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

Memorandum

MIAMI-DADE COUNTY

Date: July 7, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

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

From: Alina T. Hudak
County Manager

Resolution No. R-525-11

Subject: Retroactive Lease Agreement with the City of Miami Beach, a Florida Municipal Corporation, for Community Action Agency, South Beach Community Enrichment Center, Located at 833 Sixth Street, Miami Beach
Property # 02-4203-009-4820-1

RECOMMENDATION

It is recommended that the Board approve the attached resolution authorizing execution of a Retroactive Lease Agreement at 833 Sixth Street, Miami Beach, with the City of Miami Beach, (the "City"), a Florida Municipal Corporation, for office space to be occupied by Community Action Agency. The attached Retroactive Lease Agreement has been prepared by General Services Administration at the request of Community Action Agency. This Lease Agreement is retroactive because the negotiation process took longer than anticipated, due to the City not accepting all the terms in the County's standard lease. The City's Attorney and the County Attorney's office negotiated the terms to benefit both parties. The City Commission approved the lease on March 24, 2011.

PROPERTY:	833 Sixth Street, Miami Beach
COMMISSION DISTRICT:	5
COMMISSION DISTRICTS IMPACTED:	District 5 – City of Miami Beach and neighboring municipalities
OWNER:	City of Miami Beach, a Florida Municipal Corporation
OWNER'S TRACK RECORD:	The County has no record of negative performance issues with the City of Miami Beach.
USE:	2,076 square feet of air conditioned office space together with off-street parking.
BACKGROUND:	The Community Action Agency's Enrichment Program had been operating from this location for several years at no cost to the County. On or about June 2009, the City decided to formalize the County's tenancy in the building and determined that in order to cover the building's operating expenses, the City needed to start charging rent to the County as of October 2, 2009. The City also indicated that the Lease must be for less than ten (10) years, including the renewal period thus, the initial term of four years and three hundred sixty four days.

JUSTIFICATION: Community Action Agency has a need to continue utilizing this facility for its community enrichment program. This program provides services to disadvantaged individuals and families in the Miami Beach area to help them achieve self-sufficiency.

LEASE TERM: Four years three hundred sixty four days with one additional five-year renewal option period.

EFFECTIVE DATES: Commencing on: (1) the passage of the resolution of the Miami-Dade County Board of County Commissioners approving this Retroactive Lease Agreement, and (2) retroactively to October 2, 2009, and terminating September 30, 2014.

RENTAL RATE: The annual base rent for the initial four years three hundred sixty four days and the subsequent five-year renewal option period will be One Dollar and Twenty Cents ($1.20) each year. The County is also responsible for its prorated share of the building's operating expenses, which is $15,935.28 or $7.68 per square foot on an annual basis, payable as additional rent.

FISCAL IMPACT: The total fiscal impact for the initial four-year three hundred sixty four day period is $80,476.56 which is calculated below. This expense has been budgeted in the Community Action Agency's operating budget. The funding sources are Federal Grants under Index Codes CAHS11AD and CAHS11CT, Sub-object Code 25511.

Retroactive Occupancy Cost:

Annual Base Rent:	Total Dollars	PSF
Retroactive annual base rent		
FY 2009-2010	$ 1.20	$ 0.00
FY 2010-2011	$ 1.20	$ 0.00
Retroactive base rent:	$ 2.40	$ 0.00
Indirect Expense:		
Retroactive Operating Expenses:		
FY 2009-2010	$15,935.28	$ 7.68
FY 2010-2011	$15,935.28	$ 7.68
Total Retroactive OE:	$31,870.56	$15.36
Total Retroactive Rent:	$31,872.96	

Occupancy Cost for the remaining three years of the initial four-year three hundred sixty four days period.

Annual base rent:

FY 2011-2012	$ 1.20	$ 0.00
FY 2012-2013	$ 1.20	$ 0.00
FY 2013-2014	$ 1.20	$ 0.00
Total base rent:	$ 3.60	

Operating Expenses:

FY 2011-2012	$16,200.00	$ 7.80
FY 2012-2013	$16,200.00	$ 7.80
FY 2013-2014	$16,200.00	$ 7.80
Total Op.Exp.:	$48,600.00	$23.40

Total Cost to County
for the initial lease term
including retroactive rent: $80,476.56

The total projected fiscal impact for the initial four years three hundred sixty four days term of the lease and the five-year renewal option period is $163,482.56.

LEASE CONDITIONS:

The Landlord shall be responsible for utilities, electrical and plumbing lines, the maintenance of all common areas, roof, roof leaks, air conditioning and heating equipment, and the structure of the building. The Tenant shall be responsible for maintaining the demised premises, including windows, doors and lighting. The Tenant shall also be responsible for its prorated share of the building's operating expenses. The County's share of the building's operating expenses through September 30, 2011 is $15,935.28 or $7.68 per square foot on an annual basis payable as additional rent.

CANCELLATION PROVISION:

Tenant may cancel at any time and for any reason by giving Landlord at least thirty days written notice prior to its effective date.

OTHER PROPERTIES EVALUATED:

235 Lincoln Road, Miami Beach – $26.00 per square foot on an annual basis for a full service lease, plus operating expenses, estimated at $7.00 per square foot on an annual basis and parking at $50.00 per month per vehicle. Public parking available for guests and visitors at ongoing rates.

1234 Washington Avenue, Miami Beach – $22.50 per square foot on an annual basis for a modified gross lease. Tenant is responsible for the maintenance of the demised premises, janitorial and custodial services and its pro-rated share of the building's operating expenses, estimated at $8.00 per square foot on an annual basis. Employee parking is available for an additional cost of $55.00 per vehicle per month.

1221 Collins Avenue, Miami Beach – $40.00 per square foot on an annual basis for a modified net lease, plus the building's taxes and insurance. Free standing building, parking included at no additional cost.

MONITOR: Margaret Araujo, Real Estate Officer

DELEGATED AUTHORITY: Authorizes the County Mayor or the County Mayor's designee to execute the Retroactive Lease Agreement and exercise the renewal and cancellation provisions.

Wendi J. Norris
Director
General Services Administration

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: July 7, 2011

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

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

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

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

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

_____ **No committee review**

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

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)(D)
7-7-11

RESOLUTION NO. R-525-11

RESOLUTION AUTHORIZING EXECUTION OF A RETROACTIVE LEASE AGREEMENT AT 833 SIXTH STREET, MIAMI BEACH, WITH THE CITY OF MIAMI BEACH, A FLORIDA MUNICIPAL CORPORATION, FOR PREMISES TO BE UTILIZED BY COMMUNITY ACTION AGENCY FOR ITS COMMUNITY ENRICHMENT PROGRAM, WITH TOTAL FISCAL IMPACT TO MIAMI-DADE COUNTY NOT TO EXCEED $163,482.56 FOR THE FOUR-YEAR THREE HUNDRED SIXTY FOUR DAYS TERM OF THE LEASE AND THE FIVE-YEAR RENEWAL OPTION PERIOD; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Retroactive Lease Agreement between Miami-Dade County and the City of Miami Beach, a Florida Municipal Corporation for premises to be utilized by Community Action Agency for its Community Enrichment Program, with total fiscal impact to Miami-Dade County not to exceed $163,482.56 for the four-year three hundred sixty four days term of the Lease and the five-year renewal option period, in substantially the form attached hereto and made a part hereof, authorizes the County Mayor or the County Mayor's designee to execute same for and on behalf of Miami-Dade County; and authorizes the County Mayor or the County Mayor's 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 **Bruno A. Barreiro** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	absent	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of July, 2011. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. JRA

Juliette R. Antoine

RETROACTIVE LEASE AGREEMENT

THIS AGREEMENT made on the day of , 2011, by and between the CITY OF MIAMI BEACH, a Florida municipal corporation, hereinafter called the "LANDLORD," and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, hereinafter called the "TENANT,"

WITNESSETH:

That 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:

2,076 rentable square feet of air-conditioned office space located on the 1st floor of the South Shore Community Center located at 833 Sixth Street, Miami Beach, Florida 33139.

TO HAVE AND TO HOLD unto the said TENANT for a term of four (4) years and 364 days, commencing retroactively on October 2, 2009, subject to the passage of the resolution of the Miami-Dade County Board of County Commissioners (the "Board") approving this Lease Agreement (the "Commencement Date") and terminating on September 30, 2014. The annual rental (the Base Rent) for the Demised Premises shall be One Dollar and Twenty Cents ($1.20), payable annually, in advance on the first day of each calendar year to the City of Miami Beach, Revenue Manager, 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139, or at such other place and to such other person as LANDLORD may from time to time designate in writing, as set forth herein. In addition to the Base Rent, TENANT shall also pay Additional Rent, as provided in Article XXVIII herein.

IT IS FURTHER MUTUALLY UNDERSTOOD AND AGREED BY THE RESPECTIVE PARTIES HERETO:

ARTICLE I
USE OF DEMISED PREMISES

The Demised Premises shall be used by TENANT solely for the purposes(s) of operating the South Beach Community Enrichment Center, which empowers economically disadvantaged individuals, families and communities to achieve self-sufficiency through resource mobilization,

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service delivery, education and advocacy. Said Demised Premises shall be open for operation a minimum of five (5) days per week, with minimum hours of operation being as follows: Monday-Friday: 8:00 AM to 5:00 PM. Nothing herein contained shall be construed to authorize hours contrary to the laws governing such operations. Any change in the minimum hours of operation must be approved, in writing, by the LANDLORD'S City Manager.

ARTICLE II
CONDITION OF DEMISED PREMISES

TENANT hereby accepts the Demised Premises in their "As Is" condition, and which TENANT acknowledges are in a state of good repair and suitable for usage by TENANT as of the Commencement Date of this Lease Agreement.

ARTICLE III
UTILITIES

TENANT, during the term hereof, shall pay all charges (not included within Operating Expenses, as detailed in Article XXVIII "Additional Rent and Operating Expenses") for electricity, water, sewer, waste disposal, impact fees, and common exterior janitorial services used by TENANT for the Demised Premises. In no event, however, shall the LANDLORD be liable, whether to TENANT or third parties, for any interruption or failure in the supply of any utilities or services to the Demised Premises.

ARTICLE IV

Intentionally omitted.

ARTICLE V
ALTERATIONS BY TENANT

TENANT may not make any alterations, additions, or improvements in or to the Demised Premises without the prior written consent of LANDLORD, which consent, shall be through LANDLORD's City Manager, and which further, shall not be unreasonably withheld, conditional, or delayed.

It shall be TENANT's sole obligation and responsibility to insure that any renovations, repairs and/or improvements made by TENANT to the Demised Premises comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.

All additions, fixtures, or improvements (except but not limited to store and office furniture and fixtures which are readily removable without injury to the Demised Premises) shall be and remain

a part of the Demised Premises upon termination or expiration of this Lease Agreement. Subject to the above, any removable partitions installed by TENANT within the Demised Premises shall remain TENANT's property and may be removed by TENANT upon termination or expiration of the Lease Agreement, provided they can be removed without damage to the Demised Premises. TENANT will permit no liens to attach to the Demised Premises arising from or connected with or related to the design and/or construction and/or installation of any alterations, additions, or improvements.

ARTICLE VI
DESTRUCTION OF DEMISED PREMISES

In the event the Demised Premises or any portion thereof should be destroyed or so damaged by fire, windstorm, or other casualty, either party may cancel this Lease Agreement for its convenience by the giving of written notice to the other within ninety (90) days from and after the occurrence of the fire, windstorm, or other casualty event. In the event of cancellation under this Article, neither party shall be responsible to the other party for any expense associated with the cancellation, and TENANT shall only be liable to LANDLORD for such rents as may be due as of the date of such fire, windstorm, or other casualty event.

If neither party shall exercise the foregoing right of cancellation, LANDLORD shall use reasonable efforts to cause the Demised Premises to be repaired and placed in good condition within one hundred eighty (180) days following the date of casualty. If the Demised Premises sustained damages such that, in LANDLORD'S sole and reasonable discretion, the repairs cannot be completed within one hundred eighty (180) days, TENANT shall be entitled to cancel the Lease Agreement by the giving of written notice to LANDLORD at any time, notwithstanding the commencement of any repairs by LANDLORD. TENANT shall not be liable for rent during such period of time as the Demised Premises remains untenantable by reason of a fire, windstorm or other casualty event.

In the event of partial destruction or damages to the Demised Premises which do not render the Demised Premises untenantable, the rents shall be proportionately abated in accordance with the extent to which TENANT is deprived of use, occupancy or full enjoyment of the Premises, unless TENANT exercises its right of cancellation, as set forth in paragraph 1 above.

ARTICLE VII
DISABLED INDIVIDUALS

LANDLORD understands, recognizes, and warrants to the best of its information, knowledge, and belief, but without making independent inquiry, that all common areas are, and shall at all times

be maintained, in accordance with the requirements for disabled individuals contained in the Americans with Disabilities Act of 1990 (the "ADA") and Section 553.501 et seq. of the Florida Statutes, as presently written and as may be hereafter amended.

LANDLORD further warrants, that the Demised Premises and access thereto, including but not limited to restrooms, hallways, and entryways to the street, shall be in compliance with the accessibility standards for government programs contained in the ADA and all requirements of Section 553.501et seq. of the Florida Statutes. LANDLORD shall assure that the Demised Premises and access thereto shall at all times be maintained in accordance with the requirements of Section 255.21 of the Florida Statutes at LANDLORD's cost and expense. LANDLORD agrees to correct any and all violations of the obligations of LANDLORD under this Section within thirty (30) days of written notice by TENANT of the existence of the same.

LANDLORD recognizes and agrees that throughout the term of the Lease Agreement, TENANT may in its discretion change its employees or programs which operate from the Demised Premises. LANDLORD agrees that TENANT may at TENANT's expense and subject to LANDLORD's City Manager's prior written approval, make such changes to the Demised Premises or the access thereto as may be required by TENANT to accommodate disabled individuals or to provide program accessibility in connection with any such change in TENANT's work force.

ARTICLE VIII
NO LIABILITY FOR PERSONAL PROPERTY

All personal property placed or moved in the Demised Premises above described shall be at the sole risk of TENANT or the owner thereof. LANDLORD shall in no event be liable to TENANT for any damage to said personal property.

ARTICLE IX
SIGNS

Exterior signs will be of the design and form of letter to be first approved by LANDLORD's City Manager, the cost of painting to be paid by TENANT. All signs shall be removed by TENANT at termination of this Lease Agreement and any damage or unsightly condition caused to the building because of or due to said signs shall be satisfactorily corrected or repaired by TENANT.

All additional signage shall comply with signage standards established by the LANDLORD and comply with all applicable building codes, and any other City, County, State and Federal laws.

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ARTICLE X
LANDLORD'S RIGHT OF ENTRY

LANDLORD or any of its employees or agents shall have the right to enter the Demised Premises during all reasonable working hours, upon the giving of twenty-four (24) hours' prior notice (verbal or written), unless an emergency exists, as determined by LANDLORD's City Manager, in his/her sole discretion, in which case no prior notice to TENANT shall be required to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof of the building or the Demised Premises; or to exhibit said Demised Premises and to put or keep upon the doors or windows thereof a notice "FOR RENT" at any time within thirty (30) days before the expiration of this Lease Agreement.

Nothing herein shall imply any duty on the part of the LANDLORD to do any work that under any provisions of this Lease Agreement the TENANT may be required to perform, and the performance thereof by the LANDLORD shall not constitute a waiver of the TENANT's default.

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

ARTICLE XI
LIABILITY FOR DAMAGE OR INJURY

Neither LANDLORD nor TENANT shall be held liable for any damage or injury which may be sustained by any party or person on the Demised Premises other than damage or injury caused solely by the negligence of LANDLORD or TENANT, subject to all limitations of Florida Statutes, Section 768.28.

ARTICLE XII
PEACEFUL POSSESSION

Subject to the terms, conditions, and covenants of this Lease Agreement, LANDLORD agrees that TENANT shall and may peaceably have, hold, and enjoy the Demised Premises above described, without hindrance or molestation by LANDLORD.

ARTICLE XIII
SURRENDER OF DEMISED PREMISES

TENANT agrees to peaceably and quietly leave and surrender to LANDLORD at the end of

the term of this Lease Agreement, or any sooner termination thereof, the Demised Premises in as good condition as said Demised Premises were at the beginning of the term of this Lease Agreement, ordinary wear and tear excepted; subject, however, to the subsequent provisions of this Section. Any property which pursuant to the provisions of this Section is removable by TENANT on or at the Demised Premises upon the termination of this Agreement and is not so removed may, at the option of the City, be deemed abandoned by TENANT, and either may be retained by LANDLORD as its property or may be removed and disposed of at the sole cost of the TENANT in such manner as LANDLORD may see fit. If the Demised Premises and personal property, if any, be not surrendered at the end of the Term as provided in this Section, TENANT shall make good to LANDLORD all damages which LANDLORD shall suffer by reason thereof, and shall indemnify and hold harmless LANDLORD against all claims made by any succeeding TENANT or purchaser, so far as such delay is occasioned by the failure of TENANT to surrender the Demised Premises as and when herein required.

ARTICLE XIV
INDEMNIFICATION AND HOLD HARMLESS

TENANT, subject to the limitations of Section 768.28, Florida Statutes, shall indemnify and save LANDLORD harmless from and against any and all claims or causes of action (whether groundless or otherwise) by or on behalf of any person, firm, or corporation, for personal injury or property damage occurring upon the Demised Premises or upon any other land or other facility or appurtenance used in connection with the Demised Premises, occasioned in whole or in part by any of the following:

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

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

Any breach, violation, or non-performance of any undertaking of TENANT under this Agreement;

Anything growing out of the use or occupancy of the Demised Premises by TENANT or anyone holding or claiming to hold through or under this Agreement.

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

LANDLORD shall indemnify and hold harmless the TENANT from any liability losses or damages which TENANT 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 negligence of LANDLORD or its employees, agents, principals or subcontractors, to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the LANDLORD shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of $100,000.00, or any claim or judgments or portions thereof, which, when totaled with all other occurrences, exceeds the sum of $200,000.00 from any and all personal injury or property damage claims, liabilities, losses or causes of action.

ARTICLE XV
SUCCESSORS IN INTEREST

It is hereby covenanted and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Lease 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 XVI
NOTICES

It is understood and agreed between the parties hereto that written notice addressed and sent by certified or registered mail, return receipt requested, first class, postage prepaid and addressed as follows:

TENANT:

General Services Administration
Real Estate Development Division
111 N.W. 1st Street, Suite 2460
Miami, Florida 33128

With Copy to:

Community Action Agency
701 N.W. 1st Court
Miami, Florida 33136

LANDLORD:

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

With Copy to:

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

shall constitute sufficient notice to TENANT, and written notice addressed to LANDLORD, and mailed or delivered to the address as stated above, shall constitute sufficient notice to LANDLORD to comply with the terms of this Lease Agreement. Notices provided herein in this paragraph shall include all notices required in this Lease Agreement or required by law.

ARTICLE XVII
OPTION TO RENEW

At the expiration of the initial term herein, and provided that (i) TENANT is in good standing and free from default(s) under this Lease Agreement, and (ii) TENANT continues to utilize the Demised Premises in accordance with the stated purpose(s)/use(s) herein, TENANT through its County Mayor or the County Mayor's designee shall be granted the option to renew this Agreement for one (1) additional five (5) year term, which renewal shall be memorialized in writing and executed by the parties hereto (with LANDLORD hereby authorizing the City Manager to execute on behalf of the LANDLORD).

Notwithstanding the preceding, within ninety (90) days prior to the expiration of the initial term, the City Manager may elect to re-negotiate a reasonable increase in the rents, and shall provide TENANT with written notice of such election. If, following good-faith negotiations between the LANDLORD and TENANT, the parties are unable to agree, then the City Manager may further elect to not renew the Agreement, in which case, the Agreement will terminate and the LANDLORD shall have no further liability or obligations to TENANT.

ARTICLE XVIII
CANCELLATION

TENANT, through its County Mayor or the County Mayor's designee, and LANDLORD through its City Manager, shall have the right to terminate this Lease Agreement or any portion thereof, at any time by giving at least thirty (30) days written notice to the other party prior to its effective date.

ARTICLE XIX

Intentionally omitted.

ARTICLE XX

Intentionally omitted.

ARTICLE XXI
OPERATION, MAINTENANCE AND REPAIR

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

LANDLORD shall be responsible for the maintenance of the HVAC system, roof, structural exterior of the Building, the structural electrical and plumbing (other than plumbing surrounding any sink(s) and/or toilet(s), including such sink(s) and toilet(s) fixtures, within the Demised Premises), and the common areas. LANDLORD shall maintain and/or repair those items that it is responsible for, so as to keep the same in good working order and condition.

All damage or injury of any kind to the Demised Premises, and including without limitations its fixtures, glass, appurtenances, and equipment (if any), or to the building fixtures, glass, appurtenances, and equipment, if any, except damage caused by the gross negligence and/or willful misconduct of the LANDLORD, shall be the sole obligation of TENANT, and shall be repaired, restored or replaced promptly by TENANT, at its sole cost and expense, to the satisfaction of the LANDLORD.

All of the aforesaid repairs, restorations and replacements shall be in quality and class equal to or better than the original work or installations and shall be done in good and workmanlike manner.

It shall be TENANT's sole obligation and responsibility to insure that any renovations, repairs and/or improvements made by TENANT to the Demised Premises comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.

ARTICLE XXII

Intentionally omitted.

ARTICLE XXIII
WAIVER OF LANDLORD'S LIEN

LANDLORD, for itself and its successors and assigns, does hereby waive all rights to levy and/or distraint and all lien lights accrued and accruing as to all personal property, machinery,

fixtures, and -equipment, affixed or otherwise, now or hereafter belonging to or in the possession of TENANT. Further, TENANT may at its discretion remove from time to time all or part of its personal property, machinery, trade fixtures, and equipment.

ARTICLE XXIV
FORCE MAJEURE

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 the Lease 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 XXV
LANDLORD'S DEFAULT

It shall constitute a default of this Lease Agreement by LANDLORD if, except as otherwise provided in this Lease Agreement, LANDLORD fails to observe or perform any of the covenants, conditions, or provisions of this Lease Agreement to be observed or performed by LANDLORD, where such failure shall continue for a period of thirty (30) days after written notice thereof from TENANT to LANDLORD; provided, however, that if the nature of LANDLORD's non-compliance is such that more than thirty (30) days are reasonably required for its cure, then LANDLORD shall not be deemed to be in default if LANDLORD commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. In the event of LANDLORD'S failure to cure any such default, TENANT may at any time terminate this Lease Agreement within seven (7) days written notice to LANDLORD. No remedy of TENANT provided for in the Lease Agreement shall be considered to exclude or suspend any other remedy provided for herein, but the same shall be cumulative and in addition to TENANT's remedies at law or in equity, subject to the limitations of Section 768.28 of the Florida Statutes.

ARTICLE XXVI
DEFAULT OF TENANT

If TENANT shall fail to pay annual installment or item of rent on the date when the same becomes due or shall violate or fail to perform any of the other conditions, covenants, or provisions of

this Lease Agreement to be observed and performed by TENANT, and if such violation or failure continues for a period of thirty (30) days after written notice thereof from LANDLORD, to TENANT, except for failure to pay rent, which shall have a fifteen (15) day period for cure after written notice thereof from LANDLORD, to TENANT, then LANDLORD may at any time terminate this Lease Agreement upon seven (7) days written notice to TENANT; provided, however, that (except as to rent) if the nature of TENANT'S non-compliance is such that more than thirty (30) days are reasonably required for its cure, then TENANT shall not be deemed in default if TENANT commenced such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. In the event of termination, LANDLORD shall also have the right to proceed with any remedy available at law or in equity in the State of Florida. All rights and remedies of LANDLORD under this Lease Agreement shall be cumulative and shall not be exclusive of any other rights and remedies provided to LANDLORD under applicable law, subject to the limitations of Section 768.28 of the Florida Statutes.

ARTICLE XXVII
WAIVER

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 obligations stipulated herein) nor shall any endorsement or statement on any check or letter accompanying a check for payment of rent (or additional rent obligations as stipulated herein) 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 additional rent obligations as stipulated herein) or other amount owed or to pursue any other remedy provided in this Lease Agreement. No reentry by LANDLORD and no acceptance by LANDLORD of keys from TENANT shall be considered an acceptance of a surrender of this Lease Agreement.

ARTICLE XXVIII
ADDITIONAL RENT (OPERATING EXPENSES)

In addition to the Base Rent, TENANT shall also pay the following Additional Rent as provided below:

TENANT shall pay One Thousand Three Hundred Twenty Seven Dollars and 94/100 ($1,327.94) per month, for its proportionate share of "Operating Expenses" which are defined as follows:

"Operating Expenses" shall mean expenses incurred as a result of operating, repairing, and maintaining the Common Facilities (as herein defined) and shall include electrical service, water service, sewer service, storm water costs and janitorial and custodial services to the Building, including the Demised Premises.

"Common Facilities" shall mean all Building areas, spaces, equipment, as well as certain services, available for use by or for the benefit of TENANT and/or its employees, agents, servants, volunteers, customers, guests and/or invitees.

Irrespective of the items listed above, amount due by TENANT, associated with Common Facilities Operating Expenses, will be determined based on TENANT's pro-rata share of the items, which is hereby made a part of the Lease Agreement. Pro-rata share shall mean the percent which the Demised Premises bears to the total square footage of leasable space within the Building, which share is hereby agreed to be sixteen percent (16%). TENANT agrees and understands that the costs incurred for Operating Expenses may increase or decrease and, as such, TENANT's pro-rata share of Operating Expenses shall increase or decrease accordingly.

ARTICLE XXIX
AMENDMENT

All amendments to this Lease Agreement must be in writing and signed by LANDLORD and TENANT, also shall be further subject to the approval of LANDLORD and TENANT's respective Boards ' (i.e., the Miami-Dade County Board of County Commissioners, the Miami Beach Mayor and City of Miami Beach Commission, respectively).

ARTICLE XXX
LANDLORD'S RIGHT TO REPAIR

LANDLORD shall have access to all air conditioning and heating equipment and to all other mechanical, electrical, plumbing and utility installations servicing the Building and the Demised

Premises upon twenty-four (24) hours prior written notice to TENANT, except in the event of an emergency, in which case such notice shall not be required. At the election of TENANT, LANDLORD shall be accompanied by an employee of TENANT, except in the event of an emergency. LANDLORD shall use its reasonable efforts to minimize any interference to TENANT's usage of the Demised Premises during the exercise of any rights granted to LANDLORD herein.

ARTICLE XXXI
ESTOPPEL CERTIFICATES

LANDLORD and TENANT agree, at any time and from time to time, upon not less than thirty (30) business days prior written notice by such party, to execute, acknowledge, and deliver to the other a statement in writing:

A. certifying that this Lease Agreement has been unmodified since its execution and is in full force and effect (or if Lease Agreement has been modified since its execution, that it is in full force and effect, as modified, and stating the modifications);

B. stating the dates, if any, to which the rent and sums hereunder have been paid by TENANT;

C. stating whether or not to the knowledge of LANDLORD or TENANT, as the case may be, there are then existing any defaults under this Lease Agreement (and, if so, specifying the same); and

D. stating the address to which notices to LANDLORD or TENANT, as the case may be, should be sent. Any such statement delivered pursuant thereto shall provide that such statement may be relied upon by LANDLORD or TENANT or any prospective purchaser or mortgagee or lessee or assignee of the Property, or any part thereof or estate therein.

ARTICLE XXXII

Intentionally omitted.

ARTICLE XXXIII
RADON GAS

Radon is a naturally occurring radioactive gas that when accumulated in a building in

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

ARTICLE XXXIV
DANGEROUS MATERIALS

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

TENANT shall indemnify and hold the City harmless from any loss, damage, cost, or expense of the City, including without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by TENANT of any "hazardous Substance" or "petroleum products" on, in or upon the Demised Premises as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder. The provisions of this Section 37 shall survive the termination or earlier expiration of this Agreement.

ARTICLE XXXV
HOLDOVER

If TENANT, with LANDLORD's consent, remains in possession of the Demised Premises after expiration of the term and if LANDLORD and TENANT have not executed an expressed written agreement as to such holding over, then such occupancy shall be a tenancy from month to month at a monthly rental for the first month, after expiration of the term, equivalent to one hundred percent (100%) of the monthly rental (which term shall, for the purpose of this Article, take into consideration the amounts for Base Rent and Additional Rent) in effect immediately prior to expiration, such payments to be made as herein provided. In the event of such holding over, all of the terms of the Lease Agreement including the payment of all charges owing hereunder other than rent shall remain in force and effect on said month to month basis.

ARTICLE XXXVI
GOVERNING LAW

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

LANDLORD and TENANT hereby knowingly and intentionally waive the right to trial by jury in any action or proceeding that the LANDLORD and TENANT may herein after institute against each other with respect to any matter arising out of or related to this Agreement.

ARTICLE XXXVII
WRITTENAGREEMENT

This Lease 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, City Mayor and City Commissioners.

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

(CORPORATE SEAL)

WITNESS

CITY OF MIAMI BEACH

WITNESS

By: Matti H. Bower
Matti Herrera Bower
City Mayor

(LANDLORD)

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

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

By: _____
Deputy Clerk

By: _____
Carlos Alvarez
County Mayor

(TENANT)

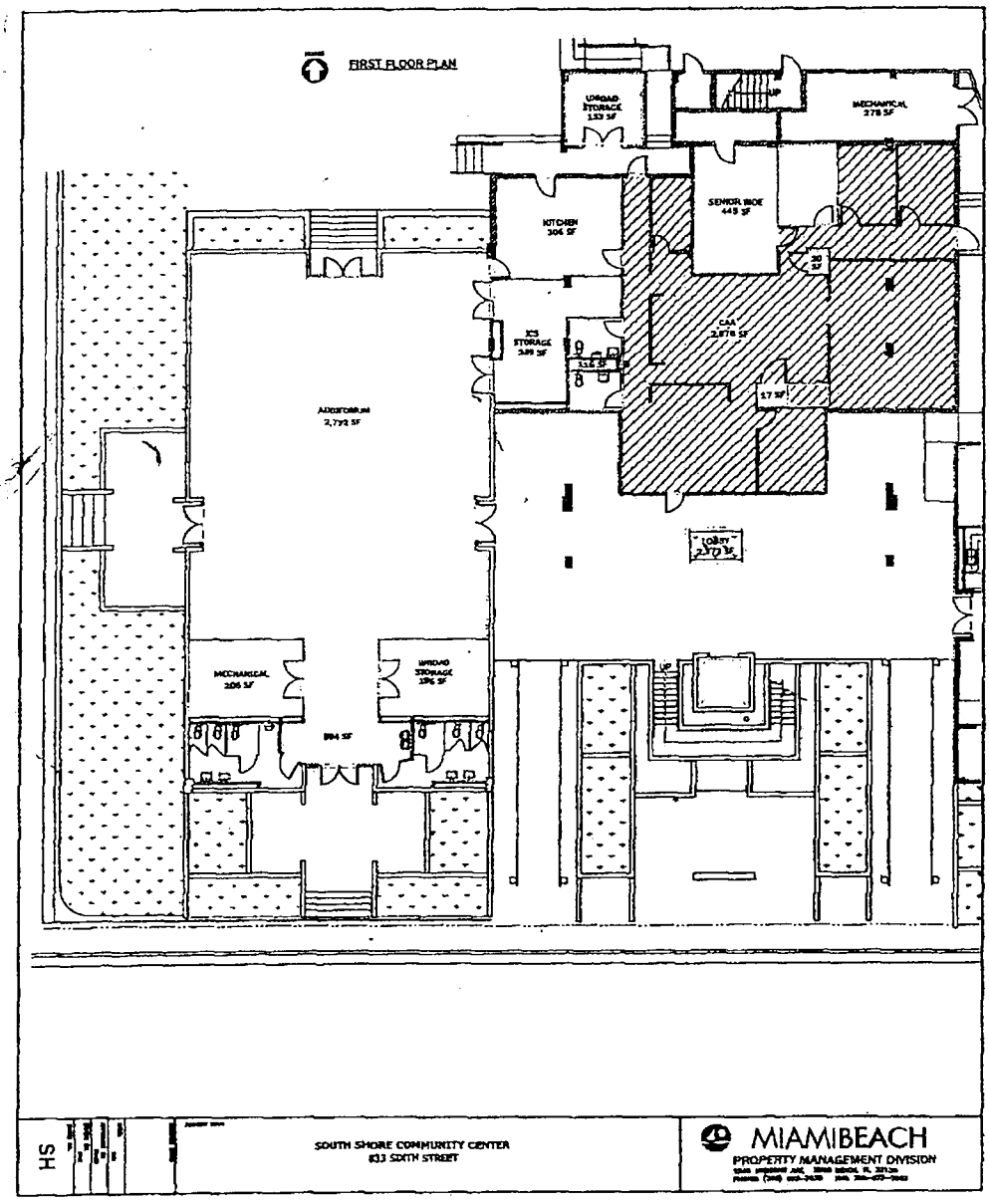
Approved by the County Attorney as
to form and legal sufficiency.____

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 3-9-11 Date

EXHIBIT 1

Demised Premises



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