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COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM: Kathie Brooks, Interim City Manager

DATE: January 24, 2013

SUBJECT: **A DISCUSSION REGARDING AN AMENDMENT TO THAT CERTAIN LEASE AGREEMENT BY AND BETWEEN THE CITY OF MIAMI BEACH (LANDLORD) AND DAMIAN J. GALLO & ASSOCIATES, INC. D/B/A PERMIT DOCTOR (TENANT), DATED JULY 30, 2003, INVOLVING THE LEASE OF APPROXIMATELY 1,269 SQUARE FEET OF GROUND FLOOR RETAIL SPACE LOCATED AT 1701 MERIDIAN AVENUE, UNIT 4 (A/K/A 775 17TH STREET), MIAMI BEACH, FLORIDA; SAID AMENDMENT REGARDING: 1) AN ADDITIONAL USE OF THE PREMISES; AND 2) APPROVAL OF AN OUTDOOR EATING AREA**

BACKGROUND

On July 30, 2003, the Mayor and City Commission passed Resolution No. 2003-25298 approving a Lease Agreement between the City and the Miami Beach Federal Credit Union for the use of approximately 1,350 square feet of City-owned property, located at 1701 Meridian Avenue, Unit 4 (a/k/a 775 17th Street), Miami Beach, Florida for use as a federal credit union.

On January 11, 2006, the Mayor and City Commission passed Resolution No. 2006-26087 approving a Consent to Assignment and First Amendment to Lease Agreement whereby the Miami Beach Federal Credit Union assigned its lease to the Dade County Federal Credit Union and certain terms and conditions of the Lease Agreement were modified, including amending the Term to commence on February 1, 2006 and expire on January 31, 2011, with one automatic extension option for a period of four (4) years and 364 days.

On May 13, 2009, the Mayor and City Commission passed Resolution No. 2009-27071, approving a Consent to Assignment and Assumption of Lease Agreement whereby the Dade County Federal Credit Union assigned its lease to Damian J. Gallo & Associates, Inc. d/b/a Permit Doctor and certain terms and conditions of the Lease Agreement were modified, including correcting the square footage of the Demised Premises which is 1,269 square feet of ground floor retail space (not 1,350 square feet). The lease automatically renewed on February 1, 2011 and expires on January 30, 2016, with no additional renewal options.

As stated in Section 7.1 of the Lease Agreement, the Demised Premises shall be used by Tenant solely for the purpose(s) of providing building plan and permit processing services. The Tenant has requested permission from the City to expand the use of the Demised Premises to include a cafe in approximately the eastern 2/3 portion of space, to be separated by partition

walls from the space which Tenant will continue to operate its plan and permit processing services (d/b/a Permit Doctor). Furthermore, Tenant has requested to use the outdoor walkway, immediately outside and to the east of the Premises (perpendicular to the 17th Street sidewalk), as an outdoor eating area, containing four tables/umbrellas and eight chairs, including consideration for patrons requiring ADA accessibility. A plan of the proposed Permit Doctor / café space, and the outdoor eating area, is attached hereto and marked "Attachment 1". A picture of the proposed tables/chairs/umbrellas is attached hereto and marked "Attachment 2". A street-view photo of the outdoor eating area is attached hereto and marked "Attachment 3". The Permit Doctor space and the café would each have their own entrances as well as exterior signage.

ANALYSIS

The proposed café would cater to pedestrians along 17th Street as well as visitors to the convention center during special events. From a Landlord/Proprietary perspective, the tenant mix at 1701 Meridian Avenue is more conducive to a café than to a plans/permitting processor's office. The current waxing salon, massage franchise, and hair-drying salon all better function with an ancillary café/snack shop than with the current office use.

The use of the outdoor area in the City Hall complex is new but is comparable to other outdoor concession/lease agreements with the City such as:

1. One Washington Avenue Corp. d/b/a Smith & Wollensky Restaurant has a concession agreement for approximately 581 square feet of City-owned property adjacent to its location at 1 Washington Avenue, which is used as a food and beverage concession. Smith & Wollensky pays ten percent (10%) of gross receipts with a minimum guarantee of \$80,000 annually.
2. Syanna, LLC has a lease agreement for approximately 2,216 square feet of City-owned land which is used as an outdoor café to serve the patrons and guests of Syanna's adjoining restaurant at 816 Commerce Street. Syanna is currently paying rent in the amount of \$30.00/square foot or \$66,480 annually.
3. Miami Beach Film Society, Inc. d/b/a Cinematheque Theatre has a concession agreement for outdoor courtyard space, containing a maximum of eight (8) tables with seating for sixteen (16) people, adjacent to and south of its location at 1130 Washington Avenue. Cinematheque pays fifteen percent (15%) of gross receipts with a minimum guarantee of \$7,000 annually.

Tenant is currently paying a market rental rate of \$48.16 per square foot, on a gross basis. The other three retail tenants at 1701 Meridian Avenue currently pay a gross rental rate ranging from \$40.19 - \$51.00 per square foot.

CONCLUSION AND RECOMMENDATION

From a business and practical standpoint, the Administration, as Landlord, has no objection to amending the use provision in the Lease to allow for a café; however, with regard to the use of the outdoor space as an outdoor café, given that this would be the first time for this type of use

in this area, the Administration seeks a recommendation from the Finance and Citywide Projects Committee.

If an amendment to the Lease is recommended by the Finance and Citywide Projects Committee, then the Administration will seek full City Commission approval.

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ATTACHMENT 2



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ATTACHMENT 3

