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

Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 8(F)(4)

Resolution No. R-976-13

Date: December 3, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Retroactive Lease Agreement with the City of Miami Beach for Commissioner Bruno A. Barreiro's District Office located at the Miami Beach Convention Center, 1700 Convention Center Drive, Miami Beach, Florida - Lease No. 02-3227-000-0090-L01

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a Retroactive Lease Agreement between the County and the City of Miami Beach (Landlord), for Commissioner Bruno A. Barreiro's District Office located at the Miami Beach Convention Center, 1700 Convention Center Drive, Miami Beach, Florida, which is the City of Miami Beach's City Hall (City Hall). More specifically, the resolution does the following:

- Authorizes the leasing of 412 square feet of air-conditioned office space; and
- Authorizes a lease term of 46 month, plus a three-year renewal option.

SCOPE

The property is located in County Commission District 5, which is represented by Commissioner Bruno A. Barreiro.

FISCAL IMPACT/FUNDING SOURCE

The total fiscal impact for the first year of the initial lease term will be $1,031 dollars. This amount is comprised of $1 in annual base rent, $550 for operating expenses, and $480 for the security alarm. The total projected fiscal impact for the initial 46 month term of the lease, plus the additional three-year renewal option period will be $6,408. The funding source is the General Fund.

TRACK RECORD/MONITOR

The County has no record of negative performance issues with the City of Miami Beach. Margaret Araujo, Chief Real Estate Officer in Real Estate Development Division of the Internal Services Department, is the lease monitor.

DELEGATION OF AUTHORITY

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

BACKGROUND

With adoption of Resolution R-22-95, the County began utilizing approximately 75 square feet of office space at City Hall for District 5 services. Upon joining the Board, Commissioner Bruno A. Barreiro began utilizing this 75 square foot space as the Miami Beach District Office. In 2001, the City of Miami Beach relocated Commissioner Bruno A. Barreiro to the current 412 square foot space in City Hall. Commissioner Bruno A. Barreiro wishes to continue utilizing this space as his Miami Beach District Office to continue serving Miami Beach residents. The City of Miami Beach approved the lease for this space on January 16, 2013 through Resolution No. 2013-28118, with a start date of February 1, 2013. The County only recently received the executed leases from the City of Miami Beach, and, as a result, this item will be retroactive to February 1, 2013.

Additional lease details are as follows:

OWNER:	City of Miami Beach, a Florida municipal corporation
LEASE TERM:	46 months, plus one additional three-year renewal option period.
EFFECTIVE DATES:	Commencing retroactively on February 1, 2013.
RENTAL RATE:	Commencing February 1, 2013, the annual rent will be $1.00 each year, plus $1,030 for operating expenses and the costs of the security alarm. The current rental rate is also $1.00 each year.
LEASE CONDITIONS:	The Landlord is responsible for the maintenance of the building, common areas, and air conditioning. The County is responsible for its prorated share of the building's operating expenses, including utilities, phone and data.
OTHER PROPERTIES EVALUATED:	1234 Washington Avenue, Miami Beach – $24.00 per square foot on an annual basis for a triple net lease, plus operating expenses. Operating expenses range from between $7 and $10 per square foot annually. 1651 Washington Avenue, Miami Beach – $19.50 per square foot on an annual basis for a triple net lease, plus utilities and operating expenses. The operating expenses are estimated to be $7.00 per square foot annually. 421 Washington Avenue, Miami Beach – $19.20 per square foot on an annual basis for a modified gross lease, plus a prorated share of the building's operating expenses estimated to be $7.00 per square foot annually.

Edward Marquez
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 3, 2013

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

SUBJECT: Agenda Item No. 8(F)(4)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

_____ **No committee review**

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

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(4)
12-3-13

RESOLUTION NO. R-976-13

RESOLUTION APPROVING TERMS OF AND AUTHORIZING EXECUTION BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE OF A RETROACTIVE LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI BEACH, FOR PREMISES LOCATED AT THE MIAMI BEACH CONVENTION CENTER, 1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA, TO BE UTILIZED BY COMMISSIONER BRUNO BARREIRO AS A DISTRICT OFFICE, WITH A TOTAL FISCAL IMPACT TO THE COUNTY ESTIMATED TO BE $6,408.00 FOR THE INITIAL 46-MONTH TERM OF THE LEASE AND THE ADDITIONAL THREE-YEAR RENEWAL OPTION TERM; 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 terms of the Retroactive Lease Agreement between Miami-Dade County and the City of Miami Beach, for the premises to be utilized by Commissioner Bruno Barreiro as a District Office, with a total fiscal impact to Miami-Dade County estimated to be $6,408.00 for the initial 46-month term of the lease and the additional three-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 **Lynda Bell**, who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of December, 2013. 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. GBK

Geri Bonzon-Keenan

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this _____ day of _____, 2013, by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation, (hereinafter referred to as "City" or "Landlord"), and **MIAMI-DADE COUNTY, FLORIDA** (hereinafter referred to as "Tenant").

1. Demised Premises.

The City, in consideration of the rentals hereinafter reserved to be paid and of the covenants, conditions and agreements to be kept and performed by the Tenant, hereby leases, lets and demises to the Tenant, and Tenant hereby leases and hires from the City, those certain premises hereinafter referred to as the "Demised Premises" and more fully described as follows:

Approximately 412 square feet of City-owned property (the "Building"), located on the ground floor at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and as more specifically delineated in "Exhibit 1", attached hereto and incorporated herein.

2. Term.

2.1 Tenant shall be entitled to have and to hold the Demised Premises for an initial term of forty six (46) months, commencing retroactively as of the 1st day of February, 2013 (the "Commencement Date"), and ending on the 30th day of November, 2016.

For purposes of this Agreement, and including, without limitation, Subsection 2.2 herein, a "contract year" shall be defined as that certain one year period commencing on the 1st day of February, and ending on the 31st day of January.

2.2 Provided Tenant is in good standing and free from default(s) under Section 18 hereof, and upon written notice from Tenant, which notice shall be submitted to the City Manager no earlier than one hundred twenty (120) days, but in any case no later than sixty (60) days prior to the expiration of the initial term, this Lease may be extended for one (1) additional three (3) year renewal term. Any extension, if approved, shall be memorialized in writing and signed by the parties hereto (with the City hereby designating the City Manager as the individual authorized to execute such extensions on its behalf).

In the event that the City Manager determines, in his sole discretion, not to extend or renew this Lease Agreement (upon expiration of the initial term or any renewal term), the City Manager shall notify Tenant of same in writing, which notice shall be provided to Tenant within fifteen (15) business days of the City Manager's receipt of Tenant's written notice.

3. Rent.

3.1 Base Rent:
Base Rent for the Demised Premises shall begin to accrue on the Commencement Date.

3.1.1 Throughout the Term herein, the Base Rent for the Demised Premises shall be One Dollar and 00/100 ($1.00) per year, payable annually commencing on the Commencement Date and, thereafter, on each 1ST day of December.

3.1.2 Concurrent with the payment of the Base Rent, Tenant shall also include any and all additional sums for all applicable sales and use tax, now or hereafter prescribed by Federal, State or local law.

3.2 Intentionally Omitted.

3.3 Sales Taxes:
Concurrent with the payment of the Base Rent, as provide herein, Tenant shall also pay any and all sums for all applicable tax(es), including without limitation, sales and use taxes and Property Taxes, imposed, levied or assessed against the Demised Premises, or any other charge or payment required by any governmental authority having jurisdiction there over, even though the taxing statute or ordinance may purport to impose such tax against the City.

3.4 Enforcement.
Tenant agrees to pay the Base Rent, and any other amounts as may be due and payable by Tenant under this Agreement, at the time and in the manner provided herein, and should said rents and/or other additional amounts due herein provided, at any time remain due and unpaid for a period of fifteen (15) days after the same shall become due, the City may exercise any or all options available to it hereunder, which options may be exercised concurrently or separately, or the City may pursue any other remedies enforced by law.

4. Location for Payments.
All rents or other payments due hereunder shall be paid to the City at the following address:

City of Miami Beach
Revenue Manager
1700 Convention Center Drive, 3rd Floor
Miami Beach, Florida 33139

or at such other address as the City may, from time to time, designate in writing.

5. Intentionally Omitted.

6. Intentionally Omitted.

7. Use and Possession of Demised Premises.

7.1 The Demised Premises shall be used by the Tenant as the Miami Beach District Office for Commissioner Bruno Barreiro solely for the purpose(s) of meeting with City of Miami Beach residents and attending to their needs in a convenient and accessible government location. Said Premises shall be open for operation a minimum of five (5) days a week, with normal hours of operation being as follows:

Monday - Friday: 9:00 AM to 5:00 PM

Tenant shall not otherwise modify the days or hours of operation without the prior written approval of the City Manager. Nothing herein contained shall be construed to authorize hours contrary to the laws governing such operations.

7.2 It is understood and agreed that the Demised Premises shall be used by the Tenant during the Term of this Agreement only for the above purpose(s)/use(s), and for no other purpose(s) and/or use(s) whatsoever. Tenant will not make or permit any use of the Demised Premises that, directly or indirectly, is forbidden by law, ordinance or government regulation, or that may be dangerous to life, limb or property. Tenant may not commit (nor permit) waste on the Demised Premises; nor permit the use of the Demised Premises for any illegal purposes; nor commit a nuisance on the Demised Premises. In the event that the Tenant uses the Demised Premises (or otherwise allows the Demised Premises to be used) for any purpose(s) not expressly permitted herein, or permits and/or allows any prohibited use(s) as provided herein, then the City may declare this Agreement in default pursuant to Section 18 or, without notice to Tenant, restrain such improper use by injunction or other legal action.

8. Improvements.

8.1 Tenant accepts the Demised Premises in their present **"AS IS"** condition and may construct or cause to be constructed, such interior and exterior improvements and maintenance to the Demised Premises, as reasonably necessary for it to carry on its permitted use(s), as set forth in Section 7; provided, however, that any plans for such improvements shall be first submitted to the City Manager for his prior written consent, which consent, if granted at all, shall be at the City Manager's sole and absolute discretion. Additionally, any and all approved improvements shall be made at Tenant's sole expense and responsibility. All permanent (fixed) improvements to the Demised Premises shall remain the property of the City upon termination and/or expiration of this Agreement. Upon termination and/or expiration of this Agreement, all personal property and non-permanent trade fixtures may be removed by the Tenant from the Demised Premises, provided that they can be (and are) removed without

damage to the Demised Premises. Tenant will permit no liens to attach to the Demised Premises arising from, connected with, or related to the design and construction of any improvements. Moreover, such construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to the City. Any and all permits and or licenses required for the installation of improvements shall be the sole cost and responsibility of Tenant.

8.2 Notwithstanding Subsection 8.1, upon termination and/or expiration of this Agreement, and at City's sole option and discretion, any or all alterations or additions made by Tenant to or in the Demised Premises shall, upon written demand by the City Manager, be promptly removed by Tenant, at its expense and responsibility, and Tenant further hereby agrees, in such event, to restore the Demised Premises to their original condition prior to the Commencement Date of this Agreement.

8.3 The above requirements for submission of plans and the use of specific contractors shall not apply to improvements (which term, for purposes of this Subsection 8.3 only, shall also include improvements as necessary for Tenant's maintenance and repair of the Demised Premises) which do not exceed Five Hundred ($500.00) Dollars, provided that the work is not structural, and provided that it is permitted by applicable law.

9. <u>City's Right of Entry.</u>

9.1 The City Manager, and/or his authorized representatives, shall have the right to enter upon the Demised Premises at all reasonable times for the purpose of inspecting same; preventing waste; making such repairs as the City may consider necessary; and for the purpose of preventing fire, theft or vandalism. The City agrees that, whenever reasonably possible, it shall use reasonable efforts to provide notice (whether written or verbal), unless the need to enter the Demised Premises is an emergency, as deemed by the City Manager, in his sole discretion, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons. Nothing herein shall imply any duty on the part of the City to do any work that under any provisions of this Agreement the Tenant may be required to perform, and the performance thereof by the City shall not constitute a waiver of the Tenant's default.

9.2 If the Tenant shall not be personally present to open and permit entry into the Demised Premises at any time, for any reason, and any entry thereon shall be necessary or permissible, the City Manager, and/or his authorized representatives, may enter the Demised Premises by master key, or may forcibly enter the Demised Premises without rendering the City or such agents liable therefore.

9.3 Tenant shall furnish the City with duplicate keys to all locks including exterior and interior doors prior to (but no later than by) the Commencement Date of this Agreement. Tenant shall not change the

locks to the Demised Premises without the prior written consent of the City Manager, and in the event such consent is given, Tenant shall furnish the City with duplicate keys to said locks in advance of their installation.

10. Tenant's Insurance.
Tenant has an on-going self-insurance program as provided in "Exhibit 10" (Tenant's Insurance), attached hereto and incorporated herein.

11. Intentionally Omitted.

12. Assignment and Subletting.
Tenant shall not have the right to assign or sublet the Demised Premises, in whole or in part, without the prior written consent of the City Manager, which consent, if granted at all shall be at the City Manager's sole and absolute discretion. Such written consent is not a matter of right and the City is not obligated to give such consent. If granted as provided herein, the making of any

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assignment or sublease will not release Tenant from any of its obligations under this Agreement.

13. Operation, Maintenance and Repair.

13.1 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 them 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 or better quality.

The City shall be responsible for the maintenance of the roof, the exterior of the Building, all heating/ventilation/air conditioning (HVAC) equipment servicing the Demised Premises, the structural electrical and plumbing (other than plumbing surrounding any sink(s) and/or toilet(s), including such sink(s) and toilet(s) fixture(s), within the Demised Premises), the common areas and the chilled water supply system. The City shall maintain and/or repair those items that it is responsible for, so as to keep same in proper working condition.

13.2 All damage or injury of any kind to the Demised Premises, and including without limitation 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 City, shall be the sole obligation of Tenant, and shall be repaired, restored or replaced promptly by Tenant, at its sole expense and to the satisfaction of the City.

13.3 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.

13.4 If Tenant fails to make such repairs or restorations or replacements, the same may be made by the City, at the expense of Tenant, and all sums spent and expenses incurred by the City shall be collectable by the City and shall be paid by Tenant within three (3) days after submittal of a bill or statement therefore.

13.5 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.

13.6 Tenant Responsibilities for Utilities.

Tenant is solely responsible for, and shall promptly pay when due, all charges and impact fees for any and all utilities for the Demised Premises.

In addition to other rights and remedies hereinafter reserved to the City, upon the failure of Tenant to pay for such utility services (as contemplated in this Subsection 13.6) when due, the City may elect, at its sole discretion, to pay same, whereby Tenant agrees to promptly reimburse the City upon demand.

In no event, however, shall the City be liable, whether to Tenant or to third parties, for an interruption or failure in the supply of any utilities or services to the Demised Premises.

13.7 **TENANT HEREBY ACKNOWLEDGES AND AGREES THAT THE DEMISED PREMISES ARE BEING LEASED IN THEIR PRESENT "AS IS" CONDITION.**

14. Governmental Regulations.

Tenant covenants and agrees to fulfill and comply with all statutes, ordinances, rules, orders, regulations, and requirements of any and all governmental bodies, including but not limited to Federal, State, Miami-Dade County, and City governments, and any and all of their departments and bureaus applicable to the Demised Premises, and shall also comply with and fulfill all rules, orders, and regulations for the prevention of fire, all at Tenant's own expense and responsibility. Tenant shall pay all cost, expenses, claims, fines, penalties, and damages that may be imposed because of the failure of Tenant to comply with this Section, and shall indemnify and hold harmless the City from all liability arising from each non-compliance.

15. Liens.

Tenant will not permit any mechanics, laborers, or materialman's liens to stand against the Demised Premises or improvements for any labor or materials to Tenant or claimed to have been furnished to Tenant's agents, contractors, or sub-tenants, in connection with work of any character performed or claimed to have performed on said Premises, or improvements by or at the direction or sufferance of the Tenant; provided however, Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give the City reasonable security as may be demanded by the City to insure payment thereof and prevent sale, foreclosure, or forfeiture of the Premises or improvements by reasons of such non-payment. Such security need not exceed one and one half (1½) times the amount of such lien or such claim of lien. Such security shall be posted by Tenant within ten (10) days of written notice from the City, or Tenant may "bond off" the lien according to statutory procedures. Tenant will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at Tenant's own expense.

16. Intentionally Omitted.

17. Condemnation.

17.1 If at any time during the Term of this Agreement (including any renewal term hereunder) all or any part or portion of the Demised Premises is taken, appropriated, or condemned by reason of Eminent Domain proceedings, then this Agreement shall be terminated as of the date of such taking, and shall thereafter be completely null and void, and neither of the parties hereto shall thereafter have any rights against the other by reason of this Agreement or anything contained therein, except that any rent prepaid beyond the date of such taking shall be prorated to such date, and Tenant shall pay any and all rents, additional rents, utility charges, and/or other costs for which it is liable under the terms of this Agreement, up to the date of such taking.

17.2 Except as hereunder provided, Tenant shall not be entitled to participate in the proceeds of any award made to the City in any such Eminent Domain proceeding, excepting, however, Tenant shall have the right to claim and recover from the condemning authority, but not from the City, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reasons of the condemnation and for or on account of any cost or loss which Tenant might incur in removing Tenant's furniture and fixtures.

18. Default.

18.1 Default by Tenant:

At the City's option, any of the following shall constitute an Event of Default under this Agreement:

18.1.1 The Base Rent, or any other amounts as may be due and payable by Tenant under this Agreement, or any installment thereof, is not paid promptly when and where due within fifteen (15) days of due date, and Tenant shall not have cured such failure within five (5) days after receipt of written notice from the City specifying such default;

18.1.2 The Demised Premises shall be deserted, abandoned, or vacated;

18.1.3 Tenant shall fail to comply with any material term, provision, condition or covenant contained herein other than the payment of rent and shall not cure such failure within thirty (30) days after the receipt of written notice from the City specifying any such default; or such longer period of time acceptable to the City, at its sole discretion;

18.1.4 Receipt of notice of violation from any governmental authority having jurisdiction dealing with a law, code, regulation, ordinance or the like, which remains uncured for a period of thirty (30) days from

its issuance, or such longer period of time as may be acceptable and approved in writing by the City Manager, at his sole discretion;

18.1.5 Any petition is filed by or against Tenant under any section or chapter of the Bankruptcy Act, as amended, which remains pending for more than sixty (60) days, or any other proceedings now or hereafter authorized by the laws of the United States or of any state for the purpose of discharging or extending the time for payment of debts;

18.1.6 Tenant shall become insolvent;

18.1.7 Tenant shall make an assignment for benefit of creditors;

18.1.8 A receiver is appointed for Tenant by any court and shall not be dissolved within thirty (30) days thereafter; or

18.1.9 The leasehold interest is levied on under execution.

19. Rights on Default.

19.1 Rights on Default:
In the event of any default by Tenant as provided herein, City shall have the option to do any of the following, in addition to and not in limitation of, any other remedy permitted by law or by this Agreement;

19.1.1 Terminate this Agreement, in which event Tenant shall immediately surrender the Demised Premises to the City, but if Tenant shall fail to do so the City may, without further notice, and without prejudice to any other remedy the City may have for possession or arrearages in rent or damages for breach of contract, enter upon the Demised Premises and expel or remove Tenant and its effects in accordance with law, without being liable for prosecution or any claim for damages therefore, and Tenant agrees to indemnify and hold harmless the City for all loss and damage which the City may suffer by reasons of such Agreement termination, whether through inability to re-let the Demised Premises, or otherwise.

19.1.2 Declare the entire amount of the Base Rent which would become due and payable during the remainder of the term of this Agreement to be due and payable immediately, in which event Tenant agrees to pay the same at once, together with all rents therefore due, at the address of the City, as provided in the Notices section of this Agreement; provided, however, that such payment shall not constitute a penalty, forfeiture, or liquidated damage, but shall merely constitute payment in advance of the rents for the remainder of said term and such payment shall be considered, construed and taken to be a debt provable in bankruptcy or receivership.

19.1.3 Enter the Demised Premises as the agent of Tenant, by force if necessary, without being liable to prosecution or any claim for damages therefore; remove Tenant's property there from; and re-let the Demised Premises, or portions thereof, for such terms and upon such conditions which the City deems, in its sole discretion, desirable, and to receive the rents therefore, and Tenant shall pay the City any deficiency that may arise by reason of such re-letting, on demand at any time and from time to time at the office of the City; and for the purpose of re-letting, the City may (i) make any repairs, changes, alterations or additions in or to said Demised Premises that may be necessary or convenient; (ii) pay all costs and expenses therefore from rents resulting from re-letting; and (iii) Tenant shall pay the City any deficiency as aforesaid.

19.1.4 Take possession of any personal property owned by Tenant on said Demised Premises and sell the same at public or private sale, and apply same to the payment of rent due, holding Tenant liable for the deficiency, if any.

19.1.5 It is expressly agreed and understood by and between the parties hereto that any installments of rent accruing under the provisions of this Agreement which shall not be paid when due shall bear interest at the maximum legal rate of interest per annum then prevailing in Florida from the date when the same was payable by the terms hereof, until the same shall be paid by Tenant. Any failure on the City's behalf to enforce this Section shall not constitute a waiver of this provision with respect to future accruals of past due rent. No interest will be charged for payments made within the grace period, such grace period to be defined as within five (5) days from the due date. In addition, there will be a late charge of Fifty ($50.00) Dollars for any payments submitted after the grace period.

19.1.6 If Tenant shall default in making any payment of monies to any person or for any purpose as may be required hereunder, the City may pay such expense but the City shall not be obligated to do so. Tenant, upon the City's paying such expense, shall be obligated to forthwith reimburse the City for the amount thereof. All sums of money payable by Tenant to the City hereunder shall be deemed as rent for use of the Demised Premises and collectable by the City from Tenant as rent, and shall be due from Tenant to the City on the first day of the month following the payment of the expense by the City.

19.1.7 The rights of the City under this Agreement shall be cumulative but not restrictive to those given by law and failure on the part of the City to exercise promptly any rights given hereunder shall not operate to waive or to forfeit any of the said rights.

19.2 Default by City:

The failure of the City to perform any of the covenants, conditions and agreements of this Agreement which are to be performed by the City and the continuance of such failure for a period of thirty (30) days after notice thereof in writing from Tenant to the City (which notice shall specify the respects in which Tenant contends that the City failed to perform any such covenant, conditions and agreements) shall constitute a default by the City, unless such default is one which cannot be cured within thirty (30) days because of circumstances beyond the City's control, and the City within such thirty (30) day period shall have commenced and thereafter shall continue diligently to prosecute all actions necessary to cure such defaults.

However, in the event the City fails to perform within the initial thirty (30) day period provided above, and such failure to perform prevents Tenant from operating its business in a customary manner and causes an undue hardship for Tenant, then such failure to perform (regardless of circumstances beyond its control) as indicated above, shall constitute a default by the City.

19.3 Tenant's Rights on Default:

If an event of the City's default shall occur, Tenant, to the fullest extent permitted by law, shall have the right to pursue any and all remedies available at law or in equity, including the right to sue for and collect damages, including reasonable attorney fees and costs, to terminate this Agreement; provided however, that Tenant expressly acknowledges and agrees that any recovery by Tenant shall be limited to the amount set forth in Section 32 of this Agreement.

20. Indemnity Against Costs and Charges.

20.1 Tenant shall be liable to the City for all costs and charges, expenses, reasonable attorney's fees, and damages which may be incurred or sustained by the City, by reason of Tenant's breach of any of the provisions of this Agreement. Any sums due the City under the provisions of this item shall constitute a lien against the interest of the Tenant and the Demised Premises and all of Tenant's property situated thereon to the same extent and on the same conditions as delinquent rent would constitute a lien on said premises and property.

20.2 If Tenant shall at any time be in default hereunder, and if the City shall deem it necessary to engage an attorney to enforce the City's rights and Tenant's obligations hereunder, Tenant will reimburse the City for the reasonable expenses incurred thereby, including, but not limited to, court costs and reasonable attorney's fees, whether suit be brought or not and if suit be brought, then Tenant shall be liable for expenses incurred at both the trial and appellate levels.

21. Indemnification Against Claims.

21.1 The City 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 the City 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 City 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.

21.2 Tenant does hereby agree to indemnify and hold harmless the City to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the Tenant 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, or any claim or judgments or portions thereof, which, when totaled with all other occurrence, exceeds the sum of $200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the Tenant.

22. Signs and Advertising.
Without the prior written consent of the City Manager, which consent, if given at all, shall be at the City Manager's sole and absolute discretion, Tenant shall not permit the painting and display of any signs, plaques, lettering or advertising material of any kind on or near the Demised Premises. All additional signage shall comply with signage standards established by the City and comply with all applicable building codes, and any other municipal, County, State and Federal laws.

23. Effect of Conveyance.
The term "City" and/or "Landlord" as used in the Agreement means only the owner for the time being of the land and building containing the Demised Premises, so that in the event of any sale of said land and building, or in the event of a lease of said building, the City shall be and hereby is entirely freed and relieved of all covenants and obligations of the City hereunder, and it shall be deemed and construed without further agreement between the parties, or between the parties and the purchaser at such sale, or the lease of this building, that the purchaser or Tenant has assumed and agreed to carry out all covenants and obligations of the City hereunder.

24. Damage to the Demised Premises.

24.1 If the Demised Premises shall be damaged by the elements or other casualty not due to Tenant's negligence, or by fire, but are not thereby

rendered untenantable, as determined by the City Manager, in his sole discretion, in whole or in part, and such damage is covered by the City's insurance, if any, (hereinafter referred to as "such occurrence"), the City, shall, as soon as possible after such occurrence, utilize the insurance proceeds to cause such damage to be repaired and the Rent shall not be abated. If by reason of such occurrence, the Demised Premises shall be rendered untenantable, as determined by

the City Manager, in his sole discretion, only in part, the City shall as soon as possible utilize the insurance proceeds to cause the damage to be repaired, and the Base Rent meanwhile shall be abated proportionately as to the portion of the Demised Premises rendered untenantable; provided however, that the City shall promptly obtain a good faith estimate of the time required to render the Demised Premises tenantable and if such time exceeds sixty (60) days, either party shall have the option of canceling this Agreement.

24.2 If the Demised Premises shall be rendered wholly untenantable by reason of such occurrence, the City shall have the option, but not the obligation, in its sole discretion, to utilize the insurance proceeds to cause such damage to be repaired and the Rent meanwhile shall be abated. However, the City shall have the right, to be exercised by notice in writing delivered to Tenant within sixty (60) days from and after said occurrence, to elect not to reconstruct the destroyed Demised Premises, and in such event, this Agreement and the tenancy hereby created shall cease as of the date of said occurrence, the Rent to be adjusted as of such date. If the Demised Premises shall be rendered wholly untenantable, Tenant shall have the right, to be exercised by notice in writing, delivered to the City within thirty (30) days from and after said occurrence, to elect to terminate this Agreement, the Rent to be adjusted accordingly.

24.3 Notwithstanding any clause contained in this Section 24, if the damage is not covered by the City's insurance, then the City shall have no obligation to repair the damage, but the City shall advise Tenant in writing within thirty (30) days of the occurrence giving rise to the damage and of its decision not to repair, and the Tenant may, at any time thereafter, elect to terminate this Agreement, and the Rent shall be adjusted accordingly.

25. Quiet Enjoyment.

Tenant shall enjoy quiet enjoyment of the Demised Premises and shall not be evicted or disturbed in possession of the Demised Premises so long as Tenant complies with the terms of this Agreement.

26. Waiver.

26.1 It is mutually covenanted and agreed by and between the parties hereto that the failure of the City to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Agreement, or to exercise any option herein conferred, will not be considered or construed

as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.

26.2 A waiver of any term expressed herein shall not be implied by any neglect of the City to declare a forfeiture on account of the violation of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

26.3 The receipt of any sum paid by Tenant to the City after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and construed as payment for use and occupation, and not as Rent, unless such breach be expressly waived in writing by the City.

27. Notices.

The addresses for all notices required under this Agreement shall be as follows, or at such other address as either party shall be in writing, notify the other:

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

TENANT:

Commissioner Bruno Barreiro
Miami-Dade County
1700 Convention Center Drive
Miami Beach, Florida 33139

With copy to:

Commissioner Bruno Barreiro
Miami-Dade County
111 N.W. 1st Street, Suite 220
Miami, Florida 33128

Miami-Dade County
Internal Services Department
Real Estate Development Division
111 N.W. 1st Street, Suite 2460
Miami, Florida 33128

All notices shall be hand delivered and a receipt requested, or by certified mail with Return receipt requested, and shall be effective upon receipt.

28. Entire and Binding Agreement.
This Agreement contains all of the agreements between the parties hereto, and it may not be modified in any manner other than by agreement in writing signed by all the parties hereto or their successors in interest. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon the City and Tenant and their respective successors and assigns, except as may be otherwise expressly provided in this Agreement.

29. Provisions Severable.
If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

30. Captions.
The captions contained herein are for the convenience and reference only and shall not be deemed a part of this Agreement or construed as in any manner limiting or amplifying the terms and provisions of this Agreement to which they relate.

31. Number and Gender.
Whenever used herein, the singular number shall include the plural and the plural shall include the singular, and the use of one gender shall include all genders.

32. Limitation of Liability.
The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of Five Thousand ($5,000.00) Dollars. Tenant hereby expresses its willingness to enter into this Agreement with Tenant's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of $5,000.00. Accordingly, and notwithstanding any other term or condition of this Agreement, Tenant hereby agrees that the City shall not be liable to Tenant for damage in an amount in excess of $5,000.00 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this Section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

33. Surrender of the Demised Premises.
Tenant shall, on or before the last day of the Term herein demised, or the sooner termination thereof, peaceably and quietly leave, surrender and yield upon to the City the Demised Premises, together with any and all equipment, fixtures, furnishings, appliances or other personal property, if any, located at or on the Demised Premises and used by Tenant in the maintenance, management or operation of the Demised Premises, excluding any trade fixtures or personal

property, if any, which can be removed without material injury to the Demised Premises, free of all liens, claims and encumbrances and rights of others or broom-clean, together with all structural changes, alterations, additions, and improvements which may have been made upon the Demised Premises, in good order, condition and repair, reasonable 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 the City as its property or may be removed and disposed of at the sole cost of the Tenant in such manner as the City 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 the City all damages which the City shall suffer by reason thereof, and shall indemnify and hold harmless the City 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.

34. Time is of the Essence.
Time is of the essence in every particular and particularly where the obligation to pay money is involved.

35. Venue:
This Agreement shall be deemed to have been made and shall be construed and interpreted 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 the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

CITY AND TENANT HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT THE CITY AND TENANT MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT.

36. Radon is a naturally occurring radioactive gas that, when it is 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.

37. No 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 or thing prohibited in the standard policies of fire

insurance companies in the State of Florida. Any such substances or materials found within the Demised Premises shall be immediately removed.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

Attest: **CITY OF MIAMI BEACH, FLORIDA**

Rafael Granado, CITY CLERK

Matti Herrera Bower, MAYOR

Witness: **MIAMI-DADE COUNTY, FLORIDA**

Signature

Print: _____
Title: _____

Print Name

Signature

Print Name

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

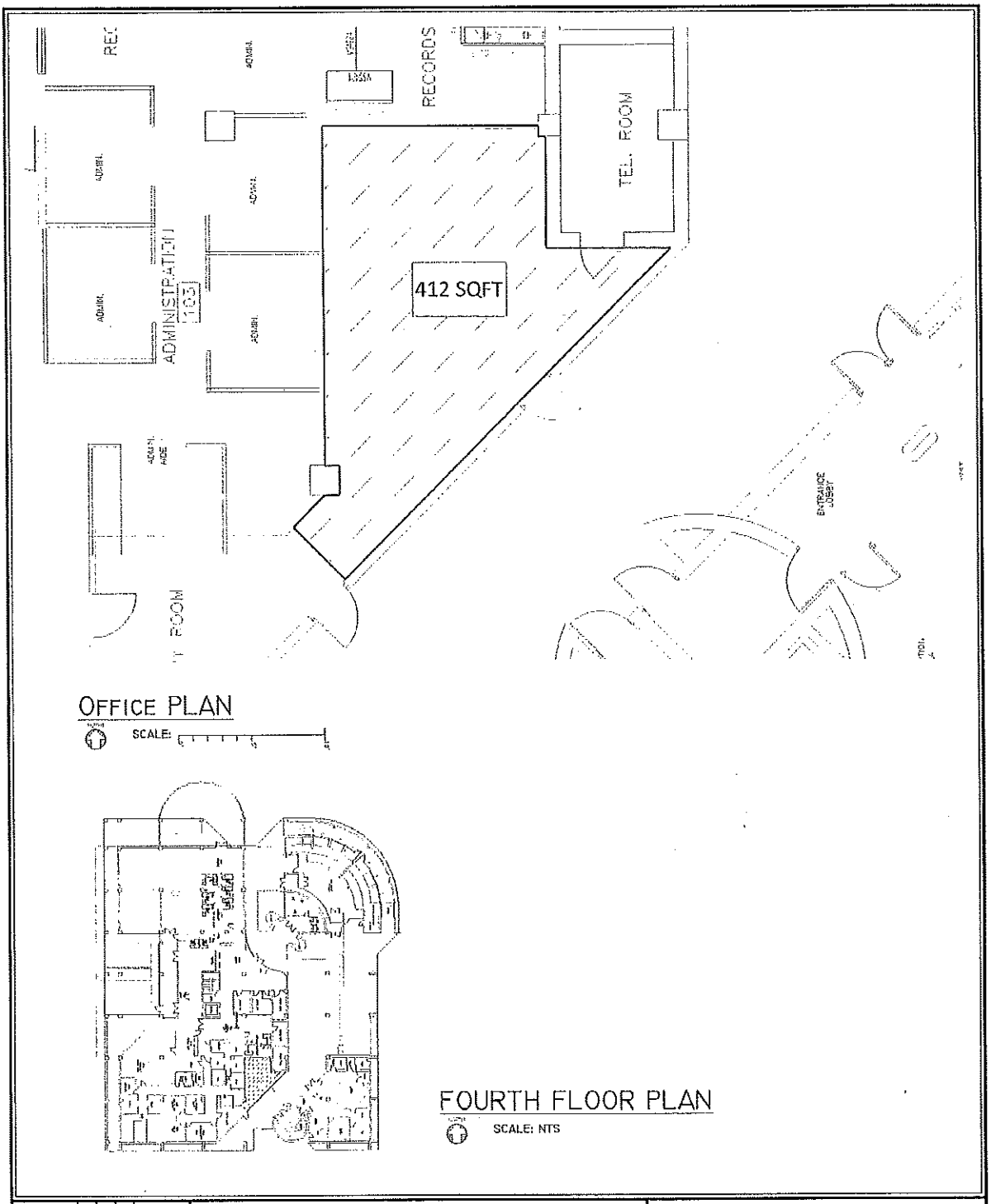
6-23-11

City Attorney Date

F:\RHCD\$ALL\ECON\$ALL\ASSET\777-17th Street\Rep Richardson & Comm Barreiro\Barreiro Lease Agreement FINAL.docx

EXHIBIT 1

Demised Premises



1 of 1

PROJECT TITLE:

Miami–Dade County
District 5 Commissioners Office
Miami Beach City Hall
1700 Convention Center Drive

MIAMIBEACH

EXHIBIT 10

Tenant's Insurance

MIAMI-DADE COUNTY
miamidade.gov

Internal Services
Risk Management Division
111 NW 1st Street • Suite 2340
Miami, Florida 33128

October 3, 2013

City of Miami Beach
1700 Convention Center Drive, 3rd Floor
Miami Beach, Florida 33139

RE: **Commissioner Bruno Barreiro District Office Lease**
Location: **Miami Beach Convention Center, 1700 Convention Center Drive**

To Whom It May Concern:

This is to inform you that Miami-Dade County has an on-going self-insurance program for Worker's Compensation, General Liability and Automobile Liability covering employees and officials of the County.

Since the County does not carry insurance with an insurance company, we cannot provide you with a Certificate of Insurance.

However, in compliance with and subject to the limitations of Florida Statutes, Section 768.28, provisions have been made in this office to process any claims that may arise and the same protection will be afforded as would be provided by a policy of insurance.

Sincerely,

Barbara Dunlop

Barbara Dunlop, ARM
Risk Management, Property and Casualty Manager

BD/cp

RESOLUTION NO. 2013-28118

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY ADVERTISED PUBLIC HEARING, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE AGREEMENT WITH COMMISSIONER BRUNO BARREIRO FOR LEASE OF APPROXIMATELY 412 SQUARE FEET OF OFFICE SPACE AT THE CITY OWNED BUILDING LOCATED AT 1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA, TO OPERATE AND MAINTAIN A DISTRICT OFFICE; SAID LEASE HAVING AN INITIAL TERM OF FORTY SIX (46) MONTHS COMMENCING ON FEBRUARY 1, 2013, AND EXPIRING ON NOVEMBER 30, 2016, WITH ONE (1) EXTENSION OPTION, AT THE CITY'S DISCRETION; AND FURTHER WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, AS PERMITTED UNDER SECTION 82-39(a) OF THE CITY CODE

WHEREAS, Commissioner Barreiro was first elected as a Miami-Dade County Commissioner in 1998 and has been re-elected for subsequent terms to represent District 5, which includes portions of the City of Miami Beach; and

WHEREAS, in approximately 2001, Commissioner Barreiro moved his office to the 412 square foot space on the ground floor of City Hall;

WHEREAS, Commissioner Barreiro was most recently re-elected in November 2012 and wishes to continue to occupy City space in order to continue serving Miami Beach residents with their constituent needs; and

WHEREAS, the proposed lease is for an initial term of forty six (46) months, commencing on February 1, 2013, and expiring on November 30, 2016, with one (1) extension option, at the City's discretion; and

WHEREAS, the proposed lease was discussed at the December 20, 2012 Finance and Citywide Projects Committee meeting, and the Committee recommended that the City enter into a Lease Agreement with Commissioner Bruno Barreiro

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission, following a duly advertised public hearing, hereby approve and authorize the Mayor and City Clerk to execute a Lease Agreement with Commissioner Bruno Barreiro for lease of approximately 412 square feet of office space at the City owned building located at 1700 Convention Center Drive, Miami Beach, Florida, to operate and maintain a district office; said Lease having an initial term of forty six (46) months commencing on February 1, 2013, and expiring on November 30, 2016, with one (1) extension option, at the City's discretion; and further waiving, by 5/7ths vote, the competitive bidding requirement, as permitted under Section 82-39(a) of the City Code.

PASSED and **ADOPTED** this 16th day of January 2013.

ATTEST:

Rafael Granado, CITY CLERK

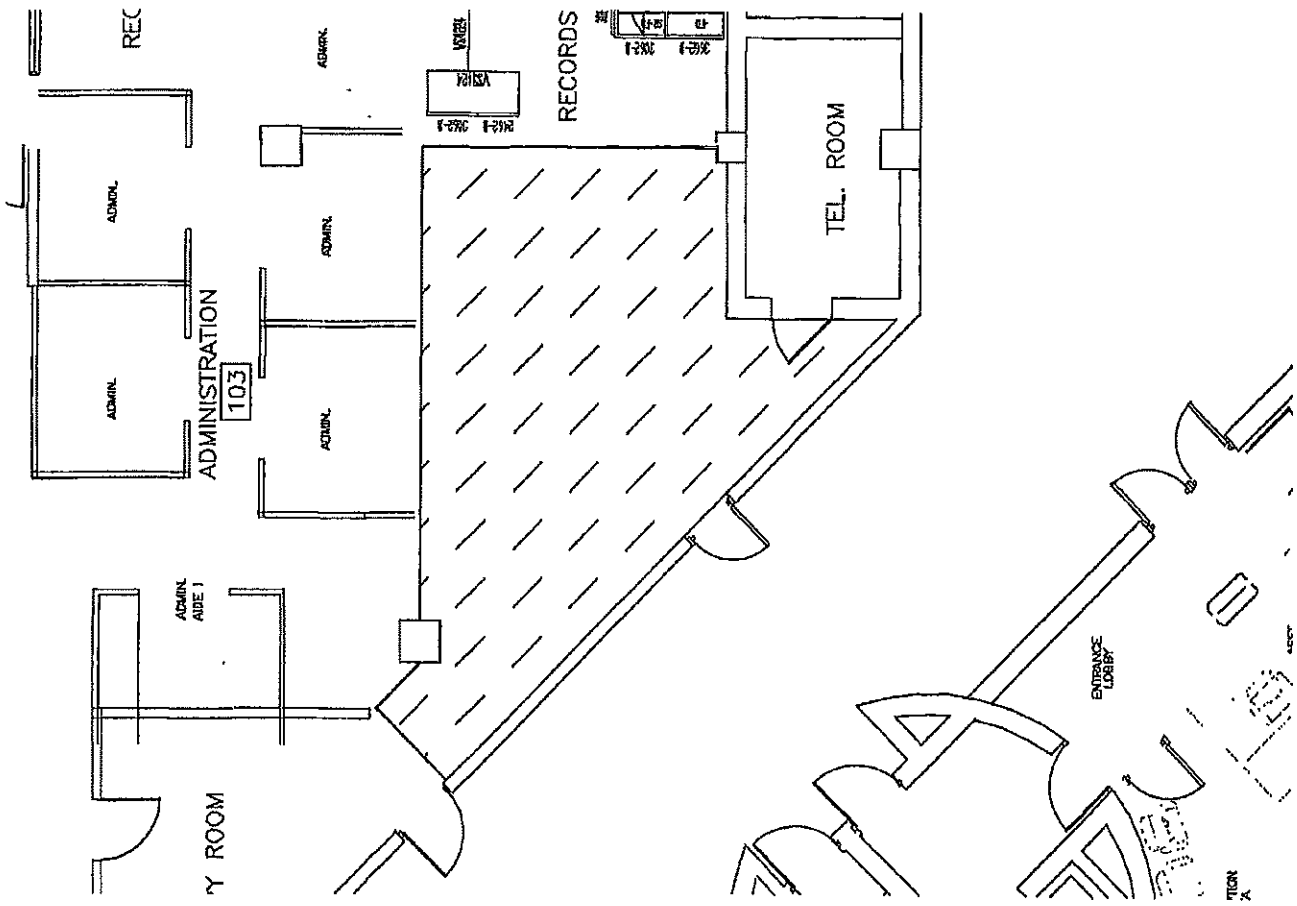
MIAMI BEACH INCORPORATED MARCH 26TH 1915

Matti Herrera Bower, MAYOR

T:\AGENDA\2013\January 16\Rep Richardson Lease RES 11-10-13.docx

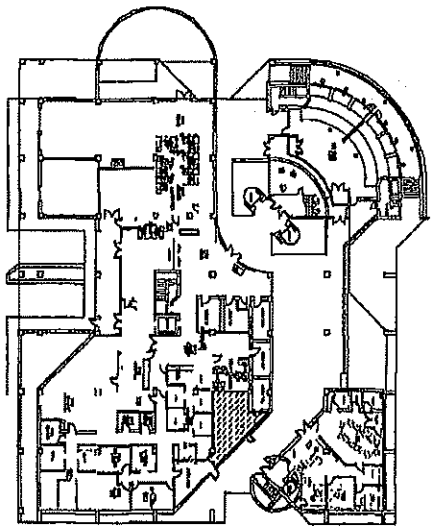
APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 1-10-13 Date



OFFICE PLAN

SCALE: 1/8" = 1'-0"



FOURTH FLOOR PLAN

SCALE: NTS

1 of 1	PROJECT TITLE: Miami–Dade County District 5 Commissioners Office Miami Beach City Hall 1700 Convention Center Drive	MIAMIBEACH ATTACHMENT 2