remedy) any sublessee for any cause for which Lessee may be terminated.

63. **Ownership of Lessee:** The ownership of the Lessee is very important to the County. Therefore, the County reserves the right to terminate this Lease Agreement at any time if more than ten percent (10%) of the ownership of the Lessee has not been specifically approved by the County. The County shall reject any proposed new owner for any reason it believes is in the best interests of the public. Lessee agrees to provide on twenty-four (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. Lessees, for which stock is listed on a major stock exchange, may be wholly or partially exempted from the list requirement of this Article at the discretion of the County.

64. **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 Leased Premises which would increase the fire or other property or casualty insurance rate on the buildings 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 Building, or equipment, or other property of the County, and/or other tenants 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 rent for purposes of collection only.

65. **Lessee's Property:** Lessee is responsible for its improvements and betterments, equipment, furniture, fixtures, inventory and supplies or other Lessee property.

66. **Insurance Required From Lessee:** The Lessee shall furnish to the County's Internal Services Department/Risk Management Division, located at 111 NW 1st Street, Suite 2340, Miami, Florida 33128-1989, 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 Lessee as required by Florida Statute 440.

B. Commercial General Liability Insurance on a comprehensive basis, including Products and Completed Operations, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. 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 $500,000 combined single limit per occurrence for bodily injury and property damage.

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 - The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, 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 Financial Services.

CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

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

Award of this Lease Agreement is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the insurance certificate is received within the specified timeframe but not in the manner prescribed in this Agreement, the Lessee shall have an additional five (5) business 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 fifteen (15) business days, the Lessee shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Lessee shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Lease Agreement, including any and all option years or extension periods 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 Lese Agreement until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

67. **Indemnification:** 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 sub-contractors. 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. Lessee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by 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.

68. **Liability for Damage or Injury:** The County shall not be liable for damage or injury which may be sustained by any party or persons at the Food Service Facility other than the damage or injury if and to the extent caused by the gross 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.

69. Termination by County: The occurrence of any of the following shall cause this Agreement to be terminated by the County upon the terms and conditions also set forth below:

A. Automatic Termination:

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 twenty-four (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 Lease Agreement

vi. Subject to the provisions of Article 62, unapproved change of ownership interest in Lessee and/or failure to submit the ownership list within twenty-four (24) hours upon the request of the County.

vii. Failure to cease any activity which may cause limitation of County's use of the Buildings.

B. Termination after seven (7) calendar days written notice by the County either by posting on or at the Leased Premises and by certified or registered mail to any known

address of Lessee set forth in Article 87 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) during the seven (7) calendar day period following mailing of the written notice. Additionally, the County may sue for rent for the unexpired term of this Lease 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 from receipt by Lessee of written notice having either been posted on or at the Leased Premises or by certified or registered mail to the address of the Lessee set forth in Article 87 hereof:

i. Non-performance of any covenant of this Lease Agreement other than non-payment of rent and others listed in A and B above, and failure of the Lessee to remedy such breach within the thirty (30) 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.

In the event that the County terminates this Lease by operation of any of the provisions as stated herein, then in addition to other rights and remedies available to the County under the law, the County may accelerate the rental payments under this Lease, whereupon the entire balance owed for the current Term by the Lessee under this Lease shall become

immediately due and payable without further notice or demand.

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 pursuant to Article 25 or to strictly adhere to the revenue control procedures established pursuant to Article 25 shall constitute a non-curable default and in such event the County shall have the right to terminate this Lease 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 payments of the security deposit required pursuant to Article 64 hereof.

E. Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly, or repetitively defaulted 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, the Lessee shall be determined by County to be an "habitual violator". At the time that such determination is made, the County shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefor. 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 Lease. In the event of any such subsequent breach or default, County may cancel this Lease 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 the Leased Premises, and proceed to remove all its personal property in accordance with provisions stated herein.

70. **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 Article 87 hereof to terminate this Agreement at any time after the occurrence of one or more of the following events:

A. Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Leased Premises for the purposes set forth herein, and the remaining in force of said injunction for a period of more than thirty (30) calendar days.

B. 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.

C. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control, or use of the Building, 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.

71. **Cessation of Operation:** At the expiration or earlier termination of the term of this Lease Agreement, Lessee shall peaceably surrender the Food Service Facility and all operations at the Food Service Facility and shall ensure the Food Service Facility is in as good a condition as the Food Service Facility was on the Commencement Date of this Lease Agreement, ordinary wear and tear and damage by condemnation, fire or other casualty excepted. Lessee shall deliver all keys for the Food Service Facility 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 Food Service Facility. 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 Food Service Facility. Lessee's obligation to observe and perform the covenants set forth in this Article shall survive the expiration or earlier termination of the term of this Lease Agreement.

72. **Termination of Contract:** Following the termination of this Lease Agreement the Lessee, within thirty (30) calendar days, or earlier if determined by the County, shall forthwith remove all of its personal property not acquired under the terms of this Lease Agreement. Any personal property of Lessee not removed in accordance with this Article 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 Leased Premises 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 Lease 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 Lease Agreement and the removal of all personal property by Lessee, the Lessee shall deliver said Leased Premises to the County in the condition set forth in Article 71 hereof.

73. **Unauthorized Operations:** If Lessee continues to use and operate the Food Service Facility after the expiration of the term of this Lease Agreement, or any option period, without a new Lease 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 Food Service Facility only from month-to-month, subject to all covenants, conditions, and agreements of this Lease Agreement. If Lessee fails to surrender the Food Service Facility upon the termination of this Lease 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.

74. **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 the Children's Courthouse Building for the purposes of this Lease Agreement, this Lease Agreement will be null and void and unenforceable by any party to this Lease Agreement and the County shall have no further liability under this Lease Agreement. In the event that a referendum vote of the electorate of the County in any way restricts or prohibits the use of the Food Service Facility for the purposes of this Lease Agreement, this Lease Agreement will be null and void and unenforceable by any party to this Lease Agreement and the County shall have no further liability under this Lease Agreement. If the County deems the Lease Agreement null and void by function of this Article, the County will not be liable to the Lessee for damages arising there from and the County shall have no further liability under this Lease Agreement.

75. **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:

A. No person on the ground of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, or handicap shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said Leased Premises, except for bonafide causes allowed by law;

B. That in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the ground of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic

violence, dating violence or stalking, or veteran status, or handicap shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, except for bonafide causes allowed by law; and

C. That the Lessee shall use the Leased 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 Lease Agreement and re-enter and repossess said Leased Premises thereon and hold the same as if said Lease 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.

76. **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 rent 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 Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of County's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, or condition of this Lease 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.

77. **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 Lease Agreement. Failure to do so will constitute a breach of the Lease Agreement.

78. **Payment of Obligations:** Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interest in the Leased Premises, its improvements and/or its operations under the Lease Agreement; provided, however, that Lessee shall not be deemed to be in default of its obligations under this Lease Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes and/or other costs. The Lessee shall procure, at the sole cost of the Lessee, all permits, licenses, and approvals required of Lessee for this operation and performance under this Lease Agreement.

79. **Emergency/Hurricane Preparedness:** The Lessee shall follow the County's emergency evacuation and hurricane plan and its emergency evacuation and hurricane plans as submitted in County approved Operations Manual which shall not be in conflict with the County's emergency plans.

80. **Inspection by County:** The County shall have the authority to make periodic reasonable inspections of all the Leased Premises, 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.

81. **Right of Entry:** The County shall have the right to enter upon the Leased Premises during normal business hours, and at other times in the event of an emergency, as commonly determined, to examine same and to make such repairs, alterations, replacements, and/or improvements in the Leased Premises as the County deems necessary, but the County assumes no obligation to make repairs in the Leased Premises other than those expressly provided for in this Lease Agreement. The County agrees, however, that any such repairs, alterations, replacements, and/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 Leased Premises at reasonable times to show them to actual or prospective mortgagees, tenants, or lessees of the Buildings. During the one hundred and eighty (180) days prior to the expiration of the term of this Lease Agreement, the County may show the Leased Premises to prospective tenants. If, during the last ninety (90) days of the term of this Lease Agreement, Lessee shall have removed all or substantially all of Lessee's property therefrom, the County may immediately enter, alter, renovate, and/or redecorate the Leased

Premises without elimination or abatement of rent or other compensation and such action shall have no effect upon this Lease Agreement.

82. **Permits and Regulations:** Lessee covenants and agrees that Lessee will obtain any and all necessary licenses, permits and/or approval, and that all uses of the Leased Premises will be in conformance with all applicable laws.

83. **Signs:** The nature, size, shape and installation of Lessee's business signs within the Leased Premises or in, on or adjacent to the Buildings must first be approved in writing by County. Said signage must also be approved by all governmental authorities having jurisdiction and must conform to the requirements set forth in the Rules and Regulations. All signs shall be removed by the Lessee at termination of this Lease and any damage or unsightly condition caused to the premises because of or due to said signs shall be satisfactorily corrected or repaired by the Lessee.

84. **Facility Repairs, Alterations, and Additions by the County:** The County shall have the absolute right to make reasonable repairs, alterations, and additions to any structures and facilities, including the Leased Premises leased under this Lease 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, except for such damage caused by the sole negligence or intentional misconduct by the County and where not otherwise indemnified by the Lessee. 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 Leased Premises. If the Lessee's business is interrupted, a pro-rata adjustment of the Monthly Rent Guarantee payable hereunder for the period of such interruption shall be made.

85. **Surrender of Leased Premises:** At the expiration or earlier termination of the term of this Lease Agreement, Lessee shall peaceably surrender the Leased Premises in as good a condition as the Leased Premises were on the Commencement Date of this Lease Agreement, ordinary wear and tear and damage by condemnation, fire or other casualty excepted. Lessee shall deliver all keys for the Leased Premises to the County at the place then fixed for the payment of rent, and shall notify the County in writing of all combinations of locks, safes and vaults, if any, in the Leased Premises. 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 Leased Premises. Lessee's obligation to observe and perform the covenants set forth in this Article shall survive the expiration or earlier termination of the term of this Lease Agreement.

86. **Approvals:** Except as provided otherwise, whenever prior approvals are required hereinabove by either party, such approvals shall not be unreasonably withheld.

87. **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.

To the County:

Internal Services Department
Real Estate Development Division
111 NW 1st Street, Suite 2460
Miami, FL 33128
Attn: Director
Phone: (305) 375-1135
Fax: (305) 375-1175

To the Lessee:

JMR Foods, Inc.
Bottega Express
111 NW 1st Street
Miami, Fl. 33128
Attn: Ms. Rebeca Prieto
Phone: (305) 793-7584
email: rprieto169@yahoo.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 Food Service Facility. 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.

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

c) The Lessee must, in the final instance, seek to resolve every difference concerning the Lease Agreement with the County's Project Manager. In the event that the Lessee and the County's 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 Lease Agreement authorize the County Mayor or Mayor's designee, who may not be the County's 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 Lease 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 Mayor'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 Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.

e) The County Mayor or Mayor's designee may base his/her decision on whatever information, documentation or 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 meets the requirements of this Lease 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 Mayor or Mayor's designee who 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 Lease Agreement. All such disputes shall be submitted in writing by the Lessee to the County Mayor or Mayor's designee 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 Mayor, or Mayor's designee 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 Mayor, or Mayor's designee, 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 Lease Agreement, Lessee reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

89. **Interpretations:** This Lease Agreement and the exhibits and attachments hereto, and other documents and agreements specifically referred to herein, constitute the entire, fully integrated Lease 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 Lease Agreement. This Lease Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. For the County, appropriate authorization shall be construed to mean appropriate formal action by the Board of County Commissioners, the County Mayor, or the Mayor's designee. This Lease Agreement shall be interpreted as a whole unit and Article headings are for convenience

only. The Lease Agreement shall not be construed in favor of one party or the other. All matters involving the Lease Agreement shall be governed by laws of the State of Florida.

90. Security: The Lessee acknowledges and accepts full responsibility for the security and protection of the Leased Premises and all 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 Leased Premises outside of standard security measures supplied by the County in the Building in general. Lessee may provide its own specialized security for the Leased Premises, subject to the County's written approval. Absence of said Lessee security measures shall not increase the County's security obligation.

91. Rights Reserved to County: All rights not specifically granted to the Lessee by this Lease 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.

92. Lien: The County shall have a lien upon all personal property of the Lessee within the Leased Premises to secure the payment to the County of any unpaid money accruing to the County under the terms of this Lease.

93. Entirety of Agreement: The parties hereto agree that this Lease 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.

94. Headings: The headings of the various Articles and Sections of this Lease, and its Table of Contents, 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 Lease or any part or parts of this Lease.

95. **Waiver:** Waiver of any breach shall not constitute waiver of any other breach. Invalidation of any portion of this Lease Agreement shall not automatically invalidate the entire Agreement.

96. **Performance:** The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by the Lessee to complete performance within the time specified, or within a reasonable time, if no time is specified herein, shall relieve the County of any obligation to accept such performance. (Check 55 for dupe)

97. **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 Lease Agreement does not constitute and shall not be represented to constitute a partnership between the County and the Lessee.

98. **Choice of Venue**: Any litigation between the County and the Lessee relating in any way to this Lease Agreement shall be brought and presented exclusively in a Court located in Miami-Dade County, Florida.

99. **Audits:** The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Lease Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Lessee'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 Principle requirements, as applicable, and shall only address those transactions related to this Lease Agreement.

Pursuant to County Ordinance No. 03-2, the Lessee will grant access to the County's Commission Auditor to review and audit all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Lessee 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.

100. Vendor Registration/Conflict of Interest

A. Vendor Registration: The Lessee shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Lease Agreement. In becoming a Registered Vendor with Miami-Dade County, the Lessee confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***
(Section 2-8.1 of the County Code)

2. ***Miami-Dade County Employment Disclosure Affidavit***
(Section 2.8-1(d)(2) of the County Code)

3. ***Miami-Dade Employment Drug-free Workplace Certification***
(Section 2-8.1.2(b) of the County Code)

4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
(Section 2-8.1.5 of the County Code)

5. ***Miami-Dade County Debarment Disclosure Affidavit***
(Section 10.38 of the County Code)

6. ***Miami-Dade County Vendor Obligation to County Affidavit***
(Section 2-8.1 of the County Code)

7. ***Miami-Dade County Code of Business Ethics Affidavit***
(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)

8. ***Miami-Dade County Family Leave Affidavit***
(Article V of Chapter 11 of the County Code)

9. ***Miami-Dade County Living Wage Affidavit***
(Section 2-8.9 of the County Code)

10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
(Article 8, Section 11A-60 11A-67 of the County Code)

11. ***Subcontracting Practices***
(Ordinance 97-35)

12. ***Subcontractor /Supplier Listing***
(Section 2-8.8 of the County Code)

13. ***Environmentally Acceptable Packaging***
(Resolution R-738-92)

14. ***W-9 and 8109 Forms***
(as required by the Internal Revenue Service)

15. ***FEIN Number or Social Security Number***
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
   - Identification of individual account records
   - To make payments to Individual/Contractor for goods and services provided to Miami-Dade County
   - Tax reporting purposes
   - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. ***Office of the Inspector General***
(Section 2-1076 of the County Code)

17. ***Small Business Enterprises***
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. ***Antitrust Laws***
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

B. Conflict of Interest: Section 2-11.1(d) of Miami-Dade County Code requires that 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, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics 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. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

101. **Survival:** The parties acknowledge that any of the obligations in this Lease Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Lessee and the County under this Lease 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

By: _____

Name: Jorge L Prieto

Title: President

Date: 5/11/2015

Attest: _____

Corporate Secretary/Notary Public

Approved by County Attorney as to form and legal sufficiency

_____

Assistant County Attorney

Date: 5-11-15

Miami-Dade County

By: _____

Name: _____

Title: _____

Date: _____

Attest: _____

Clerk of the Board

STATE OF FLORIDA / COUNTY OF DADE:
The foregoing instrument was sworn to / acknowledged before me this 11 day of May 2015 by Jorge Prieto who has produced # FL Driver Lic. PXXXXXX1790
NOTARY PUBLIC /

NOTARY PUBLIC STATE OF FLORIDA
LINDA M. LALANI
Notary Public - State of Florida
My Comm. Expires Dec 2, 2016
Commission #: EE 855056

EXHIBITS

Exhibit A	Lessee's Floor Plans
Exhibit B	Rules and Regulations
Exhibit C	Payment and Performance Bond Form

SCOPE OF SERVICES

1.0 Background

The County, as represented by the Internal Services Department, Real Estate Development Division, has solicited proposals from experienced, qualified and sufficiently financed parties, to lease commercial/retail space, develop, operate, and maintain a food service facility at the Children's Court House Building, located in downtown Miami, at 155 NW Third St., Miami, Florida, 33128 and developing and operating a food service facility. The Lessee, selected by the County, shall develop and operate a food service facility in accordance with this Scope and the terms and conditions of this Lease Agreement. The Leased Premises does not have and will not have conditions and equipment appropriate for cooking. Microwaves are allowed for reheating.

Approximately 450 employees will work in the building with an anticipated 500 people visiting on a daily basis.

The Leased Premises within the Children's Courthouse Building consists of approximately 1736 square feet, located on the first floor.

The Leased Premises shall include a dedicated area in the lobby for the Lessee to install permanent signage advertising the Food Service Facility. Such signage shall be limited to the name of the Food Service Facility, and shall not advertise daily specials, services, food items and/or products offered in the Food Service Facility. The Lessee shall be responsible for maintaining the dedicated area of the wall or indoor signage, at its sole cost and expense. The Lessee, should it elect to do so, may seek to advertise in other areas of the Building with the prior written approval of the County.

Parking for employees and visitors is available offsite at various public parking locations surrounding the Building. No parking is available in the Building for employees of the Lessee. The Building has an indoor loading area, which can only accommodate medium sized trucks. All deliveries must be made through the loading area.

The County expects the Lessee to operate and maintain a Food Service Facility that offers high nutritional meal options to employees and visitors. The Lessee to provide breakfast and lunch options including, but not limited to, coffee, eggs, toast, bagels, smoothies, subs, sandwiches, salads, entrees, soups, vegetarian/organic, etc. Other food items such as snacks and soft drinks may also be sold.

2.0 Preferred Qualification Requirement

As part of the selection of the Lessee for this Lease Agreement the Lessee the County prefers and Lessee has presented in Lessee Proposal that it has:

1. Five (5) years of experience as a food service facility owner, manager and/or supervisor within the past ten (10) years in a food service facility (e.g. cafe, bistro, cafeteria, etc.);

2. Knowledge of all applicable rules and regulations adopted by the County, and any and all laws, ordinances, and/or rules and regulations of other governmental entities and/or authorities having lawful jurisdiction, which may be applicable to the Lessee's development and operation of the Food Service Facility; and

3. Adequate financial strength for improvements, to provide equipment, furniture, fixtures, start-up operations and working capital as demonstrated through the Proposer's pro forma and financial documents submitted as part of the response to this solicitation.

2.1 Requirements and Services to be Provided

The Leased Premises shall be provided in its "as-is" condition. The County will not pay for or reimburse the Lessee to make any improvements to the Leased Premises. The Lessee shall perform any and all improvements to the Leased Premises, in compliance with the South Florida Building Code, and in accordance with the Lease Agreement. The space does not have and will not have conditions and equipment appropriate for cooking. The Lessee may bring in hot food and serve in warming units.

A. General Services

The Lessee shall:

1. Secure and comply with any and all permits/licenses necessary for the establishment and operation of a Food Service Facility or other prepared food service provider, as may be required by any and all government entities, agencies and/or authorities, including, but not limited to, the County, the City of Miami, and the State of Florida.

2. Comply with all applicable rules and regulations adopted by the County, and any and all laws, ordinances and/or rules and regulations of other governmental entities and/or authorities having lawful jurisdiction, which may be applicable to Lessee's operation of the Food Service Facility.

3. Prepare an Operations Manual inclusive of all information concerning the operation (e.g. detailed operation approach, types of food served, hours of operation, on-site manager, food manager and any other supervisory roles, expected number of employees, signage, marketing) of the Food Service Facility and appropriate emergency evacuation and hurricane plans and provide such Manual to the County for approval prior to commencement of the operation of the Food Service Facility. Thereafter, the Lessee shall provide the County with any and all updates to the plans, but at least once on an annual basis.

B. Operation and Quality of Services

The Lessee shall:

1. Establish a quality Food Service Facility, which shall provide quality nutritional products and excellent customer service, with an emphasis on appearance and ambiance in maintaining competitiveness with other food and beverage destinations in the local marketplace.

2. Create a visually exciting and inviting Food Service Facility environment, through a creative design, including displays, signage, graphics, and lighting that complements the aesthetics of the building.

3. The Food Service Facility will be available for use by employees and visitors of the Building. Catering services within the Building is permissible to employees working in the Building for on-site events only. No cooking is allowed in Leased Premises.

4. Currently, the Lessee is limited to the Leased Premises only. No tables will be allowed in hallway outside the Leased Premises.

5. Employ a qualified full-time on-site manager having experience in the management of this type of operation, who shall be available during all business hours and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibilities of the Lessee.

6. Have sufficient, well-groomed employees who provide prompt, courteous, and efficient service to patrons while wearing proper uniforms, gloves in food prep areas and service/cooking areas including having their hair pulled back and in hair nets, and visible identification/access cards. Provide sufficient and proper training to its employees for food handling, maintaining cleanliness, and providing friendly customer service.

All employees shall have all required certifications for a food services facility by Department of Health and/or other appropriate jurisdictions (State/Local) as may be required.

7. Prepare advertising signage (outdoor signage on courthouse is prohibited), marketing, and promotions.

8. The Food Service Facility shall be open and in full operation to provide food and beverage service no later than one hundred eighty (180) days following the full execution of the Lease Agreement. The County reserves the right to extend this time-frame if necessary as its sole discretion.

9. Operate the Food Service Facility at a minimum, five (5) days a week, Monday through Friday, continuously from (suggested to be at this time from 7:00 am to 4:00 pm), except on County, state and federal holidays. Hours of operation may be extended/changed as deemed appropriate by the Lessee, subject to the written approval of the County.

10. There will be vending machines located throughout the Building. These vending machines are not part of any agreement issued as a result of this solicitation.

11. The Food Service Facility shall accept, at a minimum, most, if not all, major credit cards.

12. Ensure prices are fair and consistent with prices of similar food service establishments.

13. Prominently post all menus with associated pricing in the food service areas and any other legally required information.

14. Maintain all business licenses, health permits, as required by local, state, or federal law and liability and workers compensation insurance.

15. Allow the Department of Health and other State, County, and City inspectors (Inspecting Entity) the right to inspect the Lease Premises as may be deemed appropriate by the Inspecting Entity.

16. Ensure that food is stored properly and in designated areas.

17. Perform inventory of food, shop, merchandise, and supplies to ensure there is always sufficient product available to meet the demands of the Food Service Facility.

18. Provide security for the interior of the Leased Premises at its own discretion. The County is not responsible for providing any security, including, but not limited to any guest, customers, patrons, and/or agents of the Lessee nor the Lessee's furnishings, fixtures, equipment, soft goods, supplies, or any personal property. The Building currently has a security service in place; however, it does not extend to inside of the Leased Premises. The Lessee will be solely responsible for the security of the Leased Premises.

19. Maintain proper books and records for the services provided, for auditing purposes as needed by the County.

20. Keep in full force and effect all required insurance and indemnification as required by the County and outlined in the Lease Agreement.

21. Maintain all foodservice areas and equipment, at minimum, in a safe manner as outlined in the Food and Drug Administration Food Code, Chapter 64E-11, Florida Administrative Code, and in compliance with the Florida Department of Business & Professional Regulation.

22. Pursuant to Section 509.039, *Florida Statutes*, employ a qualified full-time on-site certified professional food manager with experience in the management of a Food Service Facility, or similar type of operation. The manager shall be available during all business hours, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibilities of the Lessee. The Lessee and employees shall be distinctly uniformed or appropriately attired so as to be distinguishable as the Lessee's employees.

23. Purchase Access and/or Identification Cards for permanent employees. All employees with access to the Food Service Facility shall go through the County's background check service. The approximate cost for said service, per person, is $45.00, plus an additional $15.00 for each Identification/Access Card.

C. Improvement, Maintenance and Repairs

The Lessee shall:

1. Within sixty (60) days after award of any agreement pursuant to this solicitation, prepare and submit to the County a Conceptual Plan, which illustrates how the space will look upon completion of the build-out. The build-out, including any alteration/remodeling, shall be completed within one hundred eighty (180) days from contract award subject to permitting. No alterations, changes or additions to the Food Service Facility shall be made by the Lessee without the prior written consent of the County. All work shall be in compliance with applicable building codes, including, but not limited to the American with Disabilities Act (ADA), and performed by licensed and insured contractors, and Subcontractors.

2. The Children's Courthouse is a Leeds rated building and the County participates in Florida Water Star program. The Lessee shall consider these aspects as it prepares it Conceptual plan and selects its appliances.

3. Provide ample tables and chairs for the dining room, along with any and all other furniture, fixtures, and equipment required for the operation of the Food Service Facility. Operate and maintain the entire premises in a first-class manner and condition.

4. Color scheming – design and color scheme of floor, lighting, furnishing, fixtures, tables chairs should take into consideration the design schemes of the Building. These designs and color schemes will be as approved by the County. Durability of the furnishings and fixtures should be such to meet the requirements of a Children's Courthouse Building.

5. Keep and maintain the Food Service Facility in a clean and neat condition. Janitorial services and pest control for Leased Premises, as well as data, phone and TV shall be the sole responsibility and at the expense of the Lessee. The Lessee shall abide by the County's Integrated Pest Management guidelines for pest control.

6. Air conditioning of Leased Premises is provided as part of the rent. Electrical and water and sewer shall be sub-metered and paid for by the Lessee per terms and condition of this Lease Agreement.

7. The County will install sub-meters for electric and water and sewer and the Lessee is responsible for the associated costs. While there is water access in the Leased Premises, the Lessee is responsible for the addition of any hot water required.

8. Garbage disposal/recycling (presently, paper, cardboard, aluminum, and printer cartridges are being recycled) is provided by the County and is part of the rent. Lessee is responsible to remove garbage from Leased Premises to garbage disposal/recycling units as provided at the loading dock. The Lessee will clean Leased Premises each day of operation and all garbage/recycling shall be removed prior to closing for the night.

9. Utilize loading dock for all deliveries. The availability of the loading dock may be subject to certain hour limitations.

10. After the Food Service Facility opens for business, in the event the Lessee fails to properly maintain the Food Service Facility, and/or fails to make necessary alterations, changes, additions, repairs, rebuilding, remodeling or repainting of the Food Service Facility, the County, in accordance with the terms and conditions of the Lease Agreement, may make the needed corrections or repairs, on behalf of the Lessee, and the cost and expenses of such repairs and alterations shall be the responsibility of the Lessee.

11. Provide security for the Leased Premises. The County is not responsible for the security pertaining to the Food Service Facility, including but not limited to any employees, customers or patrons, and/or the Lessee's furnishings, fixtures, equipment, soft goods, and/or supplies. The Lessee will meet with County to discuss these security measures and to allow for County accessibility in an emergency, in the event this emergency takes place during off hours.

D. Financial

The Lessee shall advise the County in the event that its financial position differs substantially from the information provided in Lessee's Proposal to the detriment of the Lessee.

E. Leased Premises Rent

The Lessee shall pay to the County rent and various operating fees, which includes:

1. Base Rent

The Lessee shall pay a Base Rent and any applicable tax(es) to the County, due in twelve (12) equal monthly payments, on the first (1st) day of each month (which rent shall increase annually) starting from Beneficial Occupancy, which cannot be more than 180 days after contract award date, unless specifically granted by the County at its sole discretion.

2. Percentage Fee

The Lessee shall also pay in addition to the Base Rent, a Percentage Fee, which represents a proposed percentage of the Lessees monthly gross receipts, within ten (10) days following the end of each month during the term of the Lease Agreement.

It is the intent of the County to provide the best possible service to the public via the Lessee's operation per this Lease Agreement. It is the County's further intent to gain revenues. However, the County makes no guarantee the County will act, promote, approve, assist or cooperate in any manner to assure that the Food Service Facility will be a financial success for the Lessee.

F. **Compliance with Laws, Ordinances, and Regulations**

In addition to all requirements to secure and comply with all permits, laws, ordinances, and regulations applicable to the establishment and occupancy of the Leased Premises contemplated herein, the Lessee is subject the following:

A) Code of Federal Regulations 49 CFR 26.7 binding the Lessee not to discriminate based on race, color, national origin, or sex;

B) Code of Federal Regulations 49 CFR 27.7; 27.9(b) and 37 binding the Lessee not to discriminate based on disability; and binding the same to compliance with the Americans with Disabilities Act with regard to any improvements constructed; and

C) Maintain all food services areas and equipment in a safe manner pursuant to Food and Drug Administration Food Code, Chapter 64E-11, Florida Administrative Code, and Florida Department of Business and Professional Regulation;

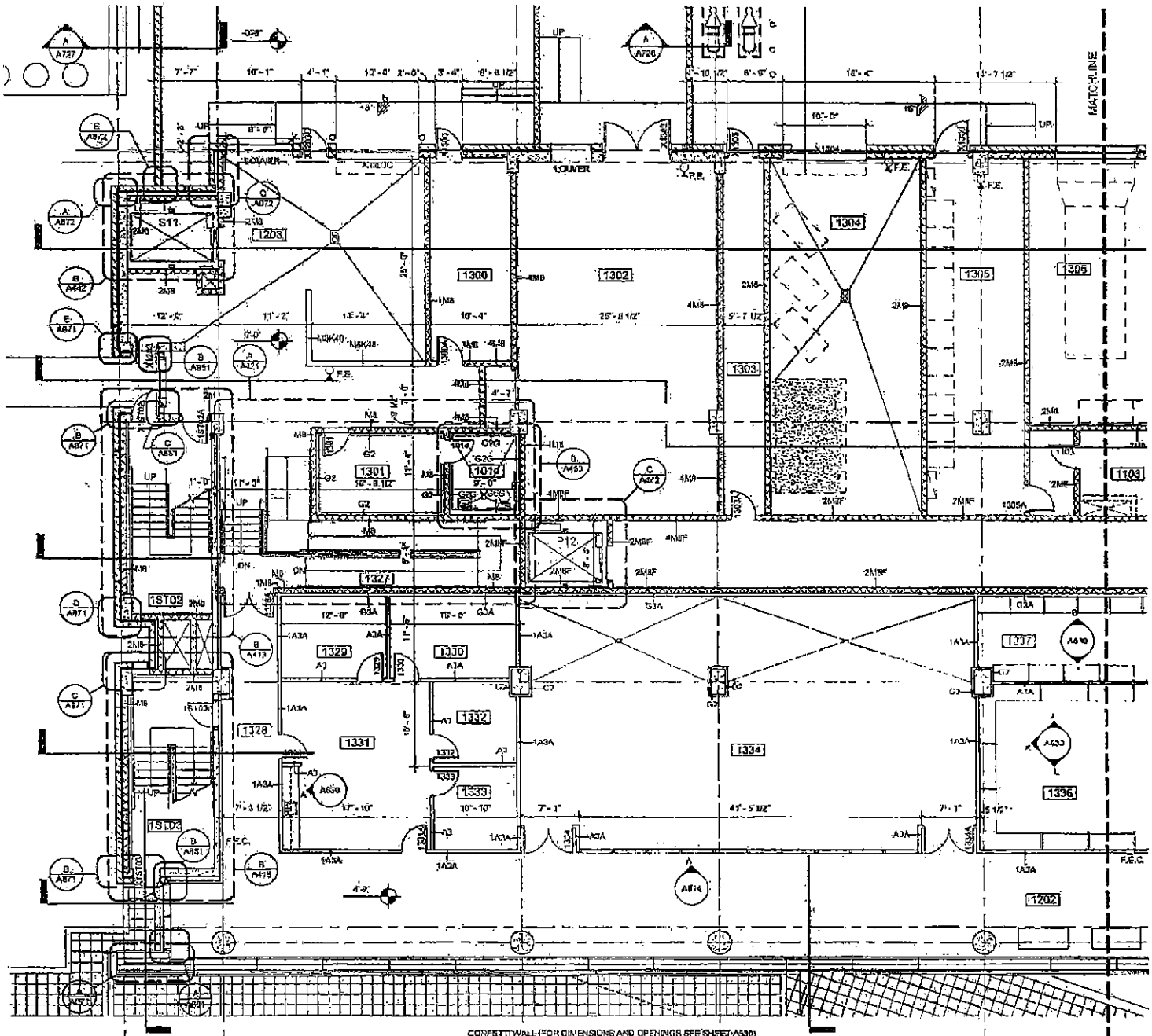
D) Employ a qualified full-time, on-site, certified food manager with experience in the management of a Food Service Facility, or similar type of operation pursuant to Section 509.039, Florida Statutes; and

E) Sample of Tenant's rules and regulations for the Building. See Attachment A.

G. **Security Deposit**

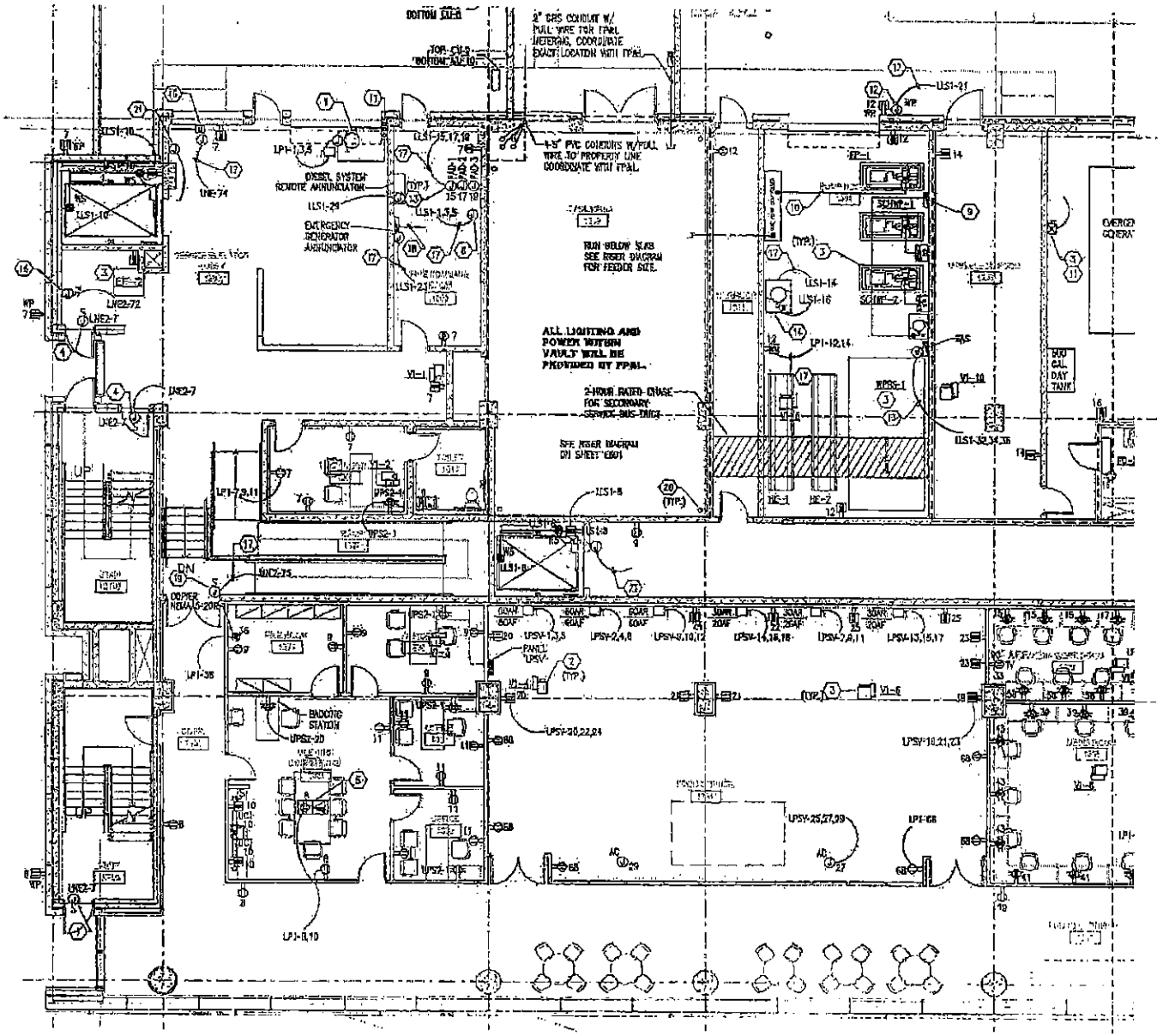
The Lessee shall deliver a check to the County in the amount of three months Base Rent prior to the County's issuance of a Notice-to-Proceed (a Performance and Payment Bond in the same amount can be submitted in lieu of the certified check). See Attachment B.

In the event the Lessee provides a performance and payment bond in lieu of a certified check it shall comply with the performance bond requirements every year during the term of the lease agreement, including any extensions or renewals thereof. The County's Internal Services Department will issue a notice to the Lessee every year and the Lessee shall deliver the performance bond to the County within fourteen (14) calendar days of the notice issuance date. If the Lessee fails to deliver the initial Performance Bond within the specified time, including granted extensions, the County shall declare the Lessee in default of the contractual terms and conditions.



A LEVEL 1 PARTIAL A- WEST

Miami-Dade County, FL
Contract No 00070
Exhibit A



A POWER PLAN AREA A LEVEL 1
1/8" = 1'-0"

Elec

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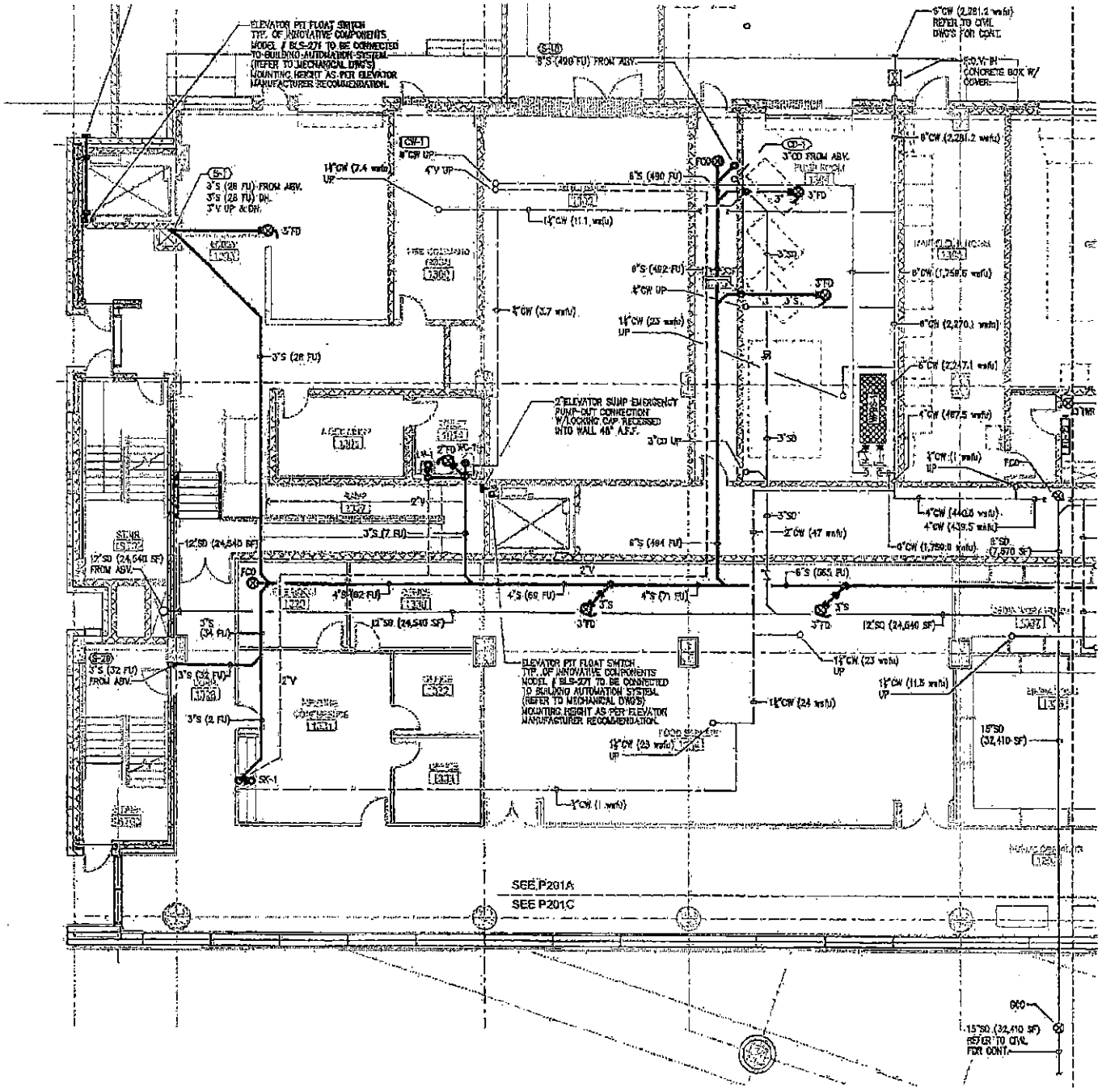
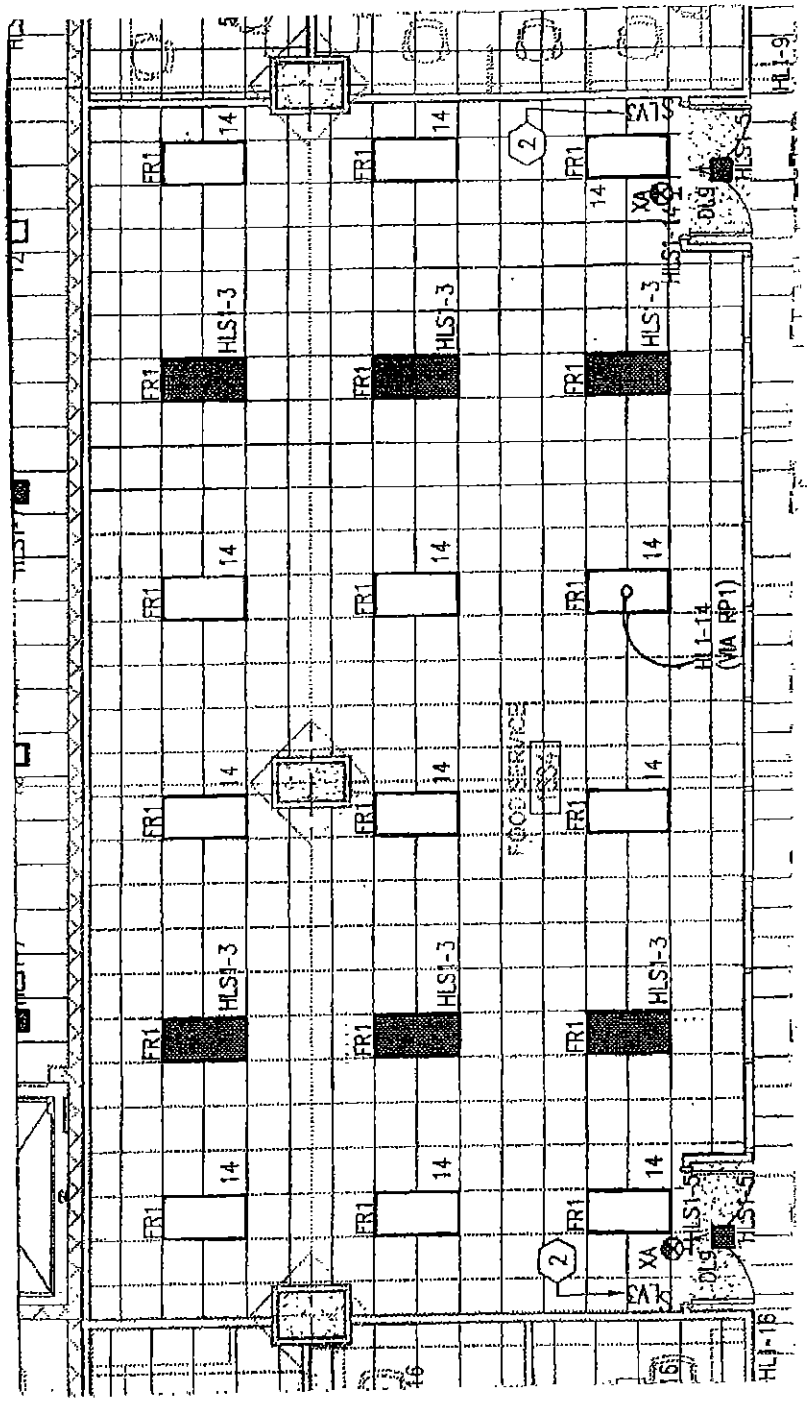
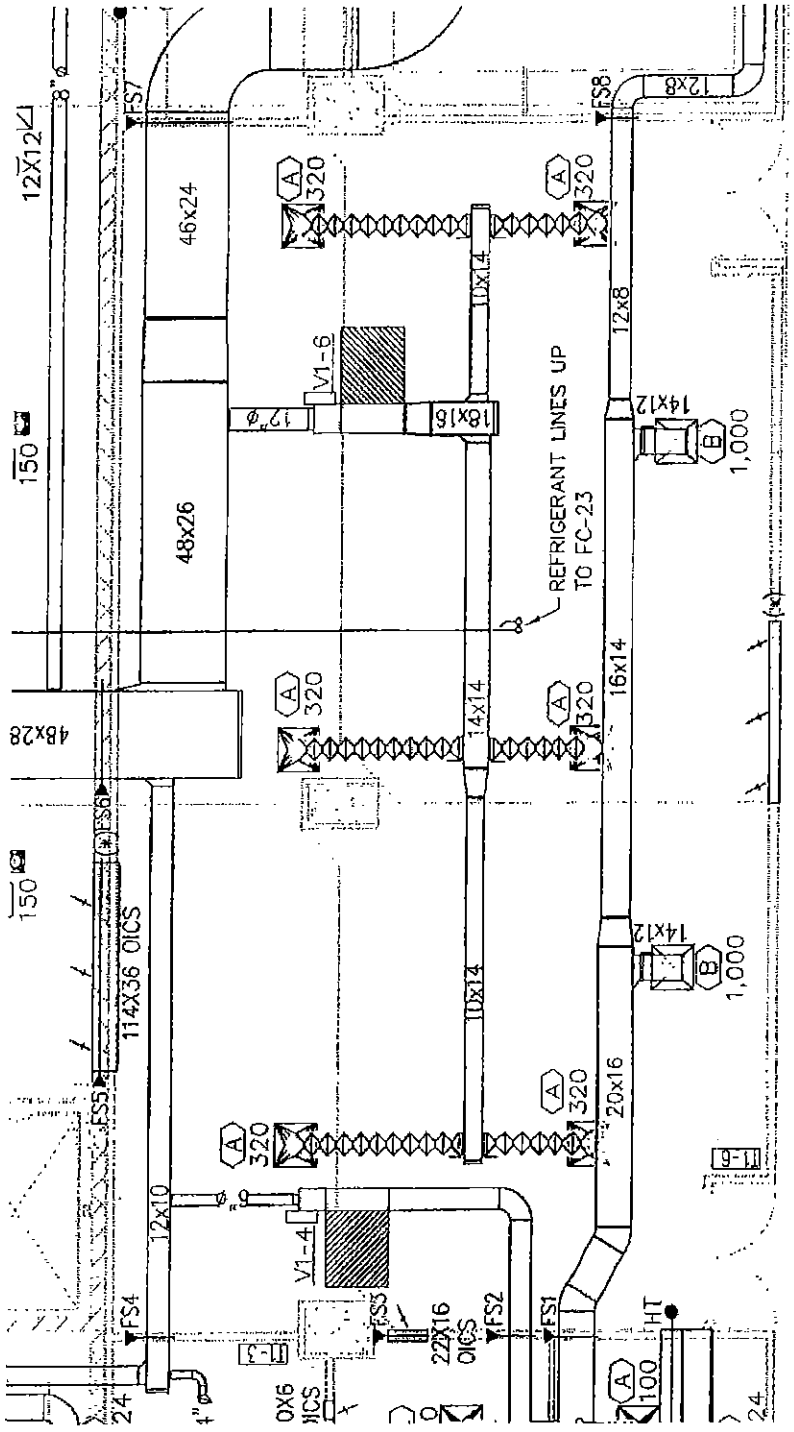


1 LEVEL 1- PARTIAL A- WEST
1/8" = 1'-0"

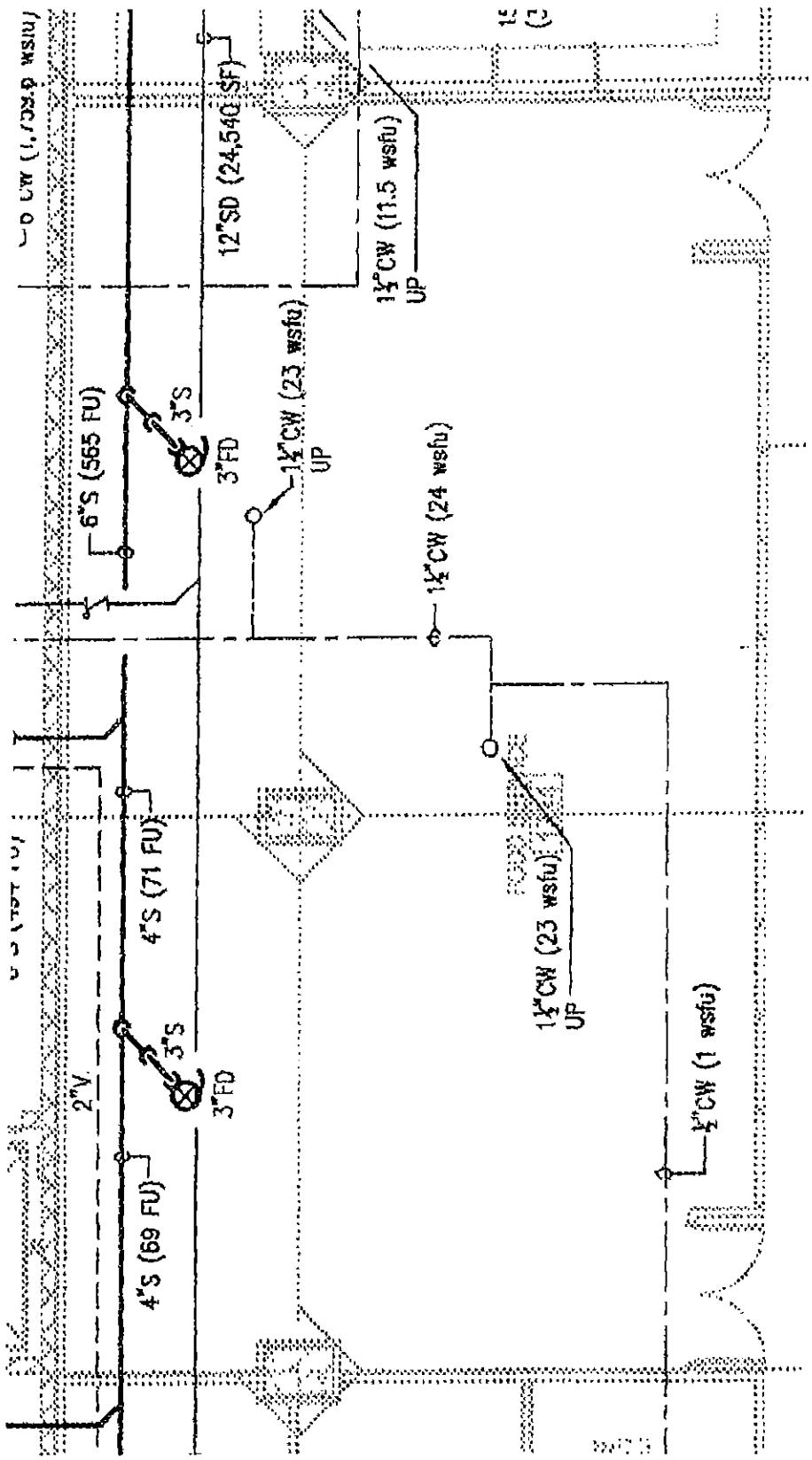
Plumb


FR1
14
HLS1-3
HLS1-5
HL1-14
(VIA RP1)
HL1-9
HL1-16
XA
DL9
SLV3
2

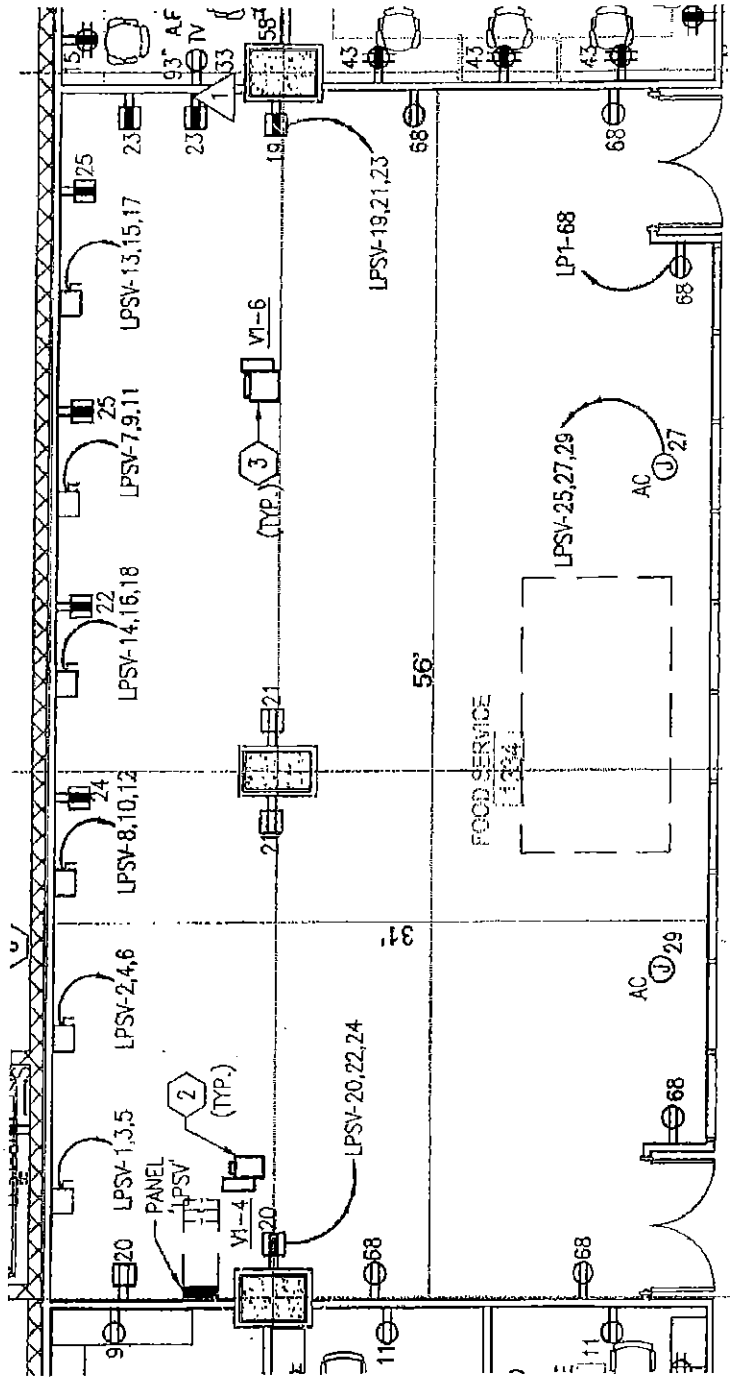
FOOD SERVICE AREA
(MECHANICAL PLAN)



FOOD SERVICE AREA
(PLUMBING PLAN)



FOOD SERVICE AREA
(ELECTRICAL PLAN)



Total Sq. Ft.: 1,736

Exhibit B

Building Rules and Regulations*

1. All persons (visitors & employees) and packages will be searched by means of the electronic screening equipment.
2. All hand carried articles including purses, briefcases, laptops, PDA's, cell phones, pagers, cameras, books, raincoats, umbrellas, bags, and other packages will be electronically searched before entering the building.
3. The following items are considered prohibited and will not be allowed into the building: chemical weapons, mace, pepper spray, metallic knuckles, slingshots, ammunition, bladed items, box cutters, razor blades, broken glass.
4. All vendor personnel conducting work in the facility must present identification and check in via the Building Manager's Office.
5. Hot work, welding, and brazing is prohibited without the expressed authorization from the Building Manager's Office.
6. Vendors entering the Loading Dock in order to make deliveries must be escorted by restaurant personnel.
7. Vendors working afterhours, holidays, and weekends must be cleared by AOC Security Management.
8. Deliveries permitted between 9 a.m. and 3:30 p.m.
9. Smoking is only permitted in exterior designated areas. There is no smoking inside the facility (including Loading Dock).

* These are the current rules and regulations, the Lessee shall be subject to any and all Building Rules and Regulations as may be amended.

MIAMI-DADE COUNTY, FLORIDA
PERFORMANCE AND PAYMENT BOND

Any change, alteration or addition to this form will disqualify this Performance and Payment Bond

STATE OF FLORIDA)
SS
COUNTY OF DADE)

KNOW ALL MEN BY THESE MEANS THAT _____

_____

_____ As Principal, and _____

_____

A corporation organized under the laws of the State of _____ with its home office in the city of _____, as Surety, (said Principal and said Surety hereinafter collectively being referred to as Obligator), are held and finally bound unto Dade County, Florida, acting by and through the BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, and their successors in office, hereinafter called the Obligee, in the sum of $_____ lawful money of the United States of America, for the payment whereof to the Obligee, the Principal and Surety respectively bind themselves, their successors, heirs, and assigns, jointly and severally, finally by these present.

Signed, sealed and dated this _____ day of _____, 20_____.

WHEREAS the Principal and Obligee have entered into a written contract, hereinafter called the "Contract" for

_____

_____

As evidenced by contract and specifications made a part thereof, entered into between the Principal and the Obligee on the _____day of _____, 20_____ a copy of which Contract may be attached hereto and is hereby referred to and made a part thereof.

NOW, THEREFORE, the conditions of the foregoing obligation is such that if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to comply with any of the terms of the Contract, then this obligation shall be void; otherwise, it shall remain in full force.

THIS BOND shall also be security for the performance by the Principal and Surety of the following additional covenants and obligations, and the recitals and references herein contained shall constitute a part of this Bond and obligation:

1. Said Principal (Contractor) shall well and truly perform; carry out and abide by all terms, conditions and provisions of said Contract including all maintenance and warranty provisions and furnish complete the items herein specified in accordance with the terms thereof, and the Obligator herein shall and does hereby agree to indemnify the Obligee and hold it harmless of, from and against any and all liability, loss, cost, damage or expense and attorney's fees, including appellate proceedings, which said Dade County, Florida may incur or which may accrue or be imposed upon either thereof by reason of any negligence, default and/or misconduct on the part of the said contractor, and _____ agents, servants, and/or employees, in, about or on account of the performance of said contract by the said contractor, and shall repay to and reimburse to the said Dade County, Florida, promptly upon demand, all sums of money, each and every, reasonably paid out or expended by the said Obligee on account of the failure and/or refusal of said contractor to carry out, do, perform and/or comply with any of the terms and provisions of said Contract at the time and in the manner therein provided.

2. The Principal will make payments to all persons supplying Principal labor, material and supplies used directly or indirectly by the Principal or any subcontractors of the Principal in the prosecution of the work provided for in said Contract.

3. Each and every person, natural and artificial, for whose benefit this bond has been executed as disclosed by the text of this bond and of said Contract, specifications, drawings and all papers, and of said agreement and instruments attached and made a part of said Contract, and each and every person, natural and artificial, supplying labor, materials and supplies in furtherance of said Contract, shall have the same several rights of suit or action upon this bond as if he or they were the Obligee or Obligees herein specially mentioned, and the obligations hereof shall be several as to the rights of said persons or said Obligees hereof.

4. In each and every suit brought against the Obligor upon this bond in which the Plaintiff shall be successful, there shall be assessed therein against the Obligor herein, in favor of the Plaintiff therein, reasonable counsel fees, which the Obligor hereby expressly agrees to pay as part of the cost and expense of such suit.

IN WITNESS WHEREOF THE PRINCIPAL AND THE SURETY HAVE EXECUTED THESE

Presents this _____ day of _____, 20____

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of: _____
Printed Name of Individual

_____

_____ _____
Two Witnesses Signature of Individual

WHEN THE PRINCIPAL IS SOLE PROPRIETORSHIP OR OPERATES UNDER TRADE NAME:

Signed, sealed and delivered in the presence of: _____
Name of Firm

_____ _____
Signature of Individual

_____ _____
Two Witnesses Printed Name of Individual

WHEN THE PRINCIPAL IS A PARTNERSHIP:

Signed, sealed and delivered in the presence of: _____
Name of Firm – A Partnership

_____ _____
Printed Name of One Partner

_____ _____
Two Witnesses Signature of One Partner

WHEN PRINCIPAL IS A CORPORATION:

_____

_____ _____
Secretary Correct Name of Corporation

(Affix Corporate Seal) By: _____
President or Vice-President

Attest:

_____ _____
Corporate Surety

_____
Countersigned: Business Address

_____ By: _____
Florida Resident Agent Corporate Seal

CORPORATE PRINCIPAL CERTIFICATION

I _____, certify that I am the Secretary of the Corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested foe and in behalf of said corporation by authority of its governing body.

Corporate Seal

STATE OF FLORIDA)
SS
COUNTY OF DADE)

Before me, a Notary Public, duly commissioned, qualified and acting, personally appeared: _____ _____ to me well known, who being by me first duly sworn upon oath says that he/she is the Attorney-in-fact for the _____ and that he/she has been authorized by _____ to execute the foregoing bond on behalf of the Contractor named therein in favor of Miami-Dade County, Florida.

Subscribed and sworn to before me this _____ day of _____ A.D. 20 _____.

_____

Notary Public, State of _____ at Large

My commission expires _____