



**City Commission Meeting
SUPPLEMENTAL MATERIAL 1**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
July 8, 2015**

Mayor Philip Levine
Vice-Mayor Edward L. Tobin
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

R7 - Resolutions

- R7A A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Commission Committee, And Waiving, By 5/7th Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City; And Approving And Authorizing The Mayor And City Clerk To Execute A Lease Agreement Between The City And SB Waxing, Inc. (Tenant), For The Use Of Approximately 1,291 Square Feet Of City-Owned Property, Located At 1701 Meridian Avenue, Unit 3 (A/K/A 771 17th Street), Miami Beach, Florida (Premises), For A Term Of Five (5) Years, With One (1) Renewal Option For Four (4) Years And Three Hundred And Sixty Four (364) Days. **10:05 a.m. Public Hearing**
(Tourism, Culture & Economic Development)
(Memorandum)

R7 - Resolutions

R7M A Resolution Urging Miami-Dade County To Authorize The City Of Miami Beach To Assume Certain Traffic Engineering Jurisdiction Over Certain Traffic Engineering Components For Local Roadways Within The City.

(Sponsored by Commissioner Michael Grieco)
(Legislative Tracking: Transportation)
(Memorandum & Resolution)

R7N A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee (FCWPC) To Operate Municipal Parking Garages With Gated Revenue Control Equipment; And Accept The Recommendation Of The City Manager, Pursuant To Invitation To Negotiate (ITN) 2014-170-SW For A Gated Revenue Control System For The City's Parking Garages; Approving The Material Terms Of An Agreement Between The City And Skidata, Inc., And, In The Event That The City Is Unable To Finalize Successful Negotiations With Skidata, Inc., Authorizing The City Manager And The City Attorney's Office To Negotiate An Agreement With Amano McGann, Inc.

(Procurement/Parking)
(Deferred from June 10, 2015 - R7M)
(Revised Memorandum)

Redevelopment Agency Item

1B A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (RDA), Accepting The Recommendation Of The Finance And Citywide Projects Committee, Pursuant To Invitation To Negotiate (ITN) No. 2015-060-LR (The ITN), For The Leasing Of City-Owned Buildings And Rooftops For The Placement Of Telecommunications Equipment, And Authorize The Executive Director To Execute A Nine Year And 364 Day Lease Agreement With Crown Castle NG East, LLC ("Tenant"), Attached And Incorporated Herein As Exhibit A, For Tenant To Operate And Maintain Its Existing Telecommunications Hub On The Roof Of The RDA's Parking Garage Located At 1550 Collins Avenue, With A Monthly Rent Of \$4,000.00.

(Tourism, Culture & Economic Development)
(Memorandum & Resolution)

Condensed Title:

A Resolution Of The Mayor And City Commission Accepting The Recommendation Of The Finance And Citywide Projects Committee, And Waiving By 5/7ths Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City; And Approving And Authorizing The Mayor And City Clerk To Execute A New Lease Agreement, Between The City And SB Waxing, LLC (Tenant), For The Use Of Approximately 1,291 Square Feet Of City-Owned Property Located At 1701 Meridian Avenue, Unit 3 (a/k/a 771 17th Street), For A Term Of Five (5) Years, With One (1) Renewal Option For An Additional Four (4) Years and 364 Days.

Key Intended Outcome Supported:

N/A

Supporting Data (Surveys, Environmental Scan, etc.):

N/A

Item Summary/Recommendation:

The City of Miami Beach and SB Waxing, Inc. (d/b/a Uni.K Wax) ("Tenant") are parties to a lease dated July 15, 2009 for the use of approximately 1,291 square feet of City-owned property, located at 1701 Meridian Avenue, Unit 3 (a/k/a 771 17th Street), Miami Beach, Florida, to be used for the purpose(s) of operating a hair removal facility, including waxing and retail sales of related items, as well as facials and retail sales of related items.

The lease contained an initial term of three (3) years, commencing August 1, 2009 and ending July 31, 2012, with one (1) renewal option for an additional three (3) years. Tenant exercised its sole renewal option for a period of three (3) years, commencing August 1, 2012 and ending July 31, 2015.

Tenant requested a new lease for an initial term of five (5) years, commencing August 1, 2015 and ending July 31, 2020, with one (1) renewal option for an additional four (4) years and three hundred and sixty four (364) days.

Subsequently, the Administration secured a fair market rent analysis and negotiated material terms and conditions for a new lease agreement.

The terms and conditions of the new lease agreement include an initial term of five (5) years, commencing August 1, 2015 and ending July 31, 2020, with an additional renewal option for a period of four (4) years and 364 days, at the then prevailing fair market rent. The Base Rental Rate is \$42.00 PSF, with three percent (3%) annual increases, plus \$11.80 PSF for Operating Expenses.

Tenant shall accept the Premises in "as-is" condition and shall provide two (2) month's security deposit. There are no brokerage commissions due for this transaction.

In the event the City determines, in its sole and absolute discretion, to demolish, renovate or repurpose the 1701 Meridian Avenue building, the City shall have the right to terminate the lease at any time throughout the Initial Term, or renewal term, upon providing one hundred eighty days (180) prior written notice to Tenant.

The Administration recommends that the City Commission adopt the recommendation of the FCWPC from its July 1, 2015 meeting, and approve a new lease agreement, subject to final review and approval by the City Attorney's Office.

Advisory Board Recommendation:

The Administration submitted the agreed upon terms and conditions to the Finance and Citywide Projects Committee (FCWPC) at its July 1, 2015 meeting, and the FCWPC recommended approving a new lease agreement with Tenant, for a period of five (5) years; and further recommended allowing one (1) additional renewal option for five (5) years.

Financial Information:

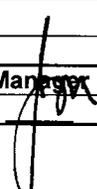
Source of Funds:	Amount	Account
1	N/A	

Financial Impact Summary: The Base Rental Rate is \$42.00 PSF, plus Operating Expenses of \$11.80 PSF. Over the initial five (5) year term of the lease the aggregate Base Rent amounts to \$287,872 and Operating Expenses are projected at \$76,169.

City Clerk's Office Legislative Tracking:

Max Sklar, ext. 6116

Sign-Offs:

Department Director MAS 	Assistant City Manager KGB 	City Manager JLM 
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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 8, 2015

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMISSION COMMITTEE, AND WAIVING, BY 5/7TH VOTE, THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY AND SB WAXING, INC. (TENANT), FOR THE USE OF APPROXIMATELY 1,291 SQUARE FEET OF CITY-OWNED PROPERTY, LOCATED AT 1701 MERIDIAN AVENUE, UNIT 3 (A/K/A 771 17TH STREET), MIAMI BEACH, FLORIDA (PREMISES), FOR A TERM OF FIVE (5) YEARS, WITH ONE (1) RENEWAL OPTION FOR FOUR (4) YEARS AND THREE HUNDRED AND SIXTY FOUR (364) DAYS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

On July 15, 2009, the Mayor and City Commission adopted Resolution No. 2009-27129 approving a lease agreement between the City and the Roma Waxing, Inc. (d/b/a Uni.K Wax) for the use of approximately 1,291 square feet of City-owned property, located at 1701 Meridian Avenue, Unit 3 (a/k/a 771 17th Street), Miami Beach, Florida, to be used for the purpose(s) of operating a hair removal facility, including waxing and retail sales of related items, as well as facials and retail sales of related items. The lease contained an initial term of three (3) years, commencing August 1, 2009 and ending July 31, 2012, with one (1) renewal option for an additional three (3) years

On December 9, 2009, the Mayor and City Commission adopted Resolution No. 2009-27275 approving a Consent to Assignment and Assumption of Lease Agreement whereby Roma Waxing, Inc. assigned its lease to SB Waxing, Inc. (d/b/a Uni.K Wax) (Tenant) and certain terms and conditions of the Lease Agreement were modified.

On May 30, 2012, Tenant exercised its sole renewal option for a period of three (3) years, commencing August 1, 2012 and ending July 31, 2015.

ANALYSIS

Tenant requested a new lease for an initial term of five (5) years, commencing August 1, 2015 and ending July 31, 2020, with one (1) renewal option for an additional four (4) years and three hundred and sixty four (364) days.

In order to obtain current and accurate market rental data, the City procured the services of a certified appraiser to provide a Market Rent Analysis, dated April 30, 2015 (the "Analysis"), which is attached hereto as Exhibit A (Market Rent Analysis). As contained in the Analysis, the current market rent for comparable retail space at 1701 Meridian Avenue is \$45.00 per square foot, on a triple net (NNN) basis, with operating expenses averaging \$15.01 per square foot.

The City entered into negotiations with Tenant and agreed to a non-binding Letter of Intent, dated June 19, 2015, which is attached hereto as Exhibit B (Letter of Intent). The basic terms and conditions of the Letter of Intent are as follows:

- Size:** Approximately 1,291 rentable square feet
- Initial Term:** Five (5) years commencing August 1, 2015 and ending July 31, 2020.
- Renewal Option:** So long as Tenant has never been in an uncured default of the Lease, upon providing Landlord written notice six (6) months prior to the expiration of the Initial Lease Term, Tenant shall have one (1) renewal option, for a period of four (4) years and three hundred and sixty four (364) days, at the then prevailing fair market rent.
- Termination Option:** In the event the City determines, in its sole and absolute discretion, to demolish, renovate or repurpose the 1701 Meridian Avenue building, the City shall have the right to terminate the lease at any time throughout the Initial Term, or renewal term, upon providing one hundred eighty days (180) prior written notice to Tenant.
- Base Rental Rate:** \$42.00 Triple Net, per rentable square foot, plus applicable sales tax.
- Increases:** The Base Rental Rate shall be increased by three percent (3%) annually.
- Lease Basis:** Triple Net - Tenant shall pay its proportionate share of the costs of real estate taxes, insurance and maintenance expenses.
- Security Deposit:** Two (2) month's gross rent

Construction Allowance: Tenant shall accept the Premises in "as-is" condition.

Additionally, the Lease Agreement, in substantial form, subject to final review and approval by the City Attorney's Office, is attached hereto as Exhibit C (Lease Agreement).

Under the current Lease, Tenant is paying an annual rate of \$31.85 per square foot, on a NNN basis. Additionally, Tenant pays \$11.80 PSF for operating expenses which consist of \$6.90 PSF for real estate taxes, \$4.00 PSF for maintenance expenses and \$0.90 PSF for insurance. South Florida Salon Group is currently \$55.73 PSF on a gross basis. Massage Partners is currently paying \$29.28 PSF on a NNN basis, plus \$11.80 PSF for operating expenses. Damian Gallo & Associates is currently paying \$37.74 PSF on a NNN basis, plus \$11.80 PSF for operating expenses (plus 15% of gross sales above the gross rent for the café portion of the premises). A current rent detail for all four (4) retail tenants at 1701 Meridian Avenue, and the proposed new rent for Tenant, are contained in the following charts:

Tenant	Suite	Sq. Ft.	Rent	Basis	RE Taxes	Insurance	C.A.M.	Total
South Florida Salon Group, Inc.	1	1,327						
Monthly			\$ 6,162.71		\$ -	\$ -	\$ -	\$ 6,162.71
Annually			\$ 73,952.49		\$ -	\$ -	\$ -	\$ 73,952.49
PSF			\$ 55.73	Gross	\$ -	\$ -	\$ -	\$ 55.73
Massage Partners, Inc.	2	1,803						
Monthly			\$ 4,399.47		\$ 1,036.38	\$ 135.22	\$ 600.96	\$ 6,172.03
Annually			\$ 52,793.61		\$ 12,436.60	\$ 1,622.64	\$ 7,211.52	\$ 74,064.37
PSF			\$ 29.28	NNN	\$ 6.90	\$ 0.90	\$ 4.00	\$ 41.08
SB Waxing, Inc.	3	1,291						
Monthly			\$ 3,426.18		\$ 742.08	\$ 96.79	\$ 430.20	\$ 4,695.25
Annually			\$ 41,114.12		\$ 8,904.97	\$ 1,161.48	\$ 5,162.40	\$ 56,342.97
PSF			\$ 31.85	NNN	\$ 6.90	\$ 0.90	\$ 4.00	\$ 43.64
Damian J. Gallo & Associates, Inc.	4	1,269						
Monthly			\$ 3,990.92		\$ 785.18	\$ 95.17	\$ 422.96	\$ 5,294.23
Annually			\$ 47,891.04		\$ 8,753.21	\$ 1,142.04	\$ 5,075.52	\$ 62,861.81
PSF			\$ 37.74	NNN	\$ 6.90	\$ 0.90	\$ 4.00	\$ 49.54
*Plus 15% of Gross Sales above Gross Rent for Café space (801 SF)								

SB Waxing, Inc. (PROPOSED)	3	1,291						
Monthly			\$ 4,518.50		\$ 742.08	\$ 96.79	\$ 430.20	\$ 5,787.57
Annually			\$ 54,222.00		\$ 8,904.97	\$ 1,161.48	\$ 5,162.40	\$ 69,450.85
PSF			\$ 42.00	NNN	\$ 6.90	\$ 0.90	\$ 4.00	\$ 53.80

As illustrated above, the proposed new lease contains an increase in Tenant's gross rental rate from \$43.64 PSF to \$53.80 PSF. This represents an increase of over twenty three percent (23%).

FINANCE AND CITYWIDE PROJECTS COMMITTEE

At the July 1, 2015 Finance and Citywide Projects Committee (FCWPC) meeting, the Administration presented the terms and conditions set forth above. The FCWPC considered this matter and recommended approving a new Lease Agreement with SB

Waxing, Inc., for a period of five (5) years, with (1) renewal option for an additional four (4) years and three hundred and sixty four (364) days.

CONCLUSION AND RECOMMENDATION

The Administration recommends in favor of executing a new lease agreement with Tenant, in accordance with the above stipulated terms and conditions.

The Administration is seeking a recommendation from the Finance and Citywide Projects Committee.


JLM/KGB/MS/MMM

Exhibits:

- A Market Rent Analysis
- B Letter of Intent
- C Lease Agreement

Exhibit A

**COUNSELING REPORT
MARKET RENT ANALYSIS FOR RETAIL SPACE
1661 Pennsylvania Ave.
1701 Meridian Avenue
Miami Beach, FL 33139**

Report 201526

PREPARED FOR

**City of Miami Beach
Mark Milisits
Asset Manager
Tourism, Culture and Economic Development Department
Office of Real Estate
1755 Meridian Ave.
Miami Beach, FL 33139**

PREPARED BY

**BLAZEJACK & COMPANY
172 W Flagler Street, Suite 340
Miami, Florida 33130
Phone: (305) 372-0211
Fax: (305) 374-1948**

BLAZEJACK & COMPANY
REAL ESTATE COUNSELORS

April 30, 2015

City of Miami Beach

Mark Milisits
Asset Manager
Tourism, Culture and Economic Development Department
Office of Real Estate
1755 Meridian Ave.
Miami Beach, FL 33139

Re: Appraisal of Real Property - **201526**
Market Rent Analysis
1661 Pennsylvania Ave.
1701 Meridian Avenue
Miami Beach, FL 33139

Dear Mr. Milisits:

At your request, we have completed an analysis of the market rent of the above referenced property, to various Assumptions and Limiting Conditions set forth in the accompanying report. The physical inspection and analysis that form the basis of the report has been conducted by the undersigned.

Our analyses have been prepared in compliance with the standards and regulations of the Uniform Standards of Professional Practice (USPAP). The accompanying report includes pertinent data secured in our investigation, exhibits and the details of the processes used to arrive at our conclusion of value.

As a result of the examination and study made, it is my opinion that the Market Rent of the two properties, subject to economic conditions prevailing, as of April 30, 2015, the date of the analysis are:

Property	Address	Market Rent	Type of Rent	Total Operating Expenses
Retail	1701 Meridian Ave.	\$45	NNN	\$15.01
Restaurant	1661 Pennsylvania Ave.	\$70	NNN	\$15.57

Respectfully submitted,

BLAZEJACK & COMPANY



Thomas J. Blazejack, MAI, AI-GRS, CCIM
President
Cert Gen RZ-1015



Jose Wong
Senior Consultant
Cert Gen RZ-2797

Digitally signed by Thomas J. Blazejack, MAI, CCIM
DN: cn=Thomas J. Blazejack, MAI, CCIM, o=Blazejack
& Company, ou=State Cert. Gen. R.E.A. 1015,
email=tom@blazejack.com, c=US
Date: 2015.05.04 10:13:35 -04'00'

SUMMARY OF FACTS AND CONCLUSIONS



Property Name: 1701 Meridian Avenue
 Property Type: Retail
 Location: 1701 Meridian Avenue Miami Beach
 FL 33139
 Parcel Identification 02-3234-226-0010
 Source: Miami Dade Public Records
 Owner: City of Miami Beach
 Client: City of Miami Beach
 Interest Appraised: Market Rent
 Date of Appraisal: April 30, 2015
 Dates of Inspection: April 28, 2015
 Date of Report: April 30, 2015
 Property Size: 1,291 SF
 Highest and Best Use:
 As Vacant: Mixed-Use Building Development
 As Improved: Continued use as Mixed-Use Building

Value Indication, as of April 30, 2015:

Property	Address	Market Rent	Type of Rent	Total Operating Expenses
Retail	1701 Meridian Ave.	\$45	NNN	\$15.01



Property Name: 1661 Pennsylvania Ave.
 Property Type: Retail - Restaurant
 Location: 1661 Pennsylvania Ave. Miami Beach
 FL 33139
 Parcel Identification: 02-3234-226-0010
 Source: Miami Dade Public Records
 Owner: City of Miami Beach
 Client: City of Miami Beach
 Interest Appraised: Market Rent
 Date of Appraisal: April 30, 2015
 Dates of Inspection: April 28, 2015
 Date of Report: April 30, 2015
 Property Size: 7,807 SF. Additional 2,230 SF for storage in the underground.
 Highest and Best Use:
 As Vacant: Mixed-Use Building Development
 As Improved: Continued use as Mixed-Use Building

Value Indication, as of April 30, 2015:

Property	Address	Market Rent	Type of Rent	Total Operating Expenses
Restaurant	1661 Pennsylvania Ave.	\$70	NNN	\$15.57

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ADDENDA

Exhibit A Subject Photographs
Exhibit B Comparable Rent Photographs
Exhibit C Contract Leases
Exhibit D Engagement Letter
Exhibit E Qualifications of the Appraisers

CERTIFICATE OF VALUE

I certify that, to the best of my knowledge and belief,

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- We have performed no services regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of subsequent event directly related to the intended use of this appraisal.
- Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- Jose Wong have made a personal inspection of the property that is the subject of this report. Thomas J. Blazejack has not made a personal inspection of the property.
- No one provided significant real property appraisal assistance to the persons signing this certification.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representative.
- As the date of this report Thomas J. Blazejack has completed the continuing education program of the Appraisal Institute. Jose Wong has completed the requirements of the education program established by the State of Florida.

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BLAZEJACK & COMPANY



Thomas J. Blazejack, MAI, AI-GRS, CCIM
President
Cert Gen RZ-1015



Jose Wong
Senior Consultant
Cert Gen RZ-2797

Digitally signed by Thomas J. Blazejack, MAI, CCIM
DN: cn=Thomas J. Blazejack, MAI, CCIM, o=Blazejack &
Company, ou=State Cert. Gen. R.E.A. 1015,
email=tom@blazejack.com, c=US
Date: 2015.05.04 10:14:20 -04'00'

ASSUMPTIONS AND LIMITING CONDITIONS

The appraisal is subject to the following assumptions and limiting conditions:

- 1 No survey of the subject property was undertaken.
- 2 The subject property is free and clear of all liens except as herein described. No responsibility is assumed by the appraisers for matters, which are of a legal nature, nor is any opinion on the title rendered herewith. Good and marketable title is assumed.
- 3 The information contained herein has been gathered from sources deemed to be reliable. No responsibility can be taken by the appraisers for its accuracy. Correctness of estimates, opinions, dimensions, sketches and other exhibits which have been furnished and have been used in this report are not guaranteed. The value estimate rendered herein is considered reliable and valid only as of the date of the appraisal, due to rapid changes in the external factors that can significantly affect the property value.
- 4 This study is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal. Publication of this report or any portion thereof without the written consent of the appraiser is not permitted.
- 5 The appraisers herein, by reason of this report, are not required to give testimony in court with reference to the property appraised unless notice and proper arrangements have been previously made therefore.
- 6 The value estimate assumes responsible ownership and competent management. The appraiser assumes no responsibility for any hidden or in apparent conditions of the property, subsoil, or structures, which would render it more or less valuable. No responsibility is assumed for engineering, which might be required to discover such factors.
- 7 Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, news, sales or other media without the written consent and approval of the authors, particularly as to valuation conclusions, the identity of the appraisers or firm with which they are connected, or any reference to the Appraisal Institute.
- 8 Any exhibits in the report are intended to assist the reader in visualizing the property and its surroundings. The drawings are not intended as surveys and no responsibility is assumed for their cartographic accuracy. Any drawings are not intended to be exact in size, scale, or detail. Areas and dimensions of the property may or may not have been physically measured. If furnished by the principal or from plot plans or surveys furnished by the principal, or from public records, we assume them to be reasonably accurate. No responsibility is assumed for discrepancies, which may become evident from a licensed survey of the property.
- 9 The Americans with Disabilities Act (ADA) became effective January 26, 1992 sets strict and specific standards for handicapped access to and within most commercial and industrial buildings. Determination of compliance with these standards is beyond appraisal expertise and, therefore, has not been attempted by the appraisers. For purposes of this appraisal, we are assuming the building is in compliance; however, we recommend an architectural inspection of the building to determine compliance or requirements for compliance.

MARKET RENT ANALYSIS

IDENTIFICATION OF THE PROPERTY

The properties under analysis in this report, are two retail spaces located at 1661 Pennsylvania Ave. and 1701 Meridian Avenue Unit 3 in Miami Beach FL 33139. The property at Pennsylvania Avenue is a restaurant space. The property at Meridian Avenue is a general retail space.

PURPOSE DATE AND FUNCTION OF THE REPORT

The purpose of this report is to estimate the market rent for the retail space. The date of the analysis was April 30, 2015. It is understood that the function of this report is for internal asset management for lease negotiations.

SCOPE OF THE ASSIGNMENT

This is a summary analysis presented in a narrative report. The scope of this analysis was to inspect the property, consider market characteristics and trends, collect and analyze pertinent data, develop a conclusion and estimate the property's market rent. During the course of this assignment, we developed and analyzed current retail space rents located in the Miami Beach area.

The extent of verification consisted of assembling and analyzing raw data gathered from a variety of sources including public records data services, news periodicals, broker or knowledgeable third parties when available, and in-houses files.

DEFINITIONS OF VALUE AND INTEREST APPRAISED

According to the Code of Federal Regulations, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), and according to the 12th Edition of The Appraisal of Real Estate, market value is defined as follows:

Market Value

The most probable price, which a property should bring in competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- 1 Buyer and seller are typically motivated.

- 2 Both parties are well informed or well advised, and acting in what they consider their own best interests;
- 3 A reasonable time is allowed for exposure on the open market.
- 4 Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- 5 The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Fee Simple Interest

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed governmental powers of taxation, eminent domain, police power, and escheat.

Leased Fee Interest

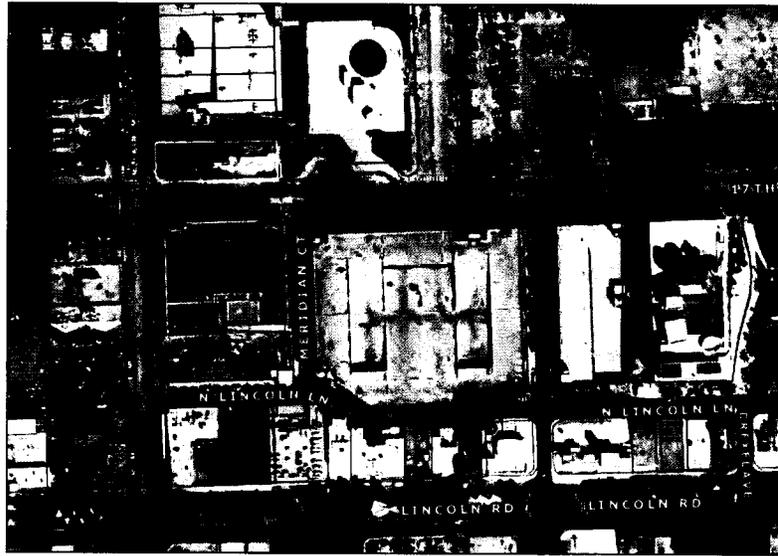
An ownership interest held by a landlord with the right to use and occupancy conveyed by a lease to others; usually consists of the right to receive rent and the right to possession at termination of the lease.

Market Rent

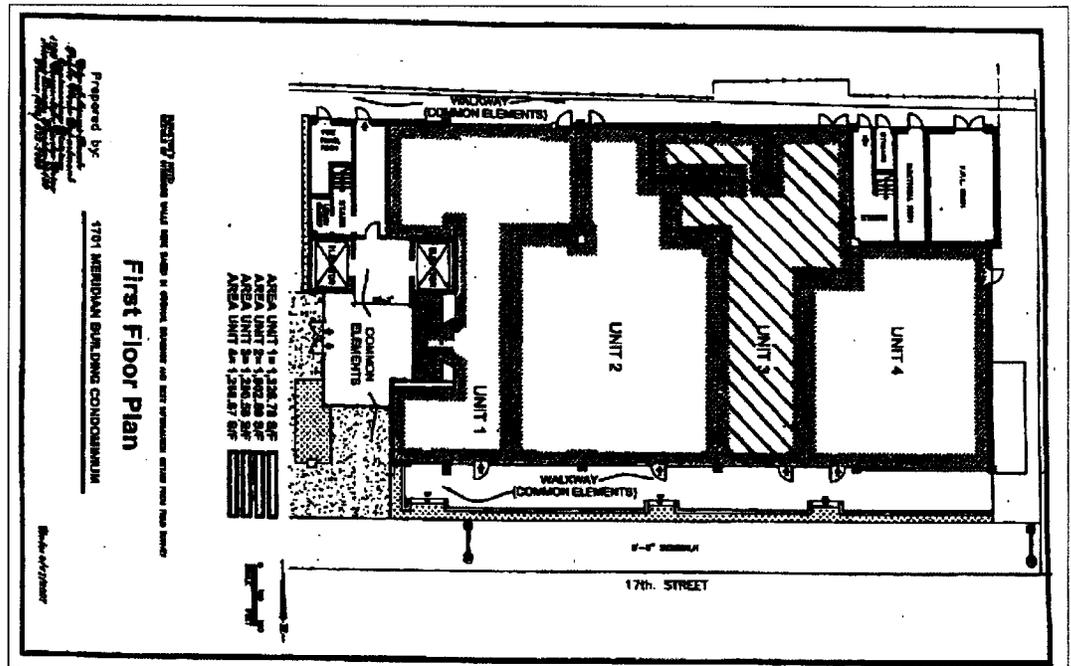
The rental income that a property would most probably command on the open market; indicated by current rents paid and asked for comparable space as of the date of the appraisal.

Source: Appraisal Institute, The Appraisal of Real Estate, 13th Edition, (Chicago, 2008)

1701 Meridian Avenue UNIT 3



The building is located at the NEC of 17th Street and Meridian Avenue at 1701 Meridian Avenue Unit 3. The Subject unit #3 has 1,291 SF according to Public Records of Miami Dade. The building is a four-story structure that contains retail spaces on first floor and office space on second, third and fourth floors. Currently, the retail space is leased to Roma Waxing, Inc. for waxing treatments services. The contract lease can be found in the Addenda.



PROPERTY HISTORY

The property is held in the name of City of Miami Beach according to the Public Records of Miami Dade County. We are not aware of any transfer of the property or purchase listing or offering within the past five years.

LEGAL DESCRIPTION

Short Legal Description
1701 MERIDIAN BLDG CONDO UNIT 3 UNDIV 1290 59/26466 INT IN COMMON ELEMENTS OFF REC 25724-1163

MARKET RENT ANALYSIS

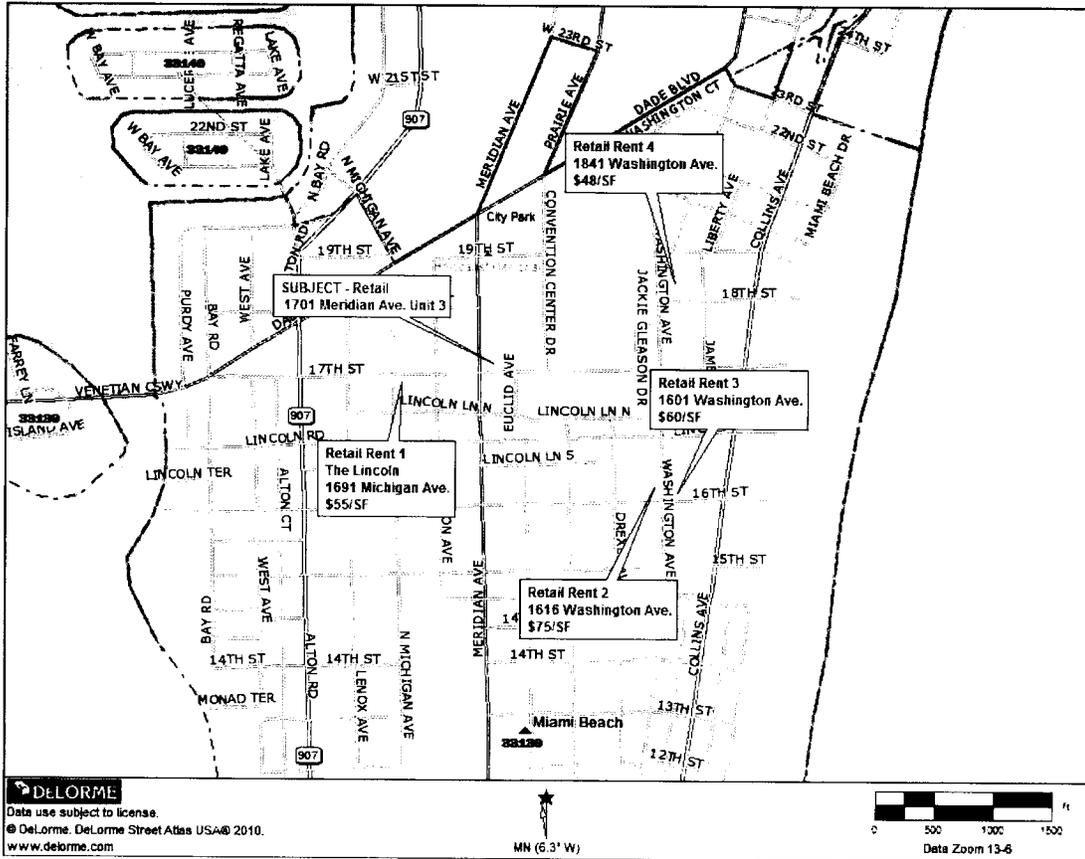
Retail Market

We are estimating the market rent of the subject property, therefore a rent survey of the Miami Beach area was conducted. The basis for classification was location, design, and quality of construction, quality of interior finishes, age, and condition.

The comparable properties selected give an indication of the level of rent that could be commanded by the subject if offered in the open market. The restaurant rent survey, a location

map, and a table of adjustments can be found following. Photos of the comps are shown in the Addenda.

All the retail rates in our survey are asking rates. Leasing agents interviewed in gathering rental data indicated that no concessions are provided although some terms are negotiable depending on the credit of the prospect, size of space and length of the lease. In most cases, the rates actually achieved in leases are near the asking rates.



Retail Map Comparable

Comparable Retail Listing Rental Summary - Miami Beach - April, 2015

	Address	Size	Year	Rate	Notes
1	The Lincoln 1691 Michigan Ave. Miami Beach FL 33139	3,567	2003	\$55	NNN N/A The class A office building was built in 2003. It contains a retail listing on the first floor with 3,567 SF. Designed by Arquitectonica, The Lincoln building is a first class, mixed-use building features 120,000 square feet of Class A office space, 38,500 square feet of retail space, and a connected, six-level, 709-space parking garage. The retail is located on the north side of famous Lincoln Road, between Michigan and Jefferson
2	1616 Washington Ave. Miami Beach FL 33139	2,209		\$75	NNN \$15.00 Twenty feet of frontage along Washington Avenue. Space consists of a ground floor and mezzanine level for a total of 2,209 SF. It's located next to Subway. Co-tenancy with McDonald's, Foot Locker, Radio Shack, Fritz Skateshop.
3	Lincoln Place 1601 Washington Ave. Miami Beach FL 33139	823 3,094		\$60 \$60	NNN \$17.00 Located on the northeast corner of Washington Avenue, one block south of Lincoln Road, one fourth block west of Collins Avenue. Within walking distance of retail shops and restaurants. Tenant has to pay for turn key. The retail has average quality construction finishing and is in good condition. Space 101 and 105 are available. Operating Expenses
4	1841 Washington Ave Miami Beach FL 33139	3,500		\$48	NNN N/A Co-tenant Subway restaurant, 2nd generation restaurant space. Two designated parking spaces. Located on Washington between 8th and 9th Street.
SUBJECT:					
	Roma Waxing 1701 Meridian Ave. Unit 3 a.k.a 771 17th St. Miami Beach FL 33139	1,291	1959		NNN The subject retail faces 17th Street. It has good quality finishing and is in good condition.

RETAIL RENT COMPS ADJUSTMENT GRID				
Location	0%	-30%	-30%	-30%
Building Quality	-10%	0%	0%	7%
Condition	-5%	5%	0%	10%
Size	0%	0%	0%	0%
Others	0%	0%	0%	0%
Overall Adjustment	-15%	-25%	-30%	-13%
Adjusted Rent	\$47	\$56	\$42	\$42

Average All Comps:	\$47
Average Best Comp I:	\$47
Chosen Retail Rent (\$/SF) for Subject	\$45 NNN

LEGEND		
Similar to Subject	=	the comp does not need adjustment
Inferior to Subject	+	the comp needs a plus adjustment
Superior to Subject	-	the comp needs a negative adjustment

Base on comparison with the market data we concluded that the market rent for the subject retail space (1,291 SF) to be \$45 per square foot rentable net per year for vacant space. We have concluded that the market rent would typically span a 5-year lease.

The total rent for the subject retail space is \$58,095 (1,291 SF x\$45/SF).

Operating Expenses

The annual operating expenses of the subject property were projected in this analysis based on similar properties.

RETAIL OPERATING EXPENSES STATEMENT April 2015	
<u>EXPENSES:</u>	<u>Per SF</u>
FIXED EXPENSES	
Property Taxes	\$3.62
<u>Insurance</u>	<u>\$1.15</u>
TOTAL FIXED EXPENSES:	\$4.77
VARIABLE EXPENSES	
Administrative & General	\$1.53
Repairs/Maintenance	\$0.79
Utilities	\$1.50
Cleaning	\$0.31
Others	\$5.96
<u>Reserves</u>	<u>\$0.15</u>
	\$10.24
<u>TOTAL EXPENSES</u>	<u>\$15.01</u>

Our estimated total stabilized Operating Expenses for the stabilized year is \$15.01 per square foot of rentable area.

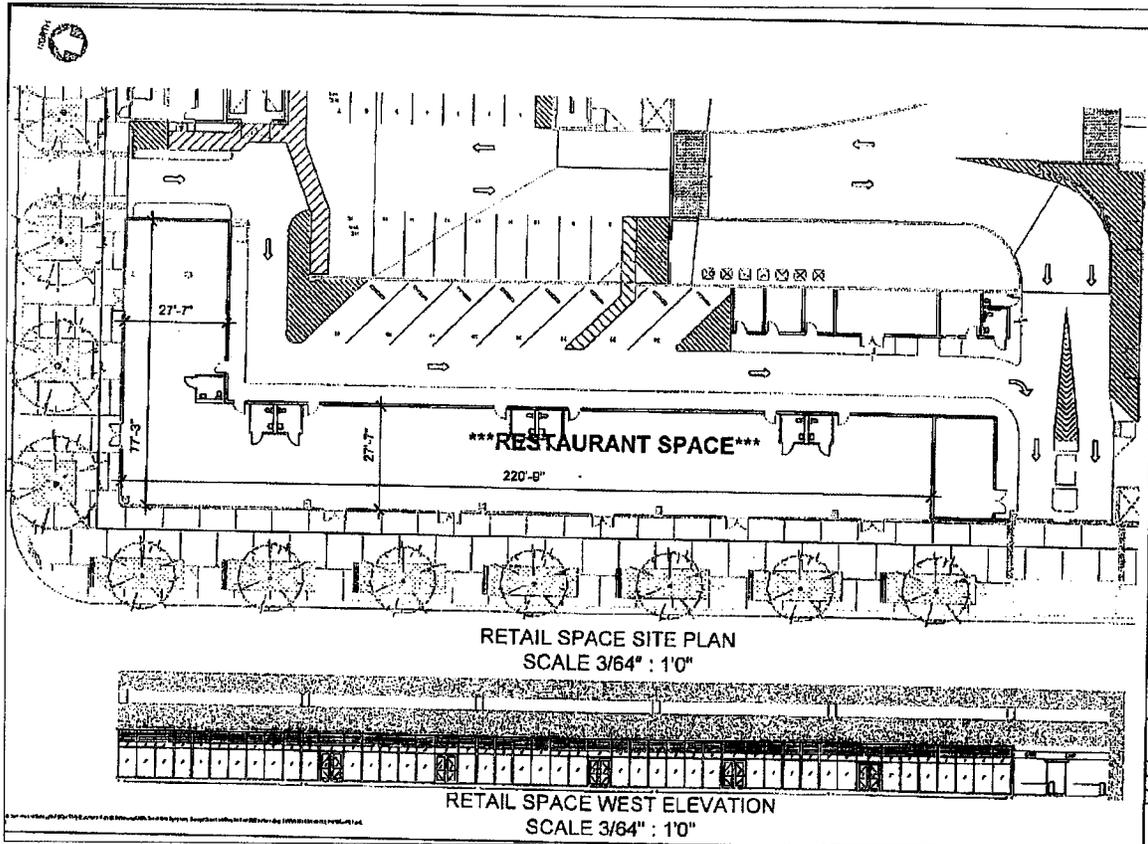
CONCLUSION

Market Retail Rent is based on a triple net lease basis, where the tenant pays all expenses, including utilities, water, electricity, common areas, cleaning, taxes, and insurance.

The market rent for the subject located at 1701 Meridian Avenue, Unit 3, in Miami Beach as of April 30, 2015, is \$45 per square foot of rentable area net. Operating expenses are \$15.01/ per square foot of rentable area.

Property	Address	Market Rent	Type of Rent	Total Operating Expenses
Retail	1701 Meridian Ave.	\$45	NNN	\$15.01

1661 Pennsylvania Ave.



The restaurant is located at the east side of Pennsylvania Avenue, between 17th Street and N. Lincoln Lane. The address is 1661 Pennsylvania Ave. Subject property under analysis is the retail component of the 'Pennsylvania Garage' building built in 2012. The building is a six-story structure with garage and retail spaces on the first floor. The subject is a restaurant to be used as first-class, high quality restaurant plus 2,230 SF of additional area to be used as storage. The space has high ceiling. Currently is leased to Penn 17 LLC for 9 years and 364 days. The lease was signed in October 31, 2011, and began 90 days after the certificate of occupancy was issued.

The contract lease can be found in the Addenda.

PROPERTY HISTORY

The property is held in the name of City of Miami Beach according to the Public Records of Miami Dade County. We are not aware of any transfer of the property or purchase listing or offering within the past five years.

LEGAL DESCRIPTION

Short Legal Description
PENNSYLVANIA GARAGE CONDO UNIT 1 UNDIV 3 7% INT IN COMMON ELEMENTS OFF REC 28080-4536

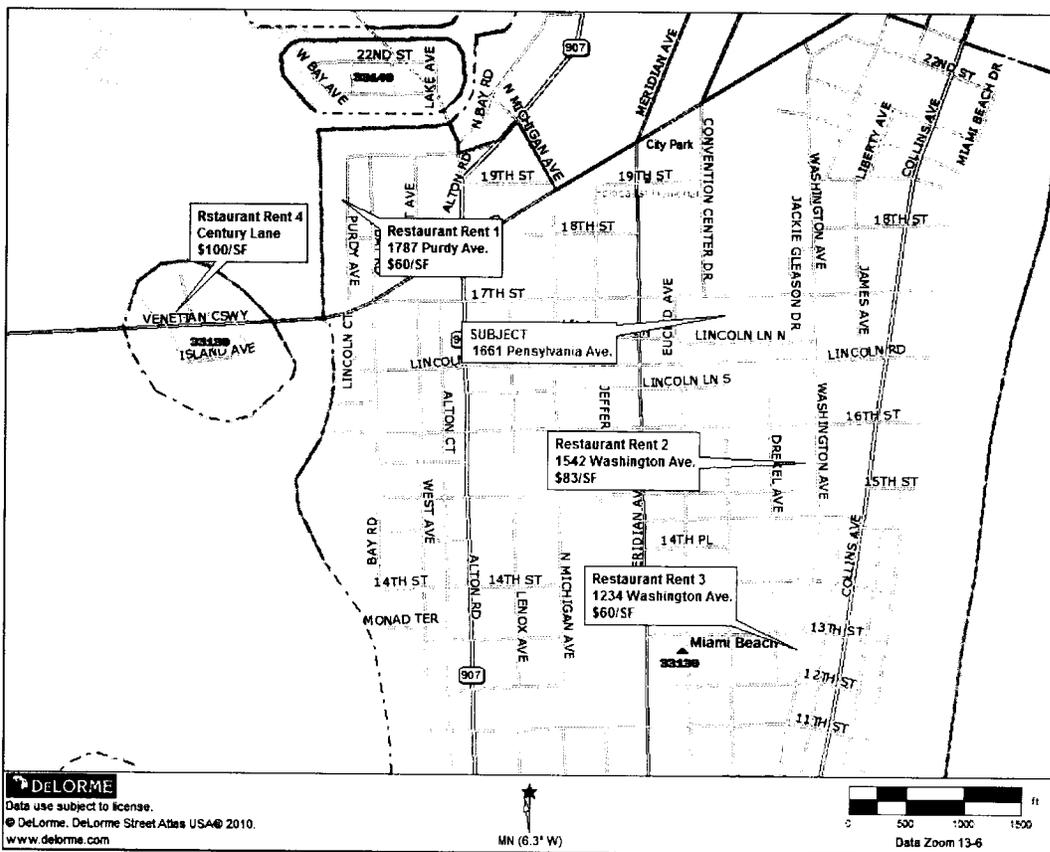
MARKET RENT ANALYSIS

Restaurant Market

We are estimating the market rent of the subject property, therefore a rent survey of the Miami Beach area was conducted. The basis for classification was location, design, and quality of construction, quality of interior finishes, age, and condition.

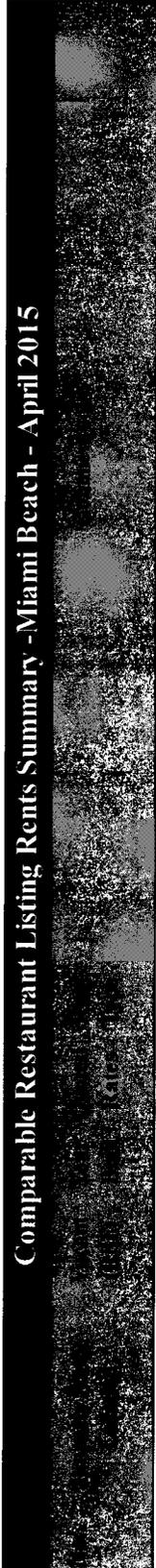
The rent comparable selected give an indication of the level of rent that could be commanded by the subject if offered in the open market. The restaurant rent survey, a location map, and a table of adjustments can be found following. Photos of the comps are shown in the Addenda.

All the restaurant rates in our survey are asking rates. Leasing agents interviewed in gathering rental data indicated that no concessions are provided although some terms are negotiable depending on tenant credit, the size of space and length of the lease. In most cases, the rates actually achieved in leases are near the asking rates.



Retail Map Comparable

Comparable Restaurant Listing Rents Summary - Miami Beach - April 2015



1	1787 Purdy Ave Miami Beach FL 33139	4,000	1940	\$60	NNN	Fully-built restaurant space in the hip "Sunset Harbour Neighborhood" of South Beach. f/k/a "PB Steak" and "Joe Allen's". First floor has 3,150 SF. Second floor has 850 SF, office & dry goods storage. Tenant can convert roof over dining (3,000 SF) into an outside deck overlooking the bay. The building has average/good construction finishing quality, and is in good condition.
2	1542 Washington Ave. Miami Beach FL 33139	5,500	1940	\$83	NNN	Turnkey restaurant space offered for rent for 60 months. It has approximately 3,000 SF exterior courtyard. It has 3 parking spaces. Built out as a high-end two story restaurant/club/private club. Fully-equipped, All new construction, 100% brand new kitchen. Granite sculpture, water walls, pools, reclaimed barn wood and granite floors.
3	1234 Washington Ave. Miami Beach FL 33139	4,400	1961	\$60	NNN	This is a fully built out restaurant and bar that was formally the home of the famous Irish Pub, Waxy Oconnor's. The space has a full kitchen, walk in, hood, and grease trap. The former owners spared no expense with the built out. There is on-site parking behind restaurant. It is located on the SWC of Washington Avenue and 12th Street. The building has average/good construction finishing quality, and is in good condition.
4	Restaurant at Standard Spa Hotel 40 Island Avenue Venetian Isles Miami Beach FL 33139	6,500	N/A	\$100	NNN	Property is a second generation restaurant space in good condition, but will require remodeling capital. Strong clientele and event revenue. Operator must provide 4-star concept with ISO-9000 menu and service. In place FF&E with strong historical revenue in the 1K SF range Y1BD. This is for a qualified 5-star restaurant operator. The operator should have a clean LOI, PQF to \$1M with \$250k. Lease term is for 120 months. Parking 400.
SUBJECT:						
	1661 Pennsylvania Ave Miami Beach FL 33139	7,807	2012		NNN	This is a new building with the restaurant space on ground floor. Good quality and condition. One space is occupied by Oolite Restaurant & Bar.

RESTAURANT COMPS ADJUSTMENT GRID				
	\$83	\$83	\$83	\$83
Location	5%	-15%	-10%	-10%
Building Quality	10%	0%	0%	5%
Condition	10%	0%	0%	5%
Size	0%	0%	0%	0%
Others	0%	0%	0%	-10%
Overall Adjustment	25%	-15%	-10%	-10%
Adjusted Rent	\$75	\$71	\$54	\$90

Average All Comps:	\$72
Chosen Retail Rent (\$/SF) for Subject	\$70 NNN

Comparison	Adjustm
Similar to Subject	=
Inferior to Subject	+
Superior to Subject	-

Base on comparison with the market data we concluded that the market rent for the subject retail space (7,807 SF) to be \$70 per square foot rentable net per year for vacant space. We have considered that the market rent includes a 5-year term rental lease. The total rent for the subject retail space is \$546,490 (7,807 SF x\$70/SF).

Operating Expenses

The annual operating expenses of the subject property were projected in this analysis based on similar properties.

RESTAURANT OPERATING EXPENSES STATEMENT April 2015	
<u>EXPENSES:</u>	<u>Per SF</u>
FIXED EXPENSES	
Property Taxes	\$4.02
<u>Insurance</u>	<u>\$1.15</u>
TOTAL FIXED EXPENSES:	\$5.17
VARIABLE EXPENSES	
Administrative & General	\$1.53
Repairs/Maintenance	\$0.79
Utilities	\$1.66
Cleaning	\$0.31
Others	\$5.96
<u>Reserves</u>	<u>\$0.15</u>
	\$10.40
<u>TOTAL EXPENSES</u>	<u>\$15.57</u>

Our estimated total stabilized Operating Expenses for the stabilized year is \$15.57 per square foot of rentable area. As secondary data information, we have presented a table below with contract restaurant rents.

COMPARABLE RESTAURANT CONTRACT RENTAL SUMMARY												
No.	Property Name Location	Size SF	Year Built	Restaurant Tenant	Tenant Size/SF	Quoted Rates	Term	Date	Reat Type	Finish Allowance	CAM Rent/SF	% Rent
1	11795 Pines Blvd. Miramar	5,525	1995	Pines Ale House	5,525	\$55.64	Lease extended from Jan 2011 to Jan 2016. One option of 5 more years to Jan 2021. Sales Volume: 2011 Sales \$4,437,000	Jan-11	Net	None		
2	2710 South Dixie Hwy Miami, FL	4,928	1994	Pollo Tropical	4,928	\$47.28	N/A	Feb-12	Net	None		
3	2200 Collins Ave. Miami Beach, FL	3,985	2010	Bagatelle	3,985	\$94.00	Contract is for 15 years. It began in 11/02/2012. Option for 2 additional term of 5 yrs each.	Feb-12	Net	\$502/SF	\$14.50	5%
4	17355 Biscayne Blvd. Miami, FL	8,053		Houston's	8,035	\$96.45	5% increases every 5 years	Jan-14	Net	N/A		
5	Cocowalk Grand Avenue Miami	164,707 tertainment	1990	Cheesecake Factory Fat Tuesday Café Med Café Tu Tu Tango Hooters	6,186 3,867 4,049	\$32 to \$35			Net	Negotiable	\$17.00	
6	Rivergate Plaza 444 Brickell Avenue Miami	395,395 Office	1986	The Capital Grille	10,271	\$16.55	10yrs beginning 1996 Four/Syr options		F/S	UK	\$3.00	5.5%
7	Mizner Park Federal Hwy & 2nd Street Boca Raton, Palm Beach County	156,715	1990	Mark's at the Park Mozzerella's Ruby Tuesday Max's Grill	5,680 6,169 5,517 5,680	\$37.13 \$26.00 \$26.00 \$28.22	17yrs beginning 1991 15yrs beginning 1990 15yrs beginning 1990 17yrs beginning 1991		Net Net Net Net	Minimal	\$15.00 \$15.00 \$15.00 \$15.00	5.0% 5.0% 5.0% 3.4%
8	Axis Condominiums Miami	19,992	2008	Irish Pub Spanish Restaurant Gelato & Coffee Bar	5,484 8,220 1,587	\$32.00 \$32.00 \$35.00	\$55 Year 2. CPI increase(3%min-7%max) 9 mont \$55 Year 2. CPI increase(3%min-7%max) 9 mont CPI Increase(3% min-7% max) 8 months free	Jul-10 Jul-10 Aug-10	Net Net Net		N/A N/A N/A	
9	55 Miracle Mile Coral Gables	65,242 etail+Office	2004	Tarpon Bend CIBO Wine Bar	6,500 7,076	\$34.00 \$28.00	increase & 7% of sales over 6MM(food & liquo 3% annual increase	Jun-11 Oct-12	Net Net		N/A N/A	

CONCLUSION

Market Retail Rent is based on a triple net lease basis, where the tenant pays all expenses, including utilities, water, electricity, common areas, cleaning, taxes, and insurance.

The market rent for the subject located at 1661 Pennsylvania Avenue in Miami Beach as of April 30, 2015 is \$70 per square foot of rentable area net. The market rent is based on a 7,807 SF of rentable area. Operating expenses are \$15.57/ per square foot of rentable area.

Property	Address	Market Rent	Type of Rent	Total Operating Expenses
Restaurant	1661 Pennsylvania Ave.	\$70	NNN	\$15.57

A D D E N D A

Exhibit A
Subject Photographs

1701 Meridian Avenue.-Retail.





1661 Pennsylvania Ave.- Restaurant

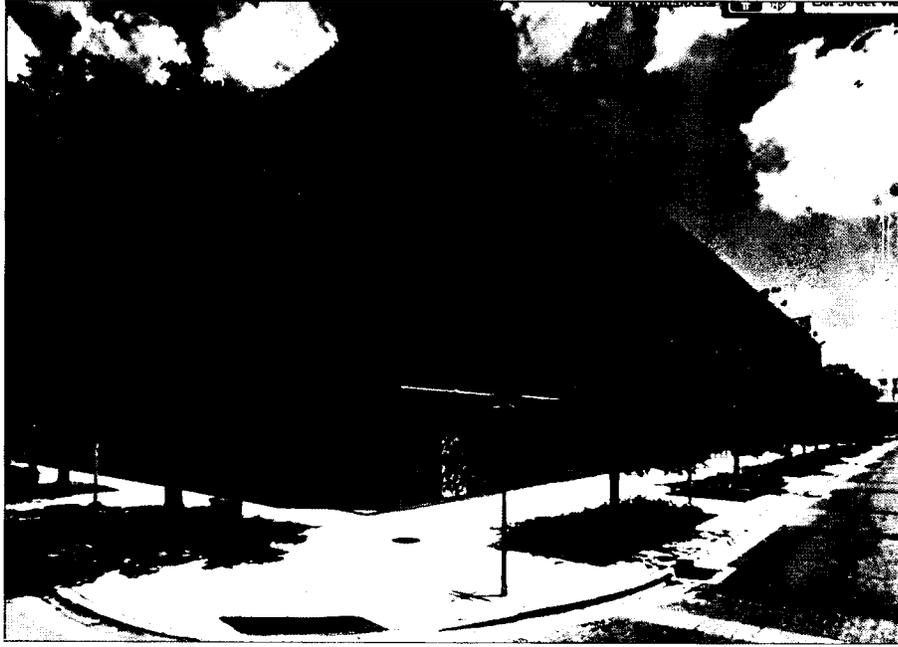
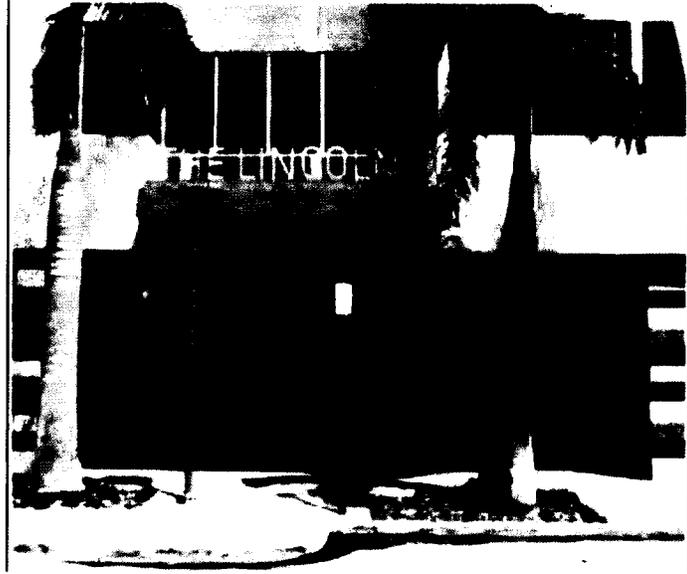




Exhibit B
Comparable Rent Photographs

RETAIL PHOTOS



**Retail 1 – The Lincoln
1691 Michigan Avenue**



**Retail 2
1616 Washington Ave.**



Retail 3
1601 Washington Ave.



Retail 4
1841 Washington Ave.

RESTAURANT PHOTOS



Restaurant 1
1787 Purdy Ave.



Restaurant 1
1787 Purdy Ave.



Restaurant 2
1542 Washington Ave



Retail 3
1234 Washington Ave.



Retail 3
1234 Washington Ave.



Retail 4
40 Island Avenue

Exhibit B



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, FL 33139, www.miamibeachfl.gov

TOURISM, CULTURE AND ECONOMIC DEVELOPMENT DEPARTMENT
Office of Real Estate
Tel: 305-673-7193 / Fax: 786-394-4539

June 19, 2015

Mr. Gabriel Castillo
SB Waxing, Inc.
771 17th Street
Miami Beach, Florida 33139

Sent Via E-mail: gcastillo@unikwax.com

**Re: Non-Binding Letter of Intent
771 17th Street
Miami Beach, Florida 33139**

Dear Mr. Castillo:

This Non-Binding Letter of Intent shall set forth the basic terms and conditions under which the City of Miami Beach ("City") is willing to enter into a lease agreement with SB Waxing, Inc. ("Tenant").

Landlord: City of Miami Beach

Tenant: SB Waxing, Inc. d/b/a Uni.K Wax

Premises: 1701 Meridian Avenue, Unit 3 (a/k/a 771 17th Street)
Miami Beach, Florida 33139

Size: Approximately, 1,291 rentable square feet

Initial Term: Five (5) years commencing August 1, 2015 and ending July 31, 2020.

Renewal Option: So long as Tenant has never been in an uncured default of the Lease, upon providing Landlord written notice six (6) months prior to the expiration of the Initial Lease Term, Tenant shall have one (1) renewal option, for a period of four (4) years and 364 days, at the then prevailing fair market rent.

Termination Option: In the event the City determines, in its sole and absolute discretion, to demolish, renovate or repurpose the 1701 Meridian Avenue building, the City shall have the right to terminate the lease at any time throughout the Initial Term, or renewal term, upon providing one hundred eighty days (180) prior written notice to Tenant.

Base Rental Rate: \$42.00 Triple Net, per rentable square foot, plus applicable sales tax.

Increases: The Base Rental Rate shall be increased by three percent (3%) annually.

Lease Basis: Triple Net - Tenant shall pay its proportionate share of the costs of real estate taxes, insurance and maintenance expenses.

Security Deposit: Two (2) month's gross rent

Construction Allowance: Tenant shall accept the Premises in "as-is" condition.

Use: Hair removal facility, including waxing and retail sales of related items; facials and retail sales of related items.

Agency Disclosure: Tenant represents that it is not represented by a real estate broker regarding this transactions and no commission shall be due regarding this transaction.

Conditions: The terms and conditions of this Letter of Intent are subject to approval by the City of Miami Beach Commission. This Letter of Intent is non-binding to either party, and may be modified or withdrawn by the City, without notice, at any time. Only a fully executed and delivered lease agreement, which shall be negotiated in good faith by both parties, shall serve as a binding agreement in this regard.

Please let me know if I can provide you with any additional information. I may be reached at (305) 673-7193.

Sincerely,



Mark M. Milisits, RPA
Asset Manager

Agreed to and Accepted by:

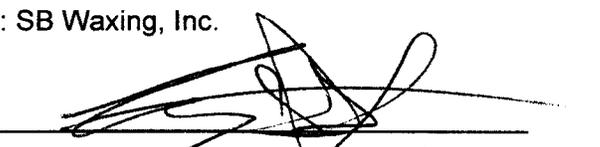
Tenant: SB Waxing, Inc.

Sign: _____

Print: _____

Title: _____

Date: _____



GABRIEL CASTILLO
SECRETARY - CO-OWNER
6/29/15

Exhibit C

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this ____ day of _____, 2015, by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation, (hereinafter referred to as "City" or "Landlord"), and **SB WAXING, INC.** (d/b/a Uni.K Wax Center), a Florida corporation, (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:

1,291 square feet of City-owned property (the "Building"), located at 1701 Meridian Avenue, Unit 3 (a.k.a. 771 17th Street), 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 five (5) years, commencing on the 1st day of August, 2015 (the "Commencement Date"), and ending on the 31st day of July, 2020. For purposes of this Lease Agreement, and including, without limitation, Subsection 2.2 herein, a "contract year" shall be defined as that certain period commencing on the 1st day of August, and ending on the 31st day of July.

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 later than one hundred and eighty (180) days prior to the expiration of the initial term, this Lease may be extended for one (1) additional four (4) year and three hundred sixty four (364) day renewal term. Said extension, if applicable 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).

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 Fifty Four Thousand Two Hundred Twenty Two and 00/100 Dollars (\$54,222.00) per year, payable in monthly installments of Four Thousand Five Hundred Eighteen and 50/100 Dollars (\$4,518.50), commencing on the Commencement Date and, thereafter, on each first day of subsequent months.

- 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.
- 3.1.3 The Base Rent amount pursuant to this Section 3.1 shall be increased annually, on the anniversary of the Commencement Date of the Lease, in increments of three (3%) percent per year.

3.2 Additional Rent:
In addition to the Base Rent, as set forth in Section 3.1, Tenant shall also pay the following Additional Rent as provided below:

- 3.2.1 Operating Expenses:
Tenant shall pay Four Hundred Thirty and 20/100 Dollars (\$430.20) per month, for its proportionate share of "Operating Expenses" which are defined as follows:

"Operating Expenses" shall mean the following costs and expenses incurred in operating, repairing, and maintaining the Common Facilities (as hereinafter defined) and shall include, without limitation, water service to the Building, sewer service to the Building, trash removal from the Building, costs incurred for gardening and landscaping, repairing and maintaining elevator(s), painting, janitorial services (except for areas within the Demised Premises), lighting, cleaning, striping, policing, removing garbage and other refuse and trash, removing ice and snow, repairing and maintaining sprinkler systems, water pipes, air-conditioning systems, temperature control systems, and security systems, fire alarm repair and maintenance and other equipment in the common areas and the exterior and structural portions of the Building, paving and repairing, patching and maintaining the parking areas and walkways, and cleaning adjacent areas, management fees and the City's employment expenses to employees furnishing and rendering any services to the common areas, together with an additional administration charge equal to fifteen percent (15%) of all other expenses included in the annual common area expenses, provided by the City for the common or joint use and/or benefit of the occupants of the Building, their employees, agents, servants, customers and other invitees.

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

Tenant agrees and understands that the costs incurred for Operating Expenses may increase or decrease and, as such, Tenant's pro-rata share of Operating Expenses shall increase or decrease accordingly.

3.2.2 Property Taxes:

The Property Tax Payment shall be payable by Tenant, in accordance with Section 11 herein. The 2014 Property Tax Payment is Eight Thousand Nine Hundred Four and 97/100 Dollars (\$8,904.97), payable in monthly installments of Seven Hundred Forty Two and 08/100 Dollars (\$742.08).

3.2.3 Insurance:

The Additional Rent shall also include Tenant's pro-rata share toward estimated insurance costs incurred to insure the whole of the Building, payable in monthly installments of Ninety Six and 79/100 Dollars (\$96.79). This insurance coverage is in addition to the insurance required pursuant to Section 10, which shall be obtained at Tenant's sole expense and responsibility.

3.3 Sales Taxes:

Concurrent with the payment of the Base Rent and Additional 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, Additional 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. Parking.
Tenant may request, from the City's Parking Department, the use of no more than three (3) parking spaces, if available, at Municipal Parking Garage 2-G located on 17th Street and Meridian Court. Rates for said spaces are subject to change, and are currently Seventy Dollars (\$70.00) per month, plus applicable sales and use tax per space.

6. Security Deposit.
Upon execution of this Agreement Tenant shall furnish the City with a Security Deposit, in the amount of Eleven Thousand Five Hundred Seventy Five and 14/100 Dollars (\$11,575.14). Said Security Deposit shall serve to secure Tenant's performance in accordance with the provisions of this Agreement. In the event Tenant fails to perform in accordance with said provisions, the City may retain said Security Deposit, as well as pursue any and all other legal remedies provided herein, or as may be provided by applicable law.

The parties agree and acknowledge that the foregoing condition is intended to be a condition subsequent to the City's approval of this Agreement. Accordingly, in the event that Tenant does not satisfy the aforesaid, then the City Manager or his designee may immediately, without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to him for breach of contract.

7. Use and Possession of Demised Premises.

7.1 The Demised Premises shall be used by the Tenant solely for the purpose(s) of operating a hair removal facility, including waxing and retail sale of related items, facials and retail sales of related items. Said Premises shall be open for operation a minimum of five (5) days a week, with normal hours of operation being as follows:

Monday - Wednesday:	9:00 AM to 7:00 PM
Thursday and Friday:	9:00 AM to 9:00 PM
Saturday	10:00 AM to 6:00 PM
Sunday	12:00 PM to 6:00 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 Dollars (\$500.00), provided that the work is not structural, and provided that it is permitted by applicable law.

9. City’s Right of Entry.

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.

10.1 Tenant shall, at its sole expense and responsibility, comply with all insurance requirements of the City. It is agreed by the parties that Tenant shall not occupy the Demised Premises until proof of the following insurance coverages have been reviewed and approved by the City's Risk Manager:

10.1.1 Comprehensive General Liability, in the minimum amount of One Million Dollars (\$1,000,000) (subject to adjustment for inflation) per occurrence for bodily injury and property damage. The City of Miami Beach must be named as an additional insured on this policy.

10.1.2 Workers Compensation and Employers Liability coverage in accordance with Florida statutory requirements.

10.1.3 All-Risk property and casualty insurance, written at a minimum of eighty (80%) percent of replacement cost value and with replacement cost endorsement, covering all leasehold improvements installed in the Demised Premises by or on behalf of Tenant and including without limitation all of Tenant's personal property in the Demised Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture, and other property removable by Tenant under the provisions of this Agreement).

10.2 Proof of these coverages must be provided by submitting original certificates of insurance to the City's Risk Manager and Asset Manager respectively. All policies must provide thirty (30) days written notice of cancellation to both the City's Risk Manager and Asset Manager (to be submitted to the addresses set forth in Section 27 hereof). All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and must have a rating of B+:VI or better per A.M. Best's Key Rating Guide, latest edition, and certificates are subject to the approval of the City's Risk Manager.

11. Property Taxes and Assessments.

For the purposes of this Section and other provisions of this Agreement:

11.1 The term "Property Taxes" shall mean (i) real estate taxes, assessments, and special assessments of any kind which may be imposed upon the Demised Premises, and (ii) any expenses incurred by the City in obtaining a reduction of any such taxes or assessments.

11.2 The term "Property Tax Year" shall mean the period of twelve (12) calendar months, beginning on January 1st of each year.

11.3 Tenant shall pay, as Additional Rent pursuant to Section 3.2, for such Property Tax Year an amount ("Property Tax Payment") equal to Tenant's pro-rata share of Property Taxes (if any) for such Property Tax Year; said pro-rata share to be determined by the City based upon the ratio of the Demised Premises to the tax lot. If a Property Tax Year ends after the expiration or termination of the term of this Agreement, the Property Tax Payment therefore shall be prorated to correspond to that portion of such Property Tax Year occurring within the term of this Agreement. The Property Tax Payment shall be payable by Tenant immediately upon receipt of notice from the City. A copy of the tax bill(s) or other evidence of such taxes issued by the taxing authorities, together with the City's computation of the Property Tax Payment, will be made available to Tenant once received from the taxing authorities, if requested by Tenant. Tenant shall pay any difference in the amount between the estimated property taxes and the actual property taxes to the City immediately, upon receipt of request for said payment from the City.

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 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, 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.

Tenant agrees and understands, that if the City provides a separate air-conditioning unit for the Demised Premises, the City, at its sole discretion, may require that Tenant obtain, at any time during the Term of this Agreement, and continuously maintain in good standing, at Tenant's expense, throughout the Term of this Agreement, a maintenance and repair contract, approved by the City, with a service company previously approved in writing by the City, providing for the preventative maintenance and repair of all heating/ventilation/air-conditioning (HVAC) equipment servicing the Demised Premises. In the event that the City notifies Tenant that it will require Tenant to contract for said maintenance and repair services, Tenant shall provide to the City, in writing, within ten (10) business days, the name(s) and telephone number(s) of service company(ies) for the City's review and approval. Tenant shall provide a copy of a current, enforceable and fully executed maintenance and repair contract, no later than ten (10) business days after receipt of the City's approval of the service company, as proof of Tenant's compliance with this provision.

If the City provides a separate air-conditioning unit for the Demised Premises, as provided herein, Tenant may request that the City inspect same to ensure that it is in proper working order. If the unit is not in proper working order, the City shall, at its sole discretion, repair or replace the unit.

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 (not included within Operating Expenses). 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 **NOT** included as an Operating Expense (pursuant to Subsection 3.2.1).

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

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

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

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

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

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

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 untenable, 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 (Base Rent and Additional Rent) shall not be abated. If by reason of such occurrence, the Demised Premises shall be rendered untenable, 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 Rent meanwhile shall be abated proportionately as to the portion of the Demised Premises rendered untenable, provided however, that the City shall promptly obtain a good faith estimate of the time required to render the Demised Premises tenable 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 untenable 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 untenable, 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:

Noemi Grupenmager, President
Roma Waxing, Inc.
18911 Collins Avenue, Suite #1707
Sunny Isles, Florida 33160

With copy to:

Branch Manager
Uni.K. Wax Center
771 17th Street
Miami Beach, Florida 33139

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 Ten Thousand (\$10,000.00) 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 \$10,000.00. 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 \$10,000.00 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.

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

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

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 E. Granado, City Clerk

Philip Levine, Mayor

Attest:

SB WAXING, INC.

Signature / Corporate Secretary

Gabriel Castillo, Secretary

Print Name

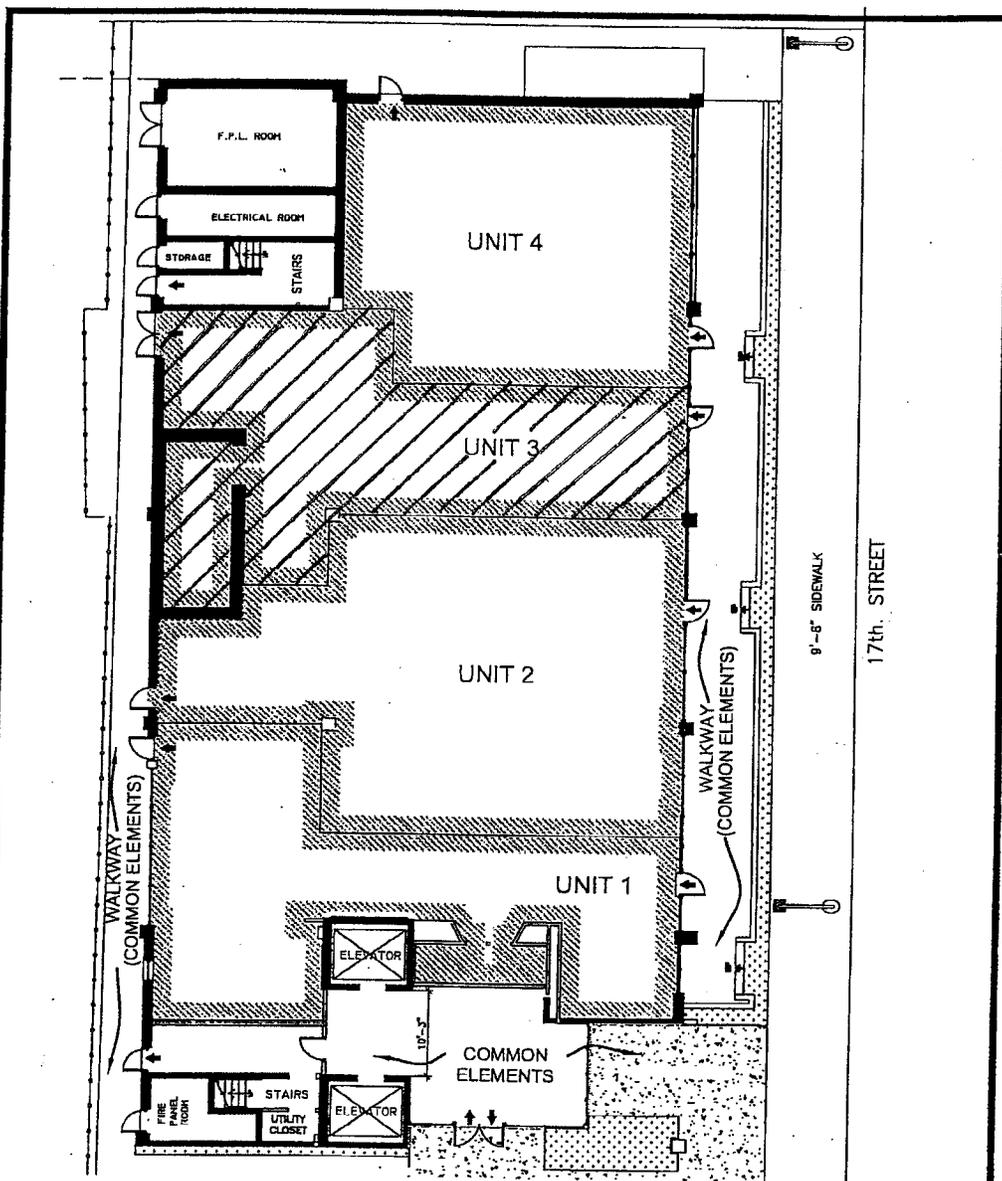
Signature

Print Name

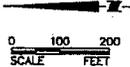
CORPORATE SEAL
(affix seal here)

EXHIBIT 1

Demised Premises



AREA UNIT 1= 1,326.78 S/F	
AREA UNIT 2= 1,802.89 S/F	
AREA UNIT 3= 1,290.59 S/F	
AREA UNIT 4= 1,268.87 S/F	



SURVEYOR'S NOTE:
DETAILS OF INTERIORS WALLS WERE BASED IN ORIGINAL DRAWINGS AND BEST INFORMATION OBTAIN FROM FIELD SURVEY

First Floor Plan

Prepared by:

*City of Miami Beach
Public Works Department
Engineering Division
1700 Convent Road, Condo Drive
Miami Beach, Florida 33139
Phone (305) 673-7080*

1701 MERIDIAN BUILDING CONDOMINIUM

Page 4 of 9
Exhibit "B"

Date: 4/17/2007



CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that the following public hearings will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **July 8, 2015**, at the times listed, or as soon thereafter as the matter can be heard:

10:00 a.m.

A Resolution To Consider Approval, Following First Reading/Public Hearing Of A Development And Ground Lease Agreement As Authorized Under Section 82-37 Of The City Code, Section 118-4 Of The City Code And Sections 163.3220 - 163.3243, Florida Statutes, Between The City And Portman Miami Beach, LLC ("Portman"), For The Development Of An 800-Room Convention Headquarter Hotel And Related Facilities, Including Up To 95,000 Square Feet Of Conference And Ballroom Facilities, And Up To 37,400 Square Feet Of Restaurant Facilities (The "Hotel"), On An Approximately 2.65 Acre Site Bounded Roughly By The Miami Beach Convention Center To The North, 17th Street To The South, The Fillmore Miami Beach At The Jackie Gleason Theater To The East, and Convention Center Drive To The West (The "Leased Property"); Delineating The Conditions For The Design, Construction, Equipping And Operation Of The Hotel On The Leased Property With No City Funding Therefor; Providing For A 99-Year Term Of The Leased Property Once Certain Conditions Are Satisfied; Prohibiting Gambling Establishments On The Leased Property; And Providing For Base Rent To The City Once The Hotel Opens, Including, After The Third Year Following The Hotel's Opening And Each Year Thereafter, Four Percent (4%) Of The Gross Revenues Of The Hotel; And Further Setting The Second And Final Reading Of The Development And Ground Lease Agreement For A Time Certain. *Inquiries may be directed to the Office of the City Attorney at 305.673.7470.*

10:05 a.m.

A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee, And Approving And Authorizing The Mayor And City Clerk To Execute A New Lease Agreement Between The City And SB Waxing, Inc. D/B/A Uni-K-Wax (Tenant), For An Initial Term Of Five (5) Years, With One (1) Renewal Option For Four (4) Years And Three Hundred And Sixty Four (364) Days, Involving The Use Of Approximately 1,291 Square Feet Of City-Owned Property Located At 1701 Meridian Avenue, Unit 3 (AK/A 771 17th Street), Miami Beach, Florida (Premises); And Further Waiving By 57th Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The Public. *Inquiries may be directed to the Tourism, Culture and Economic Development Department at 305.673.7577.*

10:10 a.m.

A Resolution Approving, On Second And Final Reading Of This Resolution And Following A Duly Noticed Public Hearing, The Transfer, Via Quit Claim Deed, To The Florida Department Of Transportation (FDOT) The Property Identified In Exhibit A, As The Property Has Been Constructed Upon By FDOT And Utilized As A Turning Lane From Michigan Avenue Onto Alton Road; Containing Approximately 4,014 Square Feet In Total Area; Waiving By 57th Vote, The Competitive Bidding Requirements And Independent Appraisal Requirements Of Section 82-39 Of The City Code, Finding That The Public Interest Would Be Served By Waiving Such Conditions. *Inquiries may be directed to the Office of the City Attorney at 305.673.7470.*

10:15 a.m.

A Resolution Pursuant To Section 142-425(D) Of The City Code, Waiving By 57th Vote Of The City Commission After Public Hearing, The Development Regulations Under Chapters 130 And 142 Of The Land Development Regulations Of The City Code Pertaining To Required Off-Street Parking Spaces And Minimum Required Setbacks, At The Bass Museum Of Art, 2100 Collins Avenue. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:20 a.m.

An Ordinance Amending Chapter 142 "Zoning Districts And Regulations," Article II, "District Regulations", Division 18, "PS Performance Standard District" To Modify Permitted Uses Within The CPS-2 District To Include Non-Amplified Piano And String Instruments Within Restaurant Interiors; Providing For Repealer, Severability, Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:25 a.m.

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 3, "Residential Multi-Family Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity," To Prohibit Bed And Breakfast Inns Within The Palm View Local Historic District; By Amending Article V "Specialized Use Regulations," Division 7, "Bed And Breakfast Inns," To Prohibit Bed And Breakfast Inns Within The Palm View Local Historic District; Providing For Codification, Repealer, Severability And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:30 a.m.

An Ordinance Amending Chapter 114 "General Provisions", Section 114-1, "Definitions", By Modifying The Definition Of Commercial Vehicle; By Amending Chapter 142 "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations", Division 1, "Generally To Modify The Requirements For Required Enclosures To Create An Allowance For The Outdoor Exposure Of Rental Car Vehicles; Providing For Repealer, Severability, Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

Dr. Stanley Sutinck Citizen's Forum - Pursuant to Resolution No. 2013-28440, the times for the Dr. Stanley Sutinck Citizen's Forum are **8:30 a.m.** and **1:00 p.m.**, or as soon as possible thereafter. Approximately thirty minutes will be allocated to each session, with individuals being limited to no more than three minutes or for a period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these items are available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting, or any item herein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Rafael E. Granado, City Clerk
City of Miami Beach

RESOLUTION TO BE SUBMITTED



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 08, 2015

SUBJECT: **DISCUSSION REGARDING THE CITY OF MIAMI BEACH ASSUMING JURISDICTIONAL AUTHORITY OVER CERTAIN TRAFFIC ENGINEERING COMPONENTS ON LOCAL STREETS WITHIN THE CITY.**

BACKGROUND

According to Section 2-96.1 of Article XIII of the Miami-Dade County (County) Code established in September 1960; "all traffic engineering services shall be performed by the traffic and transportation department, and such department shall have exclusive jurisdiction over all traffic control devices in both the incorporated and unincorporated areas of the county, and shall have exclusive jurisdiction to exercise the powers, duties and functions". The County Code (Section 2-95.1) specifies that "the planning, installation, operation and maintenance of all traffic control devices, including but not limited to, traffic signals, signs, markings and street name signs on all public streets" are under the jurisdiction of the County. In addition, the Traffic and Transportation Departments of the County "shall have exclusive jurisdiction in respect to all matters of traffic engineering within territorial areas of Miami-Dade County, subject only to the jurisdiction of the state road department in respect to state highways". It is explained in the Code that traffic engineering refers to the phase of engineering which deals with the planning and geometric design of streets, highways, roads, alleys, or other places used for travel or parking of motor vehicles; however, according to Section 2-96.1, "the County Manager or designee may authorize municipalities, which desire and are equipped and able to perform certain traffic engineering functions, to assume, together with all liability and without additional cost to the County, through an individual Intergovernmental Agency Agreement, and for local streets only, the installation and maintenance of regulatory and street name signs, warning signs, construction warning sign, markings and barricades, pavement markings, traffic maintenance and traffic calming devices".

Currently, all municipal requests for traffic engineering including, but not limited to intersection control (signs and signals), pavement markings (new implementations and maintenance), pedestrian safety, and traffic safety are sent to the County's Public Works and Waste Management Department's Traffic Engineering Division for evaluation and implementation. Typically, the County's evaluation of each request takes between six (6) and twelve (12) weeks. If the request is found to be warranted, the County implements the modifications within two (2) to six (6) weeks after approval. It is worth noting that the City's Transportation Department communicates regularly with the County and submits an approximate average of 20 traffic engineering requests per month to the County for evaluation. All requests are evaluated by the County in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

Agenda Item R7M
Date 7-8-15

To mitigate issues with traffic signal timing, coordination, and maintenance, the City is working closely with the County to fund a traffic signals engineer to prioritize traffic signal issues with the City of Miami Beach.

Due to the County's stringent criteria for approval of traffic calming devices, in 2006, the City partnered with the County to develop the City of Miami Beach Traffic Calming Manual which identified lower thresholds for the approval of traffic calming requests in Miami Beach. In 2010, the City and County executed an Intergovernmental Agency Agreement which authorizes the City to conduct traffic calming warrant analyses for traffic calming requests within local streets using the criteria approved by the County and established in the City of Miami Beach Traffic Calming Manual. Under the agreement, however, the County retains review and design approval authority over the traffic calming device or method selected. The City is also working with the County on other transportation projects that will be implemented via Intergovernmental Agency Agreements, such as, green bicycle lanes and L.E.D. crosswalks. Other local municipalities, such as City of Doral and City of Pinecrest, have entered into Intergovernmental Agency Agreements with the County for some traffic engineering components, such as roundabouts and street name signage.

ANALYSIS

The City of Miami Beach is an active community where traffic safety problems affect a high number of residents and visitors who walk, bike, transit, and drive through the City. Although the City and County work together to expedite traffic engineering requests regarding Miami Beach, the Administration recognizes that the time required to address certain municipal requests could be expedited if certain traffic engineering were under the jurisdiction of the City. Improving the interval of time between requests to implementation, could signify improved safety conditions for residents and visitors. Certain traffic engineering functions (including analysis, design, implementation, and maintenance) for certain traffic engineering components currently under the jurisdiction of the County could be explored to transfer review to the City. These include traffic control signage (excluding traffic signals), establishing speed limits and pedestrian crossing improvements (e.g. crosswalk pavement markings, crosswalk signage, L.E.D. crosswalks, and Rapid Rectangular Flashing Beacons, etc.), for local roadways in the City of Miami Beach.

It is important to note that, should the City Commission wish to move forward with this proposal, the City would be assuming maintenance and liability responsibilities associated with the traffic engineering components under the City's jurisdictional authority. Furthermore, additional personnel and resources would be required to perform the planning, engineering, installation, operations, and maintenance functions of the traffic engineering components and traffic control devices under the City's jurisdiction.

CONCLUSION

This item is being presented to the City Commission for discussion and further input.

 J.F.D.
KGB/JRG/JFD

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING MIAMI-DADE COUNTY TO AUTHORIZE THE CITY OF MIAMI BEACH TO ASSUME CERTAIN TRAFFIC ENGINEERING JURISDICTION OVER CERTAIN TRAFFIC ENGINEERING COMPONENTS FOR LOCAL ROADWAYS WITHIN THE CITY.

WHEREAS, according to Section 2-96.1 of Article XIII of the Miami-Dade County (County) code established in September 1960, “all traffic engineering services shall be performed by the traffic and transportation department, and such department shall have exclusive jurisdiction over all traffic control devices in both the incorporated and unincorporated areas of the county, and shall have exclusive jurisdiction to exercise the powers, duties and functions”; and

WHEREAS, the County Code (Section 2-95.1) specifies that “the planning, installation, operation and maintenance of all traffic control devices, including but not limited to, traffic signals, signs, markings and street name signs on all public streets” are under the jurisdiction of the County; and

WHEREAS, according to Section 2-96.1, “the County Manager or designee may authorize municipalities, which desire and are equipped and able to perform certain traffic engineering functions, to assume, together with all liability and without additional cost to the County , through an individual Intergovernmental Agency Agreement, and for local streets only, the installation and maintenance of regulatory and street name signs, warning signs, construction warning sign, markings and barricades, pavement markings, traffic maintenance and traffic calming devices”; and

WHEREAS, currently, all municipal requests for traffic engineering including, but not limited to intersection control (signs and signals), pavement markings (installation and maintenance), pedestrian safety, and traffic safety are sent to the County’s Public Works and Waste Management Department’s Traffic Engineering Division for evaluation and implementation; and

WHEREAS, the County’s evaluation of each request takes between six (6) and twelve (12) weeks; and, if the request is found to be warranted, implementation of the warranted modifications takes two (2) to six (6) weeks after approval; and

WHEREAS, the City’s Transportation Department communicates regularly with the County and submits an average of 20 traffic engineering requests per month to the County for evaluation; and

WHEREAS, due to the County’s stringent criteria for approval of traffic calming devices, in 2006, the City partnered with the County to develop the City of Miami Beach Traffic Calming Manual which identified lower thresholds for the approval of traffic calming requests in Miami Beach; and

WHEREAS, in 2010, the City and County executed an Intergovernmental Agency Agreement allowing the City to conduct traffic calming analyses with the criteria established in the City of Miami Beach Traffic Calming Manual for traffic calming requests within local streets; and

WHEREAS, certain traffic engineering functions (including analysis, design, implementation, and maintenance) for certain traffic engineering components currently under the jurisdiction of the County could be explored to transfer review to the City, such as, traffic control signage (excluding traffic signals), establishing speed limits, and pedestrian crossing improvements (crosswalk pavement markings, crosswalk signage, L.E.D. crosswalks, and Rapid Rectangular Flashing Beacons, etc.), for local roadways in the City of Miami Beach; and

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby urge Miami-Dade County to authorize the City of Miami Beach to assume certain traffic engineering authority over certain traffic engineering components, as set forth herein, for local roadways within the City.

PASSED and ADOPTED this _____ day of _____, 2015.

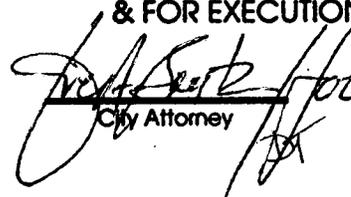
ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

T:\AGENDA\2015\July\TRANSPORTATION\Discussion Regarding County Traffic Control Jurisdiction (Grieco) RESO.doc

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

7-2-2015

Date

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, accepting the recommendation of the Finance and Citywide Projects Committee (FCWPC) to operate municipal parking garages with gated revenue control equipment; and accept the recommendation of the City Manager, pursuant to Invitation to Negotiate (ITN) 2014-170-SW for a gated revenue control system for the City's parking garages; to Skidata, Inc., and, in the event that the City is unable to finalize successful negotiations with Skidata, Inc., authorizing the City Manager and the City Attorney's Office to negotiate an agreement with Amano McGann, Inc.

Key Intended Outcome Supported:

Ensure expenditure trends are sustainable over the long term.
Supporting Data (Surveys, Environmental Scan, etc.): N/A

Item Summary/Recommendation:

On June 10, 2015, the Mayor and Commission referred Item No. R7M, Invitation to Negotiate (ITN) No. 2014-170-SW for a gated revenue control system for the City's Parking Garages to the Finance and Citywide Projects Committee (FCWPC) for discussion. The item was referred to the FCWPC seeking guidance on whether to operate municipal garages with a gated revenue control system or as metered parking.

An analysis comparing both operational models was included in Agenda Item No. R7M (June 10, 2015). Please refer to Exhibit B of the attached agenda item.

Additionally, a survey of gated and metered garage operations was conducted among 20 municipalities, locally and nationally. The survey resulted in 113 (93%) garages operated with gated revenue control and eight (7%) garages operated with meters. Please refer to Appendix "A" attached.

On July 1, 2015, the FCWPC discussed the item and approved gated revenue control as the system by which to operate municipal parking garages. Additionally, the FCWPC endorsed the recommendation of the City Manager, pursuant to ITN 2014-170-SW for a gated revenue control system for the City's parking garages to Skidata, Inc.

Administration Recommendation: Adopt the Resolution.

Financial Information:

Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div> OBPI	1		
	2		
	3		
	Total		

Financial Impact Summary:

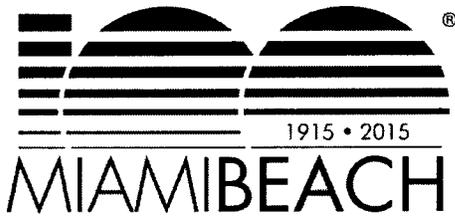
City Clerk's Office Legislative Tracking:

Saul Frances

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF	KGB	JLM

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City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 8, 2015

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE (FCWPC) TO OPERATE MUNICIPAL PARKING GARAGES WITH GATED REVENUE CONTROL EQUIPMENT; AND ACCEPT THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO INVITATION TO NEGOTIATE (ITN) 2014-170-SW FOR A GATED REVENUE CONTROL SYSTEM FOR THE CITY'S PARKING GARAGES; APPROVING THE MATERIAL TERMS OF AN AGREEMENT BETWEEN THE CITY AND SKIDATA, INC., AND, IN THE EVENT THAT THE CITY IS UNABLE TO FINALIZE SUCCESSFUL NEGOTIATIONS WITH SKIDATA, INC., AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY'S OFFICE TO NEGOTIATE AN AGREEMENT WITH AMANO MCGANN, INC.**

BACKGROUND

On June 10, 2015, the Mayor and Commission referred Item No. R7M, Invitation to Negotiate (ITN) No. 2014-170-SW for a gated revenue control system for the City's Parking Garages to the Finance and Citywide Projects Committee (FCWPC) for discussion. The item was referred to the FCWPC seeking guidance on whether to operate municipal garages with a gated revenue control system or as metered parking.

ANALYSIS

An analysis comparing both operational models was included in the June 10, 2015, City Commission Agenda Item No. R7M. Please refer to Exhibit B of the attached agenda item.

Additionally, a survey of gated and metered garage operations was conducted among 20 municipalities, locally and nationally. The survey resulted in 113 (93%) garages operated with gated revenue control and eight (7%) garages operated with

meters. Please refer to Appendix "A" attached.

On July 1, 2015, the FCWPC discussed the item and approved gated revenue control as the system by which to operate municipal parking garages. Additionally, the FCWPC endorsed the recommendation of the City Manager, pursuant to ITN 2014-170-SW for a gated revenue control system for the City's parking garages to Skidata, Inc.

CONCLUSION

The FCWPC approved gated revenue control as the system by which to operate municipal parking garages and endorsed the recommendation of the City Manager, pursuant to ITN 2014-170-SW for a gated revenue control system for the City's parking garages to Skidata, Inc.

JLM/KGB/SF 

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APPENDIX A

City	State	No. of Garages	Gated	Metered	Notes
Miami Parking Authority	FL	15	14	0	
Coral Gables	FL	5	4	0	One (1) garage is permit only.
Hollywood	FL	3	2	1	
Ft. Lauderdale	FL	4	0	4	
Collier County	FL	4	0	0	
West Palm Beach	FL	5	5	0	
Orlando	FL	9	9	1	One (1) facility has single space meters on 1st floor only.
Tampa	FL	8	8	0	
Gainesville	FL	1	1	0	
Phoenix	AZ	2	2	Partial	One of the two (2) garages has some single space parking meters.
Berkely	CA	3	3	0	
San Francisco	CA	20	19	1	
Santa Cruz	CA	4	3	1	One (1) multi-level structure is pay-by-space via multi-space pay stations.
Santa Monica	CA	13	13	0	
West Hollywood	CA	2	2	0	
Boulder	CO	5	5	0	
Cincinnati	OH	4	3		
Cleveland	OH	3	3		
Pittsburgh	PA	11	11	0	
Charleston	WV	6	6		
Total:			113	8	

Condensed Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PURSUANT TO INVITATION TO NEGOTIATE (ITN) 2014-170-SW FOR A GATED REVENUE CONTROL SYSTEM FOR THE CITY'S PARKING GARAGES.

Key Intended Outcome Supported:

Ensure expenditure trends are sustainable over the long term.

Supporting Data (Surveys, Environmental Scan, etc): N/A

Item Summary/Recommendation:

The City's Parking Department is seeking a state of the art gated parking revenue control system, including centralized processing of data for all of the City's parking garages, a central monitoring station for: intercoms, CCTV at all entrance and exit lanes, and access control for all garage equipment. This will allow for operational savings as well as enhanced audit controls. In order to achieve this service level, all garages must have compatible hardware, software, firmware, and equipment, meaning that one system (vendor) must equip and service all garages.

The City's municipal parking garages are currently operated with on-site cashiers/parking attendants and a gated revenue control system, provided by 3M (manufacturer). The equipment runs along several model lines ranging from several years to over a decade old. Additionally, 3M notified its customers, including the City, of its intent to discontinue its gated parking revenue control subdivision and related equipment and services.

At the September 10, 2014 City Commission meeting, the Mayor and City Commission adopted Resolution No. 2014-28720 accepting the recommendation of the City Manager pertaining to the ranking of proposers pursuant to Invitation To Negotiate (ITN) 2014-170-SW for a Parking Garage Gated Revenue Control System. Further, the Resolution authorized the Administration to enter into negotiations with all the proposers. The Administration was requested to present the final contract for the Commission's review prior to entering into an agreement with the parking equipment companies. The details of the contract negotiation phase and comparative analysis of final replies is attached.

The City Manager, after carefully considering the results of the negotiation process and staff recommendation, recommends that the Mayor and City Commission of the City of Miami Beach, Florida, accept the recommendation of the City Manager, pursuant to Invitation To Negotiate (ITN) 2014-170-SW for a gated revenue control system for the City's parking garages; approving the material terms of an agreement between the City and Skidata, Inc., as set forth in the term sheet attached as Exhibit "A" hereto; authorizing the City Manager and the City Attorney's Office to finalize the Agreement based upon the material terms approved herein; provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement, as they deem necessary; authorizing the Mayor and City Clerk to execute the final Agreement; and, in the event that the City is unable to finalize successful negotiations with Skidata, Inc., authorizing the City Manager and the City Attorney's Office to negotiate an Agreement with Amano McGann, Inc. based upon the material terms approved in Exhibit "A" herein (provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement).

RECOMMENDATION

Approve the Resolution.

Advisory Board Recommendation:

Financial Information:

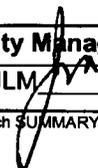
Source of Funds:		Amount	Account
 2A. N.D. OBPI	1	\$ 303,000	142-6176-000674
	2	362,000	463-6176-000674
	3	471,000	467-6176-000674
	4	2,696,000	480-6176-000674
	5	400,000	480-0463-000349
	Total	\$4,232,000	

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Alex Denis, Extension 6641

Sign-Offs:

Department Director AD  SF 	Assistant City Manager MT  KGB 	City Manager JLM 
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T:\AGENDA\2015\June\PROCUREMENT\ITN 2014-170-SW Parking Garage Gated Revenue Control System for the City of Miami Beach SUMMARY.doc





MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: June 10, 2015

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO INVITATION TO NEGOTIATE (ITN) 2014-170-SW FOR A GATED REVENUE CONTROL SYSTEM FOR THE CITY'S PARKING GARAGES; APPROVING THE MATERIAL TERMS OF AN AGREEMENT BETWEEN THE CITY AND SKIDATA, INC., AS SET FORTH IN THE TERM SHEET ATTACHED AS EXHIBIT "A" HERETO; AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY'S OFFICE TO FINALIZE THE AGREEMENT BASED UPON THE MATERIAL TERMS APPROVED HEREIN; PROVIDED THAT THEY MAY MAKE ANY NON-SUBSTANTIVE AND NON-MATERIAL REVISIONS AND/OR ADDITIONS TO THE AGREEMENT, AS THEY DEEM NECESSARY; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FINAL AGREEMENT; AND, IN THE EVENT THAT THE CITY IS UNABLE TO FINALIZE SUCCESSFUL NEGOTIATIONS WITH SKIDATA, INC., AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY'S OFFICE TO NEGOTIATE AN AGREEMENT WITH AMANO MCGANN, INC. BASED UPON THE MATERIAL TERMS APPROVED IN EXHIBIT "A" HEREIN (PROVIDED THAT THEY MAY MAKE ANY NON-SUBSTANTIVE AND NON-MATERIAL REVISIONS AND/OR ADDITIONS TO THE AGREEMENT).

ADMINISTRATION RECOMMENDATION

Adopt the resolution.

KEY INTENDED OUTCOME SUPPORTED

Ensure expenditure trends are sustainable over the long term.

FUNDING

Funding for the one-time capital cost is available as follows:

	Amount	Account
1	\$ 303,000	142-6176-000674
2	362,000	463-6176-000674
3	471,000	467-6176-000674
4	2,696,000	480-6176-000674
5	400,000	480-0463-000349
Total	\$4,232,000	

Funding for the annual maintenance costs will be subject to appropriation in the annual budget process.

BACKGROUND

The City's Parking System currently has ten (10) municipal parking garages, totaling 6,106 parking spaces. An 11th facility, Collins Avenue Garage is funded and currently in design with an estimated 470 parking spaces, for a grand total of 6,576 parking spaces. The City's Parking Department is seeking a state of the art gated parking revenue control system, including centralized processing of data for all of the City's parking garages, a central monitoring station for: intercoms, CCTV at all entrance and exit lanes, and access control for all garage equipment. This would allow for operational savings as well as enhanced audit controls. In order to achieve this service level, all garages must have compatible hardware, software, firmware, and equipment, meaning that one system (vendor) must equip and service all garages.

The City's municipal parking garages are currently operated with on-site cashiers/parking attendants and a gated revenue control system, provided by 3M (manufacturer). The equipment runs along several model lines ranging from several years to over a decade old. Additionally, 3M notified its customers, including the City, of its intent to discontinue its gated parking revenue control subdivision and related equipment and services.

On May 21, 2014, the Mayor and City Commission approved the issuance of Invitation to Negotiate (ITN) No. 2014-170 for a Parking Garage Gated Revenue Control System. In response to the ITN, the City received proposals from the following five (5) firms:

- Amano McGann, Inc.
- Consolidated Parking Equipment
- Scheidt & Bachmann USA, Inc.
- Skidata Inc.
- WPS USA Corp.

At the September 10, 2014 City Commission meeting, the Mayor and City Commission adopted Resolution No. 2014-28720 accepting the recommendation of the City Manager pertaining to the ranking of proposers pursuant to Invitation To Negotiate (ITN) 2014-170-SW for a Parking Garage Gated Revenue Control System. Further, the Resolution authorized the Administration to enter into negotiations with all the proposers. The Administration was requested to present the final contract for the Commission's review prior to entering into an agreement with the parking equipment companies.

CONTRACT NEGOTIATIONS

On December 10, 2014, the Parking and Procurement Departments convened negotiation session No. 1 with all proposers and attended the meeting with Skidata, Inc., Amano MCGann, Inc., LCN, Inc. D/B/A Consolidated Parking Equipment, WPS USA Corp., and Scheidt & Bachmann USA, Inc. The intent of negotiation session No. 1 was to: 1) provide an overview of the ITN negotiation process and clarify any questions proposers may have; 2) discuss and review with proposers the Term Sheet and Cost Proposal Sheets which would form the basis of negotiation discussions; and, 3) schedule site visits with all proposers for December 22 and 23, 2014, to evaluate equipment and inspect all parking garages.

On December 17, 2014, the City was notified by Consolidated Parking Equipment that it had withdrawn its proposal pursuant to the ITN because it had been informed by 3M, the manufacturer of the equipment proposed, that 3M would no longer be producing the proposed equipment. Following this notification from Consolidated, the City ceased further negotiations with Consolidated.

On December 22, and December 23, 2014, site visits were held and attended by the remaining four (4) Proposers: Amano McGann, Inc., Scheidt & Bachmann USA, Inc., Skidata, Inc., and WPS USA Corp. Proposers were given until December 30, 2014, to submit their questions relating to the cost proposal. As a result of questions arising from evaluating the equipment, the Procurement Department issued Response 1, 2, and 3, on January 15, January 28, and January 30, 2015, respectively. On January 30, the City requested cost proposals, for which a due date of February 6, 2015, was established.

On February 6, 2015, cost proposals from Amano McGann, Inc., Skidata, Inc., and WPS USA Corp. were received. At this time, Scheidt & Bachmann USA, Inc., notified the City that, due to schedule conflicts, it had withdrawn its proposal pursuant to the ITN. The following is a brief summary, from the information provided in each firm' proposals, of the final three (3) proposers:

- Amano McGann, Inc. is headquartered in Roseville, Minnesota, with approximately 290 employees across the United States. With over 290 employees, 20 branch offices and over 40 distribution partners throughout the U.S., according to Amano McGann, it has performed over 6,000 installations worldwide along with its parent company Amano Corporation. Amano provides parking, time and access solutions to universities, hotel chains, airports, sports complex and municipalities. Recent clients include the City of West Palm Beach, City of Portland Smart Park Garages, and the City of Detroit.
- SKIDATA, Inc., a wholly-owned subsidiary of SKIDATA, AG (founded in Austria in 1977), was established in North America in January 2000 to serve the off-street parking and revenue control system market segment. According to SKIDATA, it has built over 750 systems in Canada, USA and Mexico. Their products and services are found in airports, municipalities, shopping centers, universities and medical centers across North America. Recent clients include the City of Oklahoma City, City of Beverly Hills, City of St. Louis and Downtown Salt Lake City. Their services include consulting, integration, direct support, documentation and training.
- WPS USA Corp. has over twenty (20) years of experience using bar code technology in their parking access systems. According to WPS, it introduced the first "Credit Car In/Credit Card Out" solution back in the early 1990's. Recent clients have been the City of Norfolk, the Los Angeles Department of Transportation, Rockville Town Square and the Union Station Parking Garage in Washington, D.C.

Several negotiation sessions with all three (3) proposers were scheduled, as well as a request for best and final cost proposals offers. The Administration received final replies to the referenced negotiations on May 19, 2015.

ANALYSIS

Parking gated revenue control system is necessary for the operation of the City's parking facility, as well as the management of over \$16 million in annual revenue at these facilities. A system with robust functionality and reporting/audit capabilities, as well as a partnership with a qualified service provider is critical for the effective management of a system that serves over 3.3M customers annually and through which significant revenue is yielded. For these reasons, the Administration believes that, in the best interest of the City, functionality, prior performance record and cost of the system are critically important considerations. With that in mind, a comparative analysis follows with the purpose of illustrating major differences among the three finalist with whom the City has negotiated.

1. **System Functionality.** The three (3) proposed systems offer basic access and revenue control functionality. The major differences among the three (3) firms are in the areas of ticket technology (barcode vs. magnetic stripe), and validation of disabled permits.

a. **Ticket Technology.** The major difference in the area of functionality is the technology utilized for ticket transactions (vs card access), which is typically either a barcode ticket or magnetic stripe ticket. Historically, each type has been lauded by the industry as the preferred methodology over years. Currently, barcode tickets are the most widely accepted and enjoys a substantial portion of the market share. While all indications seem to point towards continued use and growth of barcode tickets, there is no clear indication of either taking the full market share. The following are the options available for each of the three (3) proposers in the barcode vs. magnetic stripe technologies:

- *Amano McGann, Inc. offers both barcode and magnetic stripe ticket systems; however, both systems cannot be deployed simultaneously in each garage.*
- *Skidata offers both barcode and magnetic stripe ticket systems which may be deployed simultaneously.*
- *WPS offers bar code system only.*

While staff believes that either barcode or magnetic stripe methodologies are acceptable, it is important to note that once a decision on bar code or magnetic stripe is made, future changes in technology will require major system upgrades.

b. **EMV (Europay Mastercard & Visa)** – Chip embedded credit card technology, which provides users added protection against fraud, is quickly approaching, if not already here.

- *Both Skidata and Amano have solutions for EMV and committed to providing their solution at no additional cost to the City. WPS has advised the City that they are developing an EMV solution; however, its availability and cost is contingent upon various factors. The following is an excerpt from an email sent by Mr. Garrett Coleman, Manufacturer's Representative, on March 17, 2015.*

"Please understand that there are a number of requirements that companies like WPS are not responsible for completing. These need to be resolved by the credit card industry. Until these are resolved, it is not possible to state for sure there will not be any added costs when the regulations are released and enforced."

c. **Validation of Disabled Permits.** The process to confirm legitimate disabled parking transactions, typically processed as exception validations, requires human interaction. Disabled parking permits are issued and directly linked to an individual. A disabled parking permit with matching user information on a government issued identification, such as a driver's license or state identification card must be presented to an attendant (at a remote location) for confirmation. Once confirmed, a validation may be processed for a parking fee waiver (the exception), as required by Code. The following are the exception validation solution provided by each proposer:

- *Amano's solution provides individual components; however, the solution is not currently integrated resulting in a very labor intensive process to audit and reconcile validations. Amano offered to further develop their solution, if requested to do so at no additional cost to the City.*
- *Skidata provides an automated audit feature to specifically confirm, track, and retrieve at any point in the future, all validations through a single source, the transient ticket transaction number. The following is a brief description of the Skidata automated solution for validations (exceptions).*

A customer provides their credentials (disabled parking permit and identification) for viewing by an attendant at a remote centralized monitoring location. The attendant can view the credentials and an image of the credentials is stored as an attachment (electronic file) to the specific transaction number for that customer. At a later date, any or all validations, including disabled parking validations, may be easily retrieved by referencing a single source (ticket transaction number) for auditing purposes. The images of the disabled parking permit and identification are easily retrieved, viewed, and confirmed.

- *WPS proffered to develop (and preliminarily tested) a similar functionality through their license plate recognition (LPR) system. However, their proposed solution is in the developmental stage.*

In FY 2013/14, there were a total of 26,968 disabled parking permit exception validation transactions, at all ten municipal parking garages, with a value of \$254,766. Without an effective exception validation system, the validation process for these transactions is vulnerable to manipulation/fraud. The Skidata solution closes this loophole with a proven, efficient, and user-friendly auditable feature for validated exception transactions. Amano and WPS proposed to enhance their current functionality; however, the proposed solutions are, to date, either unbuilt or untested.

It is important to note gated revenue control systems may also be used in municipal parking lots with high demand providing greater audit controls and preserving the integrity of disabled parking.

2. **References.** The City contacted references provided by each proposer and conducted a survey/questionnaire. All references for Skidata were deemed satisfactory; however, there were issues brought to the City's attention with regard to the past performance of Amano and WPS. The following are excerpts from responses received to the survey/questionnaire:

Amano Reference – City of West Palm Beach:

- System does not work off-line. Monthly access cards do not work off-line due to different facility codes at garages. Previous equipment from Federal APD would batch credit card. This equipment does not batch. Unable to process credit card transactions when there is a power outage, as evidenced in a recent lightning strike.

- Credit card jams on insertion. Recommends swipe.
- No capability to send information to splitter or exit gates. Example: when a ticket jams and the machine is turned off, the device does not reset itself and requires on-site reprogramming (cannot be reprogrammed remotely from central station).
- Intercoms go on and off-line. Currently, four are off-line (system is only two years old). Amano is quick to respond but intercoms are still down.

WPS Reference – City of Norfolk

Q. Are you satisfied with the audit/accounting capabilities of the software? Please explain system capabilities.

A. Not satisfied. Cash does not match shift report. Cash received via Pay-In-Lane (PIL) devices are not tallying correctly.

- PIL cash refunds are inaccurate due to issuance of same amount of change due to customer in both bills and coins resulting in a duplicate refund.
- WPS was not aware of this issue until advised by Reference.
- Reference has been thorough in providing WPS documentation regarding these malfunctions.
- This is particularly of concern in remote centralized motoring, since there is no cashier present to witness this occurrence. Reference personally witnessed this malfunction.
- This was discovered at their third busiest garage.
- Reference attempted unsuccessfully to have WPS provide replacement equipment; consulted with their legal department; and was advised to allow WPS to address the issue.
- New software update is required. Update was scheduled last year. There have been issues resulting in delays. Update is now scheduled for Spring/Summer 2015.
- Reference stated that it is prepared to pursue legal action.

3. **COST PROPOSALS.** The final cost proposals are itemized into three major areas: (1) cost of installed equipment; (2) rebate and removal of existing equipment; and (3) ten (10) year maintenance/support.

	Amano	Skidata	WPS
Equipment and Installation	\$3,418,950.00	\$3,667,412.00	\$2,769,205.00
Rebate on Existing Equipment	\$(273,100.00)	\$(32,500.00)	\$11,470.00
Maintenance and Support (10 Year)	\$3,823,237.52	\$3,158,266.60	\$2,478,461.00
Total 10 Year Costs	\$6,969,087.52*	\$6,793,178.60	\$5,259,136.00*

*These figures represent the final costs negotiated with and confirmed by each Proposer. As noted in Exhibit C, the City and the Proposers engaged in several rounds of cost negotiations to assure best pricing, address certain errors and omissions in Proposer's cost proposals and create a functional system baseline so that all proposals could be compared equitably. For example, Amano's original cost proposals inadvertently omitted the required dedicated employees (at a cost of \$821,197.52 over the ten year term) and Skidata's omitted the required training (at a cost of \$12,000.00 as an initial cost). Additionally, all proposers offered extra goods and services (above and beyond what is required for a fully functional system) that could enhance system operation and is available to the City for future consideration.

CITY MANAGER'S DUE DILIGENCE

The City's ten parking garages are currently operated with on-site cashiers/parking attendants and a gated revenue control system, provided by 3M (manufacturer). Collectively, all garages generate over \$16M in revenues with a labor expense for cashiers/attendants of \$3M, annually.

As you know, a Request for Proposals (RFP) for Parking Attendants was issued and an award is anticipated by the July 2015 City Commission meeting. A critical component required to manage and operate our municipal garages is a state-of-the-art revenue control system with remote monitoring. Remote monitoring will automate cashier operations at all parking garages reducing cashier labor expenses from \$3M to \$1.8M, a savings of \$1.2M (40%), annually. Therefore, a robust and reliable gated revenue control system is essential to process, collect, and audit transactions and their related revenues. While the City has considered a metered operations approach (see Exhibit B) to a gated system, the Administration has concluded that such approach is not cost effective.

Skidata's PARCS solution is composed of gated entrance and exit control systems with the ability to accept credit card payment in-lane and access credentials such as access cards, pay by mobile phone applications, or validations; automated pay stations with the ability of accepting credit card and cash payments; garage offices and central monitoring work stations composed of desktop computers, monitors and audio/video (intercoms); and software system that integrates with all revenue control devices at all garages and interfaces with the City's permit and financial management systems. More importantly, the system allows for Remote Monitoring reducing the need for cashier (labor) functions. This is anticipated to reduce parking attendant/cashier labor cost by 40%. In addition, remote monitoring allows for a variety of technology enhancements, including real time utilization, ability to change rates based on utilization, grant gate access, diagnose, troubleshoot, and potentially resolve a variety of alarms related to in-lane or peripheral equipment.

The City Manager, after carefully considering the results of the negotiation process and staff recommendations, recommends that the Mayor and City Commission authorize the Administration to finalize negotiations on final contract terms with Skidata, Inc.; and, upon successful conclusion of the negotiation terms by the Administration, authorize the Mayor and City Clerk to execute an Agreement for a gated revenue control system for the City's parking garages with Skidata. In support of this recommendation, the City Manager finds as follows:

Functionality

While Amano, Skidata, and WPS are very competitively matched in terms of general system functionality, the review and analysis conducted by staff indicate some significant differences in a few areas. Of greatest concern is the need to efficiently and effectively process transactions through remote monitoring while maintaining a user-friendly and reliable auditable trail, of validated transactions, most notable are disabled parking permit exemptions with an annual value exceeding \$250,000.

References

Section 2-369 of the City Code requires that, in the award of contracts, the following be considered:

- (1) The ability, capacity and skill of the bidder to perform the contract.
- (2) Whether the bidder can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract.

Skidata client references indicate that it has a satisfactory history of past performance. Past clients of both Amano and WPS expressed some concerns of each firm's respective systems and response to system issues. Especially concerning is the experience shared by a past client of WPS in which it stated that the system was unable to accurately record and reconcile cash balances. This is a very dangerous scenario when one considers the amount of revenue (\$16M annually) flowing through the City's gated revenue control system.

Cost

While system costs for all proposed systems are significant, the current estimated annual revenue yielded through the parking operations at which the reference equipment will be utilized is approximately \$16M. The following tables indicate costs as a percentage of revenue over the contract term for the new proposed systems, both in terms of overall project cost as well as yearly maintenance costs.

Equipment & Installation	Amano	Skidata	WPS
Equipment and Installation	\$3,418,950.00	\$3,667,412.00	\$2,769,205.00
Rebate for Existing Equipment and/or Cost of Removing Existing Equipment	(\$273,100.00)	(\$32,500.00)	\$11,470.00
Total Initial Costs	\$3,145,850.00	\$3,634,912.00	\$2,780,675.00

Recurring Annual Maintenance	Amano	Skidata	WPS
Total Maintenance Costs Over 10 Years	\$3,823,237.52	\$3,158,266.60	\$2,478,461.00
Estimated Revenue (10 Years)	\$160,000,000.00	\$160,000,000.00	\$160,000,000.00
Maintenance Only Cost as a Percentage of Revenue	2.39%	1.97%	1.55%

While cost is clearly an important consideration, the gated parking revenue control system is a major system for the City through which nearly \$16M is processed each year. System functionality and prior performance of the contractor is as critical as is the cost of the system.

Remote Monitoring Savings and Resulting Net Cost

The following is a comparison of current staffing cost versus proposed (reduced) staffing levels; new equipment/remote monitoring, including maintenance costs, over a ten year period.

The proposed reduction in attendant labor hours may be achieved as follows:

- Elimination of the second and third Parking Attendant I (cashier), if applicable, from all locations, Monday through Friday, dayshifts; and
- Elimination of all Parking Attendant I during off-peak (overnight) hours.
- Reduction of Parking Attendant II during off-peak hours.

Remote monitoring is anticipated to reduce cashier labor hours by 40%. This is attributed to a centralized remote monitoring consolidating cashier functions and tasks at one centralized location. Each workstation is equipped with data access control to process parking transactions; intercoms and video monitors for audio/video interactions with the customers; and will interface with the security camera system to be deployed in all garages under a separate formal competitive procurement process for security system. Additionally, annual maintenance costs over the next ten (10) years are less than current annual maintenance costs.

YEAR 1	CURRENT	PROPOSED	DIFFERENCE
Staffing	\$2,943,000*	\$1,800,000*	\$ (1,143,000)
Equipment Cost		\$3,635,000	\$3,635,000
Equipment Maintenance	\$225,000*	\$132,000	\$(93,000)
TOTAL	\$3,168,000	\$5,567,000	\$2,399,000
YEAR 2			
Staffing	\$2,943,000*	\$1,800,000*	\$ (1,143,000)
Equipment Maintenance	\$225,000*	\$173,000	\$ (52,000)
TOTAL	\$3,168,000	\$1,973,000	\$ (1,195,000)
YEAR 3			
Staffing	\$2,943,000*	\$1,800,000*	\$ (1,143,000)
Equipment Maintenance	\$225,000*	\$331,000	\$106,000
TOTAL	\$3,168,000	\$2,131,000	\$ (1,037,000)
YEAR 4			
Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$342,000	\$117,000
TOTAL	\$3,168,000	\$2,142,000	\$(1,026,000)
YEAR 5			
Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$353,000	\$128,000
TOTAL	\$3,168,000	\$2,153,000	\$(1,015,000)
YEAR 6			
Staffing	\$2,943,000*	\$1,800,000*	\$ (1,143,000)
Equipment Maintenance	\$225,000*	\$364,000	\$139,000
TOTAL	\$3,168,000	\$2,164,000	\$ (1,004,000)
YEAR 7			
Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$376,000	\$151,000
TOTAL	\$3,168,000	\$2,176,000	\$(992,000)
YEAR 8			
Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$388,000	\$163,000
TOTAL	\$3,168,000	\$2,188,000	\$(980,000)
YEAR 9			

Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$400,000	\$175,000
TOTAL	\$3,168,000	\$2,200,000	\$(968,000)
YEAR 10			
Staffing	\$2,943,000*	\$1,800,000*	\$(1,143,000)
Equipment Maintenance	\$225,000*	\$413,000	\$188,000
TOTAL	\$3,168,000	\$2,213,000	\$(955,000)
TOTAL 10 YRS	\$31,680,000	\$24,907,000	\$(6,773,000)

* Assumes No Increase

The proposed solution results in an estimated total cost savings of \$6,773,000, over a ten year period.

Therefore, based on a combination of factors that includes equipment and comparable installations, past performance on previous public sector contracts and cost savings (especially when compared to the current system), the City Manager recommends that the Mayor and City Commission authorize the Administration to finalize negotiations on final contract terms with Skidata, Inc.

The City Manager further recommends that in the event that the City is unable to finalize successful negotiations with Skidata, Inc., to finalize negotiations on final contract terms with Amano McGann, Inc.

As a side note, the City Manager notes that during phase 1 evaluation of proposals, Skidata was recommended as the first-ranked Proposer by every Evaluation Committee member. Amano McGann followed Skidata with one second-place rank, one third-place rank and one fourth-place rank as scored by the Evaluation Committee.

CONCLUSION

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, accept the recommendation of the City Manager, pursuant to Invitation To Negotiate (ITN) 2014-170-SW for a gated revenue control system for the City's parking garages; approving the material terms of an agreement between the City and Skidata, Inc., as set forth in the term sheet attached as Exhibit "A" hereto; authorizing the City Manager and the City Attorney's Office to finalize the Agreement based upon the material terms approved herein; provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement, as they deem necessary; authorizing the Mayor and City Clerk to execute the final Agreement; and, in the event that the City is unable to finalize successful negotiations with Skidata, Inc., authorizing the City Manager and the City Attorney's Office to negotiate an Agreement with Amano McGann, Inc. based upon the material terms approved in Exhibit "A" herein (provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement).

JLM/KGB/MT/SF/AD

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TERM SHEET (EXHIBIT A)

BRIEF SCOPE OF WORK	AMANO	SKIDATA	WPS
	Removal/buy back of existing equipment, new equipment at all garages, installation, hardware/software, 10 years maintenance/support.		
PROPOSED EQUIPMENT	AMANO	SKIDATA	WPS
	Submitted Electronically	Submitted Electronically	Submitted Electronically
NEW EQUIPMENT COST - INSTALLED	AMANO	SKIDATA	WPS
Equipment	2,885,500.00	2,830,004.00	2,332,315.00
Installation	-	143,750.00	76,630.00
Software Installation	227,975.00	331,579.00	29,800.00
Other	305,475.00	362,079.00	330,460.00
TOTAL	\$3,418,950.00	\$3,667,412.00	\$2,769,205.00

Skidata is \$248,462 (7%) higher than Amano and \$898,207 (32%) higher than WPS.

REBATE/BUYBACK OF EXISTING EQUIPMENT

EXISTING EQUIPMENT	AMANO	SKIDATA	WPS
Rebate/Buy back for existing equipment	(288,100.00)	(50,000.00)	-
Cost to remove existing equipment	15,000.00	17,500.00	11,470.00
TOTAL	\$(273,100.00)	\$(32,500.00)	\$11,470.00

MAINTENANCE/SUPPORT TEN (10) YEARS

10 YEAR MAINTENANCE	AMANO	SKIDATA	WPS
Maintenance - Year 1	206,462.00	122,192.10	138,420.00
Maintenance - Year 2	299,881.00	163,241.70	205,900.00
Maintenance - Year 3	325,159.75	320,446.30	218,254.00
Maintenance - Year 4	350,527.25	330,844.20	229,985.00
Maintenance - Year 5	375,986.61	341,553.70	248,384.00
Maintenance - Year 6	401,543.04	352,583.40	270,698.00
Maintenance - Year 7	427,142.87	363,944.50	276,107.00
Maintenance - Year 8	452,948.55	375,646.40	284,391.00
Maintenance - Year 9	478,808.63	387,699.70	295,767.00
Maintenance - Year 10	504,777.81	400,114.60	310,555.00
TOTAL	\$3,823,237.52	\$3,158,266.60	\$2,478,461.00

Skidata is \$664,970.92 (17%) lower than Amano and \$679,805.60 (27%) higher than WPS.

SUMMARY/GRANDTOTAL OF ALL COSTS – TEN (10) YEARS:

	AMANO	SKIDATA	WPS
Equipment Cost	2,885,500.00	2,830,004.00	2,332,315.00
Additional Installation Cost	-	143,750.00	76,630.00
Software Cost	227,975.00	331,579.00	29,800.00
Existing Equipment	(273,100.00)	(32,500.00)	11,470.00
Maintenance Cost - 10 YEARS	3,823,237.52	3,158,266.60	2,478,461.00
Other	305,475.00	362,079.00	330,460.00
TOTAL	\$6,969,087.52	\$6,793,178.60	\$5,259,136.00

Over a ten (10) year period, including all maintenance and support, the grand total cost of Skidata is \$175,908.92 (3%) lower than Amano and \$1,534,042.60 (29%) higher than WPS.

**GATED REVENUE CONTROL SYSTEMS v. METERED OPERATIONS
ALTERNATIVE OPTION ANALYSIS
(EXHIBIT B)**

Recently, the concept of operating municipal garages as metered operations in lieu of gated revenue control systems was suggested. The Parking Department evaluated these two alternative methods of operating the City's parking garages and the following are the results.

Metered (pay station) parking is the standard in the industry for operating on-street parking and surface parking lots. This is predominantly due to parking spaces being dispersed over large geographic areas in these settings. Based on the concept presented, staff evaluated the potential impacts of converting garage operations in the City to metered operations. The following are high level impacts of operating garages with meters:

- Parking gated revenue control systems garners 100% of parking revenues as users must pay for their parking session prior to exit. Metered operations are based on enforcement levels and would require more intensive staffing levels.
 - The City's metered system has a compliance ratio of 85%, meaning 8.5 of 10 users pay for their parking. Therefore, 15% (\$2.4M of \$16M) in garage revenues would stand to be lost, if operated with meters.
 - In order to achieve the 85% compliance level 24/7 for all 10 garages, an estimated 50 additional enforcement officers would be needed, at an estimated cost of \$2,818,400, including salaries, health and pension benefits.
 - For the remaining 15% who do not pay, the City's citation capture rate is 10%, which could generate approximately \$972,000 in citation revenue (assuming a 90% collection rate), but the County retains \$611,820 of this, which represents the County's portion of 1/3 of citation revenue, as well as contributions to school crossing guards and technology (Autocite) fund.
- Citations and related fines derived from parking enforcement often have negative implications with the public. The City's portion of revenue generated from an \$18 overtime parking citation equates to \$6.67 per citation, after the County's fees are assessed.
- Diminished revenues related to potential disabled placard abuse. Identity of placard owner is not verified in metered facilities but is verified in staffed/gated garages.

In closing, the current cost of operating the gated revenue control systems in the City's 10 garages is \$2,985,500. With technology enhancements and remote monitoring, labor hours/costs are estimated to decrease by 40% to \$1,800,000. Even taking the capital costs of new equipment for all garages into account, the gated revenue control system would appear more cost/revenue effective.

Additional detail is provided in the analysis below, including increased capital expenses and other recurring operational expenses incurred with metered operations as compared to gated revenue control systems.

GATED REVENUE CONTROL SYSTEMS - METER COMPARISON

Equipment	\$3,635,000	\$ 0	\$ 0	\$3,635,000
Staffing	\$1,800,000	\$1,800,000	\$1,800,000	\$5,400,000
Maintenance	\$123,000	\$164,000	\$321,000	\$608,000
TOTAL:	\$5,558,000	\$1,964,000	\$2,121,000	\$9,643,000

137 METERS	\$1,027,500	\$ 0	\$ 0	\$1,027,500
Staffing	\$2,818,400	\$2,874,768	\$2,932,263	\$8,625,431
License Plate Recognition Vehicles	\$767,350	\$0	\$0	\$767,350
Maintenance	\$43,200	\$43,200	\$43,200	\$129,600
Meter Collections	\$220,000	\$220,000	\$220,000	\$660,000
TOTAL:	\$4,876,450	\$3,137,968	\$3,195,463	\$11,209,881

CONCLUSION:

Even taking the capital costs of new equipment for all garages into account, the gated revenue control system would appear more cost/revenue effective. Technology enhancements and remote monitoring available with the new gated revenue control system result in a reduction of labor hours/costs of approximately 40% to \$1,800,000 (currently at \$2,985,500). Furthermore, the cost of contracted labor at living wage rates is significantly lower than City employee labor expense (salary/benefit/pension).

**EXHIBIT C
 SUMMARY OF COST NEGOTIATIONS**

Below please find original cost proposal submittal from each proposer due by February 6, 2015. The chart below provides a chronology of negotiations and their respective results. Please note the FINAL offer for each firm was confirmed as follows: Amano: April 23, 2015; Skidata: May 19, 2015; and WPS: March 19, 2015.

Original Cost Proposal After Site Visits – Received February 6, 2015	AMANO	SKIDATA	WPS
Equipment Cost	\$2,883,500.00	\$2,906,329.00	\$2,370,745.00
Additional Installation Cost	\$0.00	\$143,750.00	\$76,630.00
Software Cost	\$227,975.00	\$331,579.00	\$29,800.00
Equipment Removal and Rebate	-\$213,100.00	\$17,500.00	\$11,470.00
Maintenance Cost	\$3,252,260.00	\$3,518,161.00	\$2,390,041.00
Other	\$655,500.00	\$257,102.00	\$476,704.00
PRELIMINARY TOTAL	\$6,806,135.00*	\$7,174,421.00*	\$5,355,390.00*

* After negotiation discussions with each Proposer to understand the cost proposals, staff requested revised Cost Proposals which were received on March 12, 2015.

Revised Cost Proposal – Received March 12, 2015	AMANO	SKIDATA	WPS
Equipment Cost	\$2,883,500.00	\$2,906,329.00	\$2,332,315.00
Additional Installation Cost	\$0.00	\$143,750.00	\$76,630.00
Software Cost	\$227,975.00	\$331,579.00	\$29,800.00
Equipment Removal and Rebate	-\$273,100.00	-\$32,500.00	\$11,470.00
Maintenance Cost	\$3,002,040.00	\$3,280,512.00	\$2,478,461.00
Other	\$699,900.00	\$217,102.00	\$444,070.00
TOTAL	\$6,540,315.00	\$6,846,772.00	\$5,372,746.00

* Staff determined that the revised cost proposals contained errors and omissions or additional equipment not requested by the City as follows.

Errors and Omissions	AMANO	SKIDATA	WPS
Corrections for Mathematical Errors on Cost Proposal	-\$346,975.00		
Reduction for Supplemental Items (Table 1)	-\$45,450.00		
Add Cost of Dedicated Employee Omitted from Amano's Cost Proposal	\$821,197.52		
Corrections for Mathematical Errors on Cost Proposal		\$72,743.56	
Reduction for Supplemental Items (Table 1)		-\$126,337.00	
Corrections for Mathematical Errors on Cost Proposal			\$28,200.00
Reduction for Supplemental Items (Table 1)			-\$141,810.00
TOTAL	\$428,772.52	-\$53,590.44	-\$113,610.00

Final Adjustments Confirmed by Proposers	AMANO	SKIDATA	WPS
Date Confirmed by Proposer	4/23/2015	5/19/2015	3/19/2015
Equipment Cost	\$2,885,500.00	\$2,830,004.00	\$2,332,315.00
Additional Installation Cost	\$0.00	\$143,750.00	\$76,630.00
Software Cost	\$227,975.00	\$331,579.00	\$29,800.00
Equipment Removal and Rebate	-\$273,100.00	-\$32,500.00	\$11,470.00
Maintenance Cost	\$3,823,237.52	\$3,158,266.60	\$2,478,461.00
*Other	\$305,475.00	\$362,079.00	\$330,460.00
FINAL TOTAL	\$6,969,087.52	\$6,793,178.60	\$5,259,136.00

TABLE 1: SUPPLEMENTAL ITEMS

Items not necessary for implementation/operation of system but available to the City in the future on an as needed basis.

AMANO	
G7 Bollards (\$150 x 8 = \$1,200)	\$1,200.00
G8 Bollards (\$150 x 1 = \$150)	\$150.00
G10 Bollards (\$150 x 2 = \$300)	\$300.00
Booth Removal (per booth)	\$2,000.00
Online Validation Software (eParcVal)	\$4,000.00
Daily pass online software (eFlexPass)	\$10,000.00
Bulk Validation Software (eFlexPrint)	\$6,000.00
Pedestrian Warning System (per system)(\$500 x 10 garages)	\$5,000.00
Basic signage package (per lane)(\$400 x 42 lanes)	\$16,800.00
TOTAL	\$45,450.00

SKIDATA	
WEBKey Managed System (annual fee year 1)	\$9,500.00
WEBKey Managed System (annual fee maintenance years 2-10)	\$98,617.00
Pedestrian Alert signage (Per Garage)(\$1,349 x 10 garages)	\$13,490.00
Lot Full Signage (\$473ea x 10 garages)	\$4,730.00
TOTAL	\$126,337.00

WPS	
Pedestrian warning light & buzzer at each exit	\$8,160.00
Printed graphic static signage: Budget	\$20,000.00
Additional protective bollard if required: (Each)	\$450.00
Electronic locks for accessing equipment housings (Lump sum)	\$85,000.00
Booth Removal: Not to exceed \$3,000.00 per booth Budget	\$3,000.00
Level Counting, Exterior Monument Sign: (Budget Each)	\$9,500.00
Floor Space Available Sign: (Budget Each)	\$2,800.00
Ramp counter for level counting using camera detection: (Each)	\$4,500.00
LPR Cameras, housing, and installation: (Each)	\$3,400.00
LPR site infrastructure where possible per lane: (Budget Each)	\$5,000.00
TOTAL	\$141,810.00

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO INVITATION TO NEGOTIATE (ITN) 2014-170-SW FOR A GATED REVENUE CONTROL SYSTEM FOR THE CITY'S PARKING GARAGES; APPROVING THE MATERIAL TERMS OF AN AGREEMENT BETWEEN THE CITY AND SKIDATA, INC., AS SET FORTH IN THE TERM SHEET ATTACHED AS EXHIBIT "A" HERETO; AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY'S OFFICE TO FINALIZE THE AGREEMENT BASED UPON THE MATERIAL TERMS APPROVED HEREIN; PROVIDED THAT THEY MAY MAKE ANY NON-SUBSTANTIVE AND NON-MATERIAL REVISIONS AND/OR ADDITIONS TO THE AGREEMENT, AS THEY DEEM NECESSARY; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FINAL AGREEMENT; AND, IN THE EVENT THAT THE CITY IS UNABLE TO FINALIZE SUCCESSFUL NEGOTIATIONS WITH SKIDATA, INC., AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY'S OFFICE TO NEGOTIATE AN AGREEMENT WITH AMANO MCGANN, INC. BASED UPON THE MATERIAL TERMS APPROVED IN EXHIBIT "A" HEREIN (PROVIDED THAT THEY MAY MAKE ANY NON-SUBSTANTIVE AND NON-MATERIAL REVISIONS AND/OR ADDITIONS TO THE AGREEMENT).

WHEREAS, on May 21, 2014, the Mayor and City Commission authorized the issuance of Invitation to Negotiate (ITN) 2014-170-SW for a Gated Revenue Control System for the City's parking garages, including centralized processing of data for all of the City's parking garages; a central monitoring station for intercoms and CCTV at all entrance and exit lanes; and centralized access control for all garage equipment; and

WHEREAS, on May 22, 2014, ITN 2014-170-SW was issued with an opening date of July 10, 2014; and

WHEREAS, on September 10, 2014, the Mayor and City Commission approved Resolution 2014-28720, accepting the recommendation of the City Manager and authorizing the Administration to enter into negotiations with all the proposers; to wit: Skidata Inc.; Amano McGann, Inc.; LCN, Inc. d/b/a Consolidated Parking Equipment; WPS USA Corp.; and Scheidt & Bachmann USA, Inc.; and

WHEREAS, on December 17, 2014, the City was notified by Consolidated Parking Equipment that it had withdrawn its proposal pursuant to the ITN; and

WHEREAS, on February 6, 2015, Scheidt & Bachmann USA, Inc. notified the City that it had withdrawn its proposal pursuant to the ITN; and

WHEREAS, staff held several negotiation sessions with all three (3) proposers, as well as a request for best and final cost proposals offers; and the Administration received final replies to the referenced negotiations on May 19, 2015.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, accept the recommendation of the City Manager, pursuant to Invitation To Negotiate (ITN) 2014-170-SW for a gated revenue control system for the City's parking garages; approving the material terms of an agreement between the City and Skidata, Inc., as set forth in the term sheet attached as Exhibit "A" hereto; authorizing the City Manager and the City Attorney's Office to finalize the Agreement based upon the material terms approved herein; provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement, as they deem necessary; authorizing the Mayor and City Clerk to execute the final Agreement; and, in the event that the City is unable to finalize successful negotiations with Skidata, Inc., authorizing the City Manager and the City Attorney's Office to negotiate an Agreement with Amano McGann, Inc. based upon the material terms approved in Exhibit "A" herein (provided that they may make any non-substantive and non-material revisions and/or additions to the Agreement).

PASSED AND ADOPTED this _____ day of _____ 2015.

ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/4/15

Date

TERM SHEET (EXHIBIT A)

BRIEF SCOPE OF WORK	AMANO	SKIDATA	WPS
	Removal/buy back of existing equipment, new equipment at all garages, installation, hardware/software, 10 years maintenance/support.		
PROPOSED EQUIPMENT	AMANO	SKIDATA	WPS
	Submitted Electronically	Submitted Electronically	Submitted Electronically
NEW EQUIPMENT COST - INSTALLED	AMANO	SKIDATA	WPS
Equipment	2,885,500.00	2,830,004.00	2,332,315.00
Installation	-	143,750.00	76,630.00
Software Installation	227,975.00	331,579.00	29,800.00
Other	305,475.00	362,079.00	330,460.00
TOTAL	\$3,418,950.00	\$3,667,412.00	\$2,769,205.00

Skidata is \$248,462 (7%) higher than Amano and \$898,207 (32%) higher than WPS.

REBATE/BUYBACK OF EXISTING EQUIPMENT

EXISTING EQUIPMENT	AMANO	SKIDATA	WPS
Rebate/Buy back for existing equipment	(288,100.00)	(50,000.00)	-
Cost to remove existing equipment	15,000.00	17,500.00	11,470.00
TOTAL	\$(273,100.00)	\$(32,500.00)	\$11,470.00

MAINTENANCE/SUPPORT TEN (10) YEARS

10 YEAR MAINTENANCE	AMANO	SKIDATA	WPS
Maintenance - Year 1	206,462.00	122,192.10	138,420.00
Maintenance - Year 2	299,881.00	163,241.70	205,900.00
Maintenance - Year 3	325,159.75	320,446.30	218,254.00
Maintenance - Year 4	350,527.25	330,844.20	229,985.00
Maintenance - Year 5	375,986.61	341,553.70	248,384.00
Maintenance - Year 6	401,543.04	352,583.40	270,698.00
Maintenance - Year 7	427,142.87	363,944.50	276,107.00
Maintenance - Year 8	452,948.55	375,646.40	284,391.00
Maintenance - Year 9	478,808.63	387,699.70	295,767.00
Maintenance - Year 10	504,777.81	400,114.60	310,555.00
TOTAL	\$3,823,237.52	\$3,158,266.60	\$2,478,461.00

Skidata is \$664,970.92 (17%) lower than Amano and \$679,805.60 (27%) higher than WPS.

SUMMARY/GRANDTOTAL OF ALL COSTS – TEN (10) YEARS:

	AMANO	SKIDATA	WPS
Equipment Cost	2,885,500.00	2,830,004.00	2,332,315.00
Additional Installation Cost	-	143,750.00	76,630.00
Software Cost	227,975.00	331,579.00	29,800.00
Existing Equipment	(273,100.00)	(32,500.00)	11,470.00
Maintenance Cost - 10 YEARS	3,823,237.52	3,158,266.60	2,478,461.00
Other	305,475.00	362,079.00	330,460.00
TOTAL	\$6,969,087.52	\$6,793,178.60	\$5,259,136.00

Over a ten (10) year period, including all maintenance and support, the grand total cost of Skidata is \$175,908.92 (3%) lower than Amano and \$1,534,042.60 (29%) higher than WPS.

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RESOLUTION TO BE SUBMITTED

REDEVELOPMENT AGENCY ITEM SUMMARY

Condensed Title:

A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency, Accepting The Recommendation Of The Finance And Citywide Projects Committee, Pursuant To Invitation To Negotiate No. 2015-060-LR, For The Leasing Of City-Owned Buildings And Rooftops For The Placement Of Telecommunications Equipment, And Authorize The Executive Director To Execute A Nine Year And 364 Day Lease Agreement With Crown Castle Ng East, LLC ("Tenant"), Attached And Incorporated Herein As Exhibit A, For Tenant To Operate And Maintain Its Existing Telecommunications Hub On The Roof Of The RDA's Parking Garage Located At 1550 Collins Avenue, With A Monthly Rent Of \$4,000.00.

Key Intended Outcome Supported:

N/A

Supporting Data (Surveys, Environmental Scan, etc.):

N/A

Item Summary/Recommendation:

The City of Miami Beach issued an Invitation to Bid, to see what the market would reflect in possible leaseholds for the City's facilities to be used as telecommunication equipment leasehold(s).

There was only one company that responded to the Invitation to Bid.

The one respondent to the Invitation to Bid was Crown Castle, who currently leases approximately 2,500 square feet of the RDA's rooftop parking garage facility at 1550 Collins Avenue.

Crown Castle currently is the tenant at 1550 Collins Avenue, with a leasehold interest that expires by November 2015, and by responding to the Invitation to Bid, Crown Castle, seeks to again utilize the same site as a tenant.

Crown Castle NG East, LLC, a Delaware Limited Liability Company, authorized to do business in the State of Florida, (Tenant) wishes to use and occupy the 2,500 square foot portion of the 1550 Collins Avenue parking garage roof for the installation, location, operation, maintenance, repair, upgrade, and removal of wireless communication services equipment.

The parties wish to enter into an agreement in which Lessor will grant to Tenant a non-exclusive right to lease the Lessor's Property for wireless communications services as defined at section 104-3, of the City of Miami Beach's Code of Ordinances with the right to install, locate, operate, and maintain antennas on Lessor's Property, within the Tenant's footprint for its Equipment.

On July 1, 2015, Staff presented Tenant's Offer to the Finance and Citywide Projects Committee (FCWPC) and, based upon the Tenant's good standing with the RDA, and based upon the City's ITN, recommended acceptance of Tenant's Offer; and directed Staff to finalize a new retail lease for approval by the RDA Board.

Advisory Board Recommendation:

The Administration submitted the agreed upon terms and conditions to the Finance and Citywide Projects Committee (FCWPC) at its July 1, 2015 meeting, and the FCWPC recommended approving a new lease agreement with Tenant.

Financial Information:

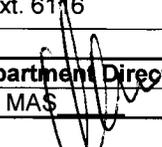
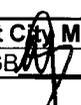
Source of Funds:	Amount	Account
1	N/A	

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Max Sklar, ext. 6116

Sign-Offs:

Department Director MAS 	Assistant City Manager KGB 	City Manager JLM 
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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

REDEVELOPMENT AGENCY MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 8, 2015

SUBJECT: **A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2015-060-LR (THE ITN), FOR THE LEASING OF CITY-OWNED BUILDINGS AND ROOFTOPS FOR THE PLACEMENT OF TELECOMMUNICATIONS EQUIPMENT, AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE A NINE YEAR AND 364 DAY LEASE AGREEMENT WITH CROWN CASTLE NG EAST, LLC ("TENANT"), ATTACHED AND INCORPORATED HEREIN AS EXHIBIT A, FOR TENANT TO OPERATE AND MAINTAIN ITS EXISTING TELECOMMUNICATIONS HUB ON THE ROOF OF THE RDA'S PARKING GARAGE LOCATED AT 1550 COLLINS AVENUE, WITH A MONTHLY RENT OF \$4,000.00.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Revenue to the City.

BACKGROUND

The Administration issued ITN 2015-060-LR to seek the proposals from qualified parties interested in submitting proposals to the City to lease City-owned buildings and rooftops for the installation and operation of telecommunications antennas and related equipment. The purpose of the ITN was to provide the opportunity for communication services providers to lease authorized City-owned properties, as well as provide a means of potential revenue to the City for the use of said properties.

The ITN was approved for issuance by the City Commission on January 14, 2015. The ITN was released on January 27, 2015. A pre-proposal conference to provide information to the proposers submitting a response was held on February 5, 2015. On April 9, 2015, the City received one proposal from Crown Castle.

On May 6, 2015, the Mayor and the City Commission approved Resolution No. 2015-29023 accepting the recommendation of the City Manager, pursuant to Invitation to Negotiate (ITN) No. 2015-060-LR, for the Lease of City-Owned Buildings and Rooftops for the Placement of Telecommunications Equipment.

ANALYSIS

The Anchor Shops is located at 1560 Collins Avenue, Miami Beach, Florida (the "Property") and is owned by the City of Miami Beach (the "City"). The Property contains six (6) floors, including retail and restaurant users on the ground floor, and serves as a parking garage on the upper floors.

The Administration has negotiated a Rooftop Lease Agreement (the "Lease"), a draft of which is attached hereto as Exhibit A, containing the following basic terms and conditions:

Commencement: First day of the month following Lease execution

Lease Term: Nine (9) years and 364 days

Leased Premises: A portion of the garage rooftop located at Anchor Shops

Rent: \$48,000 annually, payable in monthly installments of \$4,000

Increases: Fixed three percent (3%) annually

Security Deposit: Six (6) month's rent in the amount of \$24,000

Miscellaneous: Tenant currently allows three (3) customers to occupy space at the Leased Premises. For each additional customer, Tenant shall pay a pro-rata increase in the rent.

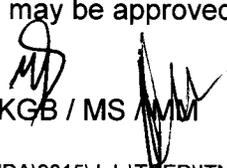
FINANCE AND CITYWIDE PROJECTS COMMITTEE

On July 1, 2015, Staff presented Tenant's Offer to the Finance and Citywide Projects Committee (FCWPC) and, based upon the Tenant's good standing with the RDA, and based upon the City's ITN, recommended acceptance of Tenant's Offer; and directed Staff to finalize a new retail lease for approval by the RDA Board.

RECOMMENDATION

The Administration recommends that the RDA, approve and authorize the Executive Director to enter into a lease agreement between the Miami Beach Redevelopment Agency (Landlord) and pursuant to Invitation To Negotiate (ITN) No. 2015-060-LR, for the leasing of city-owned buildings and rooftops for the placement of telecommunications equipment, and authorize the Executive Director to execute a nine year and 364 day lease agreement with Crown Castle NG East, LLC, attached and incorporated herein as Exhibit A, for tenant to operate and maintain its existing telecommunications hub on the roof of the RDA's parking garage located at 1550 Collins Avenue, with a monthly rent of \$4,000.00.

It should further be noted that since Anchor Garage and Shops is owned by the RDA, it is not subject to the public hearing requirements set forth under Section 82-39 of the City Code that would normally apply to the lease of City property. Proposed retail leases involving the Anchor Shops may be approved during and as part of the RDA Board's regular agenda.


JLM / KGB / MS / MM

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RESOLUTION NO.

A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2015-060-LR (THE ITN), FOR THE LEASING OF CITY-OWNED BUILDINGS AND ROOFTOPS FOR THE PLACEMENT OF TELECOMMUNICATIONS EQUIPMENT, AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE A NINE YEAR AND 364 DAY LEASE AGREEMENT WITH CROWN CASTLE NG EAST, LLC ("TENANT"), ATTACHED AND INCORPORATED HEREIN AS EXHIBIT A, FOR TENANT TO OPERATE AND MAINTAIN ITS EXISTING TELECOMMUNICATIONS HUB ON THE ROOF OF THE RDA'S PARKING GARAGE LOCATED AT 1550 COLLINS AVENUE, WITH A MONTHLY RENT OF \$4,000.00.

WHEREAS, the City of Miami Beach issued an Invitation to Bid, to see what the market would reflect in possible leaseholds for the City's facilities to be used as telecommunication equipment leasehold(s); and

WHEREAS, there was only one company that responded to the Invitation to Bid; and

WHEREAS, the one respondent to the Invitation to Bid was Crown Castle, who currently leases approximately 2,500 square feet of the RDA's rooftop parking garage facility at 1550 Collins Avenue; and

WHEREAS, Crown Castle currently is the tenant at 1550 Collins Avenue, with a leasehold interest that expires by November 2015, and by responding to the Invitation to Bid, Crown Castle, seeks to again utilize the same site as a tenant; and,

WHEREAS, Crown Castle NG East, LLC, a Delaware Limited Liability Company, authorized to do business in the State of Florida, (Tenant) wishes to use and occupy the 2,500 square foot portion of the 1550 Collins Avenue parking garage roof for the installation, location, operation, maintenance, repair, upgrade, and removal of wireless communication services equipment; and

WHEREAS, the parties wish to enter into an agreement in which Lessor will grant to Tenant a non-exclusive right to lease the Lessor's Property for wireless communications services as defined at section 104-3, of the City of Miami Beach's Code of Ordinances with the right to install, locate, operate, and maintain antennas on Lessor's Property, within the Tenant's footprint for its Equipment; and

WHEREAS, on July 1, 2015, Staff presented Tenant's Offer to the Finance and Citywide Projects Committee (FCWPC) and, based upon the Tenant's good standing with the RDA, and based upon the City's ITN, recommended acceptance of Tenant's Offer; and directed Staff to finalize a new retail lease for approval by the RDA Board.

WHEREAS, the lease is for a one year period starting November 2015.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, that the Chairperson and Members of the Miami Beach Redevelopment Agency hereby accepting the recommendations of the Finance and Citywide Projects Committee; and authorize the Executive Director to execute a nine year and 364 day lease agreement with Crown Castle NG East, LLC ("Tenant"), attached and incorporated herein as Exhibit A, for Tenant to operate and maintain its existing telecommunications hub on the roof of the RDA's parking garage located at 1550 Collins Avenue, with a monthly rent of \$4,000.00.

PASSED and **ADOPTED** this _____ day of July, 2015.

ATTEST:

Philip Levine, Chairperson

Rafael E. Granado, Secretary

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Paul C. Smith 6/17/15

City Attorney Date
AMB

EXHIBIT A

ROOFTOP LEASE AGREEMENT

This **ROOFTOP LEASE AGREEMENT** (this "**Agreement**") is entered into and effective as of the date of the last signature below (the "**Effective Date**"), by and between the **MIAMI BEACH REDEVELOPMENT AGENCY (RDA)**, a Florida redevelopment agency created under chapter 163, Florida Statutes, ("**Lessor**"), and **CROWN CASTLE NG EAST LLC ("Tenant")**, a Delaware limited liability company, authorized to do business in the State of Florida.

RECITALS

WHEREAS, Lessor owns or leases the Property known as 1550 Collins Avenue, Miami Beach Florida (as hereinafter defined); and

WHEREAS, Tenant wishes to use and occupy certain portions of the Property for the installation, location, operation, maintenance, repair, upgrade, and removal of Equipment (as hereinafter defined); and

WHEREAS, the parties wish to enter into an agreement in which Lessor will grant to Tenant a non-exclusive right to lease the Property for wireless communications services as defined at section 104-3, of the City of Miami Beach's Code of Ordinances with the right to install, locate, operate, and maintain Equipment (as hereinafter defined) on the Property.

NOW, THEREFORE, this Agreement is entered into between the Lessor and Tenant, in and for the consideration of ten dollars (\$10.00), and the rents and mutual covenants contained in this Agreement, the receipt and legal sufficiency of which is acknowledged by both parties.

1. **Recitals.** The recitals above are incorporated herein and made a material part of this Agreement.

2. **Definitions.** The following terms as used in this Agreement are defined as follows:

"**Approvals**" means all certificates, permits, licenses and other approvals that are required by law for Tenant's intended use of the Leased Premises.

"**Building**" means the building known as the parking garage located on the Property, all of which is owned or controlled by Lessor, and portions of which are leased by Lessor to Tenant pursuant to this Agreement.

"**Commencement Date**" means November 1, 2015.

"**Equipment**" means wireless communications facilities, as defined at Section 104-3 of the City of Miami Beach Code of Ordinances and Section 337.401(3) of the Florida Statutes, including antennas, equipment, generators, transmission lines, transmitters cables, structures, equipment shelters or cabinets, meter boards, utilities and related improvements.

"**Hazardous Material**" means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, as currently in effect or as hereafter amended or enacted, (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PCBs, (iv) lead, (v) asbestos, (vi) flammable explosives, (vii) infectious materials, (viii) radioactive materials; radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent; (c) any substance, gas, material or chemical which is or may hereafter be defined as or included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "pollutants or contaminants," "solid wastes," or words of similar import under any applicable governmental laws, rules, and regulations to be known as "Environmental Laws." Environmental Laws" includes, but is not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9061 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, as

amended, 33 U.S.C. § 1251, et seq.; and Florida Statutes, Chapters 376 and 403; and (d) any other chemical, material, gas, or substance, the exposure to or release of which is regulated by any governmental or quasi-governmental entity having jurisdiction over the operations thereon, as said laws have been supplemented or amended to date, the regulations promulgated pursuant to said laws and any other federal, state or local law, statute, rule, regulation or ordinance which regulates or proscribes the use, storage, disposal, presence, clean-up, transportation or release or threatened release into the environment of Hazardous Material.

“Lease Term” means a period of nine years and 364 days following the Commencement Date of this Agreement.

“Leased Premises” means that portion of the rooftop of the Building located on the Property with the address of 1550 Collins Avenue, Miami Beach, Florida, consisting of approximately 3,630 square feet of space on the rooftop of the building, as defined in Exhibit B. The Leased Premises shall include non-exclusive access to the Building’s existing telephone distribution systems and facilities as well as vertical and horizontal risers and conduits in the Building for the limited purposes of installing electrical power for the Equipment and connecting the Equipment to fiber optic cable at the Building’s demarcation point.

“Property” means the parcel of property that includes the Building located at 1550 Collins Avenue, Miami Beach, Florida, as is more particularly described or depicted in Exhibit A, which exhibit is attached and incorporated by reference into this Agreement.

“Permitted Use” means the installation, location, operation, maintenance, repair, replace and removal of Equipment by Tenant.

“Rent” means an amount equal to \$4,000.00 (Four Thousand Dollars) to be paid by Tenant to Lessor on or before the first day of each month during the Lease Term.

3. Leased Premises; Survey. Effective as of the Commencement Date, Lessor leases to Tenant the Leased Premises as described in Exhibit B, which exhibit is attached and incorporated by reference into this Agreement. Tenant shall be entitled to the exclusive use the Leased Premises for the Permitted Use. Tenant acknowledges and agrees that it is accepting possession of the Leased Premises in as-is condition.

4. Rent. Tenant shall pay to Lessor the Rent commencing on the Commencement Date. All Rent or other payments due hereunder shall be paid to the **MIAMI BEACH REDEVELOPMENT AGENCY (RDA)** at the following address: City of Miami Beach, Finance Department, c/o Revenue Supervisor, 1700 Convention Center Drive, Miami Beach, Florida 33139.

5. Escalation of Rent. The Lessor shall be entitled to an escalation in Rent under the following circumstances:

- (a) Upon each anniversary of the Commencement Date and throughout the Lease Term, the Rent shall be increased by three percent (3%) of the Rent due the prior year.
- (b) Tenant currently allows three (3) customers to occupy space at the Leased Premises. For each customer Tenant adds to the Leased Premises, Lessor shall be entitled to a pro-rata increase in Rent based upon the number of existing Providers and additional providers [new customers are the numerator, and the existing customers would be the denominator].

6. Rent Past Due. If any payment due from Tenant shall be overdue more than ten (10) calendar days, a late charge of five percent (5%) of the delinquent sum may be charged by Lessor. If any payment due from Tenant shall remain overdue for more than thirty (30) calendar days, an additional late charge in an amount equal to the lesser of the highest rate permitted by law or one and one-half percent (1 1/2%) per month eighteen percent (18%) per annum) of the delinquent amount may be charged by Lessor, such charge to be computed for the entire period for which the amount is overdue and which shall be in addition to and not in lieu of the five percent (5%) late charge or any other remedy available to Lessor. Tenant shall pay Lessor interest on unpaid annual payments at the rate of one percent (1%) per month until the payment is made.

7. Security Deposit. Lessor acknowledges receipt of a security deposit in the amount of \$24,000, and such security deposit shall not constitute a license or lease fee, to be held by Lessor, without any liability for interest thereon, as security for the performance by Tenant of all its obligations under this Agreement. Lessor shall be entitled to

commingle the security deposit with Lessor's other funds. If Tenant defaults in any of its obligations under this Agreement, Lessor may at its option, but without prejudice to any other rights which Lessor may have, apply all or part of the security deposit to compensate Lessor for any loss, damage, or expense sustained by Lessor as a result of such default. If all or any part of the security deposit is so applied, Tenant shall promptly restore the security deposit to its original amount on demand of Lessor. Subject to the provisions of this Section, within thirty (30) calendar days following termination of this Agreement, if Tenant is not then in default, the security deposit will be returned by Lessor to Tenant. The security deposit shall be refundable, without interest, to Tenant upon termination of this Agreement, provided the Lessor suffers no damages, set-offs, or lost Rent prior to termination of this Agreement.

8. Expansion of Leased Premises. Any attempt by the Tenant to expand the scope of the Leased Premises must be requested in writing to the Lessor, shall be subject to the prior written approval of Lessor, which approval if given at all shall be at Lessor's sole option and discretion, and if so approved, an addendum to this Agreement will be entered into and executed by the parties, reflecting any new terms and leasehold payments by Tenant. The terms shall be negotiated at that time and any expansion shall be contingent upon the successful negotiation of those terms. However, any such action by Tenant will ensure that the Lessor's Building, its roof structure and membrane, walls and foundation are not damaged by the scope of work for the expansion of the Leased Premises. Tenant shall be solely responsible for repairing the Building due to any damage resulting from Tenant's expansion of the Leased Premises.

9. Permitted Uses; Non-Exclusivity. During the Lease Term, Lessor grants to Tenant the non-exclusive right to use the Leased Premises for the Permitted Use. Lessor may lease other areas of the Building, outside of the Leased Premises.

10. Assignment, Sublease, and Licensing. Tenant shall not sublease, assign or license all or a portion of its interest in this Agreement without prior notice and approval by Lessor, which approval shall not be unreasonably delayed or denied. Tenant shall provide all relevant financial information relating to the proposed sub-lessee, licensee, or assignee and all insurance in compliance with this Agreement. Upon approval of an assignment of this entire Agreement by the Lessor, Tenant shall be relieved from any further liability or obligation under this Agreement. Notwithstanding the foregoing, the transfer of the rights and obligations of Tenant to a parent, subsidiary, or other affiliate of Tenant or to any successor in interest or entity acquiring fifty-one percent (51%) or more of Tenant's stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Agreement and therefore shall not require the consent of the Lessor, provided that Tenant reasonably demonstrates to the Lessor's lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (a) such transferee will have a financial strength after the proposed transfer at least equal to that of Tenant immediately prior to the transfer; (b) any such transferee assumes all of Tenant's obligations hereunder; and (c) the experience and technical qualifications of the proposed transferee, either alone or together with Tenant's management team in the provision of telecommunications or similar services, evidences an ability to operate the Equipment/Leased Premises. Tenant shall give at least thirty (30) calendar days' prior written notice (the "Exempted Transfer Notice") to the Lessor of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why Tenant believes the Exempted Transfer Criteria have been satisfied. The Lessor Commission shall have a period of thirty (30) calendar days (the "Exempted Transfer Evaluation Period") from the date that Tenant gives the Lessor its Exempted Transfer Notice to object in writing to the adequacy of the evidence contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until the Lessor has received from Tenant any and all additional information the Lessor may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as the Lessor give Tenant notice in writing of the additional information the Lessor requires with fifteen (15) calendar days after the Lessor's receipt of the original Exempted Transfer Notice. If the Lessor Commission fails to act upon Tenant's Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the foregoing provisions), such failure shall be deemed an affirmation by the Lessor that Tenant has in fact established compliance with the Exempted Transfer Criteria to the Lessor's satisfaction. Tenant has the further right to pledge or encumber its interest in this Agreement. Upon request to Lessor from any leasehold mortgagee, Lessor agrees to give the holder of such leasehold mortgage written notice of any default by Tenant and an opportunity to cure any such default within fifteen (15) calendar days after such notice with respect to monetary defaults and within thirty (30) calendar days after such notice with respect to any non-monetary default.

11. Access. Lessor grants Tenant and all of its respective employees, agents, guests and contractors the non-exclusive right of ingress and egress to the Leased Premises, including access over, upon, through and across the

common areas, elevators, stairways, and driveways of the Building and the Property seven (7) days a week, twenty-four (24) hours a day, for the installation, maintenance and operation of the Equipment. However, if Tenant plans to access the property outside of normal business hours (normal business hours are Monday to Friday from 8a.m. to 5p.m.), Tenant shall notify the Lessor with at least 24 hours prior notice in writing, unless the need to enter the Leased Premises is an emergency, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons.

12. Lessor's Right of Entry. The Lessor, or its authorized agent or agents, shall have the right to enter upon the Leased Premises at all reasonable times for the purpose of inspecting same, preventing waste, making such repairs as the Lessor may consider necessary and for the purpose of preventing fire, theft or vandalism. However, the Lessor agrees that whenever possible, the Lessor shall provide reasonable notice, in writing, to Tenant, unless the need to enter the Leased Premises is an emergency, as deemed by the Lessor at its sole discretion, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons. Additionally, Lessor shall not touch any of the Equipment if Lessor accesses the Leased Premises, unless necessary as an emergency, as defined herein. Nothing herein shall imply any duty on the part of the Lessor to do any work that under any provisions of this Agreement the Tenant may be required to perform, and the performance thereof by the Lessor shall not constitute a waiver of the Tenant's default. If the Tenant shall not be personally present to permit entry onto the Leased Premises in the event of an emergency as described above, the Lessor, or its agents, may enter the Leased Premises, including, without limitation, forcibly entering the Leased Premises, without rendering the Lessor or such agents liable for damage caused by the forcible entry.

13. Installation and Maintenance.

- (a) Exhibit B includes detailed engineering plans and specifications of the Leased Premises ("Tenant's Plans") for Lessor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall apply for all required permits and zoning approvals necessary for the Permitted Use, as may be required by the City of Miami Beach, and comply with the condition of said zoning approvals or permits. Said zoning approvals and permits are required and may not be waived. In the event Lessor does not provide to Tenant a written request for modifications to Tenant's Plans within thirty (30) business days of its receipt of Tenant's Plans, then Tenant's Plans shall be deemed approved by Lessor.
- (b) Tenant shall manage all engineering services, including intermodulation studies and all site engineering and construction necessary to install, operate and maintain Equipment on the Leased Premises. The parties acknowledge that in order to connect areas of the Leased Premises that are needed to make the Equipment operational, Tenant shall have the right to install conduit, sleeves and cables connecting such locations and Equipment, all as more fully described in Exhibit B.
- (c) Tenant or its agents shall install, construct and maintain their Equipment on the Leased Premises at no cost to the Lessor.
- (d) Tenant shall, at its expense, keep and maintain the Equipment located on the Leased Premises in good, safe, and clean order during the Lease Term. Tenant's alterations to the Leased Premises are to be performed in a workmanlike manner. In compliance with Section 712.10, Florida Statutes, Tenant covenants that no mechanics', laborers' or materialmen's liens are to be recorded against the Property. Tenant shall promptly pay for all materials supplied and work done in respect of the Leased Premises by, through, or under Tenant so as to ensure that no lien is recorded against any portion of the Leased Premises, Property, or against Lessor's or Tenant's interest therein. If a lien is so recorded, Tenant shall discharge it promptly by payment or bonding. If any such lien against the Leased Premises, Property or Lessor's interest therein is recorded and not discharged by Tenant as above required within fifteen (15) calendar days following written notice to Tenant, Lessor shall have the right to remove such lien by bonding or payment and the cost thereof shall be paid immediately from Tenant to Lessor. Lessor and Tenant expressly agree and acknowledge that no interest of Lessor in the Leased Premises or Property shall be subject to any lien for improvements made by Tenant in or for the Leased Premises, and Lessor shall not be liable for any lien for any improvements made by Tenant, such liability being expressly prohibited by the terms of this Agreement. In accordance with applicable laws of the State of Florida, Lessor has filed in the public records of Dade County, Florida, a public notice containing a true and correct copy of this paragraph, and Tenant hereby agrees to inform all contractors and material suppliers performing work in or for or supplying materials to the Leased Premises of the existence of said notice. A breach of this provision may

expose Tenant to liability for damages for, among other claims, slander of title. In the event that Lessor prevails against Tenant on any claim for equitable relief or damages, Tenant shall be liable to Lessor for its reasonable attorney's fees and costs. Tenant shall require all subtenants, agents, assigns, contractors, and subcontractors to be placed on notice of this covenant and to affirm that they are prohibited from recording liens against Lessor's Property.

- (e) All installations and operations in connection with this Agreement shall comply with all federal, state, and local laws, codes and regulations. Lessor assumes no responsibility for the licensing, operation or maintenance of the Equipment.
- (f) Lessor shall be responsible for the structural maintenance of the Building ("**Building Work**"). As the Tenant's facilities are installed upon the roof of the Building, there may come a time that repairs are needed for the roof, or roof replacement may be required. Tenant shall be responsible for all costs associated with temporary or permanent relocation of the Equipment during the period the roof is being repaired or replaced. The Building and Property are adjacent to the ocean, and in an area exposed to the elements and potential hurricane and tropical storm events. As such, the parties agree and recognize that roof work to the Building may be required, and provided this Agreement is not terminated pursuant to provision 31(C), Tenant shall be solely responsible for the temporary relocation of its Equipment during the repair or replacement. The Lessor shall not be responsible for the Tenant's loss of signal, transmission, or services due to the replacement or repair of the roof. Tenant acknowledges that a material inducement in entering into this Agreement is Tenant's acceptance of this condition. Tenant agrees to reasonably cooperate with Lessor to facilitate any Building Work, provided however, to the extent practicable, the Building Work should minimize the effects to Tenant's Equipment, and include suggestions as to the most cost effective measures to minimize disruption to Tenant's Equipment. Lessor agrees to provide at least ninety (90) calendar days' notice to Tenant of its intention to perform Building Work; except in the case of emergency Building Work in which case Lessor shall give as much notice as possible under the circumstances.
- (g) Lessor shall be solely responsible for ensuring that the Building is operated in compliance with all applicable federal, state, and local laws, codes and regulations (the "**Building Regulations**"). Tenant may give Lessor written notice of its failure to comply with said Building Regulations. In the event Lessor fails to correct said violation(s) of the Building Regulations within thirty (30) calendar days upon receipt of said notice, Tenant shall be entitled, but not obligated, to cause such work to be done as is necessary to make the Leased Premises (and the Equipment located thereon) comply with such Building Regulations, and deduct the cost of such work from future Rent otherwise due and payable by Tenant as set forth under this Agreement.
- (h) Tenant, and its employees, agents or invitees, shall take reasonable measures not to damage any portion of the Building. Tenant shall be responsible for any damage to the Building or Property caused during installation or repair of the Equipment onto the Leased Premises. Tenant shall have no duty to reimburse Lessor for any expense associated with the normal wear and tear on the roof, or any other expense not reasonably related to Tenant's use and occupancy of the Leased Premises.
- (i) Tenant shall use only licensed contractors and subcontractors approved in writing by Lessor to complete the construction and installation of Tenant's work, which approval shall not be unreasonably withheld or delayed at the Leased Premises.

14. Personal Property/Removal/Restoration. All improvements, Equipment or other property attached to or otherwise brought onto the Leased Premises shall, at all times, remain the personal property of Tenant and, at Tenant's option, may be removed by Tenant at any time during the Lease Term, provided, however, the Equipment shall be removed within thirty (30) calendar days after the termination or expiration of this Agreement. Lessor waives any and all rights it may have, including any rights it may have in its capacity as Lessor under this Agreement to assert any liens, encumbrances or adverse claims, statutory or otherwise, related to or in connection with the Equipment or a portion thereof. Tenant, in its sole discretion may remove the Equipment or any portion of the Equipment at any time during the Lease Term of the Agreement, provided reasonable notice is provided to the Lessor, and provided a payment and performance bond is provided to the Lessor, to secure the repairs to the Building or Property, if applicable. Tenant will be responsible for the replacement of any trees, shrubs or other vegetation damaged during the removal process. Tenant will not be required to remove from the Leased Premises or the Property any foundation or underground utilities.

15. Utilities. Lessor shall not be responsible for any expense associated with the installation, maintenance or operation of any Equipment installed on the Leased Premises by Tenant. With respect to the use of electric utilities, Tenant shall directly contract with the local electric utility company servicing the Building and have such utility company install, at the sole cost and expense of Tenant, separate metering devices to measure the usage attributable to Tenant's use of the Leased Premises, and Tenant shall pay the electric utility company directly for such usage.

16. Indemnification. Tenant shall indemnify, defend and hold harmless Lessor, its officials agents, employees, and volunteers from and against any and all liability, suits, actions, damages, costs, losses and expenses, including reasonable attorney's fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property or loss of use resulting therefrom (collectively, "Claims"), arising out of any errors, omissions, misconduct or negligent acts of Tenant, its officials, agents, employees or subcontractors in the performance of this Agreement, except to the extent such Claims are caused by the intentional misconduct or negligent acts or omissions of Lessor, its officials, agents, employees or subcontractors.

17. Waiver of Claims and Rights of Subrogation. The parties hereby waive any and all rights of action for negligence against the other on account of damage to the Property or to the Leased Premises resulting from any fire or other casualty of the kind covered by property insurance policies with extended coverage, regardless of whether or not, or in what amount, such insurance is carried by the parties. All policies of property insurance carried by either party for the Equipment, Property or the Leased Premises shall include a clause or endorsement denying to the insurer rights by way of subrogation against the other party to the extent rights have been waived by the insured before the occurrence of injury or loss.

18. Taxes and Assessments. Lessor shall pay all real estate taxes on the Property. Tenant agrees to reimburse Lessor for any documented increase in personal property taxes levied against the Leased Premises that are directly attributable to Tenant's use of the Leased Premises. Lessor agrees to provide Tenant any documentation evidencing the increase and how such increase is attributable to Tenant's use of the Leased Premises. Tenant reserves the right to challenge any such assessment, and Lessor agrees to cooperate with Tenant in connection with any such challenge. Tenant shall pay all personal, intangible, sales or use taxes associated with the installed Equipment on the Leased Premises.

19. Insurance.

(a) Within ten (10) calendar days after the date hereof, Tenant shall provide to Lessor certificates of insurance evidencing that Tenant has the required commercial general liability insurance required of Tenant under the Agreement.

(b) In addition, Tenant shall provide to Lessor certificates of insurance evidencing that Tenant's general contractor has in effect (and shall maintain at all times during the course of the work hereunder) workers' compensation insurance to cover full liability under workers' compensation laws of the State of Florida with employers' liability coverage; comprehensive general liability insurance for the hazards of operations, independent contractors, products and completed operations (for two (2) years after the date of acceptance of the work by Lessor and Tenant); and contractual liability specifically covering the indemnification provision in the construction contract, such comprehensive general liability to include broad form property damage and afford coverage for explosion, collapse and underground hazards, and "personal injury" liability insurance and an endorsement providing that the insurance afforded under the contractor's policy is

primary insurance as respects Lessor and Tenant and that any other insurance maintained by Lessor or Tenant is excess and non-contributing with the insurance required hereunder, provided that such insurance may be written through primary or umbrella insurance policies with a minimum policy limit of \$1,000,000.00. Lessor and Tenant are to be included as an additional insured for insurance coverages required of the general contractor.

- (c) **Tenant's Insurance.** Tenant shall, throughout the Lease Term (and any other period when Tenant is in possession of the Leased Premises), maintain at its sole cost the following insurance:
- (i) All risks property insurance, containing a waiver of subrogation rights which Tenant's insurers may have against Lessor and against those for whom Lessor is in law responsible including, without limitation, its directors, officers, agents, and employees,. Such insurance shall insure property of every kind owned by Tenant in an amount not less than the full replacement cost thereof (new), with such cost to be adjusted no less than annually.
 - (ii) Commercial general liability insurance. Such policy shall contain inclusive limits per occurrence of not less than \$1,000,000; provide for severability of interests; and include as additional insureds Lessor and its affiliates and any mortgagee of Lessor, and any mortgagee of Lessor in connection with a mortgage on the Facility.
 - (iii) Worker's compensation and employer's liability insurance in compliance with applicable legal requirements.
 - (iv) Any other form of insurance which Tenant or Lessor, acting reasonably, requires from time to time in form, in amounts, and for risks against which a prudent tenant would insure, but in any event not less than that carried by comparable wireless communications facilities in Florida.
 - (v) All policies referred to above shall: **(A)** be taken out with insurers licensed to do business in Florida and reasonably acceptable to Lessor; **(B)** be in a form reasonably satisfactory to Lessor; **(C)** be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to Lessor or any mortgagee of Lessor; and **(D)** contain an undertaking by the insurers to notify Lessor not less than thirty (30) calendar days prior to any, cancellation, except for non-payment of premium. Certificates of insurance or, if required by a mortgagee, copies of such insurance policies certified by an authorized officer of Tenant's insurer as being complete and current, shall be available for review to Lessor promptly upon request, at the Tenant's place of business. If Tenant fails to take out or to keep in force any insurance referred to in this section, or should any such insurance not be approved by either Lessor or any mortgagee, and Tenant does not commence and continue to diligently cure such default within five (5) business days after written notice by Lessor to Tenant specifying the nature of such default, then Lessor has the right, without assuming any obligation in connection therewith, to effect such insurance at the sole cost of Tenant and all outlays by Lessor shall be paid by Tenant to Lessor as additional rent without prejudice to any other rights or remedies of Lessor under this Agreement. Tenant shall not keep or use in the Leased Premises any article which may be prohibited by any fire or casualty insurance policy in force from time to time covering the Leased Premises.

The Tenant shall furnish the Certificates of Insurance to the Lessor prior to commencing any operations under this Agreement, which certificates shall clearly indicate that the Tenant has obtained insurance, in the type, amount and classifications, in strict compliance with this Section.

20. **Hazardous Material**

- (a) **Tenant's Obligation and Indemnity.** Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any Hazardous Material on or from the Leased Premises in any manner prohibited by law.
- (b) If Tenant or its employees, agents, or contractors shall ever violate the provisions of subsection (a), above, then Tenant shall clean up, remove, and dispose of the Hazardous Material causing the violation, in compliance with all applicable governmental standards, laws, rules, and regulations and repair any damage

to the Leased Premises or Property within such period of time as may be reasonable under the circumstances after written notice by Lessor, provided that such work shall commence not later than thirty (30) calendar days from such notice and be diligently and continuously carried to completion by Tenant or Tenant's designated contractors. Tenant shall notify Lessor of its method, time, and procedure for any clean up or removal of Hazardous Materials under this provision; and Lessor shall have the right to require reasonable changes in such method, time, or procedure or to require the same to be done after normal business hours if reasonably required for the protection of other tenants or occupants of the Building or Property.

- (c) Unless such claims or damages are the result of Lessor's negligence, Tenant agrees to defend, indemnify, and hold harmless Lessor, against any and all claims, costs, expenses, damages, judgments, penalties, costs, liability, losses, and the like (including any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees), which Lessor may hereafter be liable for, suffer, incur, or pay arising under any applicable environmental laws, rules, and regulations and resulting from or arising out of any breach of the covenants contained in this Section 21, or out of any act, activity, or violation of any applicable environmental laws, rules, and regulations on the part of Tenant, its agents, employees, or assigns. Tenant's liability under this Section 21 shall survive the expiration or any termination of this Agreement.
- (d) Lessor's Obligation. Lessor shall not (either with or without negligence) cause or permit the escape, disposal or release of any Hazardous Material on or from the Property or the Leased Premises in any manner prohibited by law.

21. Interference with Tenant's Business. Tenant shall have the non-exclusive right to construct, install and operate Equipment that emit radio frequencies on the Property. Lessor agrees that it will not permit the construction, installation or operation on the Property of any equipment or device that directly interferes with the Permitted Use.

22. Default.

- (a) Notice of Default; Cure Period. In the event that there is a default by Lessor or Tenant (the "**Defaulting Party**") with respect to any of the material provisions of this Agreement or Lessor's or Tenant's obligations under this Agreement, the other party (the "**Non-Defaulting Party**") shall give the Defaulting Party written notice of such default. After receipt of such written notice, the Defaulting Party shall have thirty (30) calendar days in which to cure any monetary default and sixty (60) calendar days in which to cure any non-monetary default. The Defaulting Party shall have such extended periods as may be required beyond the sixty (60) calendar day cure period to cure any non-monetary default if the nature of the cure is such that it reasonably requires more than sixty (60) calendar days to cure, and Defaulting Party commences the cure within the sixty (60) calendar day period and thereafter continuously and diligently pursues the cure to completion. The Non-Defaulting Party may not maintain any action or effect any remedies for default against the Defaulting Party unless and until the Defaulting Party has failed to cure the same within the time periods provided in this Section.
- (b) Consequences of Tenant's Default. In the event that Tenant is in default beyond the applicable periods set forth above, Lessor may, at its option, upon written notice: (i) terminate this Agreement provided that Lessor has been materially and substantially harmed by such default; (ii) take any actions that are consistent with Lessor's rights; or (iii) sue for injunctive relief, sue for specific performance, or sue for damages. In no event shall Tenant be liable to Lessor for consequential, indirect, speculative or punitive damages in connection with or arising out of any default.
- (c) Consequences of Lessor's Default. In the event that Lessor is in default beyond the applicable periods set forth above, Tenant may, at its option, upon written notice: (i) terminate this Agreement, vacate the Leased Premises and be relieved from all further obligations contained herein; (ii) perform the obligation(s) of Lessor specified in such notice, in which case any expenditures made by Tenant in so doing shall be deemed paid for the account of Lessor and Lessor agrees to reimburse Tenant for said expenditures upon demand; (iii) take any actions that are consistent with Tenant's rights; or (iv) sue for injunctive relief, sue for specific performance, sue for damages, or set-off from Rent any amount expended by Tenant as a result of such default. In no event shall Lessor be liable to Tenant for consequential, indirect, speculative or punitive damages in connection with or arising out of any default.

23. Termination; Effect of Termination.

- (a) Either party may terminate this Agreement for convenience (without cause) upon ninety (90) calendar days' prior written notice by either party.
- (b) Effect of Termination. Upon termination by either party, this Agreement shall become null and void and neither party shall have any further rights or duties hereunder, except that: (i) any monies owed by either party to the other up to the date of termination shall be paid within thirty (30) calendar days of the termination date; (ii) any defaults that occurred prior to the termination date shall be cured; and (iii) any provision hereof which, by its nature, is intended to survive the termination of this Agreement shall so survive.
- (c) Either party may terminate this Agreement prior to the expiration of the Lease Term (i) on account of a material breach of this Agreement by the other party, which has not been cured within thirty (30) calendar days from the date of receipt of written notice of such breach from the party seeking termination; (ii) on account of any condemnation of the Leased Premises by any governmental authority; (iii) on account of any substantial damage, destruction or other casualty that renders the Leased Premises temporarily or permanently unsuitable for Tenant's use; and, or (iv) transfer of ownership of the Leased Premises to a third party.
- (d) Termination shall be effective (i) as of the end of the notice period in the case of any uncured material breach; (ii) as of the date of transfer of title in the case of any such condemnation; and (iii) as of the date of occurrence in the case of any such substantial damage, destruction or other casualty.
- (e) Tenant may terminate this Agreement prior to the expiration of the Lease Term upon not less than sixty (60) day's prior written notice to the Lessor in the event that (i) Tenant is unable to use the Leased Premises in the manner anticipated by Tenant at the time the Agreement was executed; (ii) Tenant is unable to obtain any certificate, license, permit, authority or approval from any governmental authority necessary for installing, removing, replacing, maintaining and, or operating the Equipment and, or using the Leased Premises in the manner anticipated by Tenant at the time the Agreement was executed; and, or (iii) any such certificate, license, permit, authority or approval previously issued or given is canceled, expires, lapses or is otherwise withdrawn or terminated by such governmental authority.
- (f) Lessor shall have no liability to the Tenant for future profits or losses in the event of termination under this Section 24.
- (g) The rights and remedies of Lessor and Tenant provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. All rights and remedies shall be cumulative and non-exclusive of each other. No delay or omission by Lessor or Tenant in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to a default.

24. Casualty and Condemnation.

- (a) In case of damage to the Building by fire or other casualty, Lessor shall, at its expense, cause the damage to be repaired to a condition as nearly as practicable to that existing prior to the damage with reasonable speed and diligence. If the Leased Premises is not useable for any reason, Rent under this Agreement shall be abated from the date of the occurrence of such damage or destruction until the Leased Premises can again be used for Tenant's intended purposes. In the event the damage is so extensive that Lessor decides, in its reasonable discretion, not to repair or rebuild the Building, this Agreement shall be terminated as of the date of such casualty, and the Rent (taking into account any abatement as aforesaid) shall be adjusted to the termination date and Tenant shall thereupon promptly vacate the Leased Premises.
- (b) If all or substantially all of the Property or the Leased Premises shall be taken in the exercise of the power of eminent domain by any governmental or other authority, or by deed in lieu of condemnation, then either party may terminate this Agreement by providing written notice to Lessor within thirty (30) calendar days of such condemnation or eminent domain action, which termination shall be effective as of the date of the vesting of title in such taking and any prepaid Rent shall be apportioned as of said date and reimbursed to Tenant. Lessor and Tenant shall each be entitled to pursue their own separate award with respect to such

taking. In the event of any taking of less than all or substantially all of the Property or Leased Premises, this Agreement shall continue and each, Lessor and Tenant, shall be entitled to pursue their own separate awards with respect to such taking.

25. Surrender of the Property. Upon the expiration or early termination of this Agreement, Tenant shall, within thirty (30) calendar days, remove its Equipment and restore the Leased Premises to its original condition, reasonable wear and tear excepted. Lessor and Tenant agree and acknowledge that all of the Equipment is and shall remain the personal property of the Tenant. Subject to Tenant's performance of its obligations hereunder, Tenant shall have the right to remove the same, whether or not said items are considered fixtures and attachments to real property under applicable law.

26. Quiet Enjoyment, Title, and Authority.

(a) Lessor covenants and warrants that: (i) it has the authority to execute this Agreement and has the power to grant the rights hereunder; (ii) it has title to the Leased Premises free and clear of any liens, mortgages, restrictions or other encumbrances that will interfere with the Permitted Uses of the Leased Premises; (iii) its execution and performance of this Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, license or other lease binding on Lessor; and (iv) Tenant shall have the quiet enjoyment for the purposes as defined in this Agreement of the Leased Premises, and Tenant shall not be disturbed as to those uses as long as Tenant is not in default beyond any applicable grace or cure period.

(b) To the Lessor's knowledge, the Building is properly permitted, and is in compliance with all applicable laws, including all zoning, occupational and permitting laws and requirements. All such property, including improvements, related heating, electrical, plumbing and other building equipment: (i) have been and will be maintained by Lessor in accordance with normal industry practice; (ii) are and shall remain in working order adequate for normal operations; (iii) are and will remain in good operating condition and repair (subject to normal wear and tear); and (iv) are and will remain suitable for the purposes for which they are presently used.

(c) Lessor covenants and agrees that Lessor shall, at all times during the Lease Term, maintain in good, sound, and substantial repair and condition, the Building upon which the Leased Premises is situated.

27. Sale of the Property. If Lessor sells all or part of the Property of which the Leased Premises is a part, then such sale shall be under and subject to this Agreement and Tenant's rights hereunder. Any sale or transfer of real property which is now or may in the future be subdivided or otherwise separate from the Property and over which Tenant has the right of access or utility connections to the Leased Premises will be subject to Tenant's rights hereunder. Lessor will notify Tenant of any sale or transfer, and will cause the transferee to execute any document(s) (in form acceptable to Tenant) reasonably required by Tenant to memorialize Tenant's rights under this Agreement, and to ensure proper notice and payment of Rent to such transferee. Each party agrees upon written request of the other to promptly execute such truthful estoppels, non-disturbance and/or attornment agreements as may be necessary in the event of any sale or transfer of the Property.

28. Successors and Assigns. The terms of this Agreement shall constitute a covenant running with the Property for the benefit of Tenant and its successors and assigns and shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto and upon each person having any interest therein derived through any owner thereof.

29. Mortgages. This Agreement shall be subordinate to any mortgage given by Lessor which currently encumbers the Leased Premises, provided that any mortgagee shall recognize the validity of this Agreement in the event of foreclosure. In the event that the Leased Premises is or shall be encumbered by such a mortgage, Lessor shall obtain and furnish to Tenant a non-disturbance agreement for each such mortgage, in recordable form.

30. Title Insurance. Tenant, at Tenant's option, may obtain title insurance on the Leased Premises. Lessor shall cooperate with Tenant's efforts to obtain title insurance by executing documents or obtaining requested documentation as required by the title insurance company.

31. Lessor's Waiver. Lessor hereby waives and releases any and all liens, whether statutory or under common law, with respect to any of Lessor's personal property now or hereafter located on the Leased Premises.

32. Sovereign Immunity, Maximum Liability, Waiver of Certain Damages and Attorney's Fees.

(a) Lessor does not waive sovereign immunity under 768.28, Florida Statutes, for any claim for breach of contract or for an award of prejudgment interest; provided, however, that in any action arising out of or to enforce this contract, the prevailing party shall be entitled to its reasonable attorney's fees and costs. Section 768.28, Florida Statutes provides that the Lessor shall not be liable to pay a claim or a judgment by any one person which exceeds the sum of \$200,000 or any claim or judgment or portions thereof, which when totaled with all other claims or judgment arising out of the same incident or occurrence, exceeds the sum of \$300,000.

(b) In any proceeding against Lessor its maximum liability to Tenant shall not exceed its annual payment to Tenant for the year in which the liability arose. Lessor shall not be liable to Tenant for damages, penalties or expenses in excess of its annual payment to the Tenant for the year in which the liability arose.

(c) Nothing contained herein shall be construed or interpreted as denying to either party any remedy or defense available to such party under the laws of the State of Florida or federal law. Tenant and Lessor each waives any claims that each may have against the other with respect to consequential, incidental, punitive or special damages, however caused, based on any theory of liability.

33. Recording. Tenant shall have the right to record a memorandum of lease with the appropriate recording officer. Lessor shall execute and deliver such a memorandum, for no additional consideration, promptly upon Tenant's request.

34. Entire Agreement; Governing Law; Time. This Agreement and the Exhibits, if any, attached hereto are incorporated herein and set forth the entire agreement between Lessor and Tenant concerning the subject matter of this Agreement, and there are no other agreements or understandings between them. This Agreement and its Exhibits may not be modified except by agreement in writing executed by Lessor and Tenant. In the event of any conflict, the terms of this Agreement will govern over the provisions of any documents referenced hereto.

35. No Partnership. The parties hereby acknowledge that it is not their intention under this Agreement to create between themselves a partnership, joint venture, tenancy in common, joint tenancy, co ownership, or agency relationship. Accordingly, notwithstanding any expressions or provisions contained herein, nothing in this Agreement, whether based on the calculation of rental or otherwise, shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, tenancy in common, joint tenancy, co ownership or agency relationship of any kind or nature whatsoever between the parties hereto. The provisions of this section shall survive expiration of the Lease Term.

36. Interpretation. Any defined term in this Agreement shall be equally applicable to both the singular and the plural form of the term defined. The word "or" is not exclusive and shall mean "and/or" unless indicated otherwise and the word "including" is not limiting and shall mean "including, without limitation." References to a Section or Exhibit mean a Section or Exhibit contained in or attached to this Agreement unless specifically stated otherwise. The caption headings and numbering in this Agreement are for convenience and reference only and do not define, modify, or describe the scope or intent of any of the terms of this Agreement. This Agreement shall be interpreted and enforced in accordance with its provisions and without the aid of any custom or rule of law requiring or suggesting construction against the party drafting or causing the drafting of the provisions in question.

37. Notices and Contracting Representatives. All notices hereunder shall be in writing and shall be given by (a) established national courier service which maintains delivery records; (b) hand delivery; or (c) certified or registered mail, postage prepaid, return receipt requested. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide reasonable means for accomplishing delivery. The notices shall be sent to Lessor and Tenant at the addresses below. Any such notice or other instruments shall be deemed to have been given and received on the day upon which personal delivery is made or, if mailed, then forty eight (48) hours following the date of mailing. Either party may give notice to the other of any change of address and after the giving of such notice, the address therein specified is deemed to be the address of such party for the giving of notices. If postal service is interrupted or substantially delayed, all notices or other instruments shall be delivered in person or by overnight express mail courier. For the purposes of this Agreement, the contracting representatives are as follows and notice shall be provided to the persons listed below:

Tenant

Lessor

11

_____ City

_____ Crown

Crown Castle NG East LLC
c/o Crown Castle USA Inc.
Attn: E. Blake Hawk, General Counsel
2000 Corporate Drive
Canonsburg, PA 15317-8564

**MIAMI BEACH REDEVELOPMENT
AGENCY (RDA)**
Jimmy L. Morales,
Executive Director
1700 Convention Center Drive
Fourth Floor
Miami Beach, Florida 33139

With a copy to:

Crown Castle NG East LLC
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: Legal Department

Raul J. Aguila,
RDA Attorney
City of Miami Beach
1700 Convention Center Drive
Fourth Floor
Miami Beach, Florida 33139

38. Record Retention. Tenant shall comply with the State of Florida public record retention requirements and shall maintain a copy of all documents reflecting services rendered to the Lessor for three (3) years after the termination of this Agreement, and final payment has been made and all other pending matters are closed. Further, Tenant shall provide access to the Lessor, or any of Lessor's duly authorized representatives, to any books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions. However, Tenant shall not be obligated to provide to Lessor any third party agreements which Tenant has entered into with other parties, except to the extent necessary to verify the number of tenants occupying the Leased Premises, which in such case, Tenant shall only be obligated to furnish the cover and signature pages, as well as that portion of the agreement pertaining to dates of tenancy.

39. Applicable Law, Jurisdiction, Venue. This Agreement shall be construed in accordance with the laws of Miami-Dade County, and the State of Florida, regardless of conflict of law principles. Venue shall be in Miami-Dade County.

40. Trial By Jury. LESSOR AND TENANT EACH HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY ISSUE OR CONTROVERSY ARISING UNDER THIS AGREEMENT.

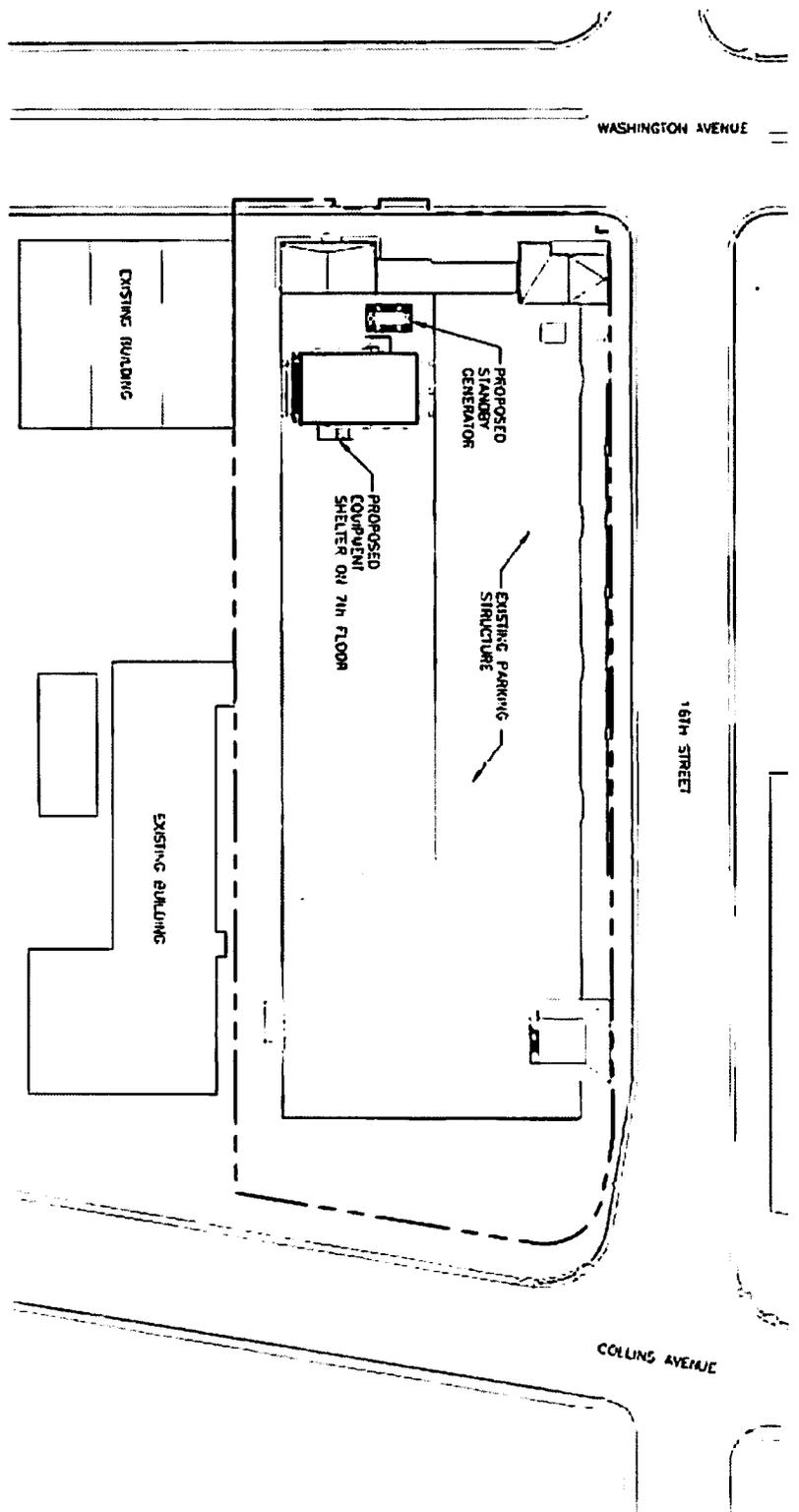
41. Partial Invalidity. Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid or unenforceable any other section or part of any section of this Agreement.

42. IRS Form W-9. Lessor agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant. In the event the Property is transferred, the succeeding Lessor shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in Rent to the new Lessor. Lessor's failure to provide the IRS Form W-9 within thirty (30) calendar days after Tenant's request shall be considered a default and Tenant may take any reasonable action necessary to comply with IRS regulations including withholding applicable taxes from Rent payments.

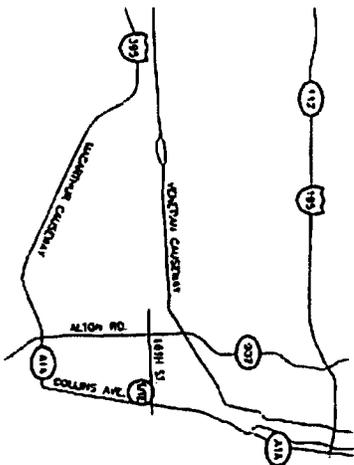
***** SIGNATURE PAGE TO FOLLOW *****

EXHIBIT "A" TO
LEASE AGREEMENT

PROPERTY



City
Crown



VICINITY MAP
NOT TO SCALE

SITE PLAN

SITE DATA INFORMATION:

SITE ID: 02-2233-019-1090
TOTAL AREA OF NEW EQUIPMENT SHELTER 1,406 SQ. FT.

02-2233-019-1090
1,406 SQ. FT.

LEGAL DESCRIPTION
 LOTS 8, 9, 10, 11, 12 AND 13, BLOCK 57, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN P.L. BOOK 2, PAGE 77 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, TOGETHER WITH ALL OF 16TH STREET (AVEUE "C"), LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:
 BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 54 OF SAID FISHER'S FIRST SUBDIVISION OF ALTON BEACH; THENCE NORTH 86° 0' 51" EAST ALONG THE SOUTH LINE OF SAID BLOCK 54, A DISTANCE OF 443.08 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 54; THENCE SOUTH 07° 35' 04" WEST, A DISTANCE OF 96.26 FEET, TO A POINT OF CURVE WITH A TANGENT CORNE CONCAVE TO THE SOUTHWEST; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET AND CENTRAL ANGLE OF 90° 00' 00"; AN ARC DISTANCE OF 39.27 FEET, TO A POINT OF TANGENCY; THENCE NORTH 82° 24' 52" WEST, A DISTANCE OF 24.75 FEET; THENCE TO THE NORTH LINE OF BLOCK 57 OF SAID PLAT, A DISTANCE OF 382.18 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE WASHINGTON AVENUE; THENCE NORTH 01° 59' 11" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 62.00 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 54 AND THE POINT OF BEGINNING.

