

# MEMORANDUM

Agenda Item No. 8(F)(1)

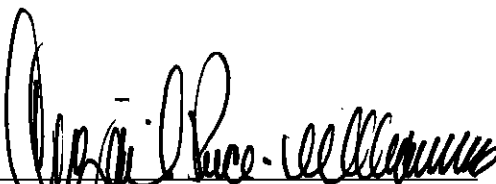
**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** February 4, 2020

**FROM:** Abigail Price Williams  
County Attorney

**SUBJECT:** Resolution approving award of a lease agreement with Gateway Airport Concessions, Inc., for the operation and maintenance of a restaurant at the Joseph Caleb Center, with a positive fiscal impact to the County of at least \$217,819.00 for the ten year and six month term of the lease, after reimbursement of up to \$50,000.00 to the tenant for improvements to the premises; authorizing the County Mayor to execute and take all actions necessary to effectuate same and exercise all other rights contained in the lease including any rights of termination; and 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 the Internal Services Department and placed on the agenda at the request of Prime Sponsor Chairwoman Audrey M. Edmonson.

  
Abigail Price-Williams  
County Attorney

APW/lmp

# Memorandum



**Date:** February 4, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

**Subject:** Lease Agreement between Miami-Dade County and Gateway Airport Concessions, Inc. for County-owned Property Located at 5400 NW 22 Avenue, Miami, Florida – Lease No. RFQ-01113

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) authorize execution of the Lease Agreement (Lease), between Miami-Dade County (County) and Gateway Airport Concessions, Inc. (Tenant), a corporation organized and existing under the laws of the State of Florida, for the use of County-owned property located at 5400 NW 22 Avenue, Miami, Florida (Premises), to be utilized as a restaurant. More specifically, the resolution does the following:

- Authorizes the lease of County-owned property located on the first floor of the Joseph Caleb Center, consisting of approximately 2,600 square feet of air conditioned restaurant space; and
- Authorizes a lease term of 10 years and six months.

The lease becomes effective on the first day of the next month following the effective date of the resolution approving the Lease.

## **Scope**

The Premises is in Commission District 3, which is represented by Chairwoman Audrey M. Edmonson. In accordance with Resolution No. R-380-17, written notice of the Lease was provided to the District Commissioner.

## **Fiscal Impact/Funding Source**

The rental revenue to the County for the first two years of the lease term will be \$24,000 annually (\$9.23 per square foot), which will be paid to the County in equal monthly payments of \$2,000. The rental revenue shall be adjusted upwards at a rate of three percent commencing on the first day of the third lease year, and every year thereafter. The rental revenue for the 10 year and six month lease term will be \$217,819, after reimbursement of up to \$50,000 to the Tenant for improvements to the Premises as follows: \$10,000 upon issuance of the Certificate of Occupancy, and \$40,000 to be amortized as a monthly rent credit over the first five years of the 10 year lease.

The County is responsible for water, electricity, plumbing, and garbage collection services. The Tenant is responsible for janitorial services, pest extermination services, electrical and plumbing repairs, and HVAC maintenance and repair services for the Premises. The previous lease of this space generated \$52,937 in rental revenue from April 2007 to November 2012.

Pursuant to Resolution No. R-333-15, the Internal Services Department has conducted an in-house survey of the comparable rental values in the area of the property to determine the subject property's market rental value. The findings are provided below.

2173 NW 62 Street, Miami, Florida - \$13.00 per square foot on an annual basis. Free standing building with no restrictions and full traffic exposure.

1092 NW 54 Street, Miami, Florida - \$18.00 per square foot on an annual basis. Free standing building with no restrictions and full traffic exposure.

3500 NW 17 Avenue, Miami, Florida - \$13.00 per square foot on an annual basis. Free standing building with no restrictions and full traffic exposure.

**Track Record/Monitor**

The County has no record of negative performance issues with the Tenant. Margaret Araujo of the Internal Services Department is the Lease Monitor.

The company principals are Marie F. Louissaint, President, and Beatrice Louissaint, Secretary.

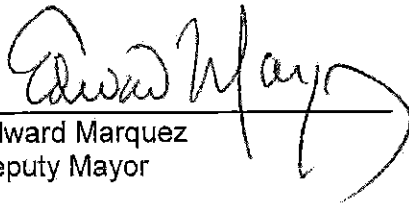
**Delegated Authority**

This item authorizes the County Mayor, or the County Mayor's designee, to execute the attached Lease, and to exercise all other rights conferred therein. A copy of the Lease will be provided to the Property Appraiser's Office within 30 days of its execution.

**Background**

A Request for Qualifications was issued under full and open competition to obtain proposals from qualified vendors for the lease, development, operation and maintenance of a restaurant at the Joseph Caleb Center. Three vendors responded to the solicitation. The highest-ranked proposer, a local vendor, is recommended for award. The Premises have been closed for approximately five years due to the construction of a new parking garage, parking lot improvements and renovations to the Joseph Caleb Center.

The County may terminate the Lease should Tenant fail to cure any breaches or defaults in accordance with Article 62 of the Lease. The Tenant shall have the right to terminate the Lease should the County fail to remedy any breaches or defaults after 90 days of receipt of written notice by Tenant of such breach or defaults.



Edward Marquez  
Deputy Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** February 4, 2020

**FROM:** Abigail Price-Williams  
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
- \_\_\_\_\_ Statement of social equity 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 present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) 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)  
2-4-20

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

RESOLUTION APPROVING AWARD OF A LEASE AGREEMENT WITH GATEWAY AIRPORT CONCESSIONS, INC., FOR THE OPERATION AND MAINTENANCE OF A RESTAURANT AT THE JOSEPH CALEB CENTER, WITH A POSITIVE FISCAL IMPACT TO THE COUNTY OF AT LEAST \$217,819.00 FOR THE TEN YEAR AND SIX MONTH TERM OF THE LEASE, AFTER REIMBURSEMENT OF UP TO \$50,000.00 TO THE TENANT FOR IMPROVEMENTS TO THE PREMISES; AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME AND EXERCISE ALL OTHER RIGHTS CONTAINED IN THE LEASE INCLUDING ANY RIGHTS OF TERMINATION; AND 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.** The foregoing recital is incorporated as if fully set forth herein and is approved.

**Section 2.** Pursuant to Fla. Stat. § 125.35, this Board finds that, after a competitive solicitation process (Contract No. RFQ-01113), it is in the best interest of the County to enter into a lease agreement with Gateway Airport Concessions, Inc., for the operation and maintenance of a restaurant at the Joseph Caleb Center.

**Section 3.** This Board approves the award of the Lease Agreement with Gateway Airport Concessions, Inc., for and on behalf of the County, in substantially the form attached hereto

and incorporated herein, for a term of 10 years and six months, with a positive fiscal impact to the County of at least \$217,819.00, after reimbursement of up to \$50,000.00 to the tenant for improvements to the premises.

**Section 4.** This Board authorizes the County Mayor or designee to execute the Lease Agreement, take all actions necessary to effectuate same, and exercise all rights contained in the Lease Agreement, including any extensions and rights of termination as provided by the Lease, except where the Lease Agreement expressly reserves the right to the Board.

**Section 5.** 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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 4<sup>th</sup> day of February, 2020. 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.

MAG

Miguel A. Gonzalez

**LEASE AGREEMENT**

**BETWEEN MIAMI-DADE COUNTY**

**AND**

**GATEWAY AIRPORT CONCESSIONS, INC**

**FOR THE LEASE AND OPERATION OF A RESTAURANT**

**AT THE JOSEPH CALEB CENTER**

**5400 N.W. 22 AVENUE**

**MIAMI, FLORIDA 33142**



**LEASE AGREEMENT**

THIS LEASE AGREEMENT (the "Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between Gateway Airport Concessions, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at Miami International Airport, Concourse D, 2nd Level, Miami, Florida 33299 (hereinafter referred to as the "Lessee") and Miami-Dade County, a political subdivision of the State of Florida, having its principle office at 111 N.W. 1<sup>st</sup> Street, Miami, Florida 33129 (hereinafter referred to as the "Landlord"),

**WITNESSETH:**

WHEREAS, the Landlord owns and operates the Joseph Caleb Center ("Caleb Center" or "Building") located at 5400 NW 22 Avenue, Miami, FL 33142; and

WHEREAS, the Lessee has offered to lease and operate the Restaurant in the Caleb Center, on a non-exclusive basis, in a manner that shall conform to the Scope of Services (Appendix A), Miami-Dade County Request for Qualifications (RFQ) No.01113, 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 January 25<sup>th</sup>, 2019, 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:

**ARTICLE 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 word "Building" or "Caleb Center" to mean the physical building located at 5400 N.W. 22 Avenue, Miami, Florida 33142.
- b) The words "Common Areas" shall mean all areas, space, equipment and special services provided by the Landlord on or off the land occupied by the Caleb Center for the common or joint use or benefit of Lessees of the Caleb Center, 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.
- c) 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. RFQ 01113.
- d) The words "County" and "Landlord" to mean Miami-Dade County.
- e) The words "Date of Beneficial Occupancy" to mean the date on which substantial completion of the Restaurant has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO) that enables the Lessee to occupy or utilize the Restaurant in a manner for its intended use.
- f) The word "Days" to mean Calendar Days.
- g) 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 Landlord'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.
- h) The words "Lease Agreement" or "Agreement" or "Contract" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments hereto, RFQ No. 01113 and all associated addenda, and the Lessee's Proposal.
  - i) The words "Lease Agreement Effective Date" or "Effective Date" to mean the commencement date of this Lease Agreement, and shall begin on the first day of the next calendar month following the effective date of the resolution by the Board of County Commissioners approving this Lease Agreement.
  - j) 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.
  - k) 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.
  - l) The words "Leased Premises" or "Restaurant" to mean the food service facility location leased to the Lessee as identified in this Lease Agreement.
  - m) The word "Lessee" or "Contractor" to mean the person, firm, organization or corporate entity that has been awarded the Contract or Lease as a result of the Solicitation RFQ No. 01113, and its permitted successors and assigns.
  - n) 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.

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

## **ARTICLE 2. LEASED PREMISES**

Landlord hereby leases to Lessee and Lessee hereby leases from Landlord for the term, at the rental amount, and upon the covenants and conditions set forth in this Lease Agreement, a portion of the Caleb Center as 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 have a total of approximately 2,600 square feet, located on the first floor of the Caleb Center. 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 Caleb Center; 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 Landlord (i) the use of (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 Caleb Center.

**ARTICLE 3. ADDITION OF TEMPORARY LOCATIONS**

At the sole discretion of the Landlord, the Lessee may provide or cause to be operated temporary food service within the Caleb Center prior to the Date of Beneficial Occupancy and the Lessee will not pay any rent for this temporary food service. After the Date of Beneficial Occupancy, any such temporary food services shall be discontinued.

**ARTICLE 4. USE OF PREMISES**

The Landlord hereby grants unto the Lessee, and the Lessee hereby accepts from the Landlord for the term, at the rate and upon the covenants and conditions as set forth herein to develop and operate a Restaurant in the Leased Premises. Lessee shall use the Leased Premises only for the uses contained in the Lessee's Proposal in response to RFQ No.01113. The Lessee shall not provide any services or sell any item or product not in keeping with the approved use without the prior written approval of the Landlord and any such sales or use by the Lessee may constitute a default. Any unapproved services or items shall be discontinued immediately by the Lessee upon written notice from the Landlord. Lessee shall conduct its business at all times in accordance with this Lease Agreement. Services, items and products shall refer to the generic description of services, items and products to be provided by the Lessee.

**ARTICLE 5. OPERATIONS**

Except when and to the extent that the Leased Premises may be untenable 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.

**ARTICLE 6. LIMITATIONS ON USE**

Subject to Lessee's right to use the Leased Premises for the purposes specified in Article 4, 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 Caleb Center 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 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.

**ARTICLE 7. PERMITS AND REGULATIONS**

Lessee covenant and agrees that Lessee will obtain any and all necessary licenses, permits and/or approval, at the sole cost of the Lessee, and that all uses of the Leased Premises will be in conformance with applicable laws. 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 Landlord, Lessee, at its expense, shall duly procure and thereafter maintain such license or permit and

submit the same to inspection by the Landlord. Lessee shall at all times comply with the terms and conditions of each license and permit.

**ARTICLE 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 Landlord from authorizing the sale or offering of competitive services, products or items by other concessionaires or others in other premises at the Caleb Center. The Lessee shall have no rights to any other location or concession that may be made available by the Landlord.

**ARTICLE 9. REQUEST FOR QUALIFICATIONS INCORPORATED**

The Lessee acknowledges that it has submitted to the County a proposal ("Proposal") in response to RFQ No. 01113 on January 25, 2019, 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, and is hereby incorporated into this Lease Agreement by reference.

**ARTICLE 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) and all other appendices and attachments hereto, 3) Miami-Dade County's RFQ No. 01113 and any associated addenda and attachments thereof, and 4) the Lessee's Proposal.

**ARTICLE 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: Plan of Leased Premises
- Exhibit B: Lessee's Conceptual Plan
- Exhibit C: Lessee's Proposed Improvements
- Exhibit D: Lessee's Restaurant Design
- Exhibit E: Minimum Operating Standards of Food Service

Exhibit F: Building Rules and Regulations

**ARTICLE 12. LEASE TERM**

The Landlord hereby agrees to lease to Lessee and Lessee hereby agrees to lease from Landlord the Leased Premises for a term of ten (10) years and six (6) months commencing on the Lease Agreement Effective Date, and terminating ten (10) years and six (6) months thereafter. Upon receipt of the Security Deposit (Article 13) and Lessee's Insurance Certificate for insurance requirements (Article 60), the Landlord will issue a Notice to Proceed, which will allow the Lessee to enter and begin occupying and proceed to build-out the Leased Premises. The Landlord 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. The 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.

**ARTICLE 13. SECURITY DEPOSIT**

Lessee shall furnish a Security Deposit in the form of a money order or certified or cashier's check equivalent to three (3) months' rent, within not more than ten (10) days following the Lease Agreement Effective Date, redeemable sixty (60) days after the end of the Lease term except for such conditions pertinent thereto, or in such other media, as further described, acceptable to the Landlord. The Lessee may, in lieu of a Security Deposit with the Landlord, provide a Performance Bond 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 Landlord will execute on the Bond, draw upon the irrevocable letter of credit or retain the security deposit, whichever is the case, and Lessee will be responsible for the balance of the debt, if any, that is owed. Additionally, if the Landlord 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 Landlord that the security was drawn upon.

**ARTICLE 14. GUARANTEED MONTHLY RENT**

Commencing six (6) months 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 Landlord without billing, demand, deduction or set off of any kind the sum of Two Thousand Dollars and 00/100 (\$2,000.00) per month, in U.S. funds, plus applicable sales tax as may be required by law, to be paid on or before the 1<sup>st</sup> day of each month during the term of this Lease Agreement. Commencing on the first day of the third Lease Agreement Year and every Lease Agreement Year thereafter, the Guaranteed Monthly Rent shall be adjusted upwards at a rate of three percent (3%).

**ARTICLE 15. SALES TAX**

The Lessee shall be liable for the prevailing State of Florida Sales and Use Tax imposed on rent on the amounts payable to the Landlord under this Agreement. This Sales and Use Tax shall be payable to the Landlord, when rent is due. Said tax is applicable to the Guarantee Monthly Rent unless otherwise determined by the State of Florida.

**ARTICLE 16. 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 any governmental authority or creation thereof with taxing powers 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.

**ARTICLE 17. 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.

**ARTICLE 18. 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 Lease 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 Landlord shall be assessed from the original due date until the Landlord actually receives payment, or five (5) percent interest on the amount due, whichever is greater. The right of the Landlord 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 Landlord to enforce other provisions herein, including termination of this Lease, or to pursue other remedies provided by law.

**ARTICLE 19. 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, including the associated sales and use taxes. Any remaining balance in the payment will be applied to any other balance due.

**ARTICLE 20. WORTHLESS CHECK OR DRAFT**

In the event that the Lessee delivers a dishonored check or draft to the Landlord 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 Landlord may require that future payments required pursuant to this Lease be made by cashier's check or other means acceptable to the Landlord. A second such occurrence of dishonored check during the lease term may be constituted a breach of contract and, at the Landlord's option, would constitute a default allowing termination.

#### **ARTICLE 21. 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 1<sup>st</sup> Street, Suite 2460  
Miami, FL 33128  
Attn: Real Estate Manager

**(Checks, money orders or cashier checks shall be made payable to the "Miami-Dade County Internal Services Department".)**

#### **ARTICLE 22. ACCORD AND SATISFACTION**

No payment by Lessee or receipt by Landlord of a lesser amount than any payment of Guaranteed Monthly Rent, or additional payment herein stipulated shall be deemed to be other than on account of the earliest stipulated Guaranteed Monthly Rent, due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Guaranteed Monthly Rent, or additional payment be deemed an accord and satisfaction. The Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Guaranteed Monthly Rent, 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 Landlord, unless such waiver is in writing by Landlord, and there shall not be any accord and satisfaction unless expressed in writing and signed by both Landlord and Lessee.

**ARTICLE 23. BUILDING SERVICES**

The Landlord 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 Building as determined either by the public utility providing such service or by the Landlord in the exercise of reasonable judgment. Lessee shall make all repairs caused by Lessee's negligence. Guaranteed Monthly Rent includes electricity, water, sewer charges and garbage pick-up services serving the Leased Premises. All other utility services are to be paid by Lessee.

**ARTICLE 24. CURTAILMENT OR INTERRUPTION OF SERVICE**

The Landlord 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 Landlord 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 Landlord. The work of such repairs, alterations, or improvements shall be prosecuted with reasonable diligence. The Landlord 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 Landlord'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.

**ARTICLE 25. COMMON AREAS**

Lessee and its concessionaires, Sub-Lessees, officers, employees, agents, customers and invitees shall have the right, in common with the Landlord and all others to whom the Landlord 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 Landlord may from time to time impose. Lessee agrees to abide by such Rules and Regulations. The Landlord shall have the right to limit, or otherwise schedule, deliveries to Lessee if, in the Landlord's judgment, said limitation is necessary for the proper operation of the Landlord or Landlord's Leased Premises in the Building.

**ARTICLE 26. LANDLORD'S WORK**

The Landlord shall be responsible for improvements to the Restaurant listed in Article 45. The Demised Premises is leased in its "As Is" and "Where Is" condition, the Landlord does not offer any implied or expressed warranties as to the condition of the Premises, other than the completion of improvements pursuant to Article 45, and/or whether it is fit for any particular purpose. The Demised Premises have been inspected by the Lessee who accepts the Premises in its "As Is" and "Where Is" condition, with any and all faults.

**ARTICLE 27. NEW CONSTRUCTION**

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

**ARTICLE 28. LANDLORD APPROVAL**

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

- A. Material changes from the Lessee's Proposal.

- B. Material changes from originally approved specifications, food offerings, pricing, activities, signage, merchandise, menus, hours of operation and graphics.
- C. Equipment Lessee plans to install requiring any Building modifications.
- D. Any use of the Landlord's or Building's name. Notwithstanding the above, the Tenant shall use the name Caleb Café, as provided for in Lessee's Proposal in response to RFQ No.01113.
- E. Any modifications to the Leased Premises, the site, or signage outside of the Leased Premises.
- F. Hours of daily operation.
- G. Uniforms to be used by the employees, and:
- H. The décor of the Leased Premises and all signs to be installed, erected, or displayed in or on the Building, and any changes thereto at any time during the term of this Lease Agreement.

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.

#### **ARTICLE 29. LESSEE'S WORK AND LESSEE'S DESIGN CRITERIA**

All work other than Landlord's Work shall be performed by Lessee at Lessee's sole expense and in accordance with the approved plan and work specifications, hereinafter referred to in this Article, prepared by Lessee's architect in conformity with the description of Lessee's Proposed Improvements and Lessee's Restaurant Design therefore set forth respectively in Exhibit C and D attached hereto. Within not more than thirty (30) days following the Lease Agreement Effective Date, Lessee shall submit to the Landlord, 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 specified in Exhibits C and D. Within ninety (90) days of the Lease Agreement Effective Date, Lessee shall obtain all necessary permits for construction and build-out of Leased property. Lessee's work shall be performed in accordance with the approved working plans and specifications and Exhibits C and D and shall be completed within six (6) months. Upon request from the Lessee, the Landlord, at its discretion, may authorize additional time for the completion of work due to unreasonable delays beyond the control of the Lessee. Lessee must provide documentation to support the request for an extension. In the event additional time is granted by Landlord to complete the work, the Landlord may, at its sole discretion, extend the commencement date of the Guaranteed Monthly Rent as stated in Article 14. 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 Article hereof, 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 Landlord prior to commencement of construction. Furthermore, only those contractors and subcontractors as have been duly licensed by the State of Florida or Miami-Dade County and which have been approved by Landlord may perform any portion of Lessee's Proposed Improvements for Lessee in or upon the Leased Premises prior to commencement of construction. No contractor will be approved that has commenced construction prior to Landlord's approval. The Lessee shall bear those costs associated with improvements to the Restaurant that are required to make the Restaurant operational. These improvements may include, but are not limited to: countertops, kitchen equipment, plumbing, electrical connections, light fixtures, cabinetry, or all other permanent improvements that will become part of the space. Thereafter,

the Landlord shall reimburse Lessee for the first \$50,000 of the above-mentioned permanent improvements, as follows: \$10,000 upon issuance of the Certificate of Occupancy or Temporary Certificate of Occupancy; and the remainder \$40,000, to be amortized over the initial five (5) years of the ten (10) year lease, in the form of monthly rental credit not to exceed \$666.66 per month. Reimbursement requests for improvements outside the scope of the abovementioned permanent improvements may be rejected by the County. The Lessee shall provide documentation reflecting evidence of all improvements with corresponding proof of payment, to include an itemized list of improvements with corresponding invoices and cancelled checks or credit card statements in order to receive the rent credit. Without limiting the Landlord's obligation to reimburse Lessee in accordance with this paragraph, all such improvements shall become the property of the Landlord upon their installation.

#### **ARTICLE 30. CERTAIN CONSTRUCTION CONTRACT TERMS**

All contracts entered into by the Lessee for the construction of the Improvements as stipulated in the final Conceptual Plan (Exhibit B) approved in writing by the Landlord shall require completion of the Improvements within a specified time period, not to exceed six months, following the execution of said contract(s) and shall contain, unless otherwise authorized by the Landlord, 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 Landlord in writing.

#### **ARTICLE 31. CONSTRUCTION BONDS OR ESCROW DEPOSIT**

The Lessee shall provide, and all contracts for the construction of improvements between the Lessee and the contractors shall require that the Lessee obtain from construction contractors a



separate performance and payment bond in the full amount of the Improvements in a form required by Section 255.05, Florida Statutes, 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 Landlord and the Lessee named as dual obligees thereunder. In lieu of a construction bond, in a form and amount acceptable to the County in its sole and absolute discretion, which form and amount shall be consistent with the requirements of Section 255.02, Florida Statutes, the Lessee will deposit in escrow with Landlord 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, Landlord shall release such funds from escrow. Landlord, 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 statutory bond or alternate form of security required under this paragraph shall be provided to the County.

**ARTICLE 32. REMEDIES FOR LESSEE'S FAILURE OR DELAY TO SUBMIT PLANS OR PERFORM WORK**

Subject to the provisions of Article 74, if Lessee fails or omits to make timely submission to Landlord of any plans or specifications or delays in submitting or supplying information, or in giving authorizations or in performing or completing Lessee's Work, or fails to open for business on the Beneficial Occupancy Date, the Landlord, 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, Landlord 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 Landlord's rights hereunder.

- B. Landlord may, after written notice of its intention to do so, at Lessee's cost and expense, including, without limitation, expense for such overtime as Landlord'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 Landlord, 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, Landlord 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 Landlord harmless from any liability that may be incurred thereby to Lessee's contractors or subcontractors.
- C. Landlord may give notice to Lessee (notwithstanding that such notice is not otherwise required hereunder), that the preconditions to the payment of Rent under section 14 of this Lease shall be deemed to have occurred, such that Landlord 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. Landlord may require Lessee to pay to Landlord, as additional rent hereunder, the cost to Landlord of completing the Leased Premises in accordance with the terms and provisions of this Lease Agreement over and above what would have been such cost had there been not such failure.

In exercising any of the foregoing remedies, Landlord shall be entitled to retain and have recourse to any bond or escrow deposit provided by Lessee under Article 31 hereof.

**ARTICLE 33. OWNERSHIP OF IMPROVEMENTS**

Upon installation, all existing and future Landlord 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 Agreement Term or a renewal, if applicable, shall, at the election of the Landlord, be deemed to be abandoned by Lessee, and the Landlord 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 Landlord the keys and combinations to all safes, cabinets, vaults, doors and other locks left by Lessee on the Leased Premises.

**ARTICLE 34. LESSEE'S CHANGES**

- A. Conditions for Making Changes: After Lease Agreement Effective Date, and subject to approval of the Landlord 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 Landlord, additional to the following conditions:

- i. the outside appearance or structural integrity of the Building 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 Landlord'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 Landlord 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 approved by the County in connection with the improvements conducted under Article 29, and so as not to impose any additional expense upon the Landlord. Throughout the performance of Lessee's Changes, Lessee shall carry, or cause to be carried, insurance as set forth in Article 60. If any of Lessee's Changes shall involve the removal of any fixtures, equipment or property in the Leased Premises which are the Landlord'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 Landlord shall otherwise expressly consent in writing.

**ARTICLE 35. 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 Landlord upon demand any amounts paid out by the Landlord, including the Landlord's costs, expenses and attorney's fees. Lessee further agrees to hold the Landlord harmless from and to indemnify the Landlord 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 Landlord to subject the Landlord'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 County property is not subject to liens under Florida law.

**ARTICLE 36. 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) damage caused by Lessee by the performance of any work on the Leased Premises; (ii) the installation, use or operation of Lessee's property; (iii) damage caused by 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 Building; (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 Landlord under Article 52, 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 and HVAC 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 Landlord, 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 Landlord for the cost of repairs. If the Leased Premises are not surrendered as aforesaid, in addition to all other rights given to the Landlord herein or by law:

- A. The Landlord may, at its option, restore the Leased Premises to good order and condition and Lessee shall pay to the Landlord within ten (10) days after billing therefore, as additional rent, the expense of such restoration; and
- B. Lessee shall indemnify and hold harmless the Landlord 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.

- C. Lessee shall pay to Landlord as liquidated damages for any holdover, in addition to amounts paid pursuant to (B) above, double rent.

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

### **ARTICLE 37. FACILITIES**

The Lessee hereby agrees to submit for approval by the Landlord 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 Landlord shall have the right to require substitute equipment of personal property when such action is reasonably deemed necessary. Equipment acquired by the Lessee by purchase from the Landlord 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 Landlord 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.

### **ARTICLE 38. EMPLOYEES OF THE LESSEE**

All employees of the Lessee shall be considered to be, at all times, employees of the Lessee under its sole direction and not employees or agents of the Landlord. The Lessee shall supply competent employees. The Landlord may notify the Lessee of the need to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on Landlord's property is not in the best interest of the County. Such demand by the County shall not be construed as a direction to the Lessee to terminate said employee's

employment, only as a request that Lessee reassign the employee. The Lessee shall ensure that all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. Each employee shall have and wear proper identification. 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 Landlord.

**ARTICLE 39. HOURS OF OPERATION**

The Lessee shall operate the Restaurant, at a minimum, five (5) days a week Monday thru Friday, continuously from 7:00 a.m. to 5:00 p.m., except on County, State and Federal designated holidays. Hours of operation may be changed as deemed appropriate by the Lessee, and approved by the Landlord. The Lessee shall provide sufficient staff to provide quality customer service. The Landlord's Project Manager may require a change in hours of operation, if, in the reasonable discretion of the Landlord, such a change is desirable in providing the best service to the public.

**ARTICLE 40. MENU PRICING**

Lessee shall maintain the pricing schedule as approved by the Landlord, 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, for material changes to prices, Lessee will provide to the Landlord 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 Agreement Term when material changes to price are contemplated.



**ARTICLE 41. EMERGENCY PERSONNEL**

The Lessee shall provide the Landlord 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 Agreement.

**ARTICLE 42. ON-SITE MANAGER**

Throughout the term of this Lease Agreement 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 Agreement and to accept service of all notices provided for herein.

**ARTICLE 43. 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 Landlord 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 Landlord in the same condition as the premises were at the commencement of this Lease Agreement, or better, 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. Lessee shall adhere to the Minimum Standards of Food Service, provided at Exhibit E, which permits Landlord to monitor the quality of Lessee's services, including quality of food, and request

reasonable adjustments thereto, which adjustments the Lessee shall be required to implement. The words "Contract Officer" and "Foodservice Facility Manager" included in Exhibit E to mean the County's Project Manager and the Joseph Caleb Facility Manager respectively. The words "Foodservice Contractor" included in Exhibit E to mean the Lessee. The Lessee shall not conduct any business or activity not specifically authorized by this Lease Agreement in the Leased Premises, unless approved by the Landlord. 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 Landlord 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.

#### **ARTICLE 44. MONITORING SERVICES**

The Landlord 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 any other reasonable means.

#### **ARTICLE 45. SERVICES PROVIDED BY LANDLORD**

The following services are provided by the Landlord and are included with the Guaranteed Monthly Rent:

- A. electrical service and connections;
- B. water service and connections;
- C. repairs of defects related to the plumbing infrastructure;
- D. working grease trap ready for operations;
- E. building related fire sprinkler system; and
- F. garbage collection service.

All other utility services are the sole responsibility of Lessee.

The Landlord shall be responsible for the following improvements to the Restaurant "Landlord's Improvements", which shall be completed by the Lease Agreement Effective Date. Any delay in the completion of Landlord's improvements by Landlord, shall be automatically added, day for day, to the six-month period provided to Lessee for permitting and build-out, unless otherwise agreed by Landlord and Lessee:

1. The necessary demolition required to prepare the space for construction, including the removal of old flooring and replacement with a concrete slab prepared for a finished flooring in the dining area of the Restaurant (see Exhibit A for specified area). Existing floor tiles to remain in the kitchen area of the Restaurant (see Exhibit A for specified area). New tile shall be installed in the areas affected by the replacement of the sanitary lines and floor drains in the kitchen floor, which may show a variation in color from the existing tile.
2. All existing trade fixtures, equipment and property of previous tenants shall become the property of the Lessee, and shall be removed by the Lessee at its own cost and expense. County owned fixtures and equipment will remain in their "as-is" condition for Lessee's use in the space and may be disposed by Lessee if not deemed in good working order or necessary for the operation of the Restaurant, except all dual compartment utility sinks and stainless steel food preparation stations which shall be removed by the County if not used in the Restaurant.
3. Drywall with primer coating ready for painting in the dining area of the Restaurant. Existing wall tile shall remain in the kitchen area of the Restaurant.
4. Plumbing to existing hookups within the space.
5. Doors with locks (including electronic locks).
6. Electrical service to the space.
7. Repair of sanitary lines by the Landlord.

8. Complete HVAC system in its "as is" condition including a main duct ready to be branched according to the future configuration of the space.
9. Ceiling tiles.
10. Common electrical fixtures to provide the required foot candle.
11. Fire sprinklers connected to the fire sprinkler system for the common areas in the main building. The County will provide the existing hood suppression system recertified.
12. Grease trap in compliance with current regulations.
13. Fire alarm devices connected to the fire panel for the main building.
14. Restroom with installed fixtures.

In the event of delays of improvements by Landlord under this Article which render the Demised Premises untenable, the rents shall be proportionately abated in accordance with the extent to which Lessee is deprived of use, occupancy or full enjoyment of the premises. After completion of the above improvements, the County shall have no obligation to provide any additional improvements, unless otherwise provided herein, for the duration of the lease agreement.

#### **ARTICLE 46. SERVICES AND EQUIPMENT 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 Landlord, the Lessee will be so advised, and if corrective action is not immediately taken, the Landlord will cause the same to be cleaned and the Lessee shall assume responsibility and liability for such cleaning.
- B. extermination service for Leased Premises.
- C. HVAC maintenance, and repair, as applicable.
- D. electrical services, as applicable, for maintenance of the Leased Premises.
- E. plumbing services, as applicable, for maintenance of the Leased Premises.

- F. fire suppression devices required for operation of the Leased Premises.
- G. fats, grease and oil discharge permit required for grease trap operation, and monthly reporting and maintenance in accordance with the U.S. Environmental Protection Agency (EPA) and Miami-Dade County Regulatory and Economic Resources, Division of Environmental Resources Management (DERM) requirements.
- H. exhaust system equipment and maintenance required for the operation of the Leased Premises.

**ARTICLE 47. 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 Caleb Center and must be approved by the Landlord 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 Landlord, which approval shall not be unreasonably withheld. Following the installation of any additional equipment, furnishing and improvements which the Landlord may approve from time to time, Lessee shall provide to the Landlord 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 were 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 Landlord.

**ARTICLE 48. 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 Landlord 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.

**ARTICLE 49. QUIET ENJOYMENT OF LEASED PROPERTY**

The Landlord 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 Agreement Term, free from eviction or disturbance by the Landlord or any person claiming under, by, or through the Landlord.

**ARTICLE 50. SUBORDINATION**

The Landlord 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 Landlord 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 Landlord, 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 Landlord and/or any mortgagee, proposed mortgagee, or holder of

any security agreement. Lessee hereby irrevocably appoints the Landlord as its attorney in fact to execute and deliver any such instrument for and in the name of the Lessee.

**ARTICLE 51. DAMAGE OR DESTRUCTION OF LEASED PREMISES**

If either the Leased Premises and/or Building are partially damaged due to Lessee's, its employees, agents, or independent contractor's negligence, but not rendered unusable for the purposes of this Lease Agreement, the same shall with due diligence be repaired by the Lessee at its own cost and expense. If the damage shall be so extensive as to render such Leased Premises and/or Building 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 at its own cost and expense. In the event the said Leased Premises and/or Building are completely destroyed due to Lessee's, its employees, agents, or independent contractors 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 Landlord a rent based on the last Guaranteed Monthly Rent for the remainder of time the Leased Premises remain untenable. In lieu of reconstructing, Lessee shall reimburse the Landlord all expenses incurred by the Landlord in restoring the said locations to their original condition, plus Rent in accordance with the Lease Agreement. The election of remedies shall be at the sole discretion of the Landlord.

In the event the Demised Premises or any portion thereof, shall be destroyed or so damaged by fire (not caused by Lessee), windstorm, casualty or act of God so as to make the Demised Premises untenable or unusable by Lessee, Lessee shall only be liable to the Landlord for such rents as may be due as of the date of such casualty. Landlord shall, to the extent commercially reasonable, cause the building to be reconstructed and placed in good condition within one hundred eighty (180) days following the date of such casualty, time being of the essence. If the Demised Premises sustained damages such that repairs cannot be completed

within one hundred eighty (180) days, Lessee shall be entitled to cancel the Lease Agreement by giving written notice to the Landlord at any time after such casualty, notwithstanding the commencement of any repairs by Landlord.

In the event of partial destruction or damages to the Demised Premises which do not render the Demised Premises untenable, the rents shall be proportionately abated in accordance with the extent to which Lessee is deprived of use, occupancy or full enjoyment of the premises.

**ARTICLE 52. LANDLORD'S REPAIR, ALTERATIONS AND ADDITIONS TO THE FACILITY**

The Landlord, 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 Landlord by reason of inconvenience, annoyance, or injury to business arising from the Landlord, 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 Landlord shall be under no obligation to make any such repairs until and unless Lessee notifies the Landlord in writing and the Landlord agrees, of the necessity therefore, in which event the Landlord shall have a reasonable time thereafter to make such repairs. The County, through the County Mayor or the Mayor's designee, upon providing prior written direction, may direct the Lessee to perform the Landlord's obligations under this paragraph and the Landlord shall then, reimburse Lessee for those reasonable costs incurred by Lessee for the repair and replacement of equipment and finishes for which the County, as Landlord, is responsible in the Leased Premises, within thirty (30) days of invoicing by the Lessee with supporting written submission of invoices and proof of payment evidencing the costs of 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 untenable by reason of any cause for which the Landlord is legally liable.

**ARTICLE 53. DIMINUTION FOR LANDLORD'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 Landlord by reason of inconvenience, annoyance or interference with Lessee's business arising from the Landlord 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.

**ARTICLE 54. 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.

**ARTICLE 55. 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.

**ARTICLE 56. 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 Landlord. 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,

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

**ARTICLE 57. OWNERSHIP OF LESSEE**

The ownership of the Lessee is very important to the Landlord. Therefore, the Landlord 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 Landlord. The Landlord 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 Landlord 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 Landlord.

**ARTICLE 58. LANDLORD'S PROPERTY INSURANCE**

Any insurance the Landlord 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 Landlord'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 Landlord. 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 Landlord, and/or other tenants shall be higher than it otherwise would be, Lessee shall reimburse the Landlord, on demand, for that part of the premiums for property insurance paid by the Landlord because of such act or omission on the part of Lessee, which sum shall be deemed additional rent for purposes of collection only.

**ARTICLE 59. LESSEE'S PROPERTY**

Lessee is responsible for its improvements and betterments, equipment, furniture, fixtures, inventory and supplies or other Lessee property.

**ARTICLE 60. INDEMNIFICATION AND INSURANCE**

The Lessee shall indemnify and hold harmless the Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Landlord 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 Landlord, 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 Landlord or its officers, employees, agents and instrumentalities as herein provided.

Upon Landlord's notification, the Lessee shall furnish to the Landlord's Internal Services Department – Strategic Procurement Division, located at 111 NW 1st Street, Suite 1300, Miami, Florida 33128 (with copy to County's Internal Services Department – Real Estate Division, located

at 111 N. W 1<sup>st</sup> Street, Suite 2460, Miami, FL 33128), Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Lessee as required by Florida Statute 440.
2. Commercial General Liability Insurance in an amount of not less than \$1,000,000 per occurrence. Policy must be endorsed to include coverage for Products Liability. **Miami Dade County must be shown as an additional insured with respect to this coverage.**
3. Automobile Liability Insurance covering all owned, non-owned and hired vehicles 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 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.

**NOTE: 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 Contract 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 Landlord. 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 Landlord.

The Lessee shall assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Lease Agreement, including any renewal or extension periods that may be exercised by the Landlord. If the Certificate(s) of Insurance is scheduled to expire during the term of the Lease Agreement, the Lessee shall submit new or renewed Certificate(s) of Insurance to the Landlord a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the Landlord may suspend the Lease Agreement until the new or renewed certificates are received by the Landlord in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the Landlord may, at its sole discretion, terminate the Lease Agreement for cause and the Lessee shall be responsible for all direct and indirect costs associated with such termination.

**ARTICLE 61. LIABILITY FOR DAMAGE OR INJURY**

The Landlord shall not be liable for damage or injury which may be sustained by any party or persons at the Restaurant other than the damage or injury if and to the extent caused by the gross negligence or intentional actions of the Landlord, its agents and employees while in the course of Landlord business, and as limited by Section 768.28, Florida Statutes.

**ARTICLE 62. TERMINATION BY LANDLORD**

The occurrence of any of the following shall cause this Agreement to be terminated by the Landlord 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 Landlord.
- v. The discovery of any misstatement in the Lessee's proposal leading to award of this Agreement, which in the determination of the Landlord significantly affects the Lessee's qualifications to perform under the Lease Agreement
- vi. Subject to the provisions of Article 57, 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 Landlord.
- vii. Failure to cease any activity which may cause limitation of Landlord's use of the Buildings.

B. Termination after seven (7) calendar days written notice by the Landlord 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 79 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 Landlord 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 79 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 Landlord in litigation instituted by the Lessee against the Landlord or brought by the Landlord against Lessee.

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

- D. 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 in Article 62 herein above, the Lessee shall be determined by Landlord to be an "Habitual Violator". At the time that such

determination is made, the Landlord 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 Agreement. In the event of any such subsequent breach or default, Landlord may cancel this Lease Agreement upon the giving of written notice of termination to the Lessee, such cancellation to be effective upon the tenth (10) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Lessee shall discontinue its operations at the Leased Premises, and proceed to remove all its personal property in accordance with provisions stated herein.

**ARTICLE 63. TERMINATION BY LESSEE**

Lessee shall have the right upon thirty (30) calendar days from receipt of written notice to the Landlord by certified or registered mail to the address set forth in Article 79 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 Landlord of any of the terms, covenants or conditions contained in this Agreement and the failure of the Landlord 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.

**ARTICLE 64. CESSATION OF OPERATION**

At the expiration or earlier termination of the term of this Lease Agreement, Lessee shall peaceably surrender the Restaurant and all operations at the Restaurant and shall ensure the Restaurant is in as good a condition as the Restaurant 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 Restaurant to the Landlord at the place then fixed for the payment and shall notify the Landlord in writing of all combinations of locks, safes and vaults, if any, in the Restaurant. 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 Restaurant. 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.

**ARTICLE 65. TERMINATION OF CONTRACT**

Following the termination of this Lease Agreement the Lessee, within thirty (30) calendar days, or earlier if determined by the Landlord, shall forthwith remove all of its personal property. Any personal property of Lessee not removed in accordance with this Article may be removed by the Landlord for storage at the cost of the Lessee or shall constitute a gratuitous transfer of title thereof to the Landlord for whatever disposition is deemed to be in the best interests of the Landlord. The Landlord shall not be liable to Lessee for the safekeeping of Lessee's personal property during or after termination of this Agreement. The Landlord 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 Landlord. Lessee shall be liable to the Landlord for the fair market value of any equipment, supplies in bulk, or fixtures removed without Landlord pre-approved written permission. Lessee shall also be liable for any expenses incurred by the Landlord in prosecuting any action against Lessee following unapproved item removal described above. Lessee shall also be liable to the Landlord for any expenses incurred by the Landlord in replacing any items wrongfully removed by Lessee. Unless otherwise provided herein, 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 Landlord in the condition set forth in Article 64 hereof.

#### **ARTICLE 66. UNAUTHORIZED OPERATIONS**

If Lessee continues to use and operate the Restaurant 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 Landlord shall have accepted, payment in respect to such unauthorized operations), Lessee shall be deemed to be operating and using the Restaurant only from month-to-month, subject to all covenants, conditions, and agreements of this Lease Agreement. If Lessee fails to surrender the Restaurant upon the termination of this Lease Agreement, then Lessee, in addition to any liabilities to Landlord accruing there from, shall indemnify and hold harmless the Landlord 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.

**ARTICLE 67. HOLDOVER**

If Lessee continues to use and operate the Leased Premises after the expiration of the term of this Lease Agreement, or any renewal option period, without a new Lease Agreement reduced to writing and duly executed and delivered (even if Lessee shall have paid, and Landlord shall have accepted, payment in respect to such operations), Lessee shall be deemed to be operating and using the Leased Premises only from month-to-month, subject to all covenants, conditions, and agreements of this Lease Agreement. If Lessee fails to surrender the Leased Premises upon the termination of this Lease Agreement, then Lessee, in addition to any liabilities to Landlord accruing therefrom, shall indemnify and hold harmless the Landlord 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. Lessee shall pay to Landlord as liquidated damages for any holdover, in addition to amounts paid pursuant to Section 36(B) above, double rent.

**ARTICLE 68. 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 Caleb Center 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 Landlord shall have no further liability under this Lease Agreement. In the event that a referendum vote of the electorate of the Landlord in any way restricts or prohibits the use of the Restaurant 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 Landlord shall have no further liability under this Lease Agreement. If the Landlord deems the Lease Agreement null and void by function of this Article, the Landlord will not be liable to the Lessee for damages arising there from and the Landlord shall have no further liability under this Lease Agreement.

**ARTICLE 69. NON-DISCRIMINATION**

Lessee for itself, and its successors and assigns, as a part of the consideration hereof, does hereby covenant and agree that:

- A. In the use of Premises, Lessee will comply with Resolution No. 9601 dated March 24, 1964, which states that as a matter of policy, there shall be no discrimination based on race, color, creed, gender, or national origin, and Resolution No. 85-92 dated January 21, 1992, which states that there shall be no discrimination on the basis of disability in connection with any of the Landlord's property or facilities operated or maintained under lease agreements, license, or other agreement from Miami-Dade County or its agencies. No person, on the grounds of race, sex, age, color, gender, national origin, or physical handicap, shall be excluded from participation therein, or be denied the benefits thereof, or be otherwise subjected to discrimination.
- B. In the construction of any improvements on, or under such land, and in the furnishings of services thereon, no person on the grounds of race, sex, age, gender, national origin, or physical handicap, shall be excluded from participation therein or be denied the benefits accruing therefrom, or be otherwise subjected to discrimination.
- C. In the event of breach of any of the above non-discrimination covenants, the Landlord shall have the right to terminate this Lease and to avail itself of any of the remedies set forth herein for default of this Lease, or available at law, or in equity.
- D. The Lessee shall not discriminate against any employee or applicant for employment to be employed in the performance of the contract, with respect to his hire, tenure, conditions or privileges of employment or any matter directly or indirectly related to employment, because of age, sex, or physical handicap, except where based on a bona fide occupation qualification or because of marital status, race, color, religion, national origin, or ancestry. The Lessee is not responsible for discrimination against the physically handicapped

employee or applicant for employment if the Landlord fails to provide facilities which meet the requirements of Section 504 of the Rehabilitation Act of 1973.

- E. Lessee agrees, in accordance with Chapter 11A of the Miami-Dade County Code, that it shall not discriminate against any employee, person, etc., on the basis of race, color, religion, ancestry, national origin, sex, disability, marital status, familial status, sexual orientation, gender identity or gender expression, or status of domestic violence, dating or stalking.

**ARTICLE 70. NO WAIVER OF RIGHT TO ENFORCE**

The waiver by Landlord 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 Landlord shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease Agreement, other than the failure of Lessee to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, or condition of this Lease Agreement shall be deemed to have been waived by Landlord, unless such waiver is in writing by Landlord, nor shall there be any accord and satisfaction unless expressed in writing and signed by both Landlord and Lessee. Invalidation of any portion of this Lease Agreement shall not automatically invalidate the entire Agreement.

**ARTICLE 71. RULES AND REGULATIONS**

The Lessee will observe, obey, and comply with all rules and regulations adopted by the Landlord 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.

**ARTICLE 72. 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.

**ARTICLE 73. EMERGENCY/HURRICANE PREPAREDNESS**

The Lessee shall follow the Landlord's emergency evacuation and hurricane plan and its emergency evacuation and hurricane plans as submitted in Landlord approved Operations Manual which shall not be in conflict with the Landlord's emergency plans.

**ARTICLE 74. FORCE MAJEURE**

Neither Landlord nor Lessee shall be liable for failure to perform any obligation under this Lease, except for the payment of money, in the event it is prevented from so performing by strike, lockout, breakdown, accident, order or regulation of or by any governmental authority or failure to supply or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services or because of war, casualty, act of God, or for any other cause that is completely beyond its reasonable control, but only to the extent that such cause render performance of an obligation under this Agreement impossible, but financial inability shall never be deemed to be a cause beyond a party's control, and in no event shall either party be excused or delayed in the payment of any money due under this Lease by reason of any of the foregoing.

**ARTICLE 75. INSPECTION BY LANDLORD**

The Landlord 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 Landlord.

Such periodic inspections may also be made at the Landlord's discretion to determine whether the Lessee is operating in compliance with the terms and provisions of this Agreement.

**ARTICLE 76. RIGHT OF ENTRY**

The Landlord 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 Landlord deems necessary, but the Landlord assumes no obligation to make repairs in the Leased Premises other than those expressly provided for in this Lease Agreement. The Landlord agrees, however, that any such repairs, alterations, replacements, and/or improvements shall be made with minimum amount of inconvenience to Lessee and that the Landlord will diligently proceed therewith to completion. The Landlord or the Landlord'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 Building. During the one hundred and eighty (180) days prior to the expiration of the term of this Lease Agreement, the Landlord 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 Landlord 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.

**ARTICLE 77. SIGNS**

The nature, size, shape and installation of Lessee's business signs within the Leased Premises or in, on or adjacent to the Building must first be approved in writing by Landlord. 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 (Exhibit F). 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.

**ARTICLE 78. APPROVALS**

Except as herein provided otherwise, whenever prior approvals are required from either party as stated hereinabove, such approvals shall not be unreasonably withheld.

**ARTICLE 79. NOTICE REQUIREMENTS**

Any notices submitted or required by this Lease Agreement shall be in writing and shall be deemed sufficiently served if delivered by registered or certified mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

**(1) To the Landlord**

a) to the Project Manager:

Miami-Dade County  
Internal Services Department - Real Estate Division  
111 NW 1<sup>st</sup> Street, Suite 2460  
Miami, FL 33128  
Attention: Veronica Brown, Division Director  
Phone: 305-375-4323  
E-mail: veronica.brown@miamidade.gov

and,

b) to the Contract Manager:

Miami-Dade County  
Internal Services Department, Procurement Management Division  
111 N.W. 1<sup>st</sup> Street, Suite 1375  
Miami, FL 33128-1974  
Attention: Namita Uppal, Chief Procurement Officer  
Phone: (305) 375-1574  
E-mail: namita.uppal@miamidade.gov

**(2) To the Lessee**

Gateway Airport Concessions, Inc.  
1835 NE Miami Gardens Drive, #112  
North Miami Beach, FL 33179  
Attention: Marie Louissaint  
Phone: 305-968-9310  
E-mail: marie@gac-mia.com



Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

**ARTICLE 80. AUTHORITY OF THE LANDLORD'S PROJECT MANAGER**

- A. The Lessee hereby acknowledges that the Landlord'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 Lease Agreement; 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 Landlord's Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Lessee agrees with the Landlord's Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Landlord'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 Landlord's Project Manager. In the event that the Lessee and the Landlord'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 County Mayor's designee, who may not be the Landlord'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 County 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 County 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 County 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 County 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 County 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.

**ARTICLE 81. RULES OF INTERPRETATION**

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.

**ARTICLE 82. 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 Landlord makes no warranties as to any obligation to provide security for the Leased Premises outside of standard security measures supplied by the Landlord in the Building in general. Lessee may provide its own specialized security for the Leased Premises, subject to the Landlord's written approval. Absence of said Lessee security measures shall not increase the Landlord's security obligation.

**ARTICLE 83. RIGHTS RESERVED TO LANDLORD**

All rights not specifically granted to the Lessee by this Lease are reserved to the Landlord. The designation of any particular remedy for the Landlord is without prejudice to any other relief available in law or equity, and all such relief is reserved to the Landlord.

**ARTICLE 84. LIEN**

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

**ARTICLE 85. 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.

**ARTICLE 86. 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 Landlord of any obligation to accept such performance.

**ARTICLE 87. NO PARTNERSHIP OR AGENCY**

The Landlord 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 Landlord and the Lessee.

**ARTICLE 88. CHOICE OF VENUE**

Any litigation between the Landlord 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.

**ARTICLE 89. AUDITS**

The Landlord, or its duly authorized representatives or governmental agencies shall, until the expiration of five (5) 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 Landlord. 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 Section 2-481 of the Code of Miami Dade County, 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.

**ARTICLE 90. VENDOR REGISTRATION/CONFLICT OF INTEREST**

A. Vendor Registration: The Lessee shall be a registered vendor with the County – Internal Services Department, Strategic Procurement 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 Code of Miami-Dade County)*
2. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8.1(d)(2) of the Code of Miami-Dade County)*
3. *Miami-Dade County Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the Code of Miami-Dade County)*

4. **Miami-Dade County Disability and Nondiscrimination Affidavit** (Section 2-8.1.5 of the Code of Miami-Dade County)
5. **Miami-Dade County Debarment Disclosure Affidavit** (Section 10.38 of the Code of Miami-Dade County)
6. **Miami-Dade County Vendor Obligation to County Affidavit** (Section 2-8.1 of the Code of Miami-Dade County)
7. **Miami-Dade County Code of Business Ethics Affidavit** (Sections 2-8.1(i), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. **Miami-Dade County Family Leave Affidavit** (Article V of Chapter 11 of the Code of Miami-Dade County)
9. **Miami-Dade County Living Wage Affidavit** (Section 2-8.9 of the Code of Miami-Dade County)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit** (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. **Miami-Dade County E-Verify Affidavit** (Executive Order 11-116)
12. **Miami-Dade County Pay Parity Affidavit** (Resolution R-1072-17)
13. **Miami-Dade County Suspected Workers' Compensation Fraud Affidavit** (Resolution R-919-18)
14. **Subcontracting Practices** (Section 2-8.8 of the Code of Miami-Dade County)
15. **Subcontractor/Supplier Listing** (Section 2-8.1 of the Code of Miami-Dade County)
16. **Form W-9 and 147c Letter** (as required by the Internal Revenue Service)
17. **FEIN Number or Social Security Number**  
*In order to establish a file, the Lessee'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 Lessee'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/Lessee 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
18. **Office of the Inspector General** (Section 2-1076 of the Code of Miami-Dade County)
19. **Small Business Enterprises** *The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1.1, 2-8.1.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.*
20. **Antitrust Laws** *By acceptance of any contract, the Lessee agrees to comply with all antitrust laws of the United States and the State of Florida.*

B. **Conflict of Interest and Code of Ethics:** 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.

**ARTICLE 91. INSPECTOR GENERAL REVIEWS (Independent Private Sector Inspector General Reviews)**

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Lessee shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Lessee's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Lessee, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Lessee in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Lessee or any third party.

**Miami-Dade County Inspector General Review**

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from

progress payments to the Lessee. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. *Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.*

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities



of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

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

#### **ARTICLE 92. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS**

Lessee agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- e) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County

Work.”

- f) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, “Domestic Leave.”
- g) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- h) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- i) Section 448.07 of the Florida Statutes “Wage Rate Discrimination Based on Sex Prohibited.”
- j) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) “Discrimination.”
- k) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) “Wage Theft.”
- l) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) “Business Regulations.”
- m) Any other laws prohibiting wage rate discrimination based on sex.

Pursuant to Resolution R-1072-17, by entering into this Lease Agreement, the Lessee is certifying that the Lessee is in compliance with, and will continue to comply with, the provisions of items “h” through “m” above.

The Lessee shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the Landlord or Lessee for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Lessee. The Landlord’s Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Lessee prior to authorizing work and as needed. Notwithstanding any other provision of this Lease Agreement, Lessee shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Lessee, constitute a violation of any law or regulation to which Lessee is subject, including but not limited to laws and regulations requiring that Lessee conduct its operations in a safe and sound manner.

**ARTICLE 93. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION**

Under no circumstances shall the Lessee without the express written consent of the Landlord:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Landlord, or the Work being performed hereunder, unless the Lessee first obtains the written approval of the Landlord. Such approval may be withheld if for any reason the Landlord believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the Landlord; and
- c) Except as may be required by law, the Lessee and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Lessee or such parties has been approved or endorsed by the Landlord.

Lessee shall not be required to obtain the express written consent of the Landlord for communications on social media, or other media outlets, that are intended for the promotion of the Restaurant operations by the Lessee provided that Lessee shall not use the County logo or branding in such advertisements or suggest, directly or indirectly, that the Lessee is working for or on behalf of Landlord.

**ARTICLE 94. FIRST SOURCE HIRING REFERRAL PROGRAM**

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts or Lease Agreements for goods and services, the Lessee, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent

(50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Lessee will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Lessee performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://iapps.careersourcesfl.com/firstsource/>.

**ARTICLE 95. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY**

The Lessee shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the Landlord in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the Landlord would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the Landlord all public records in possession of the Lessee upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the Landlord in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with

the terms and conditions of the Agreement.

**IF THE LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1<sup>st</sup> STREET, SUITE 1300, MIAMI, FLORIDA 33128**

**ARTICLE 96. ACCOMODATING CUSTOMERS WITH DISABILITIES**

In accordance with the Americans with Disability Act of 1990, as amended, when conducting private business on public property, in addition to any other requirements of that law or other applicable laws in the same topic, Lessee shall provide the following services to customers with disabilities:

1. Ample travel path for wheelchairs, scooters or any other source of mobility aid.
2. Self-serve items should be within reach and no higher than 36 inches above the floor.
3. Whenever requested, provide straws to customers who may have difficulty holding or drinking from glasses, cups or any other beverage container.
4. Provide assistance, direction and guidance to the blind or customers with vision deficiency who may need help when purchasing items.
5. Provide assistance to the deaf, mute or hard of hearing and facilitate communication in writing.
6. Offer assistance to the disable with service animals when requested.
7. Provide reasonable assistance to costumers with physical mobility impairment, including arms, hands or fingers immobility or any other related physical disability when requested.

**ARTICLE 97. 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 Landlord under this Lease Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

(Lessee)

Miami-Dade County

(Landlord)

By: Marie Louissaint

By: \_\_\_\_\_

Name: Marie Louissaint

Name: Carlos A. Gimenez

Title: President

Title: Mayor

Date: 10/28/19

Date: \_\_\_\_\_

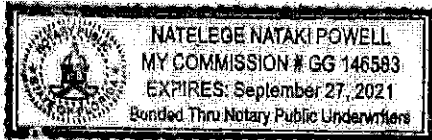
Witness: [Signature]

Attest: \_\_\_\_\_

Clerk of the Board

Witness: [Signature]

Attest: [Signature]  
Corporate Seal/Notary Seal



Approved by the County Attorney  
as to form and legal sufficiency: \_\_\_\_\_

## APPENDIX A

## SCOPE OF SERVICES

**1. Background**

Miami-Dade County is contracting with an experienced firm for the lease, development, operation and maintenance of 2,600 square feet of retail space at the Joseph Caleb Center located at 5400 NW 22 Avenue, Miami, FL 33142, for the operation of a fast food restaurant. The Restaurant location is on the ground level of the Joseph Caleb Center, within the front of the lobby entrance.

The Joseph Caleb Center consists of an administrative office building occupied by approximately 200 employees, a public library, two courtrooms that serve a high volume of attendees, as well as a 962 seat auditorium which conducts concerts, community forums, movie screenings and productions by community art organizations throughout the year. The center provides services to a high volume of customers and visitors during the week, with an average of 4,000 visitors daily. The Restaurant has been closed for approximately five years due to construction of a new parking garage, parking lot improvements and renovations to the building.

**2. Services to be Provided**

The Contractor shall operate and manage the Restaurant and provide food and beverage services in a manner that provides a high-level of service and quality to employees and County patrons. At a minimum, food and beverage services shall be provided on a set schedule, during regularly scheduled operating hours of the Joseph Caleb Center. The Contractor shall have the right to use the space shown on the attached Building Plan (Exhibit A) for the operation of the Restaurant. No nightclub type activities or alcoholic beverage sales will be permitted under this agreement. The agreement does not provide ownership rights to the Contractor, however, the Landlord may grant certain allowances to modify, change or otherwise adapt the property to suit the needs of the Contractor.

**3. Tasks and Deliverables**

The Lessee is responsible for any improvements to the Restaurant required to make the space suitable for Lessee's operation. The Lessee shall perform the required Restaurant improvements, in compliance with the South Florida Building Code, with all necessary permits, and Landlord's approval, obtained prior to starting any Restaurant improvements and pursuant to County Code, Section 2-1701. The Contractor has provided to the Landlord with the proposal submittal a preliminary conceptual plan which illustrates how the space will look upon completion of the improvements and the proposed equipment schedule for the build-out (Exhibit B). A preliminary schedule of capital improvement investments is attached herein (Exhibit C). Preliminary architectural plans for Lessee's improvements are due within 15 days of the Lease Agreement Effective Date.

**A. General Services**

The Contractor shall:

1. Obtain a State of Florida Public Food Service Establishment license prior to the Date of Beneficial Occupancy.
2. Obtain Certificate of Occupancy and Certificate of Use as required by the City, County or any other governing authority within 180 days of the Lease Effective Date.
3. 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 Contractor's operation of the Restaurant.
4. Prepare an appropriate emergency evacuation plan and hurricane plan and provide it to the Landlord prior to commencement of the operation of the Restaurant. Thereafter, the Contractor shall provide the Landlord with any and all updates to the plans.
5. Comply with all Federal and County government requirements related to the discharge of oil, fats and grease (FOB) pursuant to federal regulations Title 40, Chapter 1, Subchapter D, Part 110 and Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management (Environmental Protection Agency (EPA) Clean Water Act).

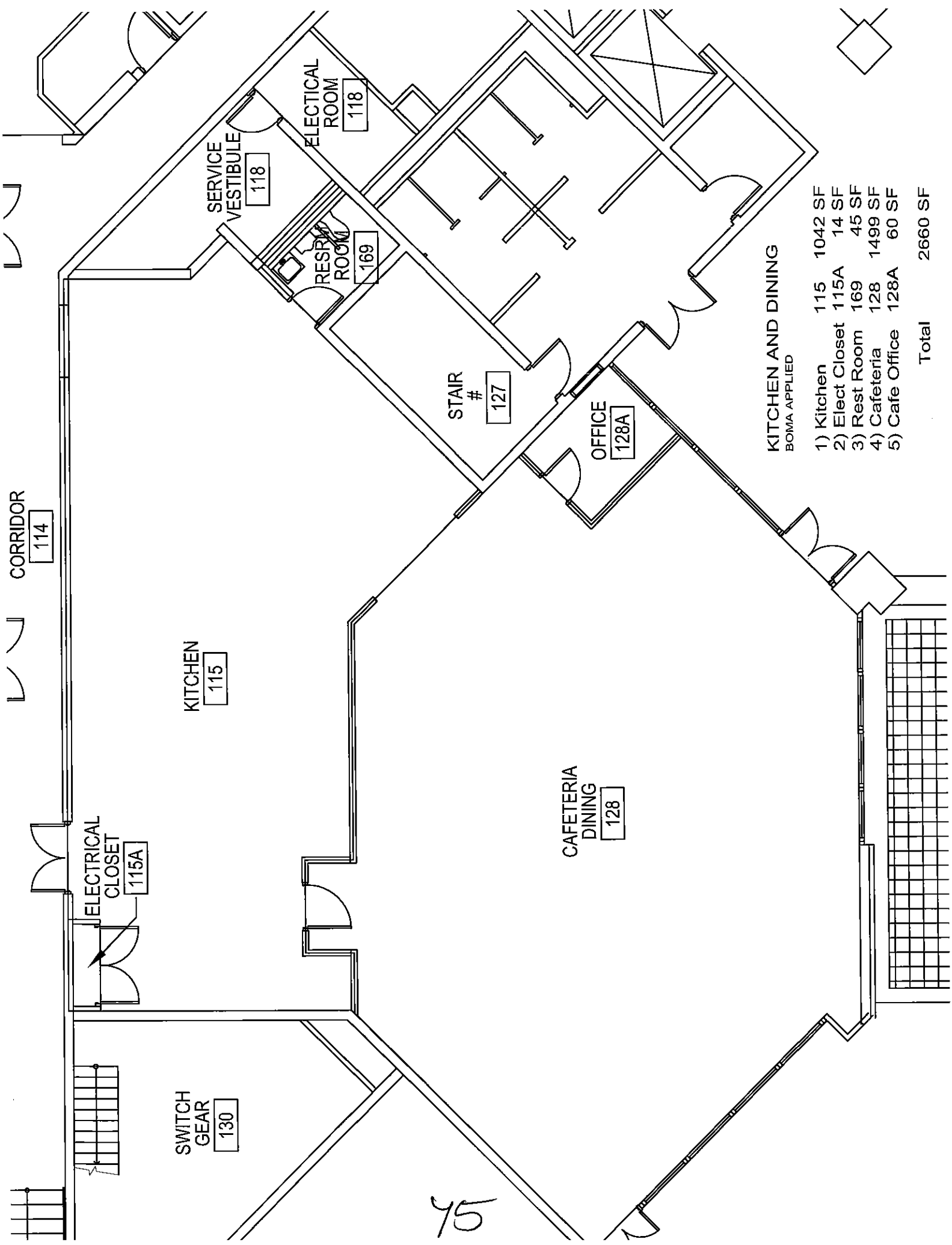
**B. Operation and Quality of Services**

The Contractor shall:



1. Operate a fast food/casual cafeteria or deli-style restaurant with the purpose of serving the Joseph Caleb Center employees and the public, with top quality food at fair, affordable prices (\$10 and under). The Contractor may also provide take-out, delivery services and/or a catering program if desired.
2. Maintain a complementary menu that is reflective of current trends in the fast/casual food industry and the local consumer market. The menu is to offer breakfast, snacks and lunch options. Original menu, menu pricing, and future changes must be approved by the Landlord.
3. Create a visually exciting and inviting restaurant environment, through a creative high-impact restaurant design, including product displays, in-building signage, graphic and lighting.
4. Provide outdoor signage to advertise business within building regulations and with Landlord's approval. Existing signage on sidewalk is provided by Landlord in its "as-is" condition for Lessee's use if desired. Signage in Garage, if permitted, is the responsibility Contractor.
5. Provide multiple payment options to its clientele, including cash payment, credit card and debit card payment as provided by the customers from various financing institutions. Contractor shall ensure transmittal of payment transaction data is processed on/through a secure network.
6. Operate the Restaurant at a minimum, five (5) days a week, Monday through Friday, 7:00 AM to 5:00 PM, except on County, State and Federal holidays. The Restaurant will not be open to the public on the weekends. Sufficient staff shall be available to provide service to Restaurant patrons. Any changes in the hours of operation require the express written agreement of both parties.
7. The Restaurant may be operated during evenings and weekends to provide catering for special events. The Contractor will provide a schedule of special events to the County for those events that will require the use of the premises during evenings or weekends. The County may charge the Contractor up to \$200 per event for utilities. The Building is secured 24 hours a day, seven days per week. In the event that the Building security hours are modified, the catering hours will need to be renegotiated.
8. Comply with Code of Federal Regulations 49 CFR 27.7; 27.9(b) and 37 binding the Contractor not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act (ADA) with regard to any improvements required to Restaurant, in which costs are to be incurred at Contractor's expense.
9. Operate and maintain the entire leased premises in a first-class manner and condition. Contractor shall provide ample tables and chairs for the dining room/seating area and shall maintain the area clean at all times.
10. Provide security for the Restaurant at its own discretion. The Landlord is not responsible for the Contractor's furnishing, fixtures, equipment, soft goods, mobile concession unit(s), or supplies.
11. Maintain all food services area 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.
12. Take good care of the Restaurant and, at its own cost and expense, repair Landlord's property or facilities damaged by Contractor's operations under the Lease Agreement.
13. Employ a qualified full-time, on-site manager having experience in the management of a restaurant or similar type of food service operation pursuant to Section 509.039, Florida Statutes.
14. Provide contact information for management personnel of the Lessee which shall be on call, at all times, for emergencies or other matters related to the operations under this contract.
15. Require that the employees be distinctively uniformed or appropriately attired so as to be distinguishable as the Contractor's employees and not as employees of the County or the State.

16. Comply with the Minimum Operating Standards for Foodservice (Exhibit F).
17. Provide janitorial services, pest control services, electrical and plumbing services for maintenance of the leased premises.
18. Provide trash removal from all point of sale areas to dumpsters in designated area.
19. Provide secure Wi-Fi services as required to conduct business operations.
20. Provide maintenance and repair, as required, of the HVAC equipment. The Contractor shall contract with a licensed and insured air conditioning firm to perform regular monthly maintenance and repairs as necessary.
21. Obtain a grease, oils and fat discharge permit and maintain the grease trap and exhaust system as required by Miami-Dade County ordinance No. 18-22 and State of Florida Code 506 and 507 respectively.



**KITCHEN AND DINING**  
BOMA APPLIED

|                 |      |         |
|-----------------|------|---------|
| 1) Kitchen      | 115  | 1042 SF |
| 2) Elect Closet | 115A | 14 SF   |
| 3) Rest Room    | 169  | 45 SF   |
| 4) Cafeteria    | 128  | 1499 SF |
| 5) Cafe Office  | 128A | 60 SF   |

Total 2660 SF

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# KITCHEN EQUIPMENT

| EQUIP | ITEM                        |
|-------|-----------------------------|
| K.01  | EAGLE GROUP 314-24-3        |
| K.02  | PIZZA OVEN BISTRO 4343-RFG- |
| K.03  | TRUE TPP-44                 |
| K.04  | PASTRY DISPLAY              |
| K.05  | TURBO CHEF i5               |
| K.06  | VULCAN VC66EC               |
| K.07  | 36C-6BN VULCAN ENDURANCE    |
| K.08  | EAGLE GROUP T3660SEB-BS     |
| K.09  | TRUE TRCB-36                |
| K.10  | VULCAN 36RRC SERIES         |
| K.11  | HOSHIZAKI B-500SF           |
| K.12  | HOSHIZAKI F-1501M_H-C       |
| K.13  | TRUE STM2F-2S               |
| K.14  | ADVANCED TABCO              |
| K.15  | TRUE TWT-44                 |
| K.16  | BK RESOURCES BKMS-1620-1    |
| K.17  | BK RESOURCES BKSF-WB1       |
| K.18  | TRUE TFP-48-18M             |
| K.19  | VOLRATH 3646410             |
| K.20  | EXPRESSO MACHINE BY OWNER   |
| K.21  | INSTITUTIONAL GROUP A-544-9 |
| K.22  | TRUE TFP-67D-2              |

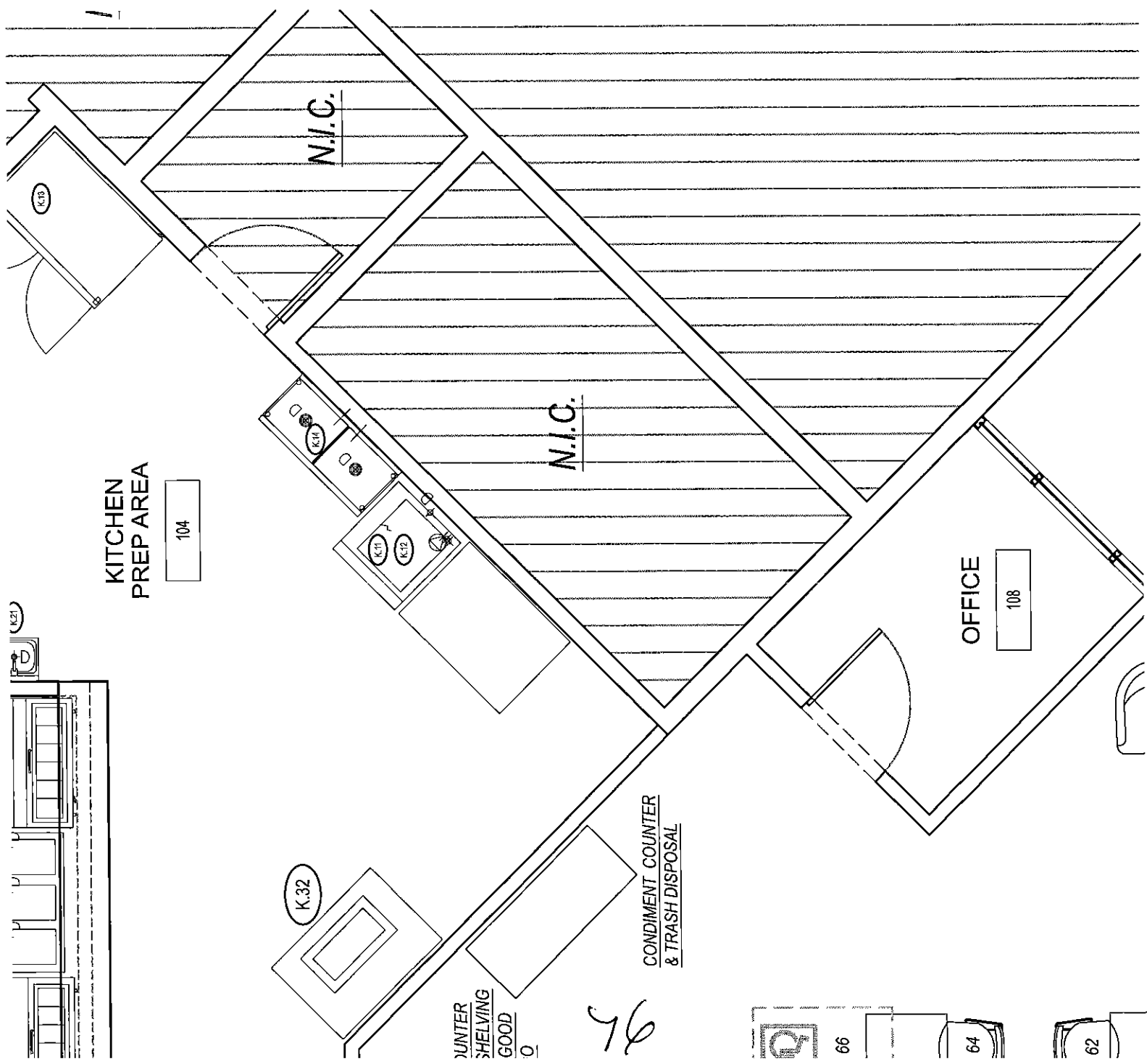


EXHIBIT C  
PRELIMINARY PROPOSED IMPROVEMENTS  
CALEB CAFE

Contract No. RFQ-01113

|   |
|---|
| Re-design & refurbish existing restaurant           |
| General Contractor                                  |
| Sub-Contractors                                     |
| Architect   |
| Equipment Company                                   |
| Furniture Company                                   |
| Decorator   |
| Architectural / construction drawings               |
| Permits / Licenses                                  |
| Demolition  |
| Cleaning  |
| Hazardous material abatment                         |
| Hazardous material removal & disposal               |
| Termite control                                     |
| Pest control  |
| Janitorial control                                  |
| Electrical work                                     |
| Plumbing work                                       |
| Sanitary work                                       |
| Lighting work                                       |
| Millwork  |
| Countertops   |
| Doors   |
| Gypsum wallboard                                    |
| Tile, marble & slate                                |
| Acoustic tile ceilings                              |
| Flooring  |
| Walls   |
| Concrete Finishing                                  |
| Signage (indoor, outdoor parking garage & sidewalk) |
| Menu / Menu Board(s)                                |
| Menu Board(s)                                       |
| Internet / WI-FI                                    |
| Phone / Phone line                                  |
| Music (Piped in)                                    |
| Camera(s) / Camera System                           |
| Alarm / Security System                             |
| Fire Extinguishers                                  |
| Fire Alarms   |
| Fire Supression System maintenance                  |
| Garbage Cans/Rec/Box                                |
| Island for condiments                               |
| Tables  |
| Chairs  |
| Sofa  |
| Stools  |
| Counter for Stool Seating                           |
| Bookshelf / Rack                                    |
| Snack Display/Baskets                               |
| Fruit Display/Basket                                |
| Krispy Kreme Display                                |
| Refrigerated Display                                |
| Refrigerated Display                                |

EXHIBIT C  
PRELIMINARY PROPOSED IMPROVEMENTS  
CALEB CAFE

|  |
|--|
| FOH Front Counter /Back Counter                        |
| POS System / Cash Reg                                  |
| Hot Food Merchandiser / Display Warmer                 |
| Soup Warmer  |
| Counter Merchandiser                                   |
| Espresso Machine                                       |
| Keuring Machine  |
| Pass thru window                                       |
| Food Wells   |
| Grease trap maintenance                                |
| A/C maintenance  |
| 2 large stainless steel prep tables with top shelf     |
| Walk-in Freezer  |
| Ice Machine/Ice Storage Bin                            |
| Stainless Steel Storage Cabinet                        |
| Large Exhaust Hood                                     |
| Large Capacity Water Heater                            |
| Fire Extinguishers                                     |
| Fire Suppressant Equip w/Cylinders maintenance         |
| Water Heater   |
| Metal Shelf  |
| Dishwasher Sanitizing equip w/hoses Dishwasher Station |
| Stainless Steel Conventional Utility Sink              |
| Stainless Steel 2 Compartment Utility Sink             |
| Stainless Steel Handwashing Sink                       |
| Proofer Cabinet  |
| Pass thru window                                       |
| Refrigerator   |
| Reach-in UnderCounter Ref                              |
| Cooler   |
| Commercial Microwave Oven                              |
| Panini Grill   |
| Merry Chef / DoubleCombi Oven                          |
| Pizza Oven   |
| Oven   |
| Deep Fryer   |
| Griddle  |
| Warming Table  |
| Garbage Cans/Rec/Box                                   |
| Kitchen Display Printer                                |
| Food Wells/Induction                                   |
| Mop & Broom closet                                     |
| Paper towel & Soap Dispenser                           |
| Food & Beverage supplies                               |
| Cleaning & Other supplies                              |
| Staffing & Manangement                                 |
| Insurance  |
| Uniforms/Badges  |
|  |
|  |
|  |
|  |

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**SW 6504**

**Sky High**

Interior / Exterior

Locator Number: 272-C1



## Exhibit E

### Minimum Operating Standards for Food Service

#### FOOD HANDLING AND PRODUCTION

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##### Contract Officer or Foodservice Facility Manager

- May direct the Foodservice Contractor to improve the quality of his offerings and the method in which they are produced, held, and served.
- At all times the Contract Officer and/or the Facility or Facility Manager shall have access to all foodservice facilities and areas.

##### Foodservice Employee Hygiene

- Employees with boils, infected wounds, respiratory infections, or other communicable diseases shall be prohibited in areas where there is a likelihood of transmission of disease to patrons, visitors or to other employees.
- Employees shall be prohibited from smoking or using other tobacco products in any form while in food production, service areas, or in the building.
- Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work, or as often as necessary to keep them clean, especially after smoking, eating, drinking, or using the restroom.
- Employees shall keep their fingernails clean and trimmed.
- Employees will consume food only in designated areas.
- Employees will wear hairnets or hats to keep hair from contaminating food.
- Uniforms shall be kept clean. One contact with soiled clothing is enough to start the contamination cycle: from clothing to hands to food.
- Employees who may come into contact with food shall use disposable latex or plastic food handler's gloves. They are to be changed after each task with hand washing and sanitizing in between glove changes.

##### Minimum Purchase Specifications

- All meats, meat products, poultry, poultry products, and fish must be U.S. Government inspected.
- Beef, lamb, and veal shall be U.S.D.A. Grade Choice or better.
- Pork shall be U.S. No. 1.
- Poultry shall be U.S. Government Grade A.
- Fresh fish and seafood shall be top grade; frozen fish and seafood shall be a nationally distributed brand, packed under continuous inspection of the U.S.D.A.
- Dairy products:
  - o Eggs- fresh U.S.D.A. or state graded "A".
  - o Butter- U.S.D.A. Grade "A" (92) score.
  - o Cheese- U.S.D.A. Grade "A" for all graded cheese.
  - o Milk and milk products- U.S.D.A. Grade "A".
- Fresh fruits and vegetables- U.S.D.A. fancy to U.S.D.A. Number "1" shall be used for all graded fresh vegetables and fruit as a minimum specification.
- Dry stored items and canned goods- Grade "A" fancy.
- Frozen fruits and vegetables. U.S.D.A. Grade "A".

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### **Cross-Contamination Prevention of Food <sup>1</sup>**

- Raw meats, fish, and poultry shall be prepared in separate areas from produce or cooked and ready-to-eat foods. (If space is unavailable, these items shall be prepared at different times.)
- Specific equipment shall be assigned (cutting boards, utensils, and containers) to each type of food product.
- After each task, all work surfaces, equipment, and utensils used shall be cleaned and sanitized.
- Cloths or towels used for wiping spills shall not be used for any other purpose.
- All transportation of food will be made in enclosed containers.

### **Thawing of Food <sup>2</sup>**

- Foodservice Contractor shall utilize only the following procedures (one or more) to thaw food. Any other means will be unacceptable.
  - o In a refrigerator at a temperature of 41°F (5°C) or lower.
  - o Submerged under actively running potable water at a temperature of 70°F (21°C) or lower.
  - o In a microwave oven.
  - o As part of a cooking procedure, given the product meets the required minimum internal cooking temperature.

### **Cooking of Food <sup>3</sup>**

- Prior to cooking, food will be handled properly.
- Minimum internal cooking standards shall be reached and held for the specified amount of time per food product. (All thermometers utilized shall be properly calibrated.)
  - o Poultry - 165°F (74°C) for 15 seconds.
  - o Stuffing, Stuffed Meats, Casseroles and dishes that combine raw and cooked food - 165°F (74°C) for 15 seconds.
  - o Pork - 145°F (63°C) for 15 seconds.
  - o Ground or Flaked Meats - 155°F (68°C) for 15 seconds.
  - o Beef or Pork Roasts - 145°F (63°C) for 3 minutes.
  - o Beef Steak, Veal, Lamb, or Commercially Raised Game Animals - 145°F (63°C) for 15 seconds.
  - o Fish or Food Containing Fish - 145°F (63°C) for 15 seconds.
  - o Shell Eggs (for immediate service) - 145°F (63°C) for 15 seconds.

### **Cooling of Food <sup>4</sup>**

- Food that will not be served immediately shall be cooled as quickly as possible. The Foodservice Contractor shall utilize only the below means to cool food; any other means will be unacceptable.
  - o One stage method- cool hot cooked food from 140°F to 41°F (60°C to 5°C) within four hours.
  - o Two stage method- cool hot cooked food from 140°F to 70°F (60°C to 21°C) within two hours, and then to 41°F (5°C) or lower in additional four hours (total cooling time of six hours).

<sup>1</sup> National Restaurant Association. ServeSafe® Essentials. U.S.A. 1999.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

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- Food that cannot cool within the aforementioned time parameters shall be discarded, without exception.

#### **Food Time and Temperature Control <sup>5</sup>**

- Thermometers shall be available in areas where needed and employees shall be trained to use them properly.
- Time and temperature controls shall be built into each recipe.
- Only freshly prepared products shall be served. Cook, hold and cool (if necessary). No leftovers will be used.
- Food will be discarded if it spends more than four hours total in the temperature danger zone, which is defined as 41°F to 140°F (5°C to 60°C).

Contractor shall adhere to a Hazard Analysis Critical Control Point plan (HACCP), which is outlined in subsequent *Sanitation and Food Safety* section. The Contract Officer must approve this HACCP plan.

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### **SANITATION AND FOOD SAFETY**

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Upon receipt, the Foodservice Contractor shall make available all health department inspections to the Contract Officer and or Park/Facility Manager.

All foodservice employees shall possess current food handlers' certification from the governing local or state jurisdiction.

All foodservice managers shall possess a valid National Restaurant Association ServSafe® certification.

Foodservice Contractor will implement a physical plant cleaning schedule for all outlets operated. This plan must be submitted to and approved by the Contract Officer.

#### **HACCP Plan <sup>6</sup>**

Although HACCP plans currently are not mandated by every health department, many are beginning to require them. Therefore, the Foodservice Contractor shall create and codify a HACCP plan. This plan will describe the procedures to be followed in order to:

- Identify foods and procedures most likely to cause foodborne illness.
- Develop procedures that will reduce the risk of a foodborne illness outbreak.
- Monitor procedures to keep food safe.
- Verify that the food served will be consistently safe.

#### Plan Principles

The plan created, written, and strictly followed by the Foodservice Contractor shall consist of the seven basic HACCP principles.

- Conduct a Hazard Analysis.
- Determine Critical Control Points.
- Establish Critical Limits.
- Monitor Critical Control Points (regularly).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

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- Perform Corrective Action (as necessary).
- Verify Procedures (regularly).
- Establish Record-Keeping and Documentation Procedures (on-going).

Plan Implementation

Once the HACCP plan has been submitted and approved by the Contract Officer, the Foodservice Contractor will implement it.

Logbooks shall be created and consistently used to regularly document activities. Examples of records include time-temperature logs, procedures for taking temperatures, standard operating procedures, calibration records, corrective actions, monitoring schedules, employee hand washing, and product specifications.

Contract Officer and/or Park/Facility Manager shall have full access to these logbooks.

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**CUSTOMER STANDARDS AND PROCEDURES**

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The Foodservice Contractor will:

- Regularly conduct quarterly customer service seminars with all foodservice employees.
- Recognize and accommodate the needs and preferences of a diverse customer base by providing through varied menu choices.
- Ensure customers will be greeted with a courteous greeting and thanked for each sale.
- Provide sufficient resources to insure that no wait in line is longer than 5 minutes from the time of entry until an order is taken and not more than 4 minutes from the placing of an order for the delivery of food.

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**PREVENTIVE MAINTENANCE PROGRAMS**

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Foodservice Contractor will provide and pay for routine maintenance and repairs for all Contractor-owned equipment.

Client will provide and pay for routine maintenance and repairs for all foodservice equipment.

**Equipment Records**

- For each piece of equipment, the Foodservice Contractor shall prepare and maintain equipment records as part of the preventive maintenance program. Records may be prepared and maintained either manually or electronically (computerized).
- Contract Officer shall have full access to these equipment records.
- The equipment record shall be the comprehensive record of history for each piece of equipment.
  - o The initial step in this preventive maintenance program will be to comprehensively inventory all foodservice equipment.
  - o Each piece of equipment shall have an equipment record filled out completely.
  - o These records shall be regularly maintained
- The following items shall be included on the equipment record card for each piece of equipment.
  - o Maintenance Service Log number.
  - o Maintenance Service Log location.
  - o Equipment type.
  - o Inventory number.

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- o Date purchased.
- o Date installed.
- o Manufacturer.
- o Model number.
- o Serial number.
- o New/used at date of purchase.
- o Company/person purchased from.
- o Utility information.
- o Standard warranty information.
- o Safety requirements.
- o Additional warranty/service contract information.
- o Services and parts manual location.
- o Preventive maintenance information location.
- o Replacement parts log.
- o Additional information/comments.

**Maintenance Service Log**

- The purpose of this Log shall be to record all service performed for each piece of equipment.
- Foodservice Contractor shall maintain and update (as needed) this detailed specific record of service performed on each piece of equipment.
- Information contained within this Maintenance Service Log shall include:
  - o Extent and frequency of repair.
  - o Evaluation of preventive maintenance costs (parts and labor).
  - o Adjustment of preventive maintenance schedules respective of cost impact.
  - o Parts and labor costs to assist in developing financial projections.
  - o Information to determine equipment depreciation and replacement costs (to make decisions on whether to repair or buy new).

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## EXHIBIT F

### RULES AND REGULATIONS

Tenant will abide by all provisions of the Lease Agreement and in the event of any conflict between the terms of these Rules and Regulations and the Lease Agreement, the provisions of the Lease Agreement shall control.

1. Tenant agrees to keep Premises in a clean and to orderly condition at all times and to keep in an orderly manner all racks, shelves and other devices used for display of products.

2. The sidewalks, entrances, passages, courts, plazas, elevators, vestibules, stairways, corridors, halls an common and public area of the Joseph Caleb Community Center shall not be obstructed or encumbered by Tenant or the servant, agent, guest, licensee, or invitee of Tenant, or used for any purpose other than the ingress and egress to and from the Premises.

3. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of Tenant's space without the prior written approval of the County as to the quality, type, design, color and manner of attaching the same.

4. No sign, streamer, banner, advertisement, notice or other lettering shall be exhibited, inscribed, appointed or affixed by Tenant at any place outside of the Premises or inside of the Premises without the prior written consent of the County as to form, color, quality, and manner of attachment. In the event of the violation of the foregoing by Tenant, the County may remove the same without any liability, and may charge the expense incurred by such removal to Tenant violating the rule. Tenant will maintain any such sign, decoration, lettering, advertising matter or other thing, as may be approved by the County in good condition at all times. If the County shall choose to permit signs on doors and directory tablets, they shall be inscribed, painted or affixed for Tenant by the County at the expense of Tenant, and shall be of a size, color, and style acceptable to the County and the style of listings for Tenant on the directory tablets shall be at the discretion of the County.

5. Tenant will, at Tenant's expense, maintain the Premises in a clean, orderly and sanitary condition and free of insects, vermin, rodents, and other pests. During normal working hours all refuse, trash, and garbage and containers of types approved by the County for the same will be so placed in the Premises as to be not visible from the exterior of the Premises or from the interior areas of the Premises normally used by the Joseph Caleb Community Center employees. Boxes will be flattened by Tenant before being put in the trash containers.

6. Nothing shall be thrown or swept out of doors of the Premises into entrances, passages, courts, elevators, plazas, vestibules, stairways, corridors or halls. Tenant will promptly repair and/or clean, at Tenant's expense, any damage to the Premises or elsewhere in the Joseph Caleb Community Center caused by the delivery to or removal from the Premises of property or the removal therefrom of trash, refuse, or garbage, unless such damage is caused by the County

or its agents, employees, or contractors. In default of such repairs by Tenant, the County may make the same and Tenant agrees to pay the cost thereof to the County promptly on demand. Any repairs shall be made only according to plans and specifications and by persons approved by the County.

7. The water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweeping, rubbish, rags or other substances shall be thrown therein. All damage resulting from any misuse of such fixtures shall be borne by Tenant who, or whose servants, employees, agents, guests, or licenses shall have caused the same.

8. Tenant shall not mark, paint, drill into, or in any way deface any part of the Premises and no boring, cutting or stringing of wires shall be permitted, except as the prior written consent of the County may direct.

9. No bicycles, vehicles or animals of any kind shall be brought into or kept or permitted in or about the Premises, the Public Areas or the Common Areas.

10. Tenant shall not permit, allow or cause any public or private auction or any fire, smoke "going out of business", bankruptcy, sheriff or receiver sales in the Premises, nor shall Tenant solicit business nor distribute any handbills or other advertising matter in the Joseph Caleb Community Center, nor shall Tenant use or permit the use of advertising media such as flashing lights, loudspeakers, phonographs, public address systems, sound amplifiers, radio or broadcasts, nor shall Tenant use or permit any use of Tenant's Premises except in a manner consistent with the highest standards. Tenant shall not make, or permit or suffer to be made on the Premises, any unreasonable or disturbing noises or vibrations either by persons or machines, of any types, including TV's, radios and internal sound systems, and shall not interfere with the occupancy of any other part of the Joseph Caleb Community Center. Canvassing, soliciting, and peddling are totally prohibited and Tenant shall cooperate to prevent the same.

11. Tenant and its servants, employees, agents, guests or licenses, shall not at any time bring or keep in the Joseph Caleb Community Center any flammable, combustible, highly toxic, corrosive or explosive fluid, chemical or substance to be used for resale purposes without the County's prior approval, nor shall such material be kept in the Premises except to the extent permitted by law and then only with prior written consent of the County.

12. The County reserves the right to exclude from the Joseph Caleb Community Center any time commencing one hour after Tenant closes or is required to close its Premises for business with the public and ending one hour before Tenant opens or is required to open its Premises for business with the public, any person who does not present an identification badge issued by the Tenant, unless or its authorized representative is present at the Joseph Caleb Community Center and specifically requests the guard to admit any particular person. Every Tenant employee shall wear identification badges at all times in the Community Center. Tenant shall provide identification badges for each employee showing Tenant's name, employee's picture, name signature and social security number. New or temporary employees, invitees and delivery persons shall sign-in daily at the lobby desk for a building pass.

13. The County reserves the right to prohibit any advertising which in the County's opinion tends to impair the reputation of the Joseph Caleb Community Center; and upon request of the County, Tenant shall immediately discontinue such advertising.

14. Tenant, when closing the Premises, shall see that all windows and exit doors from the Premises are closed and locked, and that all equipment is turned off. Tenant will furnish the County "after-hours" emergency telephone numbers for the sole use of the County at its discretion.

15. The County may limit weight and size of all safes, fixtures and other equipment used in the Premises. In the event Tenant shall require extra heavy equipment, which exceeds live load factor, Tenant shall notify the County of such fact and shall pay the cost of structural bracing to accommodate same. All damage done to the Premises, the Joseph Caleb Community Center, by putting in, or taking out, or maintaining extra heavy equipment shall be repaired at the expense of Tenant.

16. The County reserves the right to exclude or expel from the Joseph Caleb Community Center, any person who, in the judgment of the County, is intoxicated or under the influence of drugs, or who shall in any manner do any act in violation of the rules and regulations of the Joseph Caleb Community Center.

17. Tenant shall not suffer, permit, order or allow deliveries to be made except pursuant to the following conditions:

- (i) deliveries and restaurant prep may be made up to one hour prior to opening and at least one hour after closing.
- (ii) all deliveries shall be made to Tenant space.
- (iii) no deliveryman shall be allowed to enter the Premises who does not meet, in the sole judgment of the County or his Building Management, reasonable standards of dress and decorum.
- (iv) the County shall not be responsible for watching or safekeeping any items delivered to Tenant.

18. The County reserves the right to waive any rule in any particular instance or as to any particular person or occurrence, and further, the County reserves the right to amend or rescind any of these rules or make, amend, and rescind new rules to the extent the County, in its sole judgment, deems suitable for the safety, care and cleanliness of the Joseph Caleb Community Center and the conduct of high standards of service therein. Tenant agrees to conform to such new or amended rules upon receiving written notice of same. However, nothing herein is intended to limit or restrict the use and enjoyment of property by Tenant as provided for in this Lease Agreement.

19. Whenever any notice, approval, consent, request or election is given or made pursuant to these Rules and Regulations, it shall be in writing. No consent or waiver, expressed or implied, by the County or Tenant to or of any breach of any rule or regulation shall be construed as a consent or waiver of any other breach of the same or any other rule or duty.