



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Finance & Citywide Projects Committee Members

FROM: Jorge M. Gonzalez, City Manager  for JMG

DATE: November 3, 2010

SUBJECT: **DISCUSSION REGARDING A PROPOSED LEASE WITH SYANNA, LLC, INVOLVING APPROXIMATELY 2,216 SQUARE FEET OF CITY-OWNED PROPERTY LOCATED AT 22 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF ACCOMODATING AN OUTDOOR CAFÉ ASSOCIATED WITH A RESTAURANT OPERATION LOCATED AT 816 COMMERCE STREET, WHICH IS DIRECTLY ADJACENT TO AND WEST OF THE SUBJECT CITY PROPERTY.**

Background

The City has received an offer to lease a City-owned 2,216 square foot vacant parcel located at 22 Washington Avenue, (Subject or City-owned Parcel), which is adjacent and east of 816 Commerce Street, a privately owned two-story commercial building. The City-owned parcel is a remaining portion of an undeveloped platted lot which is the residual lot in connection with the expansion of Washington Avenue. Due to its limited size and shape, the property serves little more than to provide access to 816 Commerce Street. The proposal to lease the space is from a restaurateur who proposes to place tables and chairs on the City-owned site to supplement the interior seating in the adjacent, privately-owned restaurant.

As you may recall, the City has been approached by other restaurant operators in the past regarding the use of the site. In 2006, the City Commission approved a Lease Agreement with Manpriya, Inc. for use of the site, and the lease was fully executed; however, the project was never developed. In 2009, the City Commission approved a Lease Agreement with Moon Thai South Beach, Inc., for use of the site as an out-door café. The financial lease terms approved were substantially the same as a previous lease agreement, with an initial base rent of \$25 per square foot or 3% of sales. A list of operational conditions were recommended by the local neighborhood association and subsequently approved by the City Commission and incorporated into the lease. As had occurred previously, the proposed tenant failed to develop the site for its intended use and the lease terminated for non-payment of rent.

Analysis

This latest offer to lease the subject parcel comes from Syanna, LLC, (Syanna or Tenant), who entered into a 10-year lease at 816 Commerce Street in April, 2010, to

establish a high-end eclectic restaurant specializing in international cuisine. Syanna's managing principal, Symcha Zilberman, has a food and beverage background, having owned and operated two 120-seat restaurants in his native Venezuela, a French restaurant/bar and a deli. Syanna is investing approximately \$800,000 to build out the interior space, which will only be able to accommodate 35 seats, and is planning an additional \$80,000 to landscape and improve the City-owned parcel to accommodate outdoor seating for an additional 46 people, pursuant to the site plan attached. The Tenant's current preliminary plans have been developed to generally conform to the site plan submitted by Moon Thai (the previous tenant), which was approved by Planning. However, due to the landscaping and hardscape requirements, and his proposed plan to address these requirements, the Tenant's usable space for tables and chairs is approximately 50% of the entire parcel. Any change to the site plan to add additional tables/chairs would require a lease amendment.

In order to develop a recommendation regarding this new lease proposal, staff obtained an appraisal for the site prepared by Bondarenko Associates. However, the appraisal found no comparables as there are no other outdoor seating areas in the vicinity. The subject site is not a sidewalk café, and therefore, current sidewalk café fees are not a reasonable market comparable.

Based on the foregoing, the Administration has been able to negotiate the following proposed lease terms:

Proposal Terms:	
Lease Term	5 Years
Renewal Option	1 @ 4 years 364 days
Area	2,216 total square feet
Proposed Rent (initial term, assuming Nov 18 th commencement date)	
Year 1:	\$20.00/sf
Year 2:	\$25/sf
Years 3-5:	\$30/sf
Security Deposit	3 months' security deposit \$11,089

Given the extent of Syanna's proposed investment to improve the City's property, the Administration is recommending an eight (8) month rent abatement period upon commencement of the proposed lease term, which will allow the Tenant time to develop the site, start up its operations, and establish cash flow in order start remitting rent. As such, the total value of the proposed lease payments during the initial five-year period is \$269,613.34 (Year 1 rent payments, including the abatement will be \$14,773.34; Year 2 rent payments will be \$55,400; Years 3, 4, and 5 rent payments will be \$66,480 each). Rent during the renewal term will be subject to a review of the Tenant's annual operating results, upon which a determination will be made whether to charge the Tenant a percentage of gross receipts or to continue to assess a fixed annual rent to be escalated annually based on CPI or other acceptable indices. At no time will the base rent during the renewal period be less than \$35 per square foot.

As previously noted, during discussions with Moon Thai, substantial input was received from the community regarding certain conditions they wished to have included in the lease. These included, among other things, not permitting speakers or TVs in the outdoor café area; limiting delivery, valet, take-out, etc. operations to Commerce Street

(not on Washington Avenue); no Special Event permits to be allowed; no outdoor bar counter, and a limit on the hours of operations.

In addition to the rent terms negotiated with Syanna, the City has negotiated the same operating terms/conditions for this lease, as included with Moon Thai.

The Administration is asking the Committee whether they wish to allow Syanna a one-time exclusion (only if needed) to pull a special event permit in order to host its grand opening event (subject to Special Event permit requirements and reviews). At no other time during the lease term would the Tenant be allowed to apply for a special event permit.

The balance of Syanna's proposed lease terms generally include, but are not limited to the following provisions (consistent with the terms approved for Moon Thai):

- 1) Tenant, at its sole cost and expense, will develop the City's property into the aforementioned outdoor café, and demolish and remove any improvements at Lease termination (at the City's discretion);
- 2) Tenant agrees to use the City's property solely as an outdoor café to serve the patrons and guests of the adjoining restaurant at 816 Commerce Street. Furthermore, Tenant agrees not to place any speakers in or around the Property and/or attach any speakers to the exterior of the restaurant building at 816 Commerce Street. The Planning Department analysis dated March 16, 2006 supports such use of the City's parcel and recommends the condition of use as stated above. The Planning Department condition of use is consistent with expressed City Commission concerns relating to the previous leases on this property and has been incorporated in order to mitigate those concerns;
- 3) Syanna must obtain approvals from the Planning Department and the City Administration in the design and layout of the outdoor café pavers, tables, chairs and umbrellas;
- 4) In addition to the above-referenced security deposit, Syanna agrees to provide a performance bond, or other similar instrument (e.g. irrevocable letter of credit, surety bond, etc.) acceptable to the City, in an amount equal to the estimated costs to construct the proposed improvements;
- 5) Any delivery, take-out, valet, taxi or sidewalk café must only utilize Commerce Street; these activities will not be allowed on Washington Avenue;
- 6) No televisions will be permitted to be part of the outdoor café;
- 7) There shall be no bar counter allowed outside. Liquor and food operations involving the outdoor café shall only be done in conjunction with the adjacent restaurant operations and only when the interior kitchen is operational;
- 8) Tenant will not apply for Special Event permits;
- 9) Tenant's operation will not interfere with pedestrian traffic;
- 10) Tenant's hours of operation are currently established as follows: Sunday through Thursday 11:30am to 11:00pm; Friday through Saturday 11:30am to midnight.

CONCLUSION

Based on the unique disposition of this undeveloped parcel of land, and its limited use due to the size and location, it has been determined that the parcel would not be subject to public bidding as it could only be used with any functionality by the adjacent property.

The Administration therefore recommends in favor of pursuing a lease agreement with Syanna, LLC., as proposed, subject to the inclusion of the conditions previously approved for the site.

JMG\HMF\AP\KOB
Attachments

Cc: Hilda M. Fernandez, Assistant City Manager
Jorge Gomez, Assistant City Manager
Anna Parekh, Director REH&CD

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