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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

**Date:** February 19, 2008

**To:** Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 8(F)(1)(B)

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

**Resolution No. R-169-08**

**Subject:** Lease Agreement with The Association for Retarded Citizens, South Florida, Inc.
Located at 20600 N.W. 47th Avenue, Miami, Florida
Property Folio # 30-1131-001-0030

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**RECOMMENDATION**

It is recommended that the Board approve the attached resolution authorizing execution of a Lease Agreement with The Association for Retarded Citizens, South Florida, Inc. for two (2) buildings, comprising approximately 7,300 square feet, at 20600 N.W. 47th Avenue, Miami (commonly known as the Community of Landmark), to operate an adult day training program. The Lease Agreement has been prepared by the General Services Administration.

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| PROPERTY: | Building numbers 26 and 27, comprising approximately 7,300 square feet, located at 20600 N.W. 47th Avenue, Miami, FL |
| COMMISSION DISTRICT: | 1 |
| COMMISSION DISTRICTS IMPACTED: | Countywide |
| OWNER: | Miami-Dade County |
| PROPOSED TENANT: | The Association for Retarded Citizens, South Florida, Inc. (a Florida not-for-profit corporation) |
| PAST PERFORMANCE: | The County has no record of negative performance issues with The Association for Retarded Citizens, South Florida, Inc. |
| USE: | To operate a day training program and for ancillary office and storage space. The day training program is designed to provide a specialized curriculum and services to help individuals with developmental disabilities lead meaningful and fulfilling lives. |
| JUSTIFICATION: | Prior to acquiring the Landmark property from the State of Florida on June 21, 2005 (Resolution R-784-05), the Association for Retarded Citizens, South Florida, Inc (ARC) had been located at this site for four years. For the past two years, ARC has been occupying these facilities at Landmark under a Permit Agreement with the County and has a need to continue utilizing the building space to operate its day training program in order to provide these specialized services to the community. |

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| LEASE TERM: | Two years with two additional one-year renewal option periods. |
| RENTAL RATE: | The annual rent for each lease year is $54,750, which is equal to $4,562.50 per month. The rental rate during the renewal option periods will increase by three percent per year. |
| LEASE CONDITIONS: | The County is only responsible for all electric and water charges. The Tenant is responsible for all other operating expenses, including all maintenance, repair and/or improvements affecting the premises. The County will exempt the Tenant and its contractor from executing a Payment and Performance bond for any construction, electrical, or repair work commenced by the Tenant that is valued at under $15,000. |
| EFFECTIVE DATES: | Commencing upon approval of the Board and terminating two years thereafter. |
| CANCELLATION PROVISION: | Either party may cancel at any time by giving at least 30 days written notice. |
| CURRENT LEASE: | The Permit Agreement terminates January 31, 2008. |
| MONITOR: | Leland Salomon, Chief, GSA Real Estate Development |

Director
General Services Department

# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: February 19, 2008

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

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

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

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

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)(B)
02-19-08

RESOLUTION NO. **R-169-08**

RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT FOR TWO BUILDINGS NUMBERED 26 AND 27, LOCATED AT 20600 N.W. 47TH, AVENUE, MIAMI, WITH THE ASSOCIATION FOR RETARDED CITIZENS, SOUTH FLORIDA, INC., FOR THE BUILDINGS TO BE UTILIZED FOR A DAY TRAINING PROGRAM AND FOR ANCILLARY OFFICE AND STORAGE SPACE AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

**WHEREAS**, The Association for Retarded Citizens, South Florida, Inc. is a registered Florida not-for-profit corporation, organized for the purpose of operating a day training program to provide a specialized curriculum and services to help individuals with developmental disabilities (mental retardation and related disabilities) lead meaningful and fulfilling lives; and

**WHEREAS,** The Association for Retarded Citizens, South Florida, Inc. desires to lease certain County-owned property located at 20600 N.W. 47th Avenue, Miami. Florida 33055, to be used to operate a day training program, as well as for ancillary office and storage space; and

**WHEREAS,** the County is satisfied that The Association for Retarded Citizens, South Florida, Inc. does require the County-owned property for such use and the property is not otherwise needed for County purposes; and

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

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board hereby approves the Lease Agreement between Miami-Dade County and The Association for Retarded Citizens, South Florida, Inc., a Florida not-for-profit corporation, for two buildings, numbered 26 and 27 to be utilized as a day training program and for ancillary office and storage space for a two (2) year

term, with two (2) one (1) year option periods, and at an annual rental rate of $54,750, an original of which is attached hereto and made a part hereof; authorizes the County Mayor or his designee to execute same for and on behalf of Miami-Dade County; and authorizes the County Mayor or his designee to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz** , who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman **aye**
Barbara J. Jordan, Vice-Chairwoman **aye**

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| Jose "Pepe" Diaz | **aye** | Audrey M. Edmonson | **aye** |
| Carlos A. Gimenez | **aye** | Sally A. Heyman | **aye** |
| Joe A. Martinez | **aye** | Dennis C. Moss | **aye** |
| Dorrin D. Rolle | **aye** | Natacha Seijas | **aye** |
| Katy Sorenson | **aye** | Rebeca Sosa | **aye** |
| Sen. Javier D. Souto | **aye** | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of February, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo

# LEASE AGREEMENT

This Lease Agreement (hereinafter "Agreement") made on this ____ day of January, 2008, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, herein sometimes designated or referred to as the "Landlord," and THE ASSOCIATION FOR RETARDED CITIZENS, SOUTH FLORIDA, INC., a not-for-profit Florida corporation, hereinafter referred to as the "Tenant".

***RECITALS:***

WHEREAS, on or about September 30, 2005, the Landlord and Tenant entered into a Permit Agreement wherein the Landlord agreed to allow the Tenant (formerly the "Permittee"), for a one (1) year term, to use County-owned property for the establishment and operation of a day training program and for ancillary office/storage space. The term of that Permit Agreement terminated on September 30, 2006; and

WHEREAS, the above-mentioned Permit Agreement contained an option to renew the Permit Agreement for an additional one (1) year term so long as certain conditions where met by the Tenant (formerly the "Permittee"). And that option to renew the Permit Agreement was exercised, and the term of the Permit Agreement was extended for an additional one (1) year term, which expired on September 30, 2007; and

WHEREAS, on or about September 28, 2007, the parties entered into a First Amendment to Permit Agreement, to extend the term of the Permit Agreement for a four (4) month term, or until a lease agreement between the parties is entered into, which ever is sooner. The First Amendment to Permit Agreement will terminate on January 31, 2008; and

WHEREAS, the parties desire to continue and expand their relationship into a lease agreement for a two (2) year term, with certain restrictions and limitations as defined and outlined in this Agreement;

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NOW, THEREFORE, the Landlord and the Tenant hereby mutually understand and agree that they have knowingly and voluntarily entered into this Agreement.

***WITNESSETH*:**

The Landlord, for and in consideration of the restrictions and covenants herein contained, hereby leases to Tenant and Tenant hereby agrees to lease from Landlord the demised premises described as follows:

## ARTICLE 1
## INCORPORATION OF RECITALS

1.01 The parties hereto agree that the foregoing recitals are true and correct, and are incorporated herein by reference.

## ARTICLE 2
## DESCRIPTION OF PREMISES

2.01 Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord:

Approximately 7,300 rentable square feet comprised of two buildings, Buildings 26 and 27, and any land immediately surrounding these buildings and the ancillary parking to these buildings, located at 20600 NW 47th Avenue, Miami, Florida 33055 (the "Premises"). The entire property located at 20600 NW 47th Avenue, Miami, Florida 33055 is a property commonly referred to as the Community of Landmark. The Community of Landmark is depicted on the attached map, marked Exhibit "A" and incorporated herein by reference, and the Premises is shown on the attached diagram, marked Exhibit "B", and incorporated herein by reference.

2.02 Landlord and Tenant agree that the foregoing square footage is only an approximation of

size, as the Premises has not been duly measured by the Landlord. Further, the Tenant is fully aware of the size of the Premises and has determined that it is sufficiently suited for its intended purposes.

2.03 Notwithstanding anything to the contrary contained herein, the Premises have been inspected by the Tenant who accepts the Premises in its "as-is" and "where-is" condition, with any and all faults, and who understands and agrees that the Landlord does not offer any implied or expressed warranty as to the condition of the Premises and/or whether it is fit for any particular purpose.

## ARTICLE 3
## TERM

3.01 The term of this Agreement shall commence on February 1, 2008 and the Landlord and Tenant agree that this Agreement is scheduled to terminate on January 31, 2010 (hereinafter "Termination Date").

3.02 This Agreement shall terminate on the Termination Date or at the end of any extension or renewal thereof, without the necessity of any notice from either the Landlord or the Tenant to terminate the same, and Tenant hereby waives notice to vacate or quit the Premises and agrees that Landlord shall be entitled the benefit of all provisions of law respecting the summary recovery of possession of the Premises from a Tenant holding over to the same extent as if statutory notice had been given. Tenant hereby agrees that if it fails to surrender the Premises at the end of the term, or any renewal thereof, Tenant will be liable to Landlord for any and all damages which Landlord shall suffer by reason thereof, and Tenant will indemnify Landlord against all claims and demands made by any succeeding Tenants and/or developers against Landlord founded upon delay by Landlord in delivering possession of the Premises to such succeeding Tenant and/or developer.

3.03 If Tenant shall be in possession of the Premises after the Termination Date, in the absence of any agreement extending the term hereof, the tenancy under this Agreement shall become one of month-to-month, terminable by either party on thirty (30) days prior written notice. Such month-to-

month tenancy shall be subject to all of the covenants, conditions, provisions, restrictions and obligations of this Agreement.

## ARTICLE 4
## RENT

4.01 Tenant covenants and agrees to pay to Landlord as rental for a term of two (2) years, commencing upon February 1, 2008, and terminating on January 31, 2010, at the rental rate of Seven Dollars and Fifty Cents ($7.50) per square foot, for and at a total rental of Fifty-four Thousand Seven Hundred Fifty Dollars ($54,750.00) per year, payable in twelve (12) equal monthly installments of Four Thousand Five Hundred Sixty-two Dollars and Fifty Cents ($4,562.50), and payable on the first (1st) day of every month to the Board of County Commissioners, c/o General Services Administration, 111 N.W. First Street, Suite 2460, Miami, Florida 33128-1907, or at such other place and to such other person as Landlord may from time to time designate in writing, as set forth herein. The parties also acknowledge and agree that the October monthly installment rental payment for each year will be processed by the County after the close of the County's fiscal year, for each calendar year.

4.02 Tenant further agrees that it shall pay the rent when due and payable, without setoff, deduction or prior demand whatsoever. Tenant shall pay the rent without any stipulation, restriction, condition, reservation of right, or any other limitation. If Tenant shall fail to pay rent or any portion of the rent, within seven (7) calendar days of when it is due, Tenant shall be obligated to pay a late payment charge equal to the greater of One Hundred ($100.00) Dollars or ten (10%) percent of any rent payment not paid when due to reimburse Landlord for its additional administrative costs. In addition, any rent payment which is not paid within seven (7) calendar days after the due date shall bear interest in the amount of the highest of either six (6%) percent or the highest legal rate of interest as permitted by the State of Florida.

4.03 Tenant also agrees that should it be in possession of the Premises after the Termination Date, or any renewal or extension thereof, that it shall, in addition to being liable to the Landlord for any and all damages as a result of such hold over, be obligated to pay One Hundred Fifty (150%) percent of the rental rate in existence immediately prior to the period of hold over.

## ARTICLE 5
## PERMITTED USE OF PREMISES

5.01 Tenant shall occupy the Premises upon commencement of the term in accordance with this Agreement, and thereafter will continuously use the Premises for the Permitted Use and for no other purpose whatsoever.

5.02 The Premises shall be used by Tenant solely for the operation of a day training program, and for ancillary office/storage space.

5.03 Tenant shall cause its business to be conducted and operated in such a manner as to assure that such operation is in compliance with any and all laws, ordinances, rules and/or regulations, of all federal state and local governmental agencies.

5.04 Tenant agrees that no changes in the use of the Premises are permitted without the expressed prior written permission of the Landlord. Upon failure of the Tenant to operate the Premises in accordance with the approved use, as herein stated above, this Agreement shall automatically terminate and become null and void, and any and all improvements on or to the Premises shall become the property of the Landlord.

## ARTICLE 6
## CONDITION OF PREMISES

6.01 Tenant hereby accepts the Premises in its "as-is" and "where-is" condition, with any and all

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faults, as it is in at the beginning of this Agreement. Landlord makes no expressed or implied warranty as to the condition of the Premises and/or whether the Premises is habitable or fit for any particular use or purpose. The Landlord expressly refuses to extend and specifically denies any implied warranty as to the condition to the Premises or any of the structures.

6.02 Landlord and Tenant further agree that the Tenant shall be solely responsible for obtaining, securing and/or maintaining any and all permits and licenses, including, but not limited to, building permit(s) and occupancy license(s). Tenant agrees to be solely responsible for the cost to obtain any type of permit(s) and/or license(s).

6.03 The parties hereby expressly acknowledge and agree that Tenant shall not occupy or otherwise utilize any portion of the Premises where a particular permit or license is necessary for occupancy or operation when Tenant does not have such permit or license for any reason whatsoever, and Tenant shall refrain from such occupancy and/or operation unless and until the Tenant has secured, in hand, the appropriate permit(s) and/or license(s) which authorize and warrant the use of such portion or area(s) of the Premises as contemplated under this Agreement, and Tenant has also has fully complied, also at its sole cost and expense, with any and all building and fire codes.

6.04 Tenant acknowledges and agrees that the Premises is in need of extensive repair and maintenance, and accepts fully responsibility to repair and maintain the premises, including, but not limited to, addressing structural problems, complying with the American with Disabilities Act (and related state and local laws and regulations), matters involving lead based paint, and issues involving asbestos.

6.05 Tenant acknowledges and agrees that Landlord's future plans include the demolition of all or mostly all of the structures currently on the Community of Landmark property, including, but not limited to, the Premises.

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## ARTICLE 7
## UTILITIES

7.01 Landlord shall, during the term hereof, shall pay any and all charges for water and electricity used by the Tenant. However, Tenant shall be solely responsible for the maintenance and repair of any and all water lines, sewer pipes and/or electrical lines or wiring leading from any structure leased by the Tenant to the main line, pump station, or in the case of electrical service, to the utility pole.

7.02 Tenant agrees that at its sole cost and expense, to examine, regularly maintain and if necessary improve machinery, equipment and systems relating to any and all utilities, including, but not limited to, any and all water lines, sewer pipes and/or electrical lines or wiring leading from any structure leased by the Tenant to the main line, pump station, or in the case of electrical service, to the utility pole.

## ARTICLE 8
## MAINTENANCE

8.01 Tenant agrees to maintain and keep in good repair, condition, and appearance, during the term of this Agreement, or any extension or renewal thereof, at its sole cost and expense, the exterior of the Premises, including but not limited to, all building structures (from the roof to the foundation), and any and all infrastructure (lines, pipes, wiring) leading to any structure which is part of the leased Premises, as well as any and all vegetation, including all grass, hedges, trees, and plants which are near or about any such structures. Tenant shall be responsible for properly maintaining all vegetation between a structure and the nearest roadway.

8.02 Tenant, at its expense, shall maintain and keep free of debris all parking areas, pathways, walkways, and/or sidewalks leading to or from any structure which is part of the leased Premises.

8.03 Tenant further agrees to maintain and keep in good repair, condition, and appearance,

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during the term of this Agreement or any extension or renewal thereof, the interior of the Premises. Tenant shall be solely responsible for and shall repair any damage caused to the Premises as a result of Tenant or Tenant's agents, employees, invitees, or visitors use of the Premises, ordinary wear and tear excepted. Without limiting the generality of the foregoing, Tenant will keep the interior of the Premises, together will all electrical, plumbing and other mechanical installations and systems therein in good order and repair, and will make all replacements from time to time required thereto at its expense; and will surrender the Premises at the expiration of the term or at such time as it may vacate the Premises in as good condition as when received. Landlord shall notify Tenant after discovering any damage which Tenant is responsible for repairing and Tenant shall make the necessary repairs promptly after said notice, or shall promptly pay Landlord for the cost of such repairs.

8.04 In regard to the general maintenance and occupancy of the Premises, Tenant will at its expense: (a) maintain the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; (b) keep any garbage, trash, rubbish and/or other refuse in safe containers that do not encourage the existence of vermin; (c) cause to have such garbage, trash, rubbish and refuse removed on a daily, weekly, or as needed basis to ensure cleanliness; (d) comply with all laws, ordinances, rules and regulations of governmental authorities regarding the removal of garbage, trash, rubbish and refuse from the Premises; (e) keep all mechanical equipment apparatus free of vibration and noise which may be transmitted beyond the Premises and/or which could disturb adjacent landowners, occupiers or tenants, (f) prevent any objectionable odors to emanate or to be dispelled from the Premises; (g) comply with and observe all rules and regulations established by the Landlord from time to time which apply generally to all tenants in the surrounding (Community of Landmark) area; and (h) conduct its operation in all respects in a dignified manner in accordance with the high standards of other similar not-for-profit organizations.

8.05 Any damage or injury sustained by any person because of mechanical, electrical, plumbing or any other equipment or installations, whose maintenance and repair shall be the responsibility of

Tenant, shall be paid for by Tenant, and Tenant shall indemnify and hold Landlord harmless from and against all claims, actions, damages and liability in connection therewith, including, but not limited to attorneys' fees, other professional fees, and any other cost which Landlord may reasonably incur.

## ARTICLE 9
## DESTRUCTION OF PREMISES

9.01 Tenant shall be responsible for and shall repair any and all damage caused to the Premises as a result of Tenant's use of the Premises or any vandalism, malicious mischief or criminal acts thereto. The Tenant shall immediately notify the Landlord, in writing, upon discovering any damage to the Premises. Tenant is responsible for maintaining, replacing and/or repairing any damaged real property, personal property and/or structure belonging to the Landlord, and without any abatement in rent.

9.02 In the event the Premises should be destroyed or so damaged by fire, windstorm, or other casualty to the extent that the Premises are rendered untenantable or unfit for the purpose of Tenant, either party may cancel this Agreement by the giving of thirty (30) days' prior written notice to the other. If either the entire Premises or any structure(s) which is part of the leased Premises is partially damaged due to Tenant's negligence, but not rendered unusable for the purposes of this Agreement, the same shall be immediately repaired by Tenant from proceeds of the insurance coverage and/or at its own cost and expense and there shall be no abatement in rent. If the damage shall be so extensive as to render such Premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by Tenant from the proceeds of the insurance coverage policy and/or at its own cost and expense, and there may be an abatement in rent if agreed to by Landlord. In the event that said Premises are completely destroyed due to Tenant's negligence, Tenant shall repair and reconstruct the Premises so that they equal the condition of the Premises on the date possession was given to Tenant. In lieu of reconstructing, Tenant shall reimburse Landlord all expenses incurred by Landlord in restoring the Premises to its original condition. The election of remedies shall be at the sole discretion of Landlord.

## ARTICLE 10
## IMPROVEMENTS AND REPAIRS

10.01 Tenant, at its sole cost and expense, may make such improvements to the Premises that it shall deem reasonably necessary to place the Premises in such a state or condition that the Tenant may use it for the purposes described in this Agreement, so long as such improvements are approved by the Landlord in writing.

10.02 Tenant understands and agrees to procure any and all construction and electrical services in strict compliance with Section 255.20, Florida Statutes.

10.03 Prior to commencing any construction, the Tenant must deliver all plans, specifications and scheduling for any construction, fencing, landscaping or other improvements, at its sole cost and expense, to the Landlord, and specifically to the Director of the General Services Administration for written approval at least thirty (30) days before the commencement of any work. Further, the Tenant shall not commence construction of any improvements upon the Premises unless and until it has secured, and has on-hand, sufficient funds or resources to complete the improvement project.

10.04 Tenant shall cause any and all improvements to be performed competently and in a good and workmanlike manner by a duly qualified or licensed person(s) or entities, using first grade materials, and without interference with or disruption to the operations of tenants or other occupants of the Community of Landmark area.

10.05 Tenant shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Tenant or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Tenant stating that all bills have been paid with regard to such work and

that there are no outstanding obligations owed with respect to any such work performed on the Premises.

10.06 Landlord shall have no obligation, financial, regulatory or otherwise, for any and/or all activities necessary to construct, maintain or repair Tenant's improvements, or for Tenant's operations within on or about the Premises during the term of this Agreement.

10.07 If Tenant's use construction activities or other actions relative to the Premises result in the introduction of hazardous materials or contamination of the soil or ground water, then the Tenant agrees to: (1) immediately notify the Landlord of any contamination, claim of contamination or damage, (2) after consultation and with the approval of the Landlord, to clean up the contamination in full compliance with all applicable statutes, regulations and standards, and (3) to indemnify, defend and hold the Landlord harmless from and against any claim, suits, causes of action, costs and fees, including any and all attorneys' fees arising from or connected with such contamination, claim of contamination or damage.

10.08 All leasehold improvements installed on or about the Premises at any time, whether by or on behalf of the Tenant or by or on behalf of Landlord, shall not be removed from the Premises at any time, unless removal is consented to in advance, in writing, by Landlord; and at the expiration of this Agreement (either on the Termination Date, or any extension or renewal thereof, or upon such earlier termination or cancellation as provided for in this Agreement), all such leasehold improvements shall be deemed to be part of the Premises, and shall not be removed by Tenant when it vacates the Premises, and title thereto shall vest solely in the Landlord without payment of any kind or nature to Tenant.

10.09 Should the Tenant bring and/or add any additional furniture and/or equipment to the Premises, which personal property can be removed without damage to the Premises, such shall remain the Tenant's property and may be removed from the Premises upon the expiration of this Agreement.

10.10 To protect Landlord in the event Tenant defaults hereunder, Tenant hereby grants to Landlord a security interest in all of the Tenant's personal property, including, but not limited to, all goods, equipment, and furniture belonging to the Tenant which are or may be on or about the Premises during the term, and all proceeds of the foregoing. Said security interest shall secure all amounts to be paid by Tenant to Landlord hereunder, including all costs of collection, attorneys' fees and court costs.

10.11 Prior to commencing any construction and/or repair to any property owned by the Landlord and/or before recommencing any such work or repair after a default or abandonment, Tenant and Tenant's contractor shall obtain and deliver to the Landlord, at their sole cost and expense, a payment bond and separate performance bond, or such other alternate form of security, each which meet the requirements, as applicable, of Section 255.05, Florida Statutes, as set forth below, not less than ten (10) days prior to the anticipated commencement of the construction and/or repairs. Said separate payment and performance bonds shall be in favor of the Landlord, the form of such bonds shall be as provided by Section 255.05, Florida Statutes and each shall be in the amount of the entire cost of the construction and/or repair project regardless of the source of funding. The County Mayor or his designee shall have the right of approval of the surety bond, if applicable, which approval shall not be unreasonably withheld, in accordance with then applicable Miami-Dade County criteria prior to execution and delivery of the bonds by the Tenant. The Tenant shall be responsible for recording the bonds and providing notice to subcontractors and suppliers, as required by Section 255.05 of the Florida Statutes. Said payment and performance bonds shall be maintained in full force and effect for the duration of any construction and/or repair project. However, the foregoing requirement of securing a performance bond shall not be required when such contract for any construction work and/or repair is estimated, in accordance with generally accepted cost-accounting principles, to have a cost of less than $15,000.

10.12 Tenant acknowledges and agrees that Landlord's future plans include the demolition of all or mostly all of the structures currently on the Community of Landmark property, including, but not

limited to, the Premises.

## ARTICLE 11
## ASSIGNMENT

11.01 Without the written consent of Landlord first obtained in each case, Tenant shall not assign, sublet, transfer, mortgage, pledge, or dispose of this Agreement or the term hereof, which consent may be withheld in Landlord's absolute discretion. This prohibition includes, without limitation, (a) any subletting or assignment which would occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure; and (b) an assignment of subletting to or by a receiver or trustee in any Federal or state bankruptcy, insolvency, or other proceedings. In no event shall Tenant be permitted to assign or sublet the Premises to any entity that fails to meet the requirements of Section 125.38, Florida Statutes.

## ARTICLE 12
## NO LIABILITY FOR PERSONAL PROPERTY

12.01 All personal property placed or moved in the Premises above described shall be at the sole risk of Tenant or the owner thereof. Landlord shall not be liable to Tenant for any damage to said personal property unless solely caused by or due to the gross negligence of Landlord, Landlord's agents or employees, subject to all limitations of Florida Statutes, Section 768.28.

## ARTICLE 13
## LANDLORD NOT RESPONSIBLE FOR ACTS OF OTHERS

13.01 Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying space adjoining the Premises or any part of the Premises adjacent to or connecting with the Premises or any other part of the Community of Landmark area, or otherwise, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or its or their property, from

any actions or activity by such person(s), including, but not limited to, such actions or activity which is the direct or indirect cause of the breaking, bursting, stoppage or leaking of water, gas, sewer or other pipes and/or lines and/or the effects or results from down, broken or damaged electrical cable and/or wires. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises, and to use the Premises at Tenant's own risk.

## ARTICLE 14
## SIGNS

14.01 Tenant will not place or suffer to be placed or maintained on the exterior of the Premises, or any part of the wall encircling the Community of Landmark property, any sign, decoration, letter or advertising matter or any other thing of any kind or nature without first obtaining the Landlord's prior written approval. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter or other thing as may be permitted hereunder by the Landlord in good condition and repair at all times.

14.02 Signs will be of the design and form of letter to be first approved by Landlord, the cost of painting to be paid by Tenant. All signs shall be removed by Tenant at termination of this Agreement and any damage or unsightly condition caused to Premises because of or due to said signs shall be satisfactorily corrected or repaired by Tenant.

## ARTICLE 15
## LANDLORD'S RIGHT OF ENTRY

15.01 Landlord or any of its agents shall have the right to enter the Premises during all reasonable working hours, upon the giving of twenty-four (24) hours' prior notice, to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof. Said right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions which do not conform to this Agreement.

## ARTICLE 16
## PEACEFUL POSSESSION

16.01 Subject to the terms, conditions, and covenants of this Agreement, Landlord agrees that Tenant shall and may peaceably have, hold, and enjoy the Premises without hindrance or molestation by Landlord.

## ARTICLE 17
## SURRENDER OF PREMISES

17.01 Tenant agrees to surrender to Landlord, at the end of the term of this Agreement or any extension thereof, the Premises in as good condition as the Premises were at the beginning of the term of this Agreement, ordinary wear and tear and damage by fire and windstorm or other Acts of God excepted.

## ARTICLE 18
## INDEMNIFICATION AND HOLD HARMLESS

18.01 Tenant 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 Tenant or its employees, agents, servants, partners principals or subcontractors. Tenant 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 attorneys' fees which may issue thereon. Tenant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Tenant 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.

## ARTICLE 19
## LIABILITY FOR DAMAGE OR INJURY

19.01 Landlord shall not be liable for any damage or injury which may be sustained by any party or person on the Premises other than the damage or injury caused solely by the negligence of Landlord, its officers, employees, or agents, subject to the limitations of Florida Statutes, Section 768.28.

## ARTICLE 20
## SUCCESSORS IN INTEREST

20.01 It is hereby acknowledged and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Agreement shall extend to and be binding on the respective successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

## ARTICLE 21
## TERMINATION

21.01 **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:

1) Institution of proceedings in voluntary bankruptcy by the Tenant.

2) Institution of proceedings in involuntary bankruptcy against the Tenant if such proceedings continue for a period of ninety (90) days.

3) Assignment by Tenant for the benefit of creditors.

4) Failure of Tenant to maintain its not-for-profit tax status.

B. Termination after ten (10) days written notice by the Landlord by certified or registered mail to Tenant for doing any of the following:

1) 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 Tenant makes the required payment(s) during the thirty (30) calendar day period following mailing of the written notice.

2) Notice of any condition posing a threat to health or safety of the public or patrons and not remedied within the ten (10) day period from date of written notice.

C. Termination after fourteen (14) days from receipt by Tenant of written notice by certified or registered mail to the address of the Tenant as set forth below:

1) Non-performance of any covenant of this Agreement other than non-payment of rent and others listed in A and B above, and failure of the Tenant to remedy such breach within the thirty (30) day period from receipt of the written notice.

D. A final determination in a court of law in favor of the Landlord in litigation instituted by the Tenant against the Landlord, or brought by the Landlord against Tenant.

E. Landlord through its County Manager or Mayor or his/her designee, shall have the right to terminate this Agreement or any portion thereof, at any time, and for any reason whatsoever, by giving the Tenant at least thirty (30) days written notice prior to its effective date.

21.02 **TERMINATION BY TENANT**: The Tenant, shall have the right to cancel this Agreement at any time by giving the Landlord at least thirty (30) days written notice prior to its effective date.

## ARTICLE 22
## CHANGES AND ADDITIONS BY LANDLORD

22.01 Landlord reserves the right at any time and from time to time to: (a) make or permit changes or revisions to the Community of Landmark area, including additions to, subtractions from, rearrangements of, alterations of, modifications of or supplements to any and all buildings, building areas, walkways, pathways, parking areas, driveways, roads, and/or green space, (b) construct or

demolish any building or any other improvement(s), (c) make or permit changes or revisions in the Community of Landmark area, including additions or subtractions thereto, or to convey or lease portions of the Community of Landmark area to others for the purpose of constructing thereon other buildings or improvements, including additions thereto and alterations thereof.

22.02 Landlord also reserves the right at any time and from time to time to: (a) relocate Tenant to another area within the Community of Landmark area without penalty to the Landlord, and (b) to change or swap one portion of the Premises currently under lease by this Agreement, for another, similar, building or structure at no penalty to the Landlord.

## ARTICLE 23
## OPTION TO RENEW

23.01 Provided this Agreement is not otherwise in default, Tenant is hereby granted the option to extend this Agreement for two (2) additional one (1) year renewal option periods upon the same terms and conditions, except that the rental amount shall be increased by three (3%) percent each renewal option period, and by giving Landlord notice in writing at least ninety (90) days prior to the expiration of this Agreement or any extension thereof.

## ARTICLE 24
## NOTICES

24.01 It is understood and agreed between the parties hereto that written notice to Landlord shall be mailed, certified mail, return receipt requested, with all postal charges pre-paid or delivered by a nationally recognized delivery service (such as FedEx or DHL) and addressed to the Director, General Services Administration, 111 N.W. 1st Street, Suite 2460, Miami, Florida 33128-1907, in order to constitute sufficient notice to Landlord, and written notice addressed to Tenant shall be mailed or delivered to the address of Tenant at 20600 N.W. 47th Avenue, ARC Building, Miami, Florida 33055 shall constitute sufficient notice to Tenant to comply with the terms of this Agreement. Notices provided

herein in this paragraph shall include all notices required in this Agreement or required by law.

## ARTICLE 25
## INSURANCE

25.01 Prior to occupancy, Tenant shall furnish to the Real Estate Management Section of Miami-Dade County, c/o General Services Administration, 111 N.W. First Street, Suite 2460, Miami, Florida 33128-1907, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Public Liability Insurance on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

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

25.02 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 "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

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

25.04 Compliance with the foregoing requirements shall not relieve Tenant of its liability and obligations under this Article or under Article 18; INDEMNIFICATION AND HOLD HARMLESS or any other portion of this Agreement.

25.05 Tenant shall be responsible for assuring that the insurance certificates required in

conjunction with this Article remain in full force for the duration of this Agreement. If insurance certificates are scheduled to expire during the term of the Agreement, Tenant shall be responsible for submitting new or renewed insurance certificates to the Landlord at a minimum of thirty (30) days in advance of such expiration.

## ARTICLE 26
## PERMITS, REGULATIONS & SPECIAL ASSESSMENTS

26.01 Tenant covenants and agrees that during the term of this Agreement, Tenant will obtain any and all necessary permits, licenses and approvals, and that all uses of the Premises will be in conformance with all applicable laws, ordinances, rules, regulations, including all applicable zoning regulations.

26.02 Any and all charges, taxes, or assessments levied against the Premises shall be paid by Tenant, and failure to do so will constitute a breach of this Agreement.

26.03. County as Sovereign

It is expressly understood that notwithstanding any provision of this Agreement and the Landlord's status thereunder:

(a) The Landlord retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Premises or the operation thereof, or be liable for the same; and

(b) The Landlord shall not by virtue of this Agreement be obligated to grant the Tenant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Premises.

26.04. No Liability for Exercise of Police Power

Notwithstanding and prevailing over any contrary provision in this Agreement, or any Landlord covenant or obligation that may be contained in this Agreement, or any implied or perceived duty or obligation including but not limited to the following:

(a) To cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist the Tenant, regardless of the purpose required for such cooperation;

(b) To execute documents or give approvals, regardless of the purpose required for such execution or approvals;

(c) To apply for or assist the Tenant in applying for any county, city or third party permit or needed approval; or

(d) To contest, defend against, or assist the Tenant in contesting or defending against any challenge of any nature;

shall not bind the Board, the Planning and Zoning Department, DERM or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the Landlord or any other applicable governmental agencies in the

exercise of its police power; and the Landlord shall be released and held harmless, by the Tenant from and against any liability, responsibility, claims, consequential or other damages, or losses to the Tenant or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the Landlord to exercise its quasi-judicial or police powers. Notwithstanding any other provision of this Agreement, the Landlord shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The Landlord's obligation to use reasonable good faith efforts in the permitting of the use of County-owned property, in the Community of Landmark, shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by Tenant as authorized by this Agreement. Moreover, in no event shall a failure of the Landlord to adopt any of the Tenant's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement.

## ARTICLE 27
## FORCE MAJEURE

27.01 Tenant and Landlord shall be excused for the period of any delay and shall not be deemed in default with respect to the performance of any of the non-monetary terms, covenants, and conditions of this Agreement when prevented from so doing by cause or causes beyond Tenant's or Landlord's control, excluding filing of bankruptcy, but which shall include, without limitation, all labor disputes, governmental regulations or controls, fire or other casualty, Acts of God, or any other cause, whether similar or dissimilar to the foregoing, not within the control of Tenant or Landlord.

## ARTICLE 28

## WAIVER

28.01 If, under the provisions hereof, Landlord or Tenant shall institute proceedings and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of any covenant herein contained nor of any of Landlord's or Tenant's rights hereunder, unless expressly stated in such settlement agreement. No waiver by Landlord or Tenant of any provision hereof shall be deemed to have been made unless expressed in writing and signed by both parties. No waiver by Landlord or Tenant of any breach of covenant, condition, or agreement herein contained shall operate as a waiver of such covenant, condition, or agreement itself, or of any subsequent breach thereof. No payment by Tenant or receipt by Landlord of lesser amount than the monthly installments of rent (or additional rent if such obligations are later stipulated) shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or letter accompanying a check for payment of rent or any other amounts owed to Landlord be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to or waiver of Landlord's right to recover the balance of such rent or other amount owed or to pursue any other remedy provided in this Agreement. Further, any endorsement or statement on any check or letter accompanying a check for payment of rent or any other amounts owed to Landlord may not be deemed to limit or restrict the Landlord in any manner whatsoever, and such endorsement or statement shall have no effect whatsoever, and shall be deemed to have never been written at all. No reentry by Landlord and no acceptance by Landlord of keys from Tenant shall be considered an acceptance of a surrender of this Agreement.

## ARTICLE 29
## DEFAULT OF TENANT AND REMEDIES

29.01 Consistent with and in addition to Article 21, TERMINATION, above, if Tenant shall fail to pay any monthly installment or item of rent on the date when the same becomes due and if such

violation or failure continues for a period of thirty (30) calendar days after written notice thereof to Tenant by Landlord, then Landlord may proceed with any remedy available at law or in equity in the State of Florida or by such other proceedings, including reentry and possession, as may be applicable.

29.02 Should Tenant elect or fail to perform or observe any covenant or condition of this Agreement (other than a default involving the payment of rent), which default has not been cured within ten (10) calendar days after the giving of notice by Landlord, unless such default is of such nature that it cannot be cured within such ten (10) day period, in which case no event of default shall occur so long as Tenant shall commence the curing of the default within such ten (10) day period and shall thereafter diligently prosecute the curing of same, and/or such remedy for any such default is not otherwise addressed in this Agreement, then the Landlord shall be permitted to terminate this Agreement, and immediately take possession of the Premises.

29.03 Should Tenant vacate or abandon the Premises at any time during the term of this Agreement, Landlord shall be permitted to immediate take possession of the Premises.

29.04 Upon any default, and after the expiration of any cure period, Landlord may, with or without judicial process, enter the Premises and take possession of any and all goods, inventory, equipment, fixtures and all other personal property of Tenant situated in the Premises without liability for trespass or conversion, and may sell or otherwise dispose of any and all such property after thirty (30) calendar days notice to Tenant, which notice shall constitute reasonable and sufficient notice (so long as such property is valued by the Landlord at more than One Thousand ($1,000.00) Dollars, otherwise, such property shall be considered abandoned by the Tenant, and Landlord shall have no obligation to either store, maintain, sell or otherwise dispose of the property). The proceeds of any such sale or disposition shall be applied first to the payment of all costs and expenses of conducting the sale and/or caring for and/or storing said property, including attorneys' fees; second, toward the payment of any indebtedness, including (without limitation) indebtedness for rent, which may be due or become due

to Landlord; and third, to pay Tenant, on demand in writing, any surplus remaining after all indebtedness of Tenant to Landlord has been fully paid, so long as Tenant in fact makes such demand within sixty (60) calendar days of any such sale or disposition of property.

29.05 Upon any default, Landlord may perform, on behalf of and at the expense of the Tenant, any obligation of Tenant under this Agreement which Tenant has failed to perform and of which Landlord shall have given Tenant notice of, the cost of which performance by Landlord, together with interest thereon, at the greater of either six (6%) percent or the highest legal rate of interest as permitted by the State of Florida, and shall be immediately payable by Tenant to Landlord.

29.06 Notwithstanding the provisions of clause 29.05 above, and regardless of whether an event of default shall have occurred, Landlord may exercise the remedy described in clause 29.05 without any notice to Tenant if Landlord, in its good faith judgment, believes it would be injured by failure to take rapid action or if the unperformed obligation by Tenant constitutes an emergency.

29.07 If this Agreement is terminated or cancelled by Landlord, Tenant nevertheless shall remain liable for any and all rent and damages which may be due, become due or sustained by Landlord, along with any and all reasonable costs, fees and expenses including, but not limited to, attorneys' fees, costs and expenses incurred by Landlord in pursuit of its remedies hereunder, or in renting the Premises or a portion thereof to others.

29.08 All rights and remedies of Landlord under this Agreement shall be cumulative and shall not be exclusive of any other rights and remedies provided to Landlord under applicable law.

## ARTICLE 30
## ADDITIONAL PROVISIONS

30.01 Non-Discrimination

The Board of County Commissioners declared and established as a matter of policy, by Resolution No. 9601 dated March 24, 1964, that there shall be no discrimination based on race, color, creed, or national origin and Resolution No. 85-92 dated January 21, 1992, that there shall be no discrimination on the basis of disability in connection with any County property or facilities operated or maintained under lease agreement, license, or other agreement from MIAMI-DADE COUNTY or its agencies.

Tenant agrees to comply with the intention of Resolution No. 9601 dated March 24, 1964 and Resolution No. 85-92 dated January 21, 1992, involving the use, operation, and maintenance of the property and facilities included in this Lease Agreement.

30.02. Tenant agrees that it will immediately notify the Landlord should any person sustain(s), or is found to have, a serious bodily injury or dies on or about the Landlord's property, and/or within the care, custody or control of the Tenant. The parties hereby agree that the definition of serious bodily injury shall include, but not be limited to, any injury to a person which requires medical treatment either at a hospital or by emergency medical technicians. Further, in instances where someone sustained a serious bodily injury or died, in addition to any other requirement(s) regarding notice under this Agreement, the Tenant shall also immediately (same day, or in situations where the same day is not possible, then next day) call the Landlord's General Services Administration, and notify the Director of such incident, in detail, with or without the name of the individual that died or sustained the serious bodily injury. Further, in instances where an individual died or sustained a serious bodily injury, the Tenant must complete a detailed injury and incident report and immediately (same day or next day) send it to the Landlord, in accordance with the terms of the notice provisions found in this Agreement. The Tenant hereby agrees that it will immediately comply with all of the foregoing requirements notwithstanding any other obligation, including but not limited to, any agreement for confidentiality, that it owes or may owe to any other governmental agency, and/or to any friend or member of a person's family.

## ARTICLE 31
## GOVERNING LAW

31.01 This Agreement, including any exhibits or amendments, if any, and all matters relating thereto (whether in contract, statute, tort or otherwise) shall be governed by and construed in accordance with the laws of the State of Florida.

## ARTICLE 32
## WRITTEN AGREEMENT

32.01 This Agreement contains the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by resolution approved by the Board of County Commissioners.

[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK]

[ONLY THE SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their respective and duly authorized officers the day and year first above written.

(CORPORATE SEAL)

THE ASSOCIATION FOR RETARDED CITIZENS, SOUTH FLORIDA, INC.
a Florida not-for-profit corporation

WITNESS

Michael Messer, Executive Director
(Tenant)

WITNESS

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

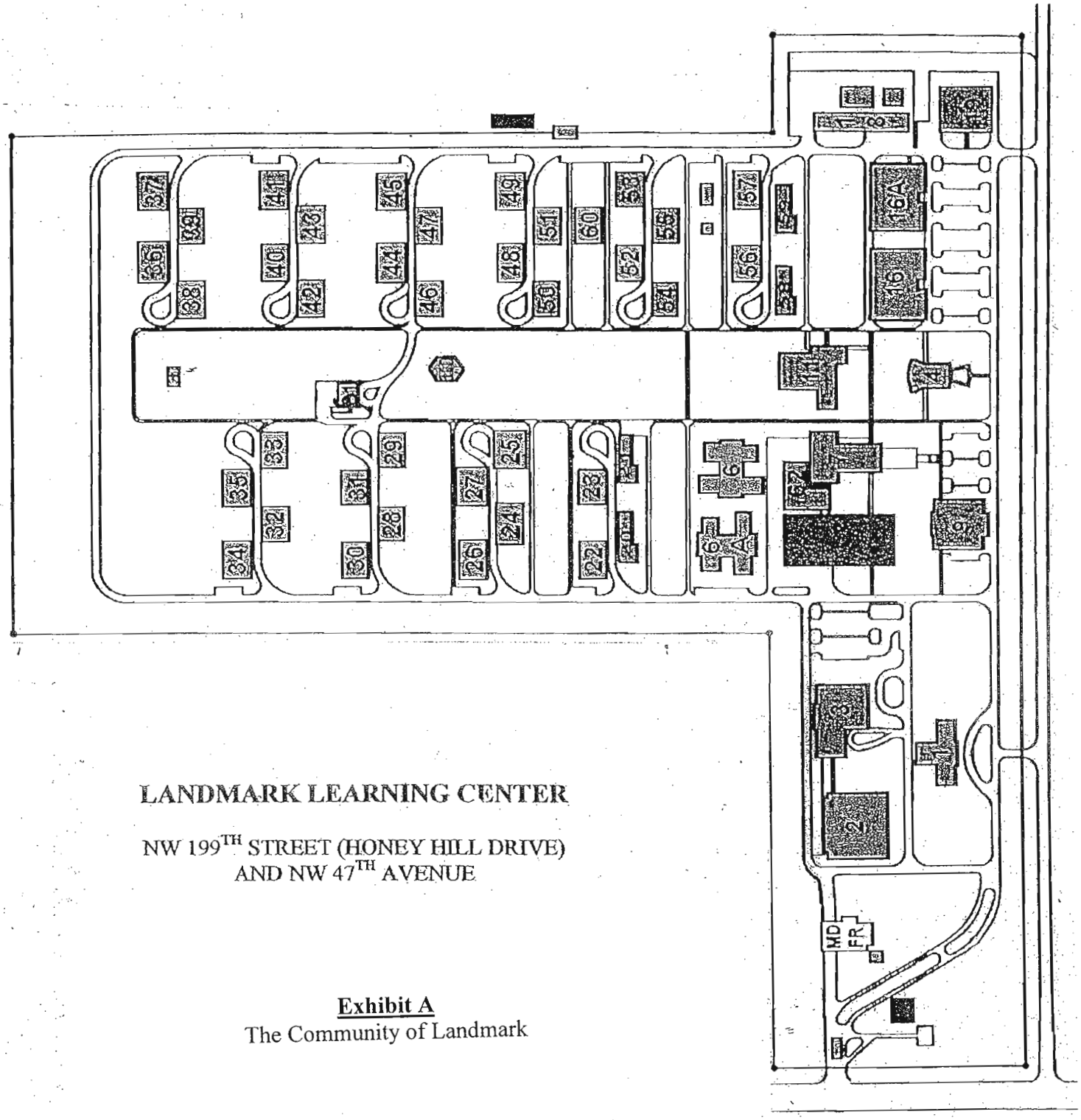
By:_____
DEPUTY CLERK

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

By: _____
Carlos Alvarez
Mayor (Landlord)

33

# Exhibit A

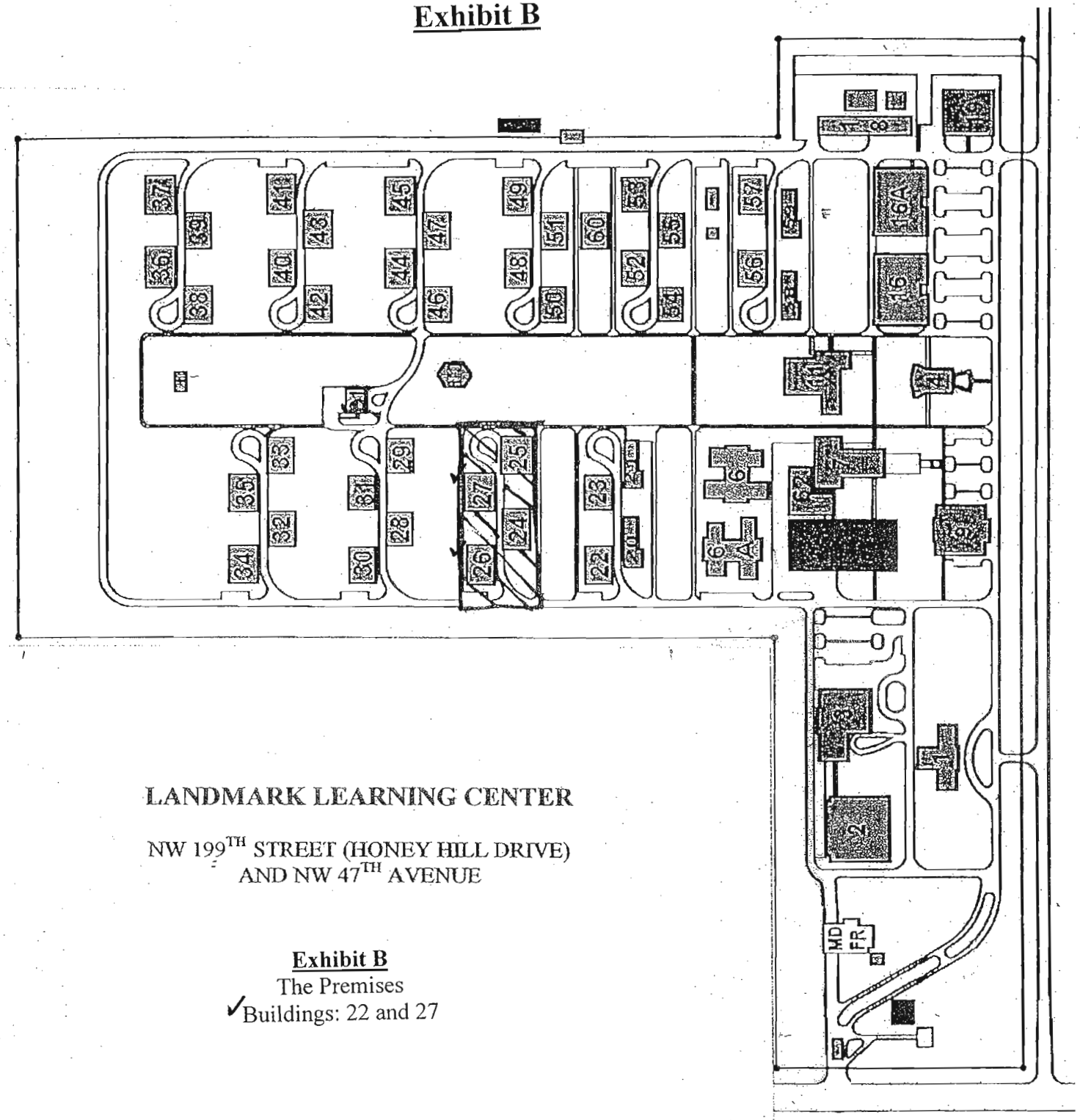



LANDMARK LEARNING CENTER

NW 199TH STREET (HONEY HILL DRIVE)
AND NW 47TH AVENUE

**Exhibit A**
The Community of Landmark

# Exhibit B




LANDMARK LEARNING CENTER

NW 199TH STREET (HONEY HILL DRIVE)
AND NW 47TH AVENUE

**Exhibit B**
The Premises
✓Buildings: 22 and 27