

**LEASE AGREEMENT BETWEEN THE CITY OF HALLANDALE BEACH
AND ATLANTIC VILLAGE 2, LLC FOR THE ALLEY ADJACENT TO
THE PROPERTY LOCATED AT 701/711 NORTH FEDERAL HIGHWAY**

THIS LEASE AGREEMENT (“LEASE”) is made and entered into this _____ day of _____, 2019, by and between the **CITY OF HALLANDALE BEACH**, a municipal corporation of the State of Florida, whose mailing address is 400 South Federal Highway, Hallandale Beach, Florida 33009 (“CITY”) and Atlantic Village 2, LLC, a Florida limited liability company, whose mailing address is 801 North Federal Highway, Suite 221, Hallandale Beach, Florida 33009 (“TENANT”) for the alley adjacent to the property located at 701/711 North Federal Highway (Folio Number 5142 22 29 0030), as depicted in Exhibit “A” (“LEASED PREMISES”).

WITNESSTH

WHEREAS, the Village at Atlantic Shores Phase 2, owned by TENANT is a commercial center presently under construction at 711 North Federal Highway. This Project consists of three commercial buildings with a total of 37,684 square feet in floor area; and

WHEREAS, on June 18, 2018, City Administration approved TENANT’s Major Development Application # DB-17-00975 pursuant to Section 32-205(a) of the City Code as a development located in the Central RAC Zoning District with RAC Corridor Subdistrict meeting all requirements of the code; and

WHEREAS, TENANT wishes to revise the approved site plan to allow for additional retail tenants and utilize the LEASED PREMISES to meet the CITY’s loading space requirements for retail uses; and

WHEREAS, TENANT is entering into this LEASE for the purpose of meeting the loading requirements for the development known as the Village at Atlantic Shores Phase 2 pursuant to Chapter 32 of the City of Hallandale Beach Code of Ordinances; and

WHEREAS, CITY is desirous of leasing a portion of the alley to TENANT, under the terms and conditions set forth below.

WHEREAS, Section 20-17 of the City of Hallandale Beach Code of Ordinances provides that no ordinance leasing the right to use the streets, alleys, public grounds or buildings of the city to any private person, firm or corporation shall become a law or be effective in any way unless passed by a majority vote of all members of the commission present at the meeting; and

WHEREAS, on January XX, 2018, the City Commission approved Ordinance No. 2018-XX by a majority vote granting the right to TENANT to lease the LEASED PREMISES by a majority vote.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties hereto intending to be legally bound, do hereby consent and agree as follows:

1. Leased Premises. CITY hereby leases to TENANT and TENANT hereby leases from CITY, upon the terms and conditions hereinafter set forth, the Alley adjacent to the property located at 701/711 North Federal Highway (Folio Number 5142 22 29 0030) with a square footage of 4,260 feet, as depicted in Exhibit "A" (the "LEASED PREMISES").
2. Use of Premises. TENANT shall use the LEASED PREMISES solely and exclusively to meet loading space requirements in conformity with City of Hallandale Beach Code Section 32-457. No building or structure, either permanent or temporary, may be erected within the LEASED PREMISES.
3. Term. The term of this LEASE shall be for a period of twenty (20) years commencing on the date this LEASE is signed by the parties, renewable for additional 20-year periods thereafter at the discretion of the City Commission.
4. Early Termination. The CITY may terminate the LEASE if the CITY's loading requirement changes so that the LEASED PREMISES are no longer needed for loading purposes.
5. Rent. TENANT shall pay to the CITY a monthly rental of one thousand and sixty eight dollars (\$1,068) due on the first of the month, except that the first payment to be made by TENANT to the CITY upon the execution of this agreement. The rental fee is subject to an automatic annual Consumer Price Index (CPI) increase based upon CPI (Dept. of Labor, Southeast, All Items - South) effective on each anniversary of the approval.
6. Maintenance of Leased Premises. During the term of this LEASE, TENANT shall, at its sole cost and expense, maintain the LEASED PREMISES including, but not limited to the exterior physical condition of the alley, clean up, and to keep the LEASED PREMISES clean, sanitary, and free from trash and debris, subject to normal wear and tear.
7. CITY's Access to Leased Premises. During the term of this LEASE, the CITY reserves the right to enter the LEASED PREMISES at any time. TENANT acknowledges that the CITY has utilities located within the premises. The CITY has the full and free right and authority to install, construct, operate, maintain, repair, replace and reconstruct utilities as CITY may deem necessary over, cross, through, in and under the LEASED PREMISES.
8. Surrender of Premises. TENANT shall quietly and peaceably deliver the LEASED PREMISES to the CITY at the termination of this LEASE in good operable condition, subject to normal wear and tear.
9. Default by Tenant. TENANT shall be in default hereunder if TENANT fails to observe and perform any of the other terms, covenants and/or conditions of this LEASE and such

default shall continue for more than five (5) days after receipt of written notice from CITY to TENANT.

Upon default by TENANT, CITY may:

(a) terminate this LEASE, re-enter the LEASED PREMISES and take possession thereof and remove all persons therefrom, and TENANT shall have no further claim or right hereunder; or

(b) bring suit for the collection of any monetary damages caused by TENANT or due under this LEASE when and as such sums are payable under the LEASE, without entering into possession of the LEASED PREMISES or canceling the LEASE (however, CITY shall use its best efforts to mitigate its damages).

10. Risk of Loss. Whether loss, injury or damage results from fire, hurricane, rising water or from act of God, during the term of this LEASE, TENANT agrees to assume all risk of loss, injury or damage of any kind or nature whatsoever resulting after date of execution of this LEASE, to persons, or property now or hereafter placed on or within said LEASED PREMISES, and all risk of loss, injury or damage of an kind or nature whatsoever to the improvements made by TENANT, or to any goods, chattels, merchandise that may now or hereafter be placed upon said LEASED PREMISES, unless due to the gross negligence or willful misconduct of the CITY.
11. Ownership. All construction, improvements, additions, or alterations made or installed by TENANT to the LEASED PREMISES shall belong to the CITY. Notwithstanding the foregoing, TENANT shall be entitled to retain all movable personal property, furniture, fixtures and equipment owned or installed by TENANT in the LEASED PREMISES, provided TENANT removes the same from the LEASED PREMISES prior to the expiration of this LEASE.
12. Indemnity. TENANT agrees to indemnify, defend and hold harmless CITY from and against any and all claims, demands, fines, lawsuits, actions, proceedings, orders, decrees, and judgments of any kind or nature by or in favor of anyone whomsoever and from and against any and all costs and expenses, including reasonable attorneys' fees, resulting from or in connection with loss of life, bodily or personal injury, or property damage arising directly or indirectly out of, from, or on account of any occurrence in, on, at the LEASED PREMISES and occasioned wholly or in part through the use and occupancy of same, or any improvements in or appurtenances to same, or by any negligent act or omission of TENANT, its employees, agents, contractors, subcontractors, labor force, or invitees in, on, at, same or its appurtenances and immediately surrounding area. Neither CITY nor TENANT waive any rights under the doctrine of sovereign immunity. Notwithstanding anything to the contrary, the foregoing indemnification shall not apply to the gross negligence or willful misconduct of the CITY or its employees.
13. Insurance. TENANT agrees to maintain, on a primary basis and at its sole expense, at all times during the life of any resulting contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as

CITY's review or acceptance of insurance maintained by TENANT is not intended to and shall not in any manner limit or qualify the liabilities or obligations *assumed* by TENANT under any resulting contract.

a. Commercial General Liability. TENANT agrees to maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

b. Business Automobile Liability. TENANT agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event TENANT does not own automobiles, TENANT agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

c. Worker's Compensation Insurance & Employers Liability. TENANT agrees to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.

d. Additional Insured. TENANT agrees to endorse CITY as an Additional Insured with a CG 2026 07 04 Additional Insured – Designated Person or Organization endorsement or CG 2010 19 01 Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization or CG 2010 07 04 Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or organization in combination with CO 2037 07 04 Additional Insured - Owners. Lessees Contractors- Completed Operations, or similar endorsements, to the Commercial General Liability. The Additional Insured shall read "City of Hallandale Beach."

e. Waiver of Subrogation. TENANT agrees by entering into this contract to a Waiver of Subrogation for each required policy herein. When required by the insurer or should a policy condition not permit TENANT to enter into a pre-loss agreement to waive subrogation without an endorsement, then TENANT agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should TENANT enter into such an agreement on a pre-loss basis.

f. Certificate(s) of Insurance. TENANT agrees to provide CITY a Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal coverage. The Certificate Holder address shall read:

City of Hallandale Beach
Risk Manager
400 South Federal Highway
Hallandale Beach, FL 33009

g. Umbrella or Excess Liability. TENANT may satisfy the minimum liability limits required above for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. TENANT agrees to endorse CITY as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

h. Right to Revise or Reject. CITY reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

14. Taxes or Assessments. During the term of this LEASE, TENANT shall be responsible for any and all lawful taxes or assessments levied against the LEASED PREMISES by a governmental authority other than the CITY and pay same in the event any are assessed or levied. TENANT shall have the right to contest such taxes and assessments, and the CITY shall cooperate with any such contest. The CITY agrees to remit back to TENANT the CITY's allocated share of any such tax or assessment.
15. Assignment or Subletting. TENANT shall not assign this LEASE, nor sublet, nor assign any portion of the LEASED PREMISES, nor grant any concession whatsoever during the term of this LEASE except by an ordinance adopted by the City Commission, written authorization of the City Manager of the CITY, and in conformity with any other applicable CITY requirements.
16. Security. TENANT acknowledges and accepts full responsibility for the security and protection of any equipment and facilities on the LEASED PREMISES and for prevention of unauthorized access to its facilities. TENANT acknowledges and fully understands that police security protection provided by the CITY for the LEASED PREMISES is limited to that provided to any other business situated within City limits by the Police Department and acknowledges that any special security deemed necessary for additional protection of the LEASED PREMISES shall be the sole responsibility of TENANT and shall involve no cost to the CITY.
17. Laws and Ordinances. TENANT shall observe all sanitary, health and public safety laws and ordinances of the CITY in connection with its use of the LEASED PREMISES during the term of this LEASE.
18. Severability. In case any one or more of the provisions or parts contained in this LEASE shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any

respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision or part shall not affect any other provision or part and this LEASE shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

19. Entire Agreement. This LEASE 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, agreement or understandings concerning the subject matter of this LEASE that are not contained in this document. Accordingly, parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
20. Waiver. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement 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 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.
21. 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 rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.
22. Trial by Jury. The parties waive trial by jury in any action, proceeding, or counterclaim brought by either party against the other with respect to any matter arising under this LEASE or TENANT's use or occupation of the premises.
23. No Third Party Beneficiaries. 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 upon this Agreement.
24. Notices. Any notice or demand, which under the terms of this LEASE or by any statute or ordinance, must or may be given or made by a party hereto, shall be in writing and may be given by certified or registered mail sent to the other party at the address of its principal office herein mentioned, or to such other address as such party may from time to time designate by notice.

Notices to TENANT shall be addressed to:

Atlantic Village 2, LLC
801 North Federal Highway, Suite 221
Hallandale Beach, Florida 33009
Attn: Alejandro Chaberman

Notices to the CITY shall be addressed to:

City Manager
City of Hallandale Beach
400 S. Federal Highway
Hallandale Beach, Florida 33009

With copy to:

City Attorney
City of Hallandale Beach
400 S. Federal Highway
Hallandale Beach, Florida 33009

25. Brokerage. TENANT and CITY each represent and warrant to the other that they have dealt with no broker, salesman or agent or other person in connection with this transaction, and that no broker, salesman, agent or other person brought about this transaction. In the event of any claim for a broker's, agent's, finder fee's or commission in connection with the negotiation, execution or consummation of this transaction by any person, the party upon whose alleged statement, representation or agreement which results in such claim or liability shall indemnify and hold the other party harmless from and against any such claim and liability. The provisions of this paragraph shall survive the termination of this LEASE.

IN WITNESS WHEREOF, the parties hereto have made an executed this LEASE on the respective dates under each signatures:

CITY:

ATTEST:

Jenorgen Guillen, CMC
City Clerk

Greg Chavarria
Interim City Manager

Date: _____

Date: _____

Witness: _____

Print Name: _____

Witness: _____

Print Name: _____

ENDORSED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE
OF THE CITY OF HALLANDALE BEACH ONLY

Jennifer Merino
City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ____ day of _____, by _____, as _____ of the City of Hallandale Beach, on behalf of the municipal corporation. He/she is personally known to me or produced _____ as identification.

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of _____
My commission expires: _____

TENANT

Atlantic Village 2, LLC, a Florida Limited Liability
Company

Witness: _____ By: _____

Print Name: _____ Print Name: _____

Title: _____

Witness: _____ Address: _____

Print Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ____ day of _____,
by _____, as _____ of Atlantic Village 2, LLC, on behalf
of the limited liability company. He/she is personally known to me or produced
_____ as identification.

[NOTARIAL SEAL]

Notary: _____

Print Name: _____

Notary Public, State of _____

My commission expires: _____

Exhibit "A"

711 N. FEDERAL HIGHWAY

BOUNDARY & TOPOGRAPHIC SURVEY

A PORTION OF THE SW 1/4 OF SECTION 22, TOWNSHIP 51 SOUTH, RANGE 42 EAST, CITY OF HALLANDALE BEACH, BROWARD COUNTY, FLORIDA.
SITE ADDRESS: 711 NORTH FEDERAL HIGHWAY, HALLANDALE BEACH, FLORIDA

SHEET 3 OF 3

