

MEMORANDUM

Agenda Item No. 8(N)(4)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the Tenth Street Promenade Metromover Station License Agreement between Miami-Dade County and 1010 Matto Retail, LLC for the use of County-owned property at the Tenth Street Promenade Metromover Station; and authorizing the County Mayor to execute the agreement and to exercise all rights and provisions contained therein

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/jp

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Resolution Approving the License Agreement between Miami-Dade County and 1010 Matto Retail, LLC, for the License Agreement of County-Owned Property at the Tenth Street Promenade Metromover Station

Recommendation

It is recommended that the Board of County Commissioners (“Board”) adopt the accompanying resolution approving the License Agreement between Miami-Dade County (County) and 1010 Matto Retail, LLC (Licensee) for the Licensee to use approximately 400 square feet of County-owned property at the Tenth Street Promenade Metromover Station for the purpose of providing an outdoor dining area for the restaurant(s) located on Licensee’s adjacent development.

Scope

The property is located in Commission District 5, represented by Commissioner Eileen Higgins; however, the impact of the project is County-wide.

Fiscal Impact/Funding Source

This License Agreement will generate \$5,500.00 annually to the County.

Track Record/Monitor

Javier Bustamante, Chief of the Right-of-Way, Utilities and Joint Development Division of the Department of Transportation and Public Works (DTPW) will be responsible for monitoring the license agreement.

Delegated Authority

The authority of the County Mayor or County Mayor’s designee to execute and implement this agreement is consistent with those authorities granted under the Code of Miami-Dade County, Florida. No additional delegation of authority is being requested within the agreement.


Background

On April 10, 2018, this Board adopted Resolution No. R-341-18, which approved the Access and Development Agreement and the Access and Utility Easement between Miami-Dade County and 1010 Brickell Holdings, LLC, (Developer), which allowed the Developer to access its property 1010 Brickell Avenue, Miami, Florida, by traversing the Metromover right-of-way located at the Tenth Street Promenade Metromover Station.

The Developer sold the ground floor commercial space at its property 1010 Brickell Avenue to the Licensee, and the Licensee desires to use an approximately 400 square foot portion of the Tenth Street Promenade Metromover property for the purpose of providing outdoor dining for

Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
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the restaurant(s) in the Licensee's adjacent development at 1010 Brickell Avenue for an initial term of three (3) years and automatic renewal of three (3) years. The property that is the subject of this License Agreement is of insufficient size, and shape to be issued a building permit for any type of development to be constructed on the property and is on use only to the adjacent property owner. The Federal Transportation Administration has approved the subject License Agreement.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(4)
10-5-21

RESOLUTION NO. _____

RESOLUTION APPROVING THE TENTH STREET PROMENADE METROMOVER STATION LICENSE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND 1010 MATTO RETAIL, LLC FOR THE USE OF COUNTY-OWNED PROPERTY AT THE TENTH STREET PROMENADE METROMOVER STATION; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE ALL RIGHTS AND PROVISIONS CONTAINED THEREIN

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

WHEREAS, 1010 Brickell Holdings, LLC ("1010 Brickell") is the owner of that certain parcel of land located west of Brickell Avenue and south of southeast Tenth Street in Downtown Miami, which 1010 Brickell has redeveloped into a mixed-use commercial and residential development; and

WHEREAS, 1010 Brickell sold the ground floor commercial space located in its property to 1010 Matto Retail, LLC, which is developing the restaurant(s) within the commercial space; and

WHEREAS, the ground floor commercial space is located directly adjacent to certain lands owned by the County (the "Transit Property"), wherein the Tenth Street/Promenade Metromover Station is located; and

WHEREAS, 1010 Matto Retail, LLC desires to use a portion of the Tenth Street Promenade Metromover property for the purpose of providing outdoor dining for its restaurant(s); and

WHEREAS, this Board finds consistent with section 125.35(2), Florida Statutes, that the Transit Property is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the property and is of use only to the adjacent property owner, 1010 Matto Retail, LLC,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Approves the foregoing recitals, which are incorporated herein by reference.

Section 2. Approves the Tenth Street Promenade Metromover Station License Agreement between Miami-Dade County and 1010 Matto Retail, LLC, and Miami-Dade County, in substantially the form attached hereto and made a part hereof, for the use of County-owned property at the Tenth Street Promenade Metromover Station.

Section 3. Authorizes the County Mayor or the County Mayor's designee to execute the Tenth Street Promenade Metromover Station License Agreement for and on behalf of Miami-Dade County in substantially the form attached hereto as Exhibit A and made a part hereof and to exercise all rights and provisions contained therein, other than those reserved by this Board.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of October, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Annery Pulgar Alfonso

EXHIBIT A

**LICENSE AGREEMENT BETWEEN 1010 MATTO RETAIL, LLC
AND MIAMI-DADE COUNTY**

THIS LICENSE AGREEMENT(the “Agreement”), made and entered into as of this _____ day of _____, 20___, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "Licensor"), and 1010 MATTO RETAIL, LLC, a Florida limited liability company, ("Licensee").

WITNESSETH

WHEREAS, the Miami-Dade Board of County Commissioners (the “Board”) approved Resolution R-341-18 on April 10, 2018, to allow 1010 Brickell Holdings, LLC, a Delaware limited liability company (the Developer) to enter into an Access and Development Agreement which allowed the Developer to access its property at 1010 Brickell Avenue, Miami, Florida, by traversing the Metromover right-of-way located at the Tenth Street/Promenade Metromover Station; and

WHEREAS, the Developer sold the ground floor commercial space to Licensee, and Licensee desires to the use of a portion of the Metromover right-of-way which was improved by the Developer under the Access and Development Agreement, and Licensor desires to grant the use of this portion of the Metromover right-of-way in the manner hereinafter set forth; and

WHEREAS, the Board finds consistent with section 125.35(2), Florida Statutes, that the Transit Property is of insufficient size, and shape to be issued a building permit for any type of development to be constructed on the property and is of use only to the adjacent property owner, Licensee.

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

Section 1. License Area

The County hereby grants Licensee and Licensee hereby accepts from the County, a License Agreement (the “Agreement”) for the use of that portion of the Transit property, as more fully described in the legal description and accompanying sketch in Exhibit "A" attached hereto and made a part hereof (the “License Area”), for the purposes and in the manner hereinafter set forth,

but excluding that certain bike share station within, and abutting, the License Area as depicted on Exhibit “B” (the “Bike Share Station”). No other uses of the License Area are permitted.

Section 2. Term

The initial term of this Agreement shall be for a period of three (3) years, commencing upon the date on which the last party has signed this Agreement and it has been formally approved by the Board, the Federal Transit Administration (“FTA”), and the State of Florida Department of Transportation (“FDOT”) (as applicable), the “Commencement Date”. Provided no Event of Default (as hereinafter defined) by Licensee has occurred and is continuing, this Agreement shall be automatically extended for consecutive term of three (3) years without the requirement of any further notice or instrument, upon all of the same terms and conditions and provisions set forth in this Agreement.

Section 3. License Fee

Licensee shall pay to Licensor an annual license fee of \$5,500.00, without billing and within thirty (30) days of a fully-executed Agreement and each year thereafter within thirty (30) days of Licensee’s receipt of Licensor’s calculation of the Consumer Price Index Adjustment (as defined below). Payments shall be made by check payable to Miami Dade County, c/o Miami-Dade Department of Transportation and Public Works, Right-of-Way, Utilities and Joint Development Division, 701 NW First Court, 15th Floor, Miami, Florida 33136.

Section 4. Late Payments.

In the event that any payment is overdue for a period of twenty (20) days after it is due, a late charge equal to five percent (5%) of the amount overdue shall become immediately due and payable to Licensor as liquidated damages.

Section 5. Consumer Price Index Adjustment.

An economic price adjustment will be calculated on the first anniversary date of the Commencement Date of the Agreement and on each subsequent anniversary date. The yearly adjustment will be equal to any annual percentage increase in the Consumer Price Index published by the Department of Labor for the following categories: United States, All Urban Consumers,

All Items, Not Seasonally adjusted. The base of the index for computation of the increase, if any, shall be the month in which this Agreement commences. If no publication is made for the month in which this Agreement commences, the base shall be the last preceding month for which publication is made. The index for the same month shall be compared annually to determine the percentage increase and the resulting percentage shall be applied to the annual rent to be paid for the ensuing year. The Licensor shall advise the Licensee of any increase in the annual rent resulting from such computation and the Licensee shall pay the Licensor the amount of such increase retroactively to the effective date thereof. If the Index is discontinued or replaced, or if the items incorporated in the Index are revised, an equitable adjustment will be made to result in developing a formula to be used to permit an annual adjustment to reflect any decline in the purchasing power of the monthly minimum guarantee called for in this Agreement.

Section 6. Land Uses.

(a) The License Area shall be used solely for the purpose of providing an outdoor dining area for restaurant(s) located in Licensee's adjacent development at 1010 Brickell Avenue. Outdoor furniture (such as tables, chairs and umbrellas) (collectively, the "Furniture") may be setup and removed daily during the restaurant hours of operation, located within the License Area, not impede walkway access and comply with the American Disability Act. Additionally, outdoor decorative fixtures (such as plants and planters) meant to beautify and add appeal to the License Area (collectively, the "Decorative Fixtures"), which Decorative Fixtures shall be readily moveable but may not necessarily be removed daily, may be set up and located within the License Area, provided that the placement of such Decorative Fixtures is done in coordination with Licensor. Also, the License Area may include a directional sign with the name of the business/vendor(s) utilizing the License Area (collectively, the "Directional Sign"). The Directional Sign may not include logos and is subject to approval by the Licensor. As of the date of this Agreement, the temporary placement of such Furniture, Decorative Fixtures and Directional Sign is generally depicted in Exhibit "B". No other fixtures may be placed or installed in the License Area without the prior written approval of the Director of the Miami-Dade Department of Transportation and Public Works (DTPW) or designee. Food and beverages may be served and consumed in the License Area; however, no cooking, heating, food preparation or sale of food and/or merchandise may take place in the License Area. In performing these functions, and to the extent permitted by and consistent with Applicable Law, including whatever permit(s) may be

required to serve them, the Licensee may serve alcoholic beverages; however, the Licensee may not serve such beverages in any part abutting single-family residential areas. All expenses that the Licensee incurs under this Agreement shall be paid by the Licensee.

(b) Licensee shall, at its own sole expense, obtain and maintain all permits, licenses, certifications and approvals from all federal, state, County and municipal authorities which are required in connection with the operation and use of the License Area. Licensee agrees to comply with all applicable governmental ordinances, codes, laws and regulations and shall not, directly or indirectly, use allow any use or activities in the License Area which may thereby be prohibited or dangerous to person or property.

(c) Licensee shall, upon written demand by Licensor, correct or remedy (or cause to be corrected or remedied), within 30 days of written notification thereof:

(1) Any material defects in Licensee's use of the License Area, except where caused by use of the Bike Share Station;

(2) any material departure in the placement of authorized dining furniture from the plans and specifications as approved by County;

(3) any material departure from the contents of a drawing submitted to and approved by County and

(4) any violations of or departures from any applicable governmental ordinances, codes, laws or rules and regulations.

(d) The County shall have no obligation whatsoever to provide any services to Licensee. Licensee shall, at its own cost and expense, provide for all services, including but not limited to, maintenance and waste disposal.

(e) Licensee shall, at its own sole cost and expense, keep the License Area in good, safe, operable and presentable condition and repair in accordance with all applicable laws codes and ordinances during the period of this License Agreement. Licensee shall not block or interfere with the operation and maintenance of the Metromover System.

(f) The County may, but shall not be required to, make such inspections, repairs, alterations, improvements, and additions, as County shall desire or deem necessary to the License Area or

as County may be required to do so by governmental authority or court order or decree; provided that any such alterations, improvements, and additions shall be made, to the extent reasonably possible, in such manner as to not interfere with Licensee's usage.

Section 7. Dangerous Liquids and Materials.

Flammable, combustible or explosive liquids or materials are prohibited in the License Area.

Section 8. Protection of Metromover Structures.

Licensee at its sole cost and expense, shall take necessary and reasonable measures to protect the Metromover structures from damage and/or defacement resulting from the use of the License Area by the Licensee, its employees, or its invitees in connection with this Agreement, but excluding any such damage and/or defacement resulting from the use of the Bike Share Station.

Section 9. Licensor's Rights as Sovereign.

It is expressly understood that notwithstanding any provision of this Agreement and Miami-Dade County's status as Licensor hereunder: (a) Miami-Dade County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall not be estopped from withholding or refusing to issue any approvals of and applications for buildings, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the use and operation of the License Area as provided for in this Agreement and (b) Miami-Dade County is not obligated to grant any applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the design, use and operation of the License Area as provided for in this Agreement.

Section 10. Costs of Fixtures.

Licensor shall not be responsible for any costs or expenses associated with fixtures and/or equipment placed in the License Area.

Section 11. Representations and Warranties.

Licensee acknowledges that in accordance with Florida Statutes Section 125.411 (3) (1990), the County does not warrant the title or represent any state of facts concerning the title to the License Area.

Section 12. Safety and Security.

It is expressly understood that Licensee is solely responsible for the personal safety of its employees, invitees or any other persons entering the License Area in connection with this License Agreement, as well as any and all equipment and/or personal property brought into the License Area by Licensee. Licensor shall not in any way assume responsibility for the personal safety of such persons, equipment, or personal property in case of loss, theft, damage, or any other type of casualty which may occur. Licensee shall provide security, if any, at its sole cost and expense to insure the personal safety of its employees, agents, invitees and others, as well as to protect any personal property. The provision of such security, if any, shall be coordinated by and subject to the approval of the Licensor. This paragraph is intended solely for the benefit of the Licensor and shall not grant any benefit or right to any third party.

Section 13. Indemnification.

- (a) Licensee shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from Licensee's use of the License Area but excepting liability, losses or damages to the extent caused by the negligence or action or omission of the County or its officers, employees, agents or instrumentalities, and also excepting liability, losses or damages to the extent caused by use of the Bike Share Station.
- (b) Subject to the provisions and dollar thresholds of section 768.28, Florida Statutes, Licensor shall indemnify and hold harmless Licensee and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which Licensee or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from use of the Bike Share Station or Licensor's use of the License Area but excepting liability, losses or damages to the extent caused by the negligence or action or omission of Licensee or its officers, employees, agents, invitees, patrons, tenants or instrumentalities. Licensor shall

pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Licensee, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

Licensee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

Licensee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Licensee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Section 14. Insurance.

Licensee shall furnish to the Miami-Dade County, DTPW Right-of-Way, Utilities and Joint Development Division, 701 NW 1st Court, 15th Floor, Miami, Florida 33136, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- (a) Public Liability Insurance on a comprehensive basis, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
Miami-Dade County must be shown as an additional insured with respect to this coverage.

The insurance policy required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “B” as to management, and no less than “Class V” as to financial strength, by the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

Or

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

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

Section 15. Repairs and Maintenance of the License Area.

Throughout the term of this Agreement, Licensee, at its sole cost and expense, shall keep the License Area, with the exception of the area within the License Area that is used in any way in connection with the Bike Share Station, in good order and condition, and make all necessary repairs thereto. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by Licensee. All repairs made by Licensee shall be at least similar or equal in quality and class to the original work, ordinary wear and tear excepted. Licensee shall keep and maintain all portions of the License Area, with the exception of the area within the License Area that is used in any way in connection with the Bike Share Station, in a clean and orderly condition, free of dirt, rubbish, graffiti and unlawful obstructions. Licensor, at its option, and after thirty (30) days written notice to Licensee may perform any maintenance or repairs required of Licensee hereunder which have not been performed by Licensee following the notice described above and may seek actual, but reasonable costs and expenses and 20% administrative fee thereof from Licensee.

Section 16. Compliance by Licensee.

Throughout the term of this Agreement, Licensee, at Licensee's sole cost and expense, shall promptly comply with all applicable Laws and Ordinances.

Section 17. Inspection by Licensor of License Area.

The Licensor, or any of its agents, shall have the right to enter upon said premises during all reasonable hours to examine the same, or to inspect, repair, and/or maintain the Metromover System. Such entry shall not unreasonably disturb the occupants thereof, however, it is hereby agreed and understood that safety and maintenance of the Metromover System is paramount and will take precedence over any other activity in the License Area.

Section 18. Assignment of License Agreement.

This Agreement shall not be assigned, transferred, pledged, or otherwise encumbered without prior written approval of the Licensor, such approval shall not be unreasonably withheld or delayed. Notwithstanding anything contained in this Agreement to the contrary, Licensee shall have the right to assign its rights to the License Area to the Licensee's tenants (the "Tenants"), and the Tenant's employees and/or invitees.

Section 19. Surrender of License Area.

Upon expiration or earlier termination of this License Agreement, Licensee shall immediately surrender possession of License Area to the Licensor and remove all of its fixtures and/or equipment and leave License Area in its original condition.

Licensee shall repair or replace any damage to Metromover property caused by it, its agents, employees or invitees. Restoration shall be in accordance with the terms of this Agreement. If Licensee fails to do so within sixty (60) calendar days following occurrence and/or written notification by Licensor or fails to do so in such an additional period of time as is reasonably required, Licensor may, at its option, cause all required maintenance, repairs or replacements to be made at Licensee's expense.

Licensee shall pay County all such actual, but reasonable costs incurred plus administrative fee of twenty (20%) of such cost.

Section 20. Default

The following provisions shall apply if any one or more of the following "Event(s) of Default" shall happen:

- (a) If default shall be made in the due and punctual payment of any rents, revenues, or other monies payable under this Agreement or any part thereof when and as the same shall become due and payable and such default shall continue for a period of thirty (30) days after written notice from Licensor; or
- (b) If default shall be made by a party in keeping, observing or performing any of the terms contained in this Agreement, excepting the obligation to pay rents or other money due hereunder, and such default shall continue for a period of thirty (30) days after written notice thereof to the breaching party, or in the case of such default or contingency which cannot with due diligence and in good faith be cured within thirty (30) days, the breaching party fails to cure within said thirty (30) day period to proceed promptly and with due diligence and in good faith, to pursue curing said default.

Section 21. Failure to Cure Default.

- (a) If an Event of Default on the part of the Licensee shall occur, Licensor, at any time after the periods set forth in Section 23 (a) or (b), shall give written notice to Licensee and to any other parties entitled to such notice, specifying such Event(s) of Default and stating that this Agreement and the term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least fifteen (15) days after the giving of such notice, and upon the date specified in such notice, this Agreement and the term hereby demised and all rights of Licensee under this Agreement shall expire and terminate.
- (b) If an Event of Default on the part of a party (the “Defaulting Party”) shall occur, the party not in default (the “Non-Defaulting Party”) at any time after periods for exercise of rights as set forth under Sections 23(a) and 23(b) herein shall have the following rights and remedies which are cumulative:
 - (i) In addition to any and all other remedies, in law or in equity, that the Non-Defaulting Party may have against the Defaulting Party, the Non-Defaulting Party shall be entitled to sue the Defaulting Party for all damages, costs and expenses arising from Non-Defaulting Party’s committing an Event of Default hereunder and to recover all such damages, costs and expenses, including reasonable attorney's fees at both trial and appellate levels.

- (ii) To restrain, by injunction, the commission of or attempt or threatened commission of an Event of Default and to obtain a decree specifically compelling performance of any such term or provision of the Agreement.
- (iii) To terminate any and all obligations that the Non-Defaulting Party may have under this Agreement, in which event Non-Defaulting Party shall be released and relieved from any and all liability under the Agreement.

Section 22. Consent of Licensor.

Whenever in this Agreement the consent or approval of Licensor or Licensee is required, such consent or approval:

- (a) shall be made by the County Mayor or his designee on behalf of the Licensor;
- (b) shall not be unreasonably or arbitrarily withheld, conditioned, or delayed unless specifically provided to the contrary, and shall not require a fee from Licensee,
- (c) shall not be effective unless it is in writing;
- (d) shall apply only to the specific act or transaction so approved or consented to and shall not relieve Licensee of the obligation of obtaining Licensor's prior written consent or approval to any future similar act or transaction.
- (e) Licensor shall reject or object to all written requests for consent or approval by Licensee within the time provided in this Agreement, or if no time period is provided, within thirty (30) days of such request. Any such rejection or objection shall specify the actions or changes Licensee may take or make so that Licensor will consent to or approve of Licensee's request.

23. Disclosure Affidavits.

Licensee must complete and submit the applicable County affidavit documents available at <http://www.miamidade.gov/procurement/library/vendor-affidavits.pdf>:

24. Termination.

In the event the License Area is required at any time for a materially compelling transit need, DTPW shall have the right to terminate the Agreement at any time without cause, upon 30 days written notice to the Licensee and otherwise in accordance with the terms of this paragraph. No compensation will be made if DTPW terminates the Agreement. Notwithstanding the foregoing, prior to any termination under this paragraph, DTPW shall use reasonable efforts to find and

relocate the Directional Sign in accordance with Section 29 (Laws, Regulations and Permits) below. For example, in the event the License Area is improved with any building or other structure, DTPW shall use reasonable efforts to require that the Directional Sign or a like directional sign be included as part of, or attached to, such improvements.

25. Removal or Relocation of Directional Sign.

Licensors reserves the right for the Directional Sign to be removed or relocated. In the event, the License Area is needed at any time for any transit purpose, DTPW Director may remove or relocate the Directional Sign upon thirty (30) days prior written notice to Licensee.

26. Notices.

All notices, demands or requests by Licensor to Licensee shall be deemed to have been properly served or given, if addressed to Licensee at:

1010 MATTO RETAIL, LLC
Attn.: Ricardo Caporal
1100 Brickell Bay Dr # 310308
Miami, Florida 33131
E-mail: rcaporal@mattonigroup.com

With a copy to:
Holland & Knight LLP
Attn.: Vivian de las Cuevas-Diaz, Esq.
701 Brickell Avenue, Suite 3300
Miami, Florida 33131
E-mail: vivian.cuevas@hklaw.com

and to such other address and to the attention of such other party as Licensee may, from time to time, designate by written notice to Licensor. If Licensee at any time during the term hereof changes its office address as herein stated, Licensee will promptly give notice of same in writing to Licensor.

All notices, demands or requests by Licensee to Licensor shall be deemed to have been properly served or given if addressed to Licensor to the attention of Director, Department of Transportation and Public Works, 701 N.W. 1st Court, 17 Floor, Attention: Right of Way, Utilities & Joint Development, Miami, Florida 33136, and to such other addresses and to the attention of such other parties as Licensor may, from time to time, designate by written notice to Licensee.

Method of Mailing.

All such notices, demands or requests shall be (a) hand delivered to the parties designated above or their properly designated successors, or (b) mailed by United States registered or certified mail, return receipt requested, postage prepaid, and deposited in any Post Office or Branch Post Office or mailbox regularly maintained by the United States Government. Notice shall be deemed given on the date of personal delivery or upon the expiration of four (4) days after the date so mailed.

27. Licensors Access.

Licensors, will access the License Area for routine maintenance and emergencies to the Transit facilities at any time of day. Licensee will provide unlimited access to Licensors as needed.

28. Title VI Assurance.

Licensee for herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on said property described in this License Agreement for a purpose for which a State of Florida Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Permittee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

Licensee for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, sexual orientation, veteran status, disability or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the placement of any personal property on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, gender identity or gender expression, status as victim of domestic violence, dating violence

or stalking, sexual orientation, disability, veteran status or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that Licensee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally- Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of breach of any of the above nondiscrimination covenants, Miami-Dade County, Florida shall have the right to terminate the Permit, re-enter and repossess the License Area and hold the same as if said License Agreement had never been made or issued.

29. Laws, Regulations and Permits

Licensee shall comply with all applicable statutes, ordinances, rules, orders, regulations and requirements of federal, state, county or municipal governments. Licensee shall, upon request, provide proof of compliance with all applicable required licenses, permits and other legal requirement prior to execution of this License Agreement. Licensee must comply with Florida State Statute 655.962.

Licensee shall comply with the following FTA requirements:

- Compliance with 49 C.F.R. 26.7 binding the lessee or transferee not to discriminate based on race, color, national origin or sex; and
- 49 C.F.R. 27.7 and 49 C.F.R. 27.9 (b) and 37 binding the lessee not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act with regard to any improvements constructed; and
- Language contained in FTA Master Agreement, updated annually in October, particularly relating to conflicts of interest, debarment and suspension.
- Continuing control of the property by DTPW;
- Continued unobstructed public access to the system; and
- Non-interference with transit operations.

30. Entire Agreement.

This Agreement contains the entire agreement between the parties hereto with respect to the License Area and shall not be modified or amended in any manner except by an instrument in writing executed by the parties hereto. All prior understandings and agreements heretofore had between the parties with respect to this Agreement are merged into this Agreement which alone fully and completely expresses the understandings of the parties.

31. Counterparts.

This Agreement may be executed in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signatures(s) thereon provided such signature page is attached to any other counterpart identical thereto.

(Intentionally left blank)

IN WITNESS WHEREOF, Licensor and Licensee have each caused this Agreement to be executed by their duly authorized representatives all on the day and year first hereinabove written.

LICENSOR:

MIAMI-DADE COUNTY

a political subdivision of the State of Florida

ATTEST:

BY ITS BOARD OF

COUNTY COMMISSIONERS

Harvey Ruvim, Clerk

By: _____
Deputy Clerk

By: _____
Miami-Dade County Mayor or Designee

Date Executed: _____

Approved by County Attorney
As to form and legal sufficiency. _____

LICENSEE:

1010 MATTO RETAIL, LLC, a Florida limited liability company

By: _____

Name: Ricardo Caporal

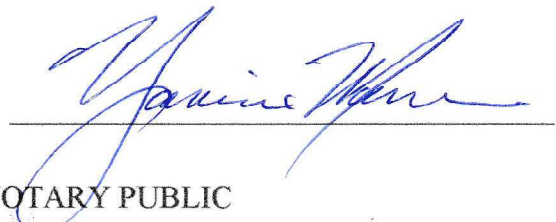
As Its: Authorized Signatory

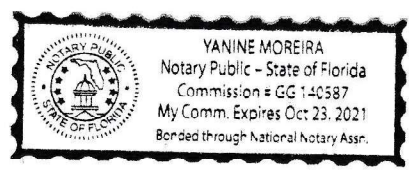
Date: 11/02/20

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this day, personally appeared before me by means of physical presence or online notarization, an officer duly authorized to administer oaths and take acknowledgments, Ricardo Caporal as Authorized Signatory of 1010 MATTO RETAIL, LLC, a Florida limited liability company, is well known to be the person described herein and who executed the foregoing instrument and who acknowledged that he executed the same freely and voluntarily for the uses and purposes therein expressed.

WITNESS my hand and official seal this 2nd day of November, 2020.


NOTARY PUBLIC



My Commission Expires: 10/23/2021

(NOTARY SEAL)

EXHIBITS TO LICENSE AGREEMENT

- A.** Legal Description and Accompanying Sketch
- B.** Depiction of Furniture and Directional Sign
- C.** Corporation Online (Sunbiz)
- D.** Certificate of Insurance

EXHIBIT "A"

Legal Description and Accompanying Sketch

7210 SW 126th Court, *Aniano J. Garcia, PLSM* Ph (305) 856-4566
 Miami, Florida 33183 Land Surveyor & Planner agarcia297@aol.com

Property Address:
 1010 Brickell Avenue, Miami, Florida 33131
 Legal Description:

Parcel 1:

The West 7.70 feet of the North 19 feet of Lot 24 and the West 7.70 feet of the south 24 feet of Lot 25, Block 100 S, of Brickell Addition Amended a/k/a Mary Brickell's Addition, a/k/a Amended Map of Brickell's Addition to the Map of Miami, according to the plot thereof, as recorded in Plot Book B, Page 113, of the Public Records of Miami-Dade County, Florida,
 and
 The East 25 feet of SE 1st Avenue lying west of and adjoining the above described parcel and limited on the North by the Westerly prolongation of the North line of the South 24 feet of said Lot 25 and limited on the South by the Westerly prolongation of the South line of the North 19 feet of said Lot 24.
 Containing 3,126 square feet.

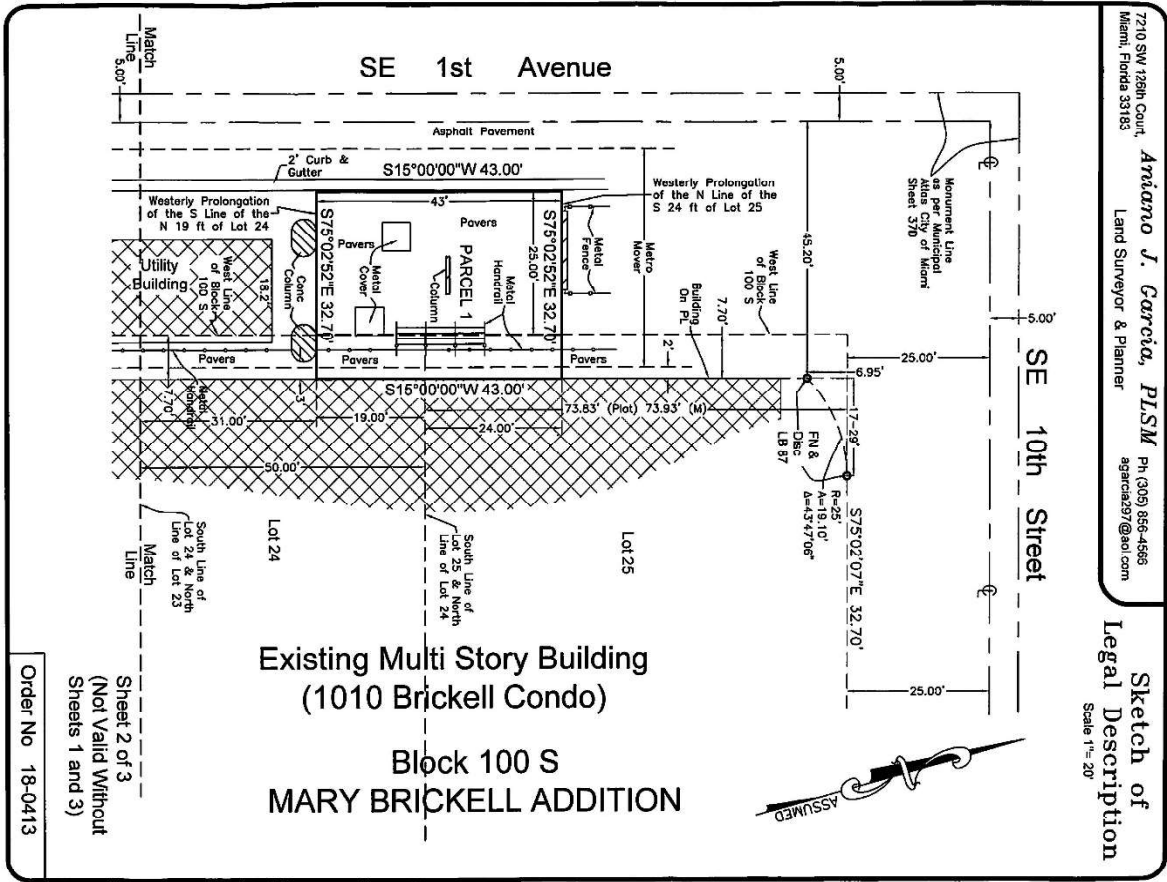
Parcel 2:

The West 7.70 feet of the North 29 feet of the South 34.40 feet of Lot 23, Block 100 S, of Brickell Addition Amended a/k/a Mary Brickell's Addition, a/k/a Amended Map of Brickell's Addition to the Map of Miami, according to the plot thereof, as recorded in Plot Book B, Page 113, of the Public Records of Miami-Dade County, Florida,
 and
 The East 25 feet of SE 1st Avenue lying west of and adjoining the above described parcel and limited on the North by the North line of the South 34.40 feet of said Lot 23 and limited on the South by the North line of the South 5.40 feet of said Lot 23
 Containing 948 square feet

This is a Sketch of legal description, this in NOT a Boundary Survey

Sheet 1 of 3
 (Not Valid Without
 Sheets 2 and 3)

LEGAL NOTES		Date of Field Work - 01-12-2019	For: 1010 MATTO RETAIL, LLC, a Florida limited liability company; Holland & Knight LLP
This Survey does not reflect or determine ownership; Examination of the Abstract of Title will have to be made to determine Recorded Instruments, if any, affecting the property. This Survey is subject to dedications, limitations, restrictions, reservations or easements of records; Legal Description provided by client; The Liability of this Survey is limited to the cost of the Survey; Underground Encroachments, if any, are not shown; This firm has not attempted to locate footing and/or foundations and/or underground improvements of any nature; If shown, Bearings are referred to an Assumed Meridian; If shown, Elevations are referred to National Geodetic Vertical Datum of 1929 (NGVD 1929); Unless otherwise noted, found corners have no identification		<i>Aniano J. Garcia PLSM 5105</i> Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.	Order No 18-0413
LEGEND AND ABBREVIATIONS	A = Arc Length; AC = Air Conditioner; AE = Anchor Easement; BC = Block Corner; BM = Bench Mark; BOB = Basis Of Bearings; (C) = Calculated Dimension; CB = Catch Basin; CBS = Concrete Block Structure; CFW = Concrete Fence Wall; CH = Chord Length; CHB = Chord Bearing; CI = Clear; CML = City Monument Line; CME = Canal Maintenance Easement; Conc = Concrete; DE = Drainage Easement; DME = Drainage & Maintenance Easement; Dr = Drive; E = East; Elev = Elevation; ENCR = Encroached; ETP = Electric Transformer; FDH = Found Drill Hole; FIR = Found Iron Rod; FFE = Finished Floor Elevation; FH = Fire Hydrant; FIP = Found Iron Pipe; FN = Found Nail; FT = Feet; LME = Lake Maintenance Easement; LB = Licensed Business; LFE = Lowest Floor Elevation; LP = Light Pole; (M) = Measured Dimension; ME = Maintenance Easement; MON = Monument; N = North; NGVD 1929 = National Geodetic Vertical Datum of 1929; NTS = Not To Scale; OE = Overhead Cables; OH = Over Hang; ORB = Official Record Book; O/S = Off Set; Ph = Plat Book; PC = Point of Curvature; PCC = Point Of Compound Curvature; PCOR = Property Corner; PCP = Permanent Control Point; Pg = Page; PL = Planter or Property Line; PLS = Professional Land Surveyor; PLSM = Professional Land Surveyor and Mapper; POB = Point Of Beginning; POC = Point Of Commencement; PRC = Point Of Reverse Curve; PRM = Permanent Reference Monument; PT = Point Of Tangency; R = Radius; (R) = Recorded Dimension; RLS = Registered Land Surveyor and Mapper; R/R = Rail Road; R/W = Right Of Way; Sec = Section; T = Tangent; S = South; SIP = Set Iron Pipe With Cap Stamped PLS 5105; UE = Utility Easement; UP = Utility Pole; UTU = Utility; W = West; WF = Wood Fence; WM = Water Meter; WV = Water Valve; ☉ = Centerline; -X- = Chain Link Fence; [] = Concrete Wall; ° = Degrees; Δ = Central Angle; ∅ = Diameter; / = Existing Elevation; ' = Minutes; " = Seconds; --- = Wood Fence		



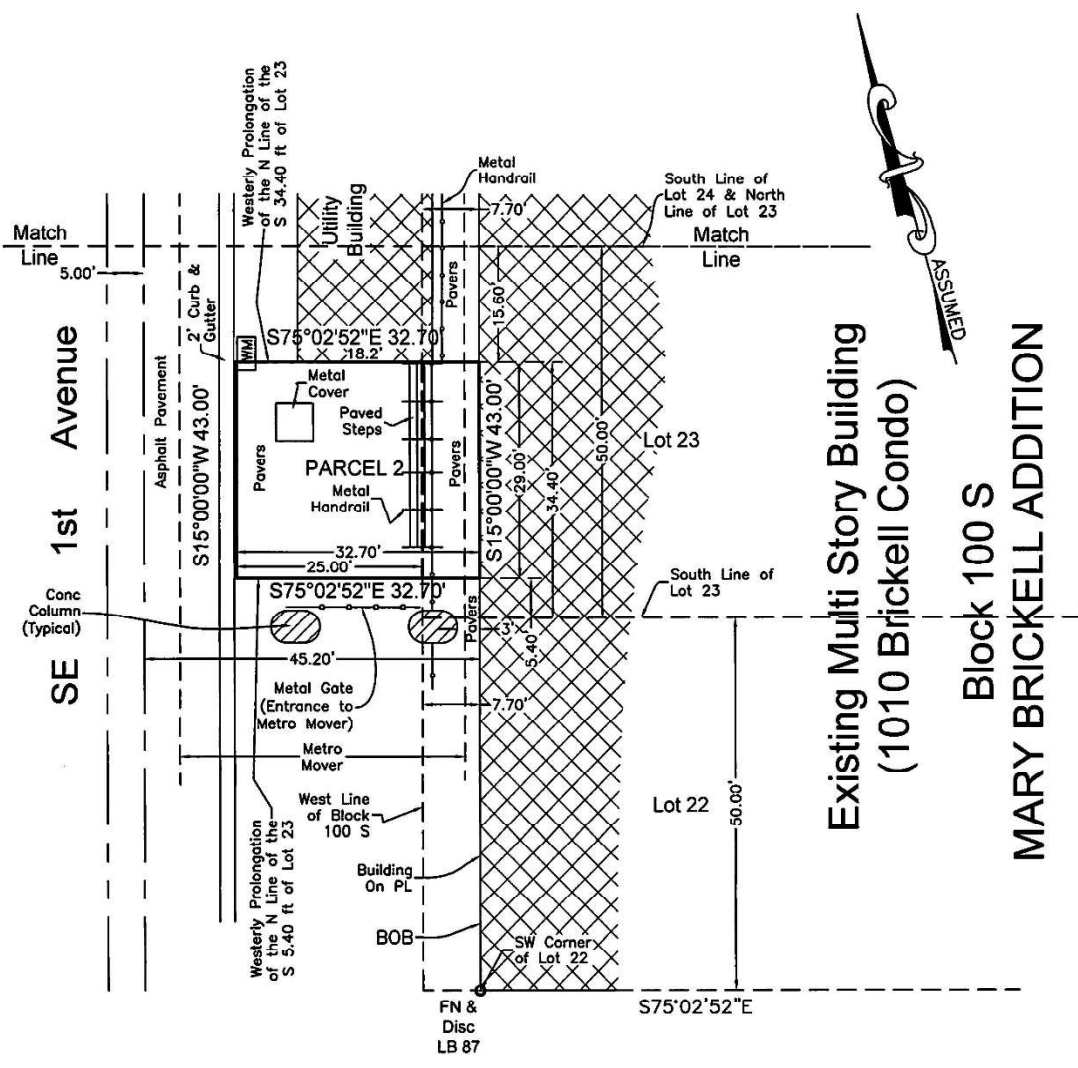
7210 SW 128th Court, Miami, Florida 33183
Armando J. Garcia, PLSM
 Land Surveyor & Planner
 Ph. (305) 866-4868
 agarcia297@aol.com

Sketch of Legal Description
 Scale 1" = 20'

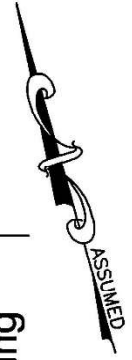
Sheet 2 of 3
 (Not Valid Without Sheets 1 and 3)
 Order No 18-0413

7210 SW 126th Court, Miami, Florida 33183
Aniano J. Garcia, PLSM Ph (305) 856-4566
 Land Surveyor & Planner agarcia297@aol.com

Sketch of Legal Description
 Scale 1" = 20'



**Existing Multi Story Building
 (1010 Brickell Condo)
 Block 100 S
 MARY BRICKELL ADDITION**



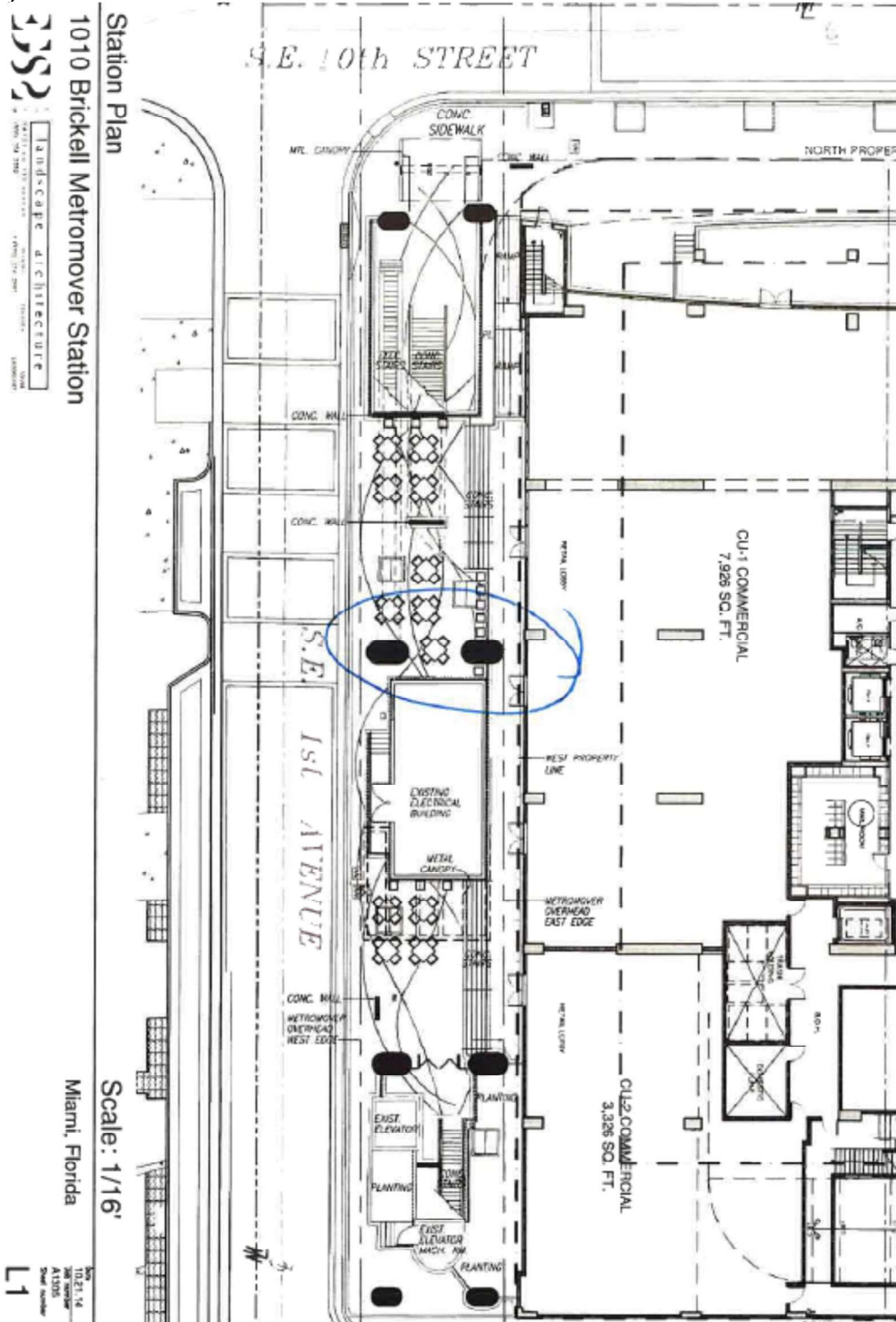
Sheet 3 of 3
 (Not Valid Without
 Sheets 1 and 2)

Order No 18-0413

EXHIBIT "B"

Depiction of Furniture and Directional Sign

a. Depiction of Furniture (excluding the circled area which shall be used by the Bike Share Station):



b. Depiction of Directional Sign:



EXHIBIT “C”
Corporate Online



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
1010 MATTO RETAIL, LLC

Filing Information

Document Number	L14000187331
FEI/EIN Number	47-2551905
Date Filed	12/08/2014
Effective Date	12/08/2014
State	FL
Status	ACTIVE
Last Event	LC STMNT OF RA/RO CHG
Event Date Filed	05/04/2016
Event Effective Date	NONE

Principal Address

154 Isla Dorada Blvd
Coral Gables, FL 33143

Changed: 04/19/2021

Mailing Address

1100 Brickell Bay Dr
Suite 310308
MIAMI, FL 33231

Changed: 04/19/2021

Registered Agent Name & Address

CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301

Name Changed: 05/04/2016

Address Changed: 05/04/2016

Authorized Person(s) Detail

Name & Address

Title Manager

TCG ADVISORS CORP

1100 Brickell Bay Dr
Suite 310308
MIAMI, FL 33231

Title AUTHORIZED PERSON

Caporal, Ricardo
1100 Brickell Bay Dr
Suite 310308
MIAMI, FL 33231

Annual Reports

Report Year	Filed Date
2019	04/29/2019
2020	06/03/2020
2021	04/19/2021

Document Images

04/19/2021 -- ANNUAL REPORT	View image in PDF format
06/03/2020 -- ANNUAL REPORT	View image in PDF format
04/29/2019 -- ANNUAL REPORT	View image in PDF format
04/30/2018 -- ANNUAL REPORT	View image in PDF format
04/20/2017 -- ANNUAL REPORT	View image in PDF format
05/04/2016 -- CORLCRACHG	View image in PDF format
04/29/2016 -- ANNUAL REPORT	View image in PDF format
02/19/2015 -- ANNUAL REPORT	View image in PDF format
12/08/2014 -- Florida Limited Liability	View image in PDF format

EXHIBIT “D”

Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/4/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: The Garzella Group, 7600 E Redfield Road, Suite B-145, Scottsdale, AZ 85260. CONTACT NAME: omar@garzellagroup.com. INSURER(S) AFFORDING COVERAGE: Mount Vernon Fire Insurance Company.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes Commercial General Liability, Automobile Liability, Umbrella Liab, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) RE: Location #2 1010 Brickell Avenue, Units CU-1 & CU-2, Miami, FL 33131

1010 Matto Commercial LLC and 1010 Matto Retail LLC are included as Additional Insured under General Liability as per written contract and subject to the provisions of the policy.

Miami-Dade County, DPTW Right-of-Way, Utilities and Joint Development Division 701 NW 1st Court, 15th Floor, miami, FLorida, 33136. Certificate holder is listed as additional insured.

CERTIFICATE HOLDER

CANCELLATION

Certificate holder: Miami Dade County County, DTPW Right-of-Way. Utilities and Joint Division. Cancellation notice: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.