

**DOCUMENT ROUTING FORM** ③ ✓ 3/28/14 (L)

2014 MAR 17 AM 10:17  
CITY MANAGER

NAME OF DOCUMENT: Resolution Approving a Lease Agreement with the Downtown Fort Lauderdale Transportation Management Association for office space at 290 NE 3<sup>rd</sup> Avenue  
Approved Comm. Mtg. on **March 4, 2014 CAM# 14-0189**

ITEM:  M - \_\_\_\_\_  PH - \_\_\_\_\_  O - \_\_\_\_\_  CR - 6  R \_\_\_\_\_

Routing Origin:  CAO  ENG.  COMM. DEV.  OTHER \_\_\_\_\_

Also attached:  copy of CAM  copy of document  ACM Form  # \_\_\_\_\_ originals

On 3/5/14 Carla Foster forwarded to: **Denise DiPalo, Trans/Mobility**

Capital Improvements defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

1.) Approved as to Content: \_\_\_\_\_  
Department Director 3/5/14

Please Check the proper box: CIP FUNDED  YES  NO  
Capital Improvement Projects

2.) Approved as to Funds Available: by \_\_\_\_\_ Date: 3/11/14  
Finance Director

Amount Required by Contract/Agreement: \$1.00  
Dept/Div \_\_\_\_\_

FUNDING SOURCE: Index/Sub-object 001-TAM040101-N900 Project # \_\_\_\_\_

3.) City Attorney's Office: Approved as to Form # \_\_\_\_\_ Originals to City Mgr. By: \_\_\_\_\_  
Cynthia Everett \_\_\_\_\_ Cole Copertino X Robert B. Dunckel \_\_\_\_\_  
Ginger Wald \_\_\_\_\_ D'Wayne Spence \_\_\_\_\_ Paul G. Bangel \_\_\_\_\_  
\_\_\_\_\_ DJ Williams-Persad \_\_\_\_\_

4.) Approved as to content: Assistant City Manager:  
By: \_\_\_\_\_ By: \_\_\_\_\_  
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

5.) City Manager: Please sign as indicated and forward # \_\_\_\_\_ originals to Mayor.

6.) Mayor: Please sign as indicated and forward # \_\_\_\_\_ originals to Clerk.

7.) To City Clerk for attestation and City seal.

**INSTRUCTIONS TO CLERK'S OFFICE**

8.) City Clerk: retains one original document and forwards 3 original documents to **Denise DiPalo, TAM**

Copy of document to Carla Foster, CAO  Original Route form to Carla Foster, CAO  
 Attach \_\_\_\_\_ certified copies of Reso. # \_\_\_\_\_  Fill-in date

3/24

3-4-14  
CR-6

CITY CLERK

**LEASE AGREEMENT**

2014 JUL 28 AM 9: 20

THIS IS A LEASE AGREEMENT (hereinafter "Lease"), made and entered into this 4th day of March, 2014, by and between:

**CITY OF FORT LAUDERDALE**, a municipal corporation of the State of Florida, 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter "LESSOR" or "CITY"),

and

**DOWNTOWN FORT LAUDERDALE TRANSPORTATION MANAGEMENT ASSOCIATION, INC.**, a not for profit corporation, of the State of Florida, 290 NE 3<sup>rd</sup> Avenue, Fort Lauderdale, FL 33301 (hereinafter "LESSEE" or "TMA").

WITNESSETH:

WHEREAS, the Leased Premises consists of approximately 482 square feet of office space located at 290 Northeast 3<sup>rd</sup> Avenue, Fort Lauderdale, FL 33301 ("Office"); and

WHEREAS, the LESSEE is a not for profit organization under I.R.S. Section 501 (c) (3) for the purposes of operating a Community Bus Service in Broward County, Florida; and

WHEREAS, the Leased Property will allow LESSEE to efficiently work with the City to provide alternative form of public transportation to the residents and visitors of the City; and

WHEREAS, CITY finds that LESSEE and LESSEE's activities serve a significant public purpose and CITY wishes to encourage and assist same; and

WHEREAS, in accordance with City Charter Section 8.07, a Public Hearing was held before the City Commission at the March 4, 2014 Regular Meeting of the City Commission for the purpose of permitting citizens and taxpayers the opportunity to review the proposed lease and object to the execution, form or conditions of the proposed lease and, if the City Commission, after receiving input from the citizens and taxpayers, is satisfied with the terms and conditions of the proposed lease, adopts a Resolution authorizing execution of the lease with the TMA; and

WHEREAS, the City Commission of the City of Fort Lauderdale authorized execution of this Lease by adoption of Resolution No. \_\_\_\_\_ at a Public Hearing at its Regular Meeting of March 4, 2014.

NOW THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the LESSOR and LESSEE agree as follows:

**ARTICLE 1.**

## LEASE OF LEASED PREMISES

**1.1. Lease.** On the terms and conditions set forth in this Lease, and in consideration of the LESSEE's periodic payment of rents and performance of all other obligations and terms of this Lease, as of the Effective Date (hereinafter defined) the LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR and LESSOR grants LESSEE a possessory interest in and to the Leased Premises described below for the Term of the Lease subject to the terms and conditions set forth in this Lease.

**1.2. Leased Premises.** The Leased Premises that LESSOR leases to LESSEE and LESSEE rents from LESSOR is certain office space constituting approximately 482 square feet at such location described more specifically as follows:

### OFFICE

Legal Description: GEO M PHIPPENS SUB LOTS 3-6 BLK 1,3-10 BLK 14 FT LAUD B-146 D LOTS 18,20,22,24, LESS N 15 FOR ST R/W & LOT 26 LESS N 15 & LESS W 20 FOR ST R/W, BLK B

Folio #: 5042 10 11 0410

(Street Address: 290 NE 3<sup>rd</sup> Avenue, Fort Lauderdale, FL 33301)

Whenever used herein, the term "Leased Premises" shall include the real estate described above and all attachments and improvements and appurtenances thereto now existing or hereafter constructed.

LESSEE hereby leases the Leased Premises from LESSOR subject to, and LESSEE hereby agrees to comply with: (i) all applicable building codes, zoning regulations, and municipal, county, state and federal laws, ordinances and regulations governing or regulating the Leased Premises or its use by Lessee; (ii) all covenants, easements and restrictions of record; and (iii) the terms, conditions and restrictions contained herein.

**1.3. Limitations on Grant of Possessory Interest.** It is expressly found by the LESSOR's City Commission that this Lease furthers and serves a valid municipal purpose. Except to the extent modified by the terms of this Lease, the grant of possessory interest by LESSOR to LESSEE is subject to the following:

**1.3.1** Each condition, restriction and limitation recorded against the Leased Premises as of the date a Memorandum of this Lease is recorded in the Public Records of Broward County, Florida

**1.3.2** Existing or future land planning, land use or zoning laws, building codes, ordinances, statutes or regulations of any governmental entity or agency for the United States of America, State of Florida, Broward County or City of Fort Lauderdale, or any other governmental agency having jurisdiction over the Leased Premises and with legal authority to impose such restrictions.

**1.4. Quiet Enjoyment.** Except as otherwise expressly set forth herein, LESSOR represents and warrants that it has full right and authority to enter into this Lease and that LESSEE, while paying the Rent and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Leased Premises for the term hereof without hindrance or molestation from LESSOR subject to the terms and provisions of this Lease.

**1.5. Contract Administrator.** The Contract Administrator for LESSOR under this Lease shall be the City's Transportation and Mobility Department Director, or designee. In the administration of this agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

## ARTICLE 2.

### TERM OF LEASE

**2.1. Term.** The Term of this Lease commences on the "Effective Date" and runs for a period of three (3) years thereafter, with option for two (2) one year extensions unless the parties terminate the Lease earlier.

**2.2. Effective Date.** The *Effective Date* of this Lease shall be March 4, 2014.

**2.3. Renewal Option** Provided that the Lease is in full force and effect, and LESSEE is not in default of any of the terms, covenants, or conditions of the Lease, LESSEE shall have the option (the "**Extension Option**") to extend the terms of the Lease for two (2) additional one-year extensions (the "**Extension Term**"), commencing on the day after the expiration date of the initial lease term in accordance with and subject to the terms, covenants, and conditions hereinafter set forth.

**2.3.1** LESSEE shall exercise the Extension Option by sending a written notice thereof (the "**Extension Notice**") to the LESSOR on or before the date that is two (2) months prior to the expiration date of the preceding Lease Year, time being of the essence. If LESSEE shall send the Extension Notice within the time and in the manner herein above provided, the term of the Lease shall be deemed extended for the Extension Term upon the terms, covenants, and conditions hereinafter contained in paragraph 2.3, above. If LESSEE shall fail to send the Extension Notice within the time and in the manner herein above provided, the Extension Option shall cease and terminate, and LESSEE shall have no further option to extend the term of this Lease.

## ARTICLE 3.

### RENT AND ADDITIONAL PAYMENTS

**3.1. Amount and Payment of Rent.** As rent for the Leased Premises, LESSEE shall pay to LESSOR the annual rent of One Dollar and (\$1.00) zero / 100 cents commencing with the Effective Date of this Lease and continuing each and every successive anniversary date

thereafter through the balance of the Lease Term. Rent shall be payable to **City of Fort Lauderdale** and delivered to City of Fort Lauderdale, Accounts Payable Department.

**3.2. Taxes, Fees, Special Assessments, etc.** Except as otherwise provided in this Lease, beginning on the Effective Date, all costs, expenses, sales or use taxes, or taxes of any nature or kind, special assessments, connection fees, and any other charges, fees or like impositions incurred or imposed against the Leased Premises, to the extent applicable, or any use thereof, including revenue derived therefrom, and any costs, expenses, fees, taxes or assessments in or upon the real property or improvements constructed thereon shall be made and paid by LESSEE in accordance with the provisions of this Lease, it being the intent of the parties that, except as may be specifically provided for herein, LESSEE is responsible for paying all the expenses and obligations that relate to the Leased Premises or any improvements thereon and that arise or become due during the Term of this Lease.

**3.3 Additional Rent Payments.** In addition to the annual rent due under Section 3.1 and sums due under Sections 3.2 and 3.3 hereof, all other payments that LESSEE is obligated to make under this lease shall be considered "**Additional Rent**" regardless of whether the payments are so designated. All additional payments are due and payable within thirty (30) days after rendition of a statement therefor.

**3.4. Utility or service charges.** Except as hereinafter provided, LESSEE agrees to pay all charges for rent and utility service charges for the Leased Premises. If any of these charges remain unpaid after they become due, LESSOR may exercise its remedies as set forth in Article 11 of this Lease. LESSOR shall not be liable to LESSEE for damage or otherwise because of LESSEE's failure to arrange for or to obtain any utilities or services referenced above for the Leased Premises that are supplied by parties other than the CITY. No such failure, interruption or curtailment may constitute a constructive or partial eviction.

**3.8. LESSOR'S Remedy For LESSEE'S Nonpayment.** If LESSEE fails, refuses, or neglects to pay any taxes, fees, assessments or other governmental charges under this Article, unless challenged as provided in Section 3.8 of this Lease, the LESSOR may pay them. On the LESSOR's demand, the LESSEE must pay the LESSOR all amounts LESSOR has paid, plus expenses and attorney's fees reasonably incurred in connection with such payments, together with interest at the rate of twelve (12.0%) per cent per annum from the date LESSOR paid such outstanding taxes, fees, assessments or other governmental charges, up to but not exceeding the maximum rate of interest allowable under Florida law. On the day the LESSOR demands repayment or reimbursement from LESSEE, the LESSOR is entitled to collect or enforce these payments in the same manner as a payment of rent. The LESSOR's election to pay the taxes, fees, assessments or other governmental charges does not waive the LESSEE's default.

## ARTICLE 4.

### USE OF PREMISES

**4.1. Permissible Uses.** LESSEE may use the Leased Premises to utilize the space in accordance with section 8.07 of the City Charter.-for office space to conduct Community Bus Operations as hereinafter defined and no other use. Except with respect to the suspension of possessory interest under force majeure under Section 12.21, in the event the Leased Premises cease being used for such purposes as stated herein, this Lease shall terminate.

**4.2. Compliance With Regulations of Public Bodies.** LESSEE covenants and agrees that it shall, at its own cost and expense, make such improvements on the Leased Premises, perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the Leased Premises, in order to comply with the requirements relating to sanitation, fire hazard, zoning, setbacks, historic designation regulations, environmental requirements and other similar requirements designed to protect the public, worker and appropriate use environments. LESSEE shall not use the Leased Premises, nor shall the Leased Premises suffer any such use during the Term of this Lease, which is in violation of any of the statutes, laws, ordinances, rules or regulations of the federal, state, county, municipal government or any other governmental authority having jurisdiction over the Leased Premises.

**4.3. Site Plan; Plans and Specifications.** In the event LESSEE desires or plans to undertake renovations to the Leased Premises, it shall do so at its own cost and expense in order that the Leased Premises may continue to be used as set forth in Section 4.1 hereof. As a condition precedent to such renovations LESSEE shall submit to the City Engineer a Leasehold Site Plan, including floor plans, building footprint and all elevations of the proposed renovations, including plans and specifications therefor, for approval by the City Engineer and recommendation to the City Commission. The approved site plan shall be retained on file in the Office of the City Engineer and the City Engineer shall provide notice to LESSEE of such approved site plan.

**4.4. Improvements.** LESSEE shall not construct any improvements upon the Leased Premises that are not reflected on the approved Leasehold Site Plan without LESSOR's express written consent as set forth in Section 4.3 above. LESSEE shall not construct any improvements, nor perform any alteration, modification or demolition of improvements upon the Leased Premises without first (i) providing the City Engineer with a complete set of plans and specifications therefor and (ii) securing from the City Engineer written approval indicating that the proposed construction, alteration, modification or demolition is acceptable. As a condition of acceptance the City Engineer may impose reasonable conditions. The City Engineer shall not unreasonably withhold written approval of the plans and specifications for construction, alteration, modification or demolition of improvements. Any improvements constructed upon the Leased Premises shall be at the LESSEE's sole cost and expense. Upon expiration or termination of this Lease, any improvements constructed on the Leased Premises shall remain with the Leased Premises, unless the City Engineer directs that such improvements or portions thereof be demolished, in which case LESSEE shall demolish such improvements or portions thereof as directed by the City Engineer and shall do so at its own cost and expense.

**4.5. Alterations, Additions, Modifications or Demolitions.** LESSEE shall not make any alterations, additions, modifications or demolitions to the Leased Premises that are not in accordance with the process outlined in Section 4.3 or 4.4 above.

**4.6. Liability for Personal Property.** All personal property placed or moved onto the Leased Premises is at the sole risk of LESSEE or other owner of such personal property. LESSOR shall not be liable for any damage to such personal property, or for personal injuries to

LESSEE or any of LESSEE's subtenants, agents, servants, employees, contractors, guests or invitees or to trespassers on the Leased Premises that arise from any person's tortious acts or omissions, regardless of the status of the person; provided, however, that if the damage or injury is caused by LESSOR's tortious acts or omissions, then, to the extent the damage or injury in question is caused by LESSOR's tortious acts or omissions, then LESSEE's liability to LESSOR hereunder shall be proportionately abated.

**4.7. Liability for Damages or Injuries.** LESSOR shall not be liable for any damage or injury incurred or sustained in, on or about the Leased Premises when such damage or injury results from the tortious acts or omissions of any person, including LESSEE's guests, invitees, servants, agents, employees or contractors or trespassers on the Leased Premises; provided, however, that if the damage or injury is caused by LESSOR's tortious acts or omissions, then, to the extent the damage or injury in question is caused by LESSOR's tortious acts or omissions, then LESSEE's liability to LESSOR hereunder shall be proportionately abated.

**4.8. ADA.** LESSEE shall have the continuing obligation of compliance with the Americans With Disabilities Act, as same may be amended from time to time, with respect to the Leased Premises

**4.9. Uses.** Tenant shall use the premises only for the purposes stated in Article 4.1. The parties agree that any use contrary to the provisions of this lease, shall be cause for injunctive relief in addition to any other available remedy. Tenant shall not do or permit anything to be done in or about the premises which will in any way interfere with the rights or quiet enjoyment of other occupants of the building, or use or allow the premises to be used for any unlawful purpose, nor shall LESSEE permit any nuisance on the premises. LESSEE shall not do or permit to be done anything which will invalidate or increase the cost of any insurance policy(ies) covering the building and/or their contents, and shall comply with all applicable insurance underwriters rules.

**4.9.1.** Tenant understands and agrees that the Leased Premises is deemed a secure property and all such access to the facility shall be in accordance with security protocols, including but not limited the provision of security code access.

**4.9.2.** Tenant understands and agrees in accordance with section 4.9.1. all facility access by visitors shall occur only upon supervised and/or escorted entry by LESSEE.

LESSEE shall comply at its expense with all present and future laws, ordinances and requirements of all governmental authorities that pertain to LESSEE or its use of the premises, including without limitation all federal and state occupational health and safety and handicap access requirements, whether or not LESSEE's compliance will necessitate expenditures or interfere with its use and enjoyment of the premises.

LESSEE shall not generate, handle, store or dispose of hazardous or toxic materials (as such materials may be identified in any federal, state or local law or regulation) in the premise without the prior written consent of LESSOR. The foregoing covenants shall survive the expiration or earlier termination of this Lease.

**4.10. Signs.** LESSOR shall affix and maintain a sign (restricted solely to LESSEE's name as set forth herein or such other name as LESSOR may consent to in writing) adjacent to the entry door of the premises, together with a directory strip listing LESSEE's name as set forth herein in the lobby directory of the building. Any subsequent changes to that initial signage shall be at LESSEE's sole expense. All signage shall conform to the criteria for signs established by LESSOR and shall be ordered through LESSOR. LESSEE shall not place or allow to be placed any other sign, decoration or advertising matter of any kind that is visible from the exterior of the premises. Any violating sign or decoration may be immediately removed by LESSOR at LESSEE's expense without notice and without the removal constituting a breach of this Lease or entitling LESSEE to claim damages.

**4.11. Operation and Maintenance of Common Areas.** During the Term, LESSOR shall operate all common areas within the building. The term "common areas" shall mean all areas within the Building and other buildings in the Project which are not held for exclusive use by persons entitled to occupy space, and all other appurtenant areas and improvements provided by LESSOR for the common use of LESSOR and LESSEE and their respective employees and invitees, including without limitation parking areas and structures, driveways, sidewalks, landscaped and planted areas, hallways and interior stairwells located within the premises.

**4.12. Use of Common Areas.** The occupancy by LESSEE of the premises shall include the use of the common areas in common with LESSOR and with all others for whose convenience and use the common areas may be provided by LESSOR, subject, however, to compliance with all reasonable, non-discriminatory rules and regulations as are prescribed from time to time by LESSOR. LESSOR shall at all times during the Term have exclusive control of the common areas, and may restrain or permit any use or occupancy, except as otherwise provided in this Lease or in LESSOR's rules and regulations. LESSEE shall keep the common areas clear of any obstruction or unauthorized use related to LESSEE's operations. LESSOR may temporarily close any portion of the common areas for repairs, remodeling and/or alterations, to prevent a public dedication or the accrual of prescriptive rights, or for any other reasonable purpose, provided that LESSEE's permitted use of its premises is not materially impacted.

**4.13. Parking.** Parking shall be provided for LESSEE in accordance with the provisions set forth in this Lease.

## **ARTICLE 5.**

### **CONDITION OF PREMISES**

#### **5.1. LESSEE'S Acceptance and Maintenance of Leased Premises.**

(a) **"AS IS" Condition.** LESSEE acknowledges that prior to the Effective Date hereof it has performed sufficient inspections of the Leased premises in order to fully assess and make itself aware of the condition of the Leased Premises, and that LESSEE is leasing the Leased Premises in an "AS IS" condition. Except as may be expressly set forth in or required by



this Lease, LESSEE acknowledges that the LESSOR has made no other representations or warranties as to the condition or status of the Leased property and that LESSEE is not relying on any other representations or warranties of the LESSOR, any broker(s), or any agent of LESSOR in leasing the Leased Premises. Except as may be expressly set forth in or required by this Lease, LESSEE acknowledges that neither LESSOR nor any agent or employee of LESSOR has provided any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to:

- (1) The nature, quality or condition of the Leased Premises, including, without limitation, the water, soil and geology;
- (2) The suitability of the Leased Premises for any and all activities and uses which LESSEE may conduct thereon;
- (3) The compliance of or by the Leased Premises or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (4) The habitability, merchantability or fitness for a particular purpose of the Leased Premises; or
- (5) Any other matter with respect to the Leased Premises.

**5.2. Damage To Leased Premises.** On LESSOR's demand, LESSEE shall pay for all damages to the Leased Premises that are incurred or sustained during the Lease Term, where such damages are not caused by LESSOR or any of its agents, servants, employees, contractors or licensees; provided, however, that if the damage or injury is caused by LESSOR's tortious acts or omissions, or if the tortious acts or omissions of LESSOR's agents, servants, employees, contractors or licensees acting within the scope and course of their duties, then, to the extent the damage or injury in question is caused thereby, then LESSEE's liability to LESSOR hereunder shall be proportionately abated. If LESSEE fails to repair any damage or destruction not caused by LESSOR or otherwise fails to maintain the Leased Premises after fifteen (15) days advance notice from LESSOR, then LESSOR may peaceably enter upon the Leased premises during normal business hours and repair the damage or destruction or may conduct any maintenance that LESSOR deems necessary in its sole discretion. Under such circumstances, the cost of such repair or maintenance is considered additional rent.

**5.3. Condition at End of Lease Term.** At the earlier of the expiration of the Lease Term or termination of this Lease, LESSEE shall quit the Leased Premises and surrender them to LESSOR. The Leased Premises must be in good order and condition at the time of surrender thereof. At the time of surrender all landscaping shall be in a healthy and vibrant condition. LESSEE shall remove all personal property that belongs to LESSEE or any of LESSEE'S agents, servants, employees, independent contractors or subtenants and shall repair all damage to the Leased Premises caused by such removal.

## ARTICLE 6.

### LIENS

**6.1. Liens Against The Leased Premises.** LESSEE shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of LESSOR in and to the Leased premises, and no person shall ever be entitled to any lien, directly or indirectly derived through or under the LESSEE, or its agents, servants, employees, contractors or officers or on account of any act or omission of said LESSEE as to LESSOR's right, title or interest in and to the Leased premises. All Persons contracting with the LESSEE, or furnishing materials, labor or services to said LESSEE, or to its agents or servants, as well as all persons shall be bound by this provision of the Lease Agreement. Should any such lien be filed, LESSEE shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. LESSEE shall not be deemed to be the agent of CITY, so as to confer upon a laborer bestowing labor upon or within the Leased premises or upon materialmen who furnish material incorporated in the construction and improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes or an equitable lien upon the CITY's right, title or interest in and to the Leased Premises. These provisions shall be deemed a notice under Section 713.10(1), Florida Statutes of the "non-liability" of the CITY.

## ARTICLE 7.

### ENTRY AND INSPECTION OF PREMISES

**7.1. LESSOR'S Inspection and Entry Rights.** LESSOR, or any agent thereof, shall be entitled to enter the Leased Premises during any reasonable business hours for any of the following reasons:

- (i) To examine the Leased Premises;
- (ii) To make annual inspections for the purpose of conducting an assessment of the condition and habitability of the space.
- (iii) To make all repairs, addition(s) or alteration(s) that LESSOR deems necessary for safety or preservation of the Leased premises or improvements located thereon, after fifteen (15) days advance notice to LESSEE that the Leased Premises or any portion thereof is in need of maintenance or repair and LESSEE fails to take appropriate curative actions; or
- (iv) To remove signs, fixtures, alterations or additions that do not conform to the terms of this Lease after fifteen (15) days advance notice to LESSEE that the Leased Premises or any portion thereof is not in compliance with the terms of the Lease and LESSEE fails to take appropriate curative actions;

Provided that nothing herein shall be construed in such a manner as to impose upon LESSOR the obligation to so enter the Leased Premises and perform any act referenced above.

**7.2. Liability For Entry.** LESSEE, nor any agent, servant, employee, independent contractor, licensee or subtenant claiming by, through or under LESSEE, or any invitees thereof shall have no claim or cause of action against LESSOR because of LESSOR's entry or other

action taken under this Article, except to the extent that any such claim or cause of action is due to the intentional or grossly negligent conduct of LESSOR, its agents, servants, employees, contractors or licensees acting within the scope and course of their duties.

## ARTICLE 8.

### INSURANCE AND INDEMNIFICATION

#### 8.1. Indemnity.

(a) LESSEE shall protect, defend, indemnify and hold harmless the LESSOR, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including attorney's fees or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of LESSEE under this Lease, conditions contained therein, the location, construction, repair, maintenance use or occupancy of the Leased Premises or improvements located thereon, or the breach or default by LESSEE of any covenant or provision of this Lease except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the LESSOR, its officers, agents and employees acting within the scope and course of their duties.

(b) Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the Leased Premises, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity.

(c) LESSEE further agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the LESSOR, LESSEE shall assume and defend not only itself but also the CITY in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to LESSOR, provided that the LESSOR (exercisable by the LESSOR's Risk Manager) shall retain the right to select counsel of its own choosing.

**8.2. LESSOR'S Liability.** In no event shall LESSOR'S liability for any breach of this Lease exceed the amount of Rent then remaining unpaid for the then current term (exclusive of any renewal periods which have not then actually commenced). This provision is not intended to be a measure or agreed amount of LESSOR'S liability with respect to any particular breach and shall not be utilized by any court or otherwise for the purpose of determining any liability of LESSOR hereunder except only as a maximum amount not to be exceeded in any event. Furthermore, LESSEE shall look only to the LESSOR'S estate and interest in the Leased Premises (or to the proceeds thereof) for the satisfaction of LESSEE's remedies for the collection of any judgment (or other judicial process) requiring the payment of money by LESSOR in the event of any default by LESSOR under this Lease, and no other property or other assets of LESSOR shall be subject to levy, execution or other enforcement

procedure for the satisfaction of LESSEE's remedies under or with respect to this Lease and neither LESSOR shall be liable for any deficiency. Nothing contained in this Paragraph shall be construed to permit LESSEE to offset against Rents due a successor LESSOR a judgment (or other judicial process) requiring the payment of money by reason of any default of a prior LESSOR, except as otherwise specifically set forth herein.

**8.3. Insurance.** At all times during the term of this Lease Agreement, LESSEE, at its expense, shall keep or cause to be kept in effect the following insurance coverage:

- (a) A general liability insurance policy, in standard form, insuring LESSEE and LESSOR as an additional insured, against any and all liability for bodily injury or property damage arising out of or in connection with this Lease and the license granted herein with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate and shall name the LESSOR as an additional insured. All such policies shall cover the activities under the Lease, including, but not limited to the possession, use, occupancy, maintenance, repair, and construction of additions, modifications, renovations or demolition of the Leased premises or portions thereof. This policy shall not be affected by any other insurance carried by LESSOR.
- (b) The minimum limits of coverage under subsections (a), (d) and (e) may be adjusted by LESSOR, in LESSOR's sole discretion, every five (5) years, on the anniversary date of the Effective Date of this Lease, in accordance with the increase or decrease in the Consumer Price Index for "All Urban Consumers, U.S. All Items (1982 - 1984 = 100)" (hereinafter, CPI) published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by LESSOR. For the purposes of this subparagraph, the beginning CPI figures shall be the most recently published index figures in effect as of the Effective Date hereof. On the date(s) of adjustment, the adjusting figures shall be the most recently published figures in effect on the subject adjustment date(s).
- (c) Workers' Compensation Insurance to apply to all LESSEE's employees and employees of contractors retained by LESSEE conducting work upon the Leased Premises, said coverage to be in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) shall include Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.
- (d) Business Automobile Liability for all vehicles owned or used by LESSEE and LESSEE's contractors that are involved in the operation of the Leased Premises with limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.
- (e) Fire and All Risk Property coverage (including flood), with an endorsement for increased cost of compliance, on the structures, improvements and fixtures located upon the Leased Premises in an amount equate to not less than ninety percent (90%) of its full insurable value, and shall name the LESSOR as a Loss

Payee on the policy. The deductible shall be no more than ten percent (10%) of the value of the structures and improvements located upon the Leased Premises.

- (f) All of the policies of insurance provided for in this Lease:
  - (i) shall be in the form and substance approved by the Department of Insurance of the State of Florida (“DOI”),
  - (ii) shall be issued only by companies licensed by DOI,
  - (iii) Certificates of Insurance pertaining to same shall be delivered to LESSOR, at least fourteen (14) days prior to the Effective of the Lease Term,
  - (iv) shall be with a carrier having an A Best’s Rating of not less than A, Class VII,
  - (v) shall bear endorsements showing the receipt by the respective companies of the premiums thereon or shall be accompanied by other evidence of payment of such premiums to the insurance companies, including evidence of current annual payment, if on any installment payment basis, and
  - (vi) shall provide that they may not be canceled by the insurer for thirty (30) days after service of notice of the proposed cancellation upon LESSOR and shall not be invalidated as to the interest of LESSOR by any act, omission or neglect of LESSEE.
- (g) In any case where the original policy of any such insurance shall be delivered to LESSEE, a duplicated original of such policy shall thereupon be delivered to LESSOR’s Risk Manager. All insurance policies shall be renewed by LESSEE, and certificates evidencing such renewals, bearing endorsements or accompanied by other evidence of the receipt by the respective insurance companies of the premiums thereon, shall be delivered to LESSOR’s Risk Manager, at least twenty (20) days prior to their respective expiration dates.
- (h) LESSOR does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect LESSEE’s or Contractor’s interests or liabilities but are merely minimum requirements established by LESSOR’s Risk Management Division. LESSOR reserves the right to require any other reasonable insurance coverage that LESSOR deems necessary depending upon the risk of loss and exposure to liability.
- (i) Any and all net insurance proceeds received by or on account of LESSEE under the Lease shall be deposited with the primary deposit for the LESSOR, to be held in escrow for the benefit of the LESSEE and LESSOR, and said funds shall be

used for the purpose of reconstruction or repair, as the case may be, of any of the structures, improvements or fixtures located within the Leased Premises so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with all applicable building and zoning codes and regulations or standards promulgated by any governmental agency having subject matter jurisdiction. Should the costs of regulations or repair exceed the amount of funds available from the proceeds of such insurance policy, then, and in such event, such funds shall be used as far as the same will permit in paying the costs of reconstruction or repair.

**8.4 Waiver Of Subrogation.** Each of the LESSOR and LESSEE hereby releases the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any other perils insured in policies of insurance for any loss or damage to property caused by fault or negligence covering such property, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for which such party may be responsible, including any other licensees or occupants of the Leased premises; provided however, that this release shall be applicable and in force and effect only to the extent that such release shall be lawful at the time and in any event only with respect to loss or damage occurring during such time as the releasor's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to coverage thereunder and then only to the extent of the insurance proceeds payable under such policies. Each of LESSOR and LESSEE agrees that it will request its insurance carriers to include in its policies such a clause or endorsement. If extra costs shall be charged therefore, each party shall advise the other thereof and of the amount of the extra cost and the other party, at its election, may pay the same, but shall not be obligated to do so.

## ARTICLE 9.

### ASSIGNMENTS AND SUBLETTING

**9.1. Assignment and Subletting.** Unless expressly authorized otherwise, LESSEE may not assign this Lease nor any portion of its leasehold interest, nor sublet, license or grant any concession for the use of the Leased Premises to another person without obtaining LESSOR's prior written consent.

## ARTICLE 10.

### LESSOR'S REMEDIES

**10.1. Accord and Satisfaction.** If LESSEE pays or LESSOR receives an amount that is less than the amount stipulated to be paid under any Lease provision, that payment is considered to be made only on account of an earlier payment of that stipulated amount. No endorsement or statement on any check or letter may be deemed an accord and satisfaction. LESSOR may accept any check or payment without prejudice to LESSOR's right to recover the balance due or to pursue any other available remedy.

**10.2. Abandonment Of Leased Premises Or Delinquency In Rent.** If LESSEE abandons or vacates the Leased Premises before the end of the Lease Term, or if LESSEE is in

arrears in rent or additional rent payments, LESSOR may cancel this Lease, subject to the notice and opportunity to cure provisions set forth in Section 10.3. On cancellation, LESSOR shall be entitled to peaceably enter the Leased Premises as LESSEE's agent to regain or relet the Leased premises. LESSOR shall incur no liability for such entry. As LESSEE's agent, LESSOR may relet the Leased premises with or without any improvements, fixtures or personal property that may be upon it, and the reletting may be made at such price, in such terms and for such duration as LESSOR determines and for which LESSOR receives rent. LESSOR shall apply any rent received from reletting to the payment of the rent due under this Lease. If, after deducting the expenses of reletting the Leased Premises, LESSOR does not realize the full rental provided under this Lease, LESSEE shall pay any deficiency. If LESSOR realizes more than the full rental, LESSOR shall pay the excess to LESSEE on LESSEE's demand, after deduction of the expenses of reletting. Notwithstanding the foregoing, LESSOR is not obligated to relet the Leased premises and LESSOR may, if it so elects, merely regain possession of the Leased premises.

### **10.3. Dispossession On Default; Notice and Opportunity to Cure.**

(a) If LESSEE defaults in the performance of any covenant or condition of this Lease, LESSOR may give LESSEE written notice of that default. If LESSEE fails to cure a default in payment of rent or additional rent within twenty (20) days after notice is given, LESSOR may terminate this LEASE. For defaults other than nonpayment of rent or additional rent, LESSEE shall cure such default within twenty (20) days after notice is given or within such greater period of time as specified in the notice; provided, however, if a greater period of time is not specified in the notice, then the period for curing such default shall be twenty (20) days.

(b) If the default (other than for nonpayment of rent or additional rent) is of such a nature that it cannot be completed cured within time specified, LESSOR may terminate this Lease if LESSEE fails to proceed with reasonable diligence and in good faith to cure the default. Thereafter, termination of this Lease may occur only after LESSOR gives not less than ten (10) days' advance notice to LESSEE. On the date specified in the notice, the term of this Lease will end, and, LESSEE shall quit and surrender the Leased Premises to LESSOR, except that LESSEE will remain liable as provided under this Lease.

(c) On termination of the Lease, LESSOR may peaceably re-enter the Leased Premises without notice to dispossess LESSEE, any legal representative of LESSEE, or any other occupant of the Leased Premises. LESSOR may retain possession through summary proceedings or otherwise and LESSOR shall then hold the Leased Premises as if this Lease had not been made.

**10.4. Damages On Default.** If LESSOR retakes possession under Section 10.3, LESSOR shall have the following rights:

(a) LESSOR shall be entitled to rent that is due and unpaid, and those payments will become due immediately, and will be paid up to the time of the re-entry, dispossession or expiration, plus any expenses (including, but not limited to attorneys' fees, brokerage fees, advertising, administrative time, labor, etc.) that LESSOR incurs in returning the Leased premises to good order and/or preparing it for re-rental, if LESSOR elects to re-rent, plus interest on rent and additional rent when due at the rate of twelve (12.0%) percent per annum.

(b) LESSOR shall be entitled, but is not obligated, to re-let all or any part of the Leased premises in LESSOR's name or otherwise, for any duration, on any terms, including but not limited to any provisions for concessions or free rent, or for any amount of rent that is higher than that in this Lease.

(c) LESSOR's election to not re-let all or any part of the Leased premises shall not release or affect LESSEE's liability for damages. Any suit that LESSOR brings to collect the amount of the deficiency for any rental period will not prejudice in any way LESSOR's rights to collect the deficiency for any subsequent rental period by a similar proceeding. In putting the Leased premises in good order or in preparing it for re-rental, LESSOR may alter, repair, replace, landscape or decorate any part of the Leased premises in any way that LESSOR considers advisable and necessary to re-let the Leased premises. LESSOR's alteration, repair, replacement, landscape or decoration will not release LESSEE from liability under this Lease.

(d) LESSOR is not liable in any way for failure to re-let the Leased premises, or if the Leased premises are re-let, for failure to collect the rent under the re-letting. LESSEE will not receive any excess of the net rents collected from re-letting over the sums payable by LESSEE to LESSOR under this Section.

**10.6. Insolvency or Bankruptcy.** Subject to the provisions hereof respecting severability, should LESSEE at any time during the Lease Term suffer or permit the appointment of a receiver to take possession of all or substantially all of the assets of LESSEE, or an assignment of LESSEE for the benefit of creditors, or any action taken or suffered by LESSEE under any insolvency, bankruptcy, or reorganization act, shall at LESSOR's option, constitute a breach and default of this Lease by LESSEE and LESSEE agrees to provide adequate protection and adequate assurance of future performance to the LESSOR which will include, but not be limited to the following:

(a) All monetary and non-monetary defaults existing prior to the breach or default referenced above shall be cured within the time specified above that shall include all costs and attorneys' fees expended by LESSOR to the date of curing the default.

(b) All obligations of the LESSEE must be performed in accordance with the terms of this Lease.

If at any time during the pendency of the bankruptcy proceeding the LESSEE or its successor in interest fails to perform any of the monetary or non-monetary obligations under the terms of this Lease, or fails to cure any pre-filing default, or fails to make additional security deposit required under the Lease for the adequate assurance of future performance clause above, the LESSEE HEREBY STIPULATES AND AGREES TO WAIVE ITS RIGHTS TO NOTICE AND HEARING AND TO ALLOW THE LESSOR TOTAL RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 TO ENFORCE ITS RIGHTS UNDER THIS LEASE AND UNDER STATE LAW INCLUDING BUT NOT LIMITED TO ISSUANCE AND ENFORCEMENT OF A JUDGMENT OF EVICTION, WRIT OF ASSISTANCE AND WRIT OF POSSESSION.

**10.7. Condemnation.** LESSEE waives any claim of loss or damage, and any right or claim to any part of an award that results from the exercise of eminent domain power of any governmental body, regardless of whether the loss or damage arise because of condemnation of all or part of the Leased premises. If any eminent domain power that is exercised interferes with LESSEE's use of the Lease premises, the rentals under this Lease will be proportionately abated. If a partial taking or condemnation renders the Leased premises unsuitable for LESSEE's purposes under this Lease, the Lease Term will cease as of the date the condemning authority



requires possession. If an eminent domain power is exercised, LESSEE has not claim against LESSOR for the value of an unexpired term of this Lease.

**10.8 Holding Over.** LESSEE will, at the termination of this Lease by lapse of time or otherwise, yield up immediate possession to LESSOR. If LESSEE retains possession of the Leased premises or any part thereof after such termination, then LESSOR may at its option, serve written notice upon LESSEE that such holding over constitutes any one of: (i) renewal of this Lease for one year, and from year to year thereafter, (ii) creation of a month to month tenancy, upon the terms and conditions set forth in this Lease, or (iii) creation of a tenancy at sufferance, in any case upon the terms and conditions set forth in this Lease; provided, however, that the rent shall, in addition to all other sums which are to be paid by LESSEE hereunder, whether or not as additional rent, be equal to double the rent being paid to LESSOR under this Lease immediately prior to such termination. If no such notice is served, then a tenancy at sufferance shall be deemed to be created at the rent in the preceding sentence. LESSEE shall also pay to LESSOR all damages sustained by LESSOR resulting from a retention of possession by LESSEE, including the loss of any proposed subsequent LESSEE for any portion of the Leased Premises. The provisions of this Section shall not constitute a waiver by LESSOR of any right of re-entry as herein set forth; nor shall receipt of any rent or any other act in apparent affirmance of the tenancy operate as a waiver of the right to terminate this Lease for a breach of any of the terms, covenants or obligations herein on LESSEE's part to be performed.

**10.9. Cumulative Remedies.** LESSOR's remedies contained in the Lease are in addition to the right of a Landlord under Florida Statutes governing non-residential Landlord-Tenant relationships and to all other remedies available to a LESSOR at law or in equity.

## ARTICLE 11.

### MISCELLANEOUS

**11.1. Requirement for Notice.** LESSEE shall give LESSOR prompt written notice of any accidents on, in, over, within, under and above the Lease Area in which damage to property or injury to a person occurs.

#### **11.2. Notices.**

(a) Except as provided in subparagraph (c) below, whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in this Lease, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as LESSOR may from time to time designate by notice as herein provided.

(b) All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that the same shall be deposited in the United States mail, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

AS TO LESSOR: City Manager  
City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

With copy to: City Attorney  
City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

AS TO LESSEE: TMA Board Chairman  
290 NE 3<sup>rd</sup> Avenue  
Fort Lauderdale, FL 33301

With copy to: TMA Executive Director  
290 NE 3<sup>rd</sup> Avenue  
Fort Lauderdale, FL 33301

**11.3. Time Is Of The Essence.** Time is of the essence as to the performance of all terms and conditions under this Lease.

**11.4. LESSOR'S Cumulative Rights.** LESSOR's rights under the Lease are cumulative, and, LESSOR'S failure to promptly exercise any rights given under this Lease shall not operate of forfeit any of these rights.

**11.5. Modifications, Releases and Discharges.** No modification, release, discharge or waiver of any provision of this Lease will be of any effect unless it is in writing and signed by the LESSOR and LESSEE.

**11.6. Time.** In computing any period of time expressed in day(s) in this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

**11.7. Captions.** The captions, headings and title of this Lease are solely for convenience of reference and are not to affect its interpretation.

**11.8. Survival.** All obligations of LESSEE hereunder not fully performed as of the expiration or earlier termination of the Term of this lease shall survive the expiration or earlier termination of the Term hereof.

**11.9. LESSOR Delays; Causes Beyond Control of LESSOR.** Whenever a period of time is herein prescribed for action to be taken by LESSOR, LESSOR shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to causes of any kind whatsoever which are beyond the control of LESSOR.

**11.10. Assignment, Pledge, Security Interest.** LESSEE shall not voluntarily, involuntarily or by operation of law, assign, sell, pledge, grant a security interest, or in any manner transfer its leasehold interest herein or any interest therein or grant any right under the Lease without the prior written consent of LESSOR, which such consent may be granted or withheld in LESSOR's absolute discretion.

**11.11. Interpretation of Lease; Severability.** This Lease shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Lease, or the application of the remainder of the provisions, shall not be affected. Rather, this Lease is to be enforced to the extent permitted by law. Each covenant, term, condition, obligation or other provision of the Lease is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Lease, unless otherwise expressly provided. All terms and words used in this Lease, regardless of the number or gender in which they are used, are deemed to include any other number and other gender as the context requires.

**11.12. Successors.** This Lease shall be binding on and inure to the benefit of the parties, their successors and assigns.

**11.13. No Waiver of Sovereign Immunity.** Nothing contained in this Lease is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

**11.14. No Third Party Beneficiaries.** Except as may be expressly set forth to the contrary herein, the parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Lease. None of the parties intend to directly or substantially benefit a third party by this Lease. The parties agree that there are no third party beneficiaries to this Lease and that no third party shall be entitled to assert a claim against any of the parties based on this Lease. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

**11.15. Non-Discrimination.** LESSEE shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Lease because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

**11.16. Records.** Each party shall maintain its own respective records and documents associated with this Lease in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, as same may be amended from time to time and any resultant award of attorney's fees of non-compliance with that law.

**11.17. Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Lease that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**11.18. Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Lease Agreement has been their joint effort.

**11.19. Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Lease and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Lease shall not be deemed a waiver of such provision or modification of this Lease. A waiver of any breach of a provision of this Lease shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Lease.

**11.20. Governing Law.** This Lease shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Lease and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. To that end, LESSEE expressly waives whatever other privilege to venue it may otherwise have.

**11.21. Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Lease if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds alone on the part of LESSEE be deemed Force Majeure.

**11.22. RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has 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.

**11.23. Estoppel Certificate.** LESSEE agrees to furnish from time to time when requested by LESSOR, the holder of any deed of trust or mortgage or the LESSOR under any ground lease covering all or any part of the Leased Premises or the improvements therein or any interest of LESSOR therein, a certificate signed by LESSEE confirming and containing such factual certifications and representations as may be reasonably requested by LESSOR, the holder of any deed of trust or mortgage or the LESSOR under any ground lease covering all or any part of the Leased Premises or the improvements herein or any interest of LESSOR therein, including without limitation:

- (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications);
- (b) that there have been no defaults thereunder by LESSOR or LESSEE (or if there have been defaults, setting forth the nature thereof),
- (c) the date to which the rent and other charges have been paid, if any, and
- (d) the amount of the security deposit, if any.

LESSEE shall, within ten (10) days following receipt of said proposed certificate from LESSOR, return a fully executed copy of said certificate to LESSOR and LESSEE'S failure to deliver such statement within such time shall be a default under this Lease. In the event LESSEE shall fail to return a fully executed copy of such certificate to LESSOR within the foregoing ten (10) day period, then LESSEE shall be deemed to have approved and confirmed all of the terms, certifications and representations contained in the certificate sent to LESSEE by LESSOR and LESSOR, any holder of a mortgage, any LESSOR under a ground lease and any purchaser of the Leased Premises may rely upon the accuracy of such certificate. Similarly, upon request from LESSEE, LESSOR shall provide LESSEE with an estoppel certificate on the same terms and conditions as set forth above.

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IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

**AS TO LESSOR:**

WITNESSES:

Safeca Ali  
Safeca Ali

[Witness print or type name]

Miranda Scott

MIRANDA SCOTT

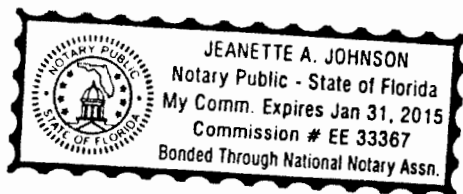
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(CORPORATE SEAL)

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 18<sup>th</sup> Day of March, 2014, by JOHN P. ("JACK") SEILER, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



CITY OF FORT LAUDERDALE

By: John P. Seiler  
John P. ("Jack") Seiler, Mayor

Lee R. Feldman  
Lee R. Feldman, City Manager

ATTEST:

Jonda K. Joseph  
Jonda K. Joseph, City Clerk

APPROVED AS TO FORM:

Cole Copertino  
Assistant City Attorney

Jeanette A. Johnson  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

Jeanette A. Johnson  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 1/31/15

Commission Number EE 33367

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this March 17, 2014, by ~~LEE R. FELDMAN~~ <sup>Susanne Torrente</sup>, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



WENDY S. GONYEA  
MY COMMISSION # DD 976509  
EXPIRES: March 29, 2014  
Bonded Thru Budget Notary Services

Wendy S. Gonyea  
Notary Public, State of Florida

(Signature of Notary taking  
Acknowledgment)

WENDY S. GONYEA

Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 3/29/14

DD 976509  
Commission Number

**AS TO LESSEE:**

DOWNTOWN FORT LAUDERDALE  
TRANSPORTATION MANAGEMENT  
ASSOCIATION, INC, a not for profit  
corporation of the State of Florida.

By: [Signature]  
Alan C. Hooper, Chairman of the  
Board

[Signature]  
Adam Surowick  
[Witness type or print name]  
[Signature]  
Chris Bellissimo  
[Witness type or print name]

CORPORATE SEAL

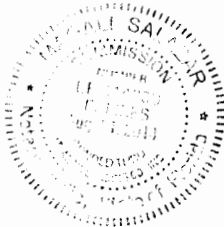
ATTEST:

\_\_\_\_\_  
\_\_\_\_\_  
[Type or Print Name and Title]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of April, 2014, by, Alan C. Hooper, Chairman of Board. He is personally known to me and did not take an oath.

(SEAL)



[Signature]  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

magali Salazar  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
Commission Number