

RESOLUTION NO. 12-339

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE SECOND AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY AND RL BB-FL HILLSBOROUGH, LLC, AS SUCCESSOR IN INTEREST TO HILLSBOROUGH CENTER ASSOCIATES, LLC FOR THE PROPERTY LOCATED AT 3132 FLAGLER AVENUE; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Second Amendment to Lease Agreement between the City and RL BB-FL Hillsborough, LLC, as successor in interest to Hillsborough Center Associates, LLC is hereby approved.

Section 2: That the City Manager, upon advice and consent of the City Attorney, is hereby authorized to execute the Second Amendment to Lease.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 20 day of November, 2012.

Authenticated by the presiding officer and Clerk of the Commission on November 20, 2012.

Filed with the Clerk November 21, 2012.


CRAIG GATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

SECOND AMENDMENT TO COMMERCIAL LEASE

THIS SECOND AMENDMENT TO COMMERCIAL LEASE (this "**Amendment**") is made this 20th day of October, 2012 (the "**Amendment Effective Date**"), by and between **RL BB-FL HILLSBOROUGH, LLC**, a Florida limited liability company (hereinafter referred to as "**Lessor**"), whose address for purposes of notice is c/o Rialto Capital Advisors, LLC, 700 NW 107th Ave, Suite 400, Miami, Florida 33172 (Attention: Alex Diaz), and **THE CITY OF KEY WEST**, a municipal corporation (hereinafter referred to as "**Lessee**"), whose address for purposes of notice is P.O. Box 1409, Key Wet, Florida 33041.

WITNESSETH:

WHEREAS, Hillsborough Center Associates, LLC, a New Jersey limited liability company (the "**Original Landlord**"), and Lessee entered into that certain Commercial Lease (the "**Original Lease**") on April 16, 2010, but effective as of April 1, 2010, as amended by the First Amendment to Commercial Lease dated May 31, 2011 (the "**First Amendment**", together with the Original Lease, the "**Lease Agreement**") pertaining to certain premises (the "**Leased Premises**") in the shopping center known as "Habana Plaza", located at 3100 through 3140 Flagler Avenue, Key West, Florida 33040, and more particularly described on the legal description attached hereto as **Schedule 1** (the "**Property**");

WHEREAS, Lessor is the successor in interest to certain property of Original Landlord, including the Leased Premises;

WHEREAS, the Leased Premises includes, among other premises, the premises commonly known as Suite 4 (a/k/a Unit D) ("**Suite 4**") comprising 931 rentable square feet, more particularly identified on **Exhibit A** attached hereto; and

WHEREAS, Lessor and Lessee desire to amend and modify the Lease Agreement on the terms and conditions contained in this Amendment in order to, among other things, relocate Lessee from Suite 4 to the Relocation Space (defined below) as of the Relocation Space Rental Commencement Date (defined below);

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals; General Provisions. The above recitals are true and correct and are incorporated herein as if set forth in full. Capitalized terms which are used herein which are not separately defined shall have the meanings set forth in the Lease Agreement. Except as amended and modified by this Amendment, all of the terms, covenants, conditions, and agreements of the Lease Agreement shall remain in full force and effect. In the event of any conflict between the provisions of the Lease Agreement and the provisions of this Amendment, this Amendment shall control.

2. Relocation of Premises.

a. Effective as of November 1, 2012 (the "**Relocation Space Rental Commencement Date**"), the term "Leased Premises" as used in the Lease Agreement: (a) shall be deemed to include certain portions of the Property commonly known as Suite 3110 (the "**Relocation Space**"), more particularly identified on **Exhibit B** attached hereto (said Exhibit reflecting the configuration of the Relocation Space); and (b) shall no longer be deemed to include Suite 4.

b. The parties hereto acknowledge and agree that the rentable square footage of the Relocation Space is 1,453.

c. The parties hereto further acknowledge and agree that the paragraph styled "Leased Premises" on Page 1 of the Original Lease is hereby modified to provide that the total square footage that will ultimately be occupied by Lessee as a result of the change in the configuration of the Leased Premises shall be 24,793 rentable square feet.

3. Base Rent. From and after the Relocation Space Rental Commencement Date and continuing throughout the Term of Lease, the base rent due and payable by Lessee with respect to the Relocation Space shall be as follows:

Period of Term	Annual Base Rent Per Square Foot	Annual Base Rent	Monthly Base Rent**
11/01/2012 - 02/28/2013	\$12.42	\$11,563.02	\$963.59
03/01/2013 - 12/31/2013	\$12.85	\$11,963.35	\$996.94
* 01/01/2014 - 12/31/2014	\$13.49	\$19,600.97	\$1,633.41
*01/01/2015 - 12/31/2015	\$14.17	\$20,589.01	\$1,715.75

*Optional Renewal Term

** Plus Applicable Taxes

It is acknowledged and agreed that notwithstanding that the Relocation Space consists of 1,453 square feet, the foregoing Base Rent is calculated as if the Relocation Space contains 931 square feet through December 31, 2013, and then increases to 1,453 square feet as of January 1, 2014.

4. Common Area Maintenance Charges. The parties hereto agree that commencing on the Relocation Space Rental Commencement Date, Lessee is obligated to make the annual common area maintenance charges to Lessor at the rate of \$4.75 per square foot, which charges shall be subject to annual reconciliation and adjustment pursuant to the terms of the Lease Agreement. It is acknowledged and agreed that notwithstanding that the Relocation Space consists of 1,453 square feet, the foregoing calculation of the common area maintenance charges shall be as if the Relocation Space contains 931 square feet through December 31, 2013, and then increases to 1,453 square feet as of January 1, 2014.

5. Construction Reimbursement Payments. The parties hereto agree that commencing on the Relocation Space Rental Commencement Date, Lessee is obligated to continue to make Construction Reimbursement Payments to Lessor at the rate of \$0.17 per square foot per month. It is acknowledged and agreed that notwithstanding that the Relocation Space consists of 1,453 square feet, the foregoing calculation of the construction reimbursement payments shall be as if the Relocation Space containing 931 square feet through December 31, 2013, and then increases to 1,453 square feet as of January 1, 2014.

6. Security Deposit. The parties acknowledge and agree that Lessee paid a security deposit to Original Landlord for Suite 4 in the total amount of \$1,259.00 (the "**Original Security Deposit**"). So long as Lessee returns possession of the Leased Premises to Lessor in the condition required by terms of the Lease Agreement at the conclusion of the term of the Lease Agreement and otherwise complies with all of Lessee's obligations under the Lease Agreement (as modified, including but not limited to paying Lessor the Construction Reimbursement Amounts described in the Lease Agreement), Lessor shall return the Original Security Deposit to Lessee (or such portion thereof as may remain after Lessor has applied any portion of the Original Security Deposit toward the cost incurred by Lessor in returning the Leased Premises to the condition required by terms of the Lease Agreement, and less any unpaid Construction Reimbursement Amounts) within 30 days of the end of the term of the Lease Agreement.

7. Landlord's Work for Suite 2 and Suite 5.

a. Lessee acknowledges and agrees with Lessor that all build outs, improvements and any other repair, construction and/or renovation obligations of Lessor with respect to Suite 2 (a/k/a Unit B) and Suite 5 (a/k/a Unit E) have been satisfied and completed and have been fully paid for by Lessor, and the condition of such Suites is satisfactory to Lessee in all respects as of the date hereof. Additionally, Lessee represents and warrants that Certificates of Occupancy have been issued for both Suite 2 and Suite 5.

b. The parties agree that the Rental Commencement Dates for Suite 2 and Suite 5 are as follows:

- i. Suite 2 - September 1, 2011
- ii. Suite 5 - September 1, 2011

8. Landlord's Work for Relocation Space. Lessee acknowledges and agrees with Lessor that all build outs, improvements and any other repair, construction and/or renovation

obligations of Lessor with respect to the Relocation Space have been satisfied and completed and have been fully paid for by Lessor, and the condition of such Relocation Space is satisfactory to Lessee in all respects as of the date hereof. Additionally, Lessee represents and warrants that Certificates of Occupancy have been issued for the Relocation Space.

9. Miscellaneous.

a. Lessee agrees that Lessor is in full compliance with all of its obligations to Lessee under and pursuant to the Lease Agreement, as modified by this Amendment (and, to the extent that Lessor is or may have been in breach of its obligations to Lessee, such breaches are hereby waived by Lessor for all periods through and including the date of this Amendment). Without limiting the foregoing, Lessee agrees that the Leased Premises are satisfactory in all respects (i.e., Lessee waives the right to object or complain or declare that Lessor is in breach of its obligations under the Lease Agreement for any matter as of the Amendment Effective Date). Lessee further acknowledges, agrees and understands (i) that Lessor is going to undertake renovations and improvements to the Relocation Space (the "**Renovations**"), and (ii) that Lessee consents to the Renovations, agrees the Renovations do not and will not affect Lessee's rights under the Lease Agreement, agrees not to take any action to postpone or delay the Renovations, and further agrees that such Renovations will not entitle Lessee to any reduction in rent or any other claim against Lessor, except as specifically set forth in the Lease Agreement.

b. Lessee and Lessor acknowledge and agree that the relocation of Lessee from Suite 4 to the Relocation Space is something desired by both Lessee and Lessor and each hereby waives any and all claims against the other arising from the condition of Suite 4 or the relocation of Lessee from Suite 4 to the Relocation Space.

c. Lessee and Lessor acknowledge that the Lease Agreement, as modified by this Amendment, is in full force and effect, binding upon the parties in accordance with its terms and, as of the date of execution of this Amendment (and with the exception of prepaid security deposits), Lessee has no claim, charge, lien, or right to setoff under this Lease Agreement or otherwise against rent or other charges due under this Lease Agreement.

d. Lessee represents and warrants it is not in default of any of the conditions or covenants of the Lease Agreement.

10. Notice. Section 21 of the First Amendment is hereby modified such that Lessor's address for notice purposes is as follows:

TO LESSOR:

c/o Rialto Capital Advisors, LLC
700 NW 107th Avenue
Suite 400
Miami, Florida 33172
Attention: Alex Diaz
Telephone No. 305-229-6588
Facsimile No. 305-485-2724

Email Address: alex.diaz@rialtocapital.com

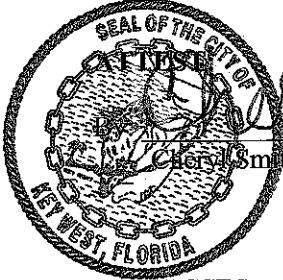
11. Authority of Lessee. Lessee represents and warrants that it has full authority to execute this Amendment without the joinder or consent of any other party and that Lessee has not assigned any of its right, title, and interest in the Lease to any other party. Lessee agrees to indemnify and hold Lessor harmless from and against any claims, losses, demands, liabilities, damages, and expenses of any kind or nature, including, without limitation, reasonable attorneys' fees, actually incurred or arising by reason of a breach or violation of any of the representations and warranties of Lessee contained in this Section.

12. Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of Lessor, Lessee and their respective successors and assigns.

13. Counterparts. This Amendment may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one instrument. A PDF or facsimile signature shall be deemed for all purposes to be an original.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the Amendment Effective Date.



Ceryll Smith
Ceryll Smith, City Clerk

THE CITY OF KEY WEST, a Municipal Corporation

By: Craig Cates
Printed Name: CRIG CATES
Its: MAYOR

WITNESSES:

Angela Budele
Signature of Witness

ANGELA BUDELE
Printed Name of Witness

Vertia Navarro
Signature of Witness

VERTIA NAVARRO
Printed Name of Witness

STATE OF FLORIDA)

COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 21st day of November, 2012, by Craig Cates, as Mayor, of The City of Key West, a municipal corporation, who is personally known to me ~~or has produced~~ as identification.

(Notary Seal)



Susan P. Harrison
Notary Public, State of Florida
Print Name: SUSAN P. HARRISON

My Commission Expires: 4-8-15

WITNESSES:

Michael Willinger
Signature of Witness

Michael Willinger
Printed Name of Witness

Karelyn Blanco
Signature of Witness

Karelyn Blanco
Printed Name of Witness

RL BB-FL HILLSBOROUGH, LLC, a
Florida limited liability company

By: RL BB Financial, LLC, a Florida limited
liability company, its sole member

By: *[Signature]*
Name: Anthony Seijas
Title: Vice President

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 13th day of December, 2012, by
Anthony Seijas, as Vice President of RL BB
Financial, LLC, a Florida limited liability company, as the sole member of RL BB-FL
HILLSBOROUGH, LLC, a Florida limited liability company, who is personally known to me or
has produced N/A as identification.

(Notary Seal)

M Shaffer
Notary Public, State of Florida
Print Name: Michelle Shaffer

My Commission Expires: July 5, 2015



SCHEDULE 1
LEGAL DESCRIPTION OF PROPERTY

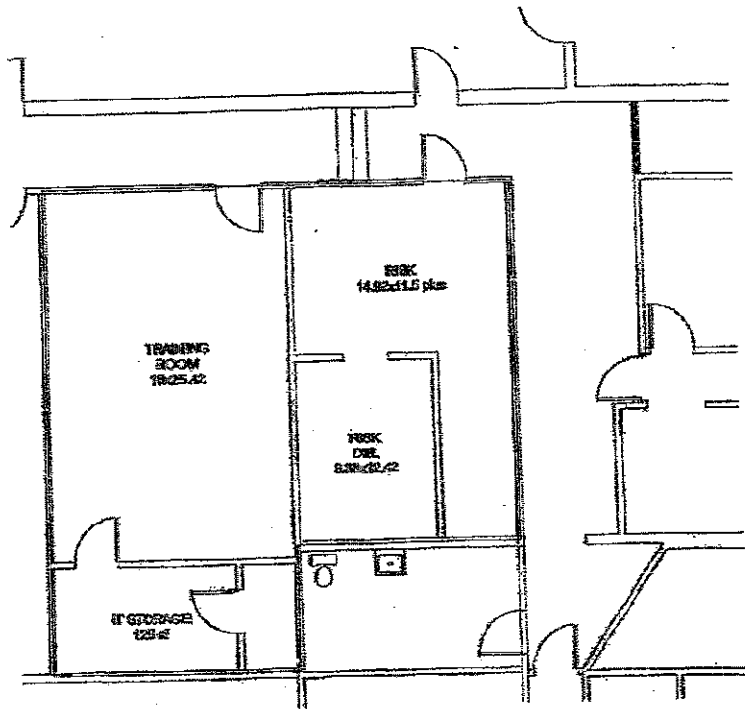
Parcel I: Commencing at the Northwest corner of Block 2, of RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Monroe County, Florida, according to the Plat thereof recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; thence run Southerly along the Easterly boundary line of 13th Street a distance of Two Hundred Twenty (220) feet to the intersection of 13th Street and Riviera Drive; thence run Easterly along the Northerly boundary line of Riviera Drive a distance of Four Hundred (400) feet; thence run Northerly and parallel to 13th Street a distance of Two Hundred Twenty (220) feet to the Southerly boundary line of Flagler Avenue; thence run Westerly along the Southern right-of-way of Flagler Avenue a distance of Four Hundred (400) feet to the intersection of 13th Street and Flagler Avenue, Point of Beginning.

AND ALSO;

Parcel II: On the Island of Key West, described as follows: BEGIN at the Northwest corner of Block 2, RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Florida, between Eleventh Street and Seventeenth Street and lying South of Flagler Avenue, Key West, Monroe County, Florida, as recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; run thence in an Easterly direction along the Southeast right-of-way of Flagler Avenue 400 feet to the Point of Beginning; thence run in an Easterly direction along the Southeast right-of-way line of Flagler Avenue; a distance of 71.98 feet; thence run at right angles in a Southerly direction a distance of 220 feet to Riviera Drive, run thence in a Westerly direction along the Northeast right-of-way line of Riviera Drive, a distance of 71.98 feet; run thence at right angles in a Northerly direction a distance of 220 feet to the Point of Beginning.

Parcel Identification Number: RE: 00069090-000000/Alt Key 1072982

EXHIBIT A
FLOOR PLAN OF SUITE 4




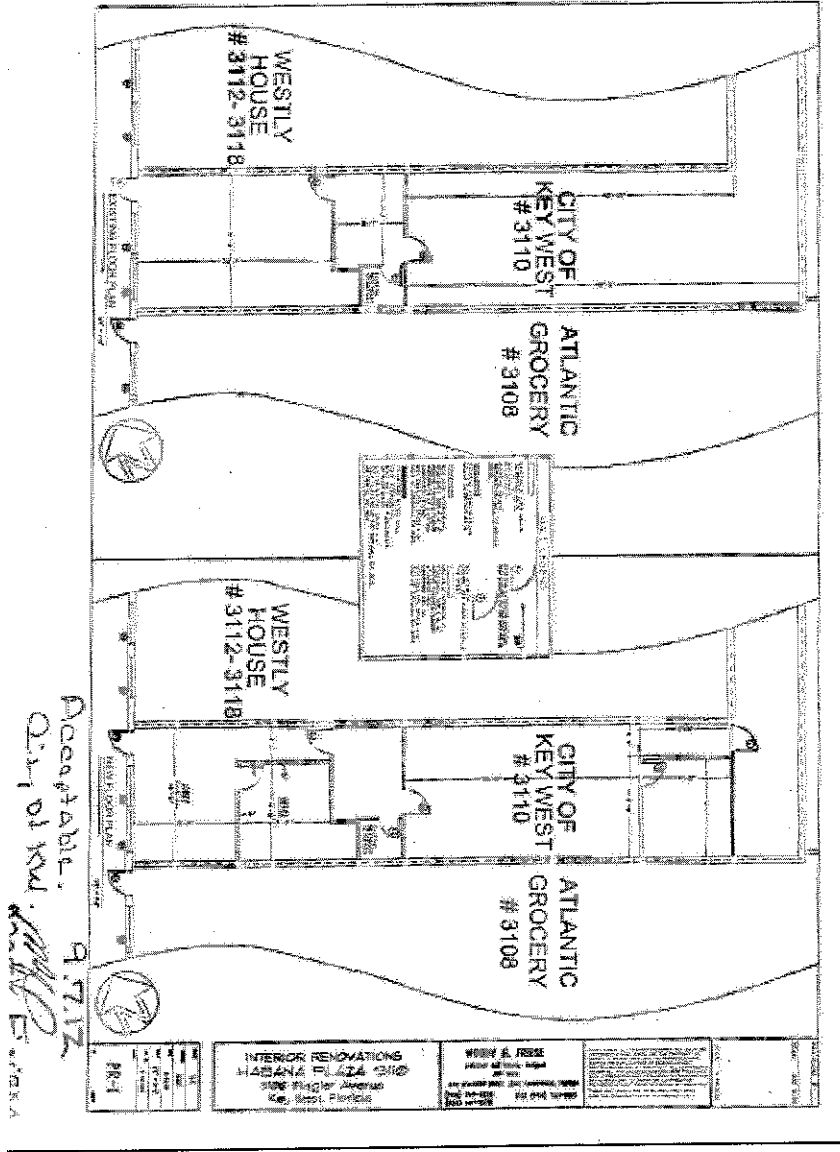
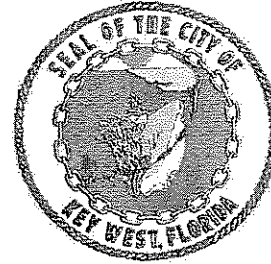
 **ALTERNATE #2**
PARTIAL FLOOR PLAN - D/E 031 sq.
SCALE = 1/8" = 1'-0" 7-20-00

EXHIBIT B

FLOOR PLAN OF RELOCATION SPACE



Executive Summary



TO: City Commission

CC: Bob Vitas, City Manager

FR: Mark Z. Finigan 

DT: October 30, 2012

RE: Second Amendment to the Lease for City Offices at Habana Plaza

Action Statement

Respectfully request approval of the Second Amendment to the City lease for space at 3100 - 3140 Flagler Avenue in Habana Plaza.

Authorize City Manager to execute the Second Amendment.

Background

Suite 4 (a/k/a Unit D) comprising 931 rentable square feet and more particular described on Exhibit A in the Second Amendment has been since lease inception the demised premises for both the Risk Management and IT Training Room functions. Earlier this year Suite 4 fell into such structural disrepair the employees and their operations had to be moved to alternate space currently under lease at Habana Plaza or to another City owned facility. Though payment for the 931 square feet plus common area charges was ceased, a need for comparable space which accommodated both RM and an IT Training Room was still needed. The areas to where these functions were relocated could only suffice as temporary space and a long term solution was required. The Lessor has completed a build out of 1,453 square feet of relocated space designed to accommodate the IT Training Room and the City's Customer Service function. Risk Management will remain in the Finance Department, the area they relocated to, and the Customer Service function, previously located in the Finance department, will relocate to the new space described on Exhibit B in the Second Amendment. The City will only be charged for common area charges as well as the base square foot charge based on the originally agreed upon 931 square feet though the new relocated area is actually 1,453 square feet.

All other terms of the commercial lease, to include the first amendment, remain the same.

Recommendation

Staff believes that the amended terms will serve the City well and recommends approval of the second lease amendment as proposed.

Commercial Lease Net, Net, Net

Property:

Habana Plaza

(as described on Exhibits "A" through "E" attached)

3100 - 3140 Flagler Avenue, Key West, Florida 33040

Lessor: Hillsborough Center Associates, L.L.C., 3110 Flagler Avenue, Key West, Florida 33040

Lessee: City of Key West, Florida

Effective Date: April 1, 2010

- a. Suite 1 (see exhibit A) : 30 days from obtaining construction permits, Estimated May 1, 2010
- b. Suite 2 (see Exhibit B): 120 days from obtaining construction permits, Estimated Aug. 1, 2010
- c. Suite 3 (see exhibit C): 120 days from lease signing, Estimated August 1, 2010
- d. Suite 4 (see Exhibit D): 120 days from obtaining construction permits, Estimated Aug. 15, 2010
- e. Suite 5 (see Exhibit E): 90 days from obtaining construction permits, Estimated July, 1, 2010

Rental Commencement Date: Same as "Effective Date"

- f. Suite 1 (see Exhibit A): May
- g. Suite 2 (see Exhibit B):
- h. Suite 3 (see Exhibit C):
- i. Suite 4 (see Exhibit D):
- j. Suite 5 (see Exhibit E):

As each suite will be occupied at staggered intervals, upon occupancy Lessee shall furnish Lessor a written statement stating that the Lessee has accepted that portion of the leased premises for occupancy and setting forth the actual occupancy and rental commencement date for that portion of the leased premises

Security Deposit: Equal to 1 months then applicable rent

Lessor Attorney: N/A

Lessee Attorney:

Leased Premises: approximately 24,224 square feet, more specifically described in Exhibits "A" through "E".

Lessor represents that the buildings are structurally sound, the roof is without leaks and maintained in good condition, and mechanical systems serving the Lease Premises are in good operating condition with adequate useful life to provide service during the term of this lease.

Lessor agrees to provide basic improvements to the spaces to meet code and render the spaces fit for office occupancy with all mechanicals including air conditioning systems delivered in good operating condition. Lessor will provide indoor air quality testing with satisfactory results for all spaces prior to Lessee's acceptance of the space for occupancy, at Lessor's sole cost and expense.

BJ
5/31/10

Lessor agrees to provide necessary demolition and basic build out of all space to include demising walls, with painted surface, doors and locks, flooring, lighting and plumbing, mechanical and electrical systems. Additionally, specific alterations to be made and the party responsible for the costs thereof are detailed with each drawing of Exhibits A through E and Move in Plans A through E. Lessor and Lessee agree that the construction costs will not exceed the dollar amounts shown on Move in Plans A-E unless there are additional changes requested or required and agreed to by both Lessor and Lessee. Lessor and Lessee agree to work cooperatively to reduce expenses to their mutual benefit wherever possible as long as the reductions do not materially affect the fitness of the space for occupancy. Lessor and Lessee agree that the budgeted line item amounts outlined in Move-in Plans A – E may, at Lessee's request be re-allocated to better suit Lessee's needs provided that the total build-out allocation is not exceeded.

Lessee may elect to have Landlord complete construction of any or all improvements as herein provided for. Lessee agrees to work closely with Landlord to review alteration plans and existing conditions to ensure that space complies with all City, State and Federal building codes and provide support in processing permits and obtaining Certificate of Occupancy for the space in a timely manner.

Lessor agrees to amortize the construction costs that are the responsibility of the Lessee and charge to Lessee as "additional rent" over the three year term. In the event that the Lessee cancels the lease as herein provided for, the un-amortized improvement costs will become due and payable as of the date the lease terminates.

Location of rental payment: All rental payments shall be mailed to:

Hillsborough Center Associates, LLC
c/o Commercial Realty Associates, Inc.
150 Clove Road
Sixth Floor
Little Falls, NJ 07424

SECTION I SPECIFIC PROVISIONS

1. Consideration.

For valuable consideration Lessor leases to Lessee the leased premises, with improvements and personal property described above according to the terms herein set forth, a copy of which the Lessee acknowledged receipt.

2. Term of Lease.

This lease shall be effective for the term of three (3), [] months [] weeks [] days [x] years, beginning on April 1, 2010 and ending March 31, 2013. The specific commencement dates for each unit may vary but all lease space will terminate on March 31, 2013 or Upon 180 days prior written notice to Lessor, Lessee shall have the option to cancel the Agreement after Lessee has occupied a unit for a minimum of 18 months. In no circumstance may Lessee occupy any portion of the leased space for less than two (2) years.

3. Rent for Standard Lease.

The first month's rent and security deposit shall be due on the rental commencement date for each unit. Rent shall thereafter be due on the first day of each month. The total monthly amount for rent is calculated as follows:

Base monthly rent: \$12.00 per square foot.

Square footage for each of the individually leased spaces is set forth more specifically in Exhibits "A" through "E".

Additional rent includes but is not limited to:

Amortized construction and renovation expenses of \$.17 per sq ft per month for 36 months as agreed on between Lessee and Lessor.

Sales or Transaction tax charged by any governmental entity which may be imposed on the rental transaction.

BT
5/3/10

CAM Charges: are estimated at \$4.75 per square foot, more specifically described in Exhibit "G". CAM charges shall be subject to annual RECONCILIATION AND adjustment based on the actual cost of the operating expenses for the property. Lessee shall have the right at its sole cost and expense to audit CAM charges.
Late payment penalty: N/A

4. Intentionally Deleted.

5. Proportionate share. Tenants Proportionate Share adjusted based on Lessees occupancy by dividing the total amount of Lessees occupied space by the total sq ft of the commercial portion of the property. The total sq ft of the property for NNN purposes is 50,000 sq ft.

6. Cost of Living Escalation.

Base rent shall be fixed at \$12.00 per square foot for the first eighteen (18) months. Rent shall thereafter increase by 3.5% every twelve (12) months.

7. Costs of Taxes and Assessments.

Lessee shall be responsible for its proportionate share of all taxes and assessments levied against the real property, improvements thereon and Lessee's personal property contained therein and all other taxes and assessments which may relate to the real property improvements or personal property contained therein and all increases related to all of these. Lessor may pay the same on the Lessee's behalf, and Lessee shall reimburse Lessor for the same.

If at any time during this lease the method or scope of taxation used at the commencement of this lease is changed so as to cause the method of taxation to be changed in whole or in part, so that in substitution for the real-estate taxes now assessed there may be in whole or in part a capital levy or other imposition based on the value of the leased premises, or the rents received therefrom, or some other form of assessment based in whole or in part on some other valuation of the Lessor's real property comprising the demised premises, then and in such event, substituted tax or imposition shall be payable and discharged by the Lessee in the manner required pursuant to such a promulgated which shall authorize such change in the scope of the taxation, and as required by the terms and conditions within the lease.

Nothing in this lease contained shall require the lessee to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Lessor, or Federal Income Tax, State Income Tax, or excess profits or revenue tax, unless such taxes are in substitution for real property taxes as a result of such change in the manner and scope of taxation.

8. Tax Protests by Lessee.

If the Lessee wishes to contest any assessment or levy of taxes on the leased premises, the Lessor covenants and agrees that it will lend its name and execute all necessary papers to aid the Lessee in contesting or litigating said assessment, provided, however, that said litigation or contest shall be at the cost and expense of the Lessee. Any resultant reduction or rebate of taxes, paid or to be paid by the Lessee, shall belong to the Lessee.

9. Sales and Transaction Tax.

It is understood that the Lessee is not responsible to pay sales or transactions tax. In the event laws change and the Lessor becomes responsible to pay these taxes the Lessee agrees to reimburse Lessor for all such taxes.

10. Security Deposit. 1 months then applicable rent

11. Place of Paying Rent.

Lessee shall pay rent to the address of the Lessors as designated on page one of this lease, or to any newer address of which Lessor gives written notice to Lessee.

12. Lessee pays all expenses.

BJ
5/3/10

This lease shall in all respects be treated as a triple net lease with all costs and expenses for all regularly occurring operating expenses and excluding any deferred maintenance paid for by Lessee, including, but not limited to, real property taxes; fire, casualty, theft, and liability insurance (as more specifically described in Paragraphs 14 and 16); trash removal; water, gas, electricity and other utilities; repairs and maintenance of Lessee's premises.

13. Maximum Legal Interest.

If any monies are owed under the terms of this lease, all of the provisions of the lease notwithstanding, the parties that the party owing sums to the other as a result of performances under the lease, shall incur as a penalty of the maximum legal rate of interest that is in effect at the actual time of the charge. Interest thus imposed shall also be charged on any costs, legal fees, or any other obligations arising out of this lease, if the laws of the state which govern this lease have no maximum legal interest rate, the rate shall be 18%.

14. Provisions of Fire and Casualty Insurance Policies.

Lessor shall pay the cost of Fire and Casualty Insurance on Lessee's behalf, and Lessee shall reimburse Lessor for the same. Lessor will work with Lessee to obtain the lowest possible costs for insurance coverage. Lessee shall provide fire insurance protection on Lessee's stock in trade, furniture, fixtures and other property within the leased premises, in an amount equal to the full insurable value thereof, and promise that any insurance coverage in this regard shall contain a waiver of the insurer's right of subordination against Lessor.

15. Waiver of Subordination on Casualty Insurance.

Lessor hereby releases Lessee, to the extent of its insurance coverage, from any and all liability of any loss or damage caused by fire or any of the extended coverage casualties, notwithstanding such fire or other casualty shall be due to the fault or negligence of Lessee or its agents, provided, however, this release shall be in full force and effect only with respect to loss or damage occurring during such time as Lessor's policies of fire and extended coverage insurance shall contain a clause to the effect that this release shall not effect such policies or the right of Lessor to recover thereunder. Lessee agrees that such insurance policies shall include such clause as long as the same is includable without extra costs.

Lessee shall promptly deliver to the Lessor, the original(s), or true and correct copies of any and all such policies of insurance. Lessee shall not carry any stock of goods or do or omit to do any act in or about the leased premises which will in any way impair or invalidate the obligation of any policy of insurance on or in reference to the leased premises. The parties shall use good faith efforts to have any and all fire, extended coverage, or any and all material damage insurance which may be carried endorsed with the following subordination clause:

This insurance shall not be invalid should the insured waive in writing, prior to a loss, any and all right of the coverage against any party for a loss occurring to the property described herein.

Lessor and Lessee mutually agree that any right of subordination afforded to the insurance carriers of their respective property insurance policies of relative to real or personal property situated in or on the leased premises is waived; and the parties undertake to give their respective insurance carriers notice of this waiver.

16. Liability Insurance.

Lessee shall, at its own cost and expense, during the term of this lease, procure and maintain in force policies of liability insurance, with Lessor as an additional assured thereunder, insuring Lessee to the amount of \$500,000 against any loss or damage, or any claim thereof, resulting from injury or death of any one person, and to the amount of \$ 1,000,000 against any loss or damage, or any claim thereof, resulting from the injury to or death of any number of persons from any one accident, as a result of or by reason of the ownership by Lessee of the leased premises, parking lot and adjacent areas owned by Lessor, and the use and occupancy thereof by Lessee; and to procure and maintain in full force and effect, during the term herein specified, a policy or policies of insurance, with Lessor as additional assured thereunder, in an amount not less than \$500,000, insuring Lessor against any loss or damage or any claim thereof resulting from the damage to or destruction of any property belonging to any person or persons whomsoever, as a result or by reason of the ownership of Lessor of the leased premises, parking lot, or adjacent areas owned by Lessor, and the use and occupancy thereof by Lessee.

Bf
5/3/10

Lessee shall promptly deliver to Lessor the original or originals, or a true and exact copy, of any and all such policy or policies of insurance.

All policies shall contain a written obligation of the insurer to notify Lessor in writing at least 10 days prior to any cancellation thereof.

17. Non-Liability of Lessor

Except to the extent caused by the negligence, recklessness or intentional wrongful misconduct the Lessor or Lessor's employees or agents, Lessor shall not be liable for any costs or damage not covered by casualty insurance, occasioned by failure to keep the premises in repair, and shall not be liable for any damage done or occasioned by or from plumbing, gas, water, steam, or other pipes, tanks, washstand or waste pipe, in, above, upon or about the premises, nor for damage occasioned by water, snow, or ice being upon or coming through the roof, skylight, trap-door, or otherwise, or of any owners or occupants of adjacent or contiguous property.

18. Indemnification.

The City, a municipal government entity, as referenced in Section 768.28, Florida Statutes, agrees to be responsible to the limits set forth in such statute for its own negligent acts or intentional tortuous actions, which result in claims or suits against the City or Lessor, and agrees to be liable only to such to the statutory limits, whether applicable or not, for any damages proximately caused by said acts or omissions, or intentional tortuous acts. Nothing contained in this Section shall be construed to be a waiver by either party of any protections under sovereign immunity, Section 768.28 Florida Statutes, or any other similar provision of law. Nothing contained herein shall be construed to be a consent by either party to be sued by third parties in any matter arising out of this or any other Agreement.

19. Renewal.

Lessee shall have the right to renew this lease upon the following terms and conditions:

- a. In the event lessee renews on a month-to-month term, monthly base rent shall be equal to 150% of the last months then current rate for base rent without amortized improvements paid under the term of this lease.
- b. In the event Lessee renews for a period of no less than one (1) year, monthly base rent shall be determined by the current market rate; however, in no event shall the monthly base rent be less than the last months rent paid under the term of this lease.

Notwithstanding anything contained herein, Lessee must notify Lessor in writing of its intent to renew no less than six (6) months prior to the expiration of this lease.

20. Purchase Option. None

21. Use by Lessee.

The premises shall be used for office space.

22. Intentionally Deleted.

23. Tax on Property of Lessee.

It is understood that the Lessee is exempt from personal property tax. In the event laws change and Lessee shall pay or cause to be paid, before delinquency, throughout the primary term of this lease and any renewals or extensions thereof, all taxes on any and all personal property owned by Lessee and situated upon the leased premises. If the Lessee fails to pay the taxes levied on or against its property as aforesaid when due and payable, Lessor may pay the same on Lessee's behalf, and lessee shall reimburse Lessor for the same forthwith or Lessor may reimburse itself therefore out of rental payable hereunder by Lessee, or Lessor may reimburse itself from the security deposit. Lessee shall save and hold Lessor harmless on account of any of these taxes. Lessee shall pay the Lessor the maximum legal interest rate per annum on any monies that lessor may advance on behalf of Lessee until these monies are repaid.

24. Initial Construction and Repairs. As described on page one of the Lease and in Exhibits "A" through "E"

25. Additional Space, N/A

Bj
5/3/10

26. Intentionally Deleted.

27. Common Areas and parking.

The term Common Area means the entire area designated for common use or benefit within the outer property limits of the building area, including but not limited to, parking lots, landscaped and vacant areas, passages for trucks and other vehicles, areaways, roads, walks, curbs, garden court and arcades, together with public stairs, ramps, shelters, porches, bus stations and loading docks, with facilities appurtenant to each, if any such areas exist or may later exist on the real property of Lessor, but excluding any area which the Lessor may have designated as a restricted area.

The public portions of the common area are hereby made accessible to the Lessee and its employees, agents, customers, and invitees for reasonable use in common with Lessor for the purposes for which constructed.

Lessor hereby grants to Lessee and Lessee's agents, employees and invitees the right during the term hereof, to use, in common with others entitled to the use thereof, such track ways, service corridors, service elevators and loading docks subject to such reasonable regulations as Lessor shall make from time to time.

Lessor from time to time temporarily close portions of the common areas, erect private boundary marks or take further appropriate action to prevent the acquisition of public rights and such action shall not be deemed an eviction or disturbance of Lessee's use of the leased premises.

Lessee shall have, and is hereby granted, such possession and control over all portions of the entire common area, whether at the front or rear of the leased premises, as will authorize Lessee to exclude therefrom all persons who are not customers or patrons of the Lessee of the building area, who are or who may be creating a nuisance or disturbance thereon, and in particular as will authorize Lessee to maintain an action in trespass against such persons who are not patrons or customers and who are or who may be picketing thereon.

Lessee and its employees, agents, customers and invitees shall have the use of parking areas specifically designated by Lessor for that purpose. All of Lessee's employees will have a City Employee Parking Pass clearly displayed in their vehicle at all times. Lessor agrees to provide parking for the Lessee's exclusive use as shown on Exhibit F attached hereto and incorporated herein.

Lessee agrees that it shall not at any time park or permit the parking of its trucks or vehicles of others in truck passages or adjacent loading docks so as to interfere in any way with the use thereof.

Lessee, in common with Lessor and the patrons and customers of Lessee and Lessor shall have the right to use for parking purposes the parking areas adjacent to the building(s) located on the real property hereinbefore described. Nothing herein contained shall be construed in such manner as to imply that any portion of that parking area is hereby leased to that Lessee.

Lessee shall have the exclusive right to use the parking spaces located in the front and rear of 3140 Flagler Ave as described on Exhibit "F". Lessee may at Lessee's expense repaint the parking area to designate who is authorized to park and for what period of time. In no event will Lessor be responsible for the enforcement of compliance of the exclusive parking spaces. Upon termination of the lease term Lessee will be responsible to remove all designations from the parking area.

28. Construction and Repairs.

Lessor shall not be responsible for construction or repairs during this lease except as otherwise provided on page one of this lease and Exhibits "A" through "E" unless due to damage or destruction of the Leased Premises per section II, No.27 hereof or elsewhere herein provided for.

29. Maintenance of Heater, Cooler, Drinking Water and Locks.

Except for existing air conditioning systems which will be delivered in good operating condition as reference in the preamble, Lessee shall be responsible for the installation of all refrigerated air conditioning and coolers and parts thereof serving the leased premises if such equipment is specifically required for Lessee's particular use. Otherwise, Lessee shall, at its own expense, care and maintenance of all such equipment whether or not such equipment is located on the leased premises and whether such equipment was installed by Lessee or Lessor. Lessee shall pay its pro rata share for the replacement of any such equipment based upon the life of the unit. Lessee shall be responsible for locks and maintenance of locks and doors.

BT
5/3/10

SECTION II
GENERAL PROVISIONS FOR COMMERCIAL LEASES

1. Quiet Possession.

Lessor agrees that Lessee, upon paying the rentals and on performing all terms of this lease, shall peaceably have the leased premises during the term of this lease. Lessee agrees that in the event of the inability of Lessor to deliver to Lessee possession of the leased premises within 60 days of the commencement of the term as above specified, Lessor shall not be liable for any damage caused thereby, nor shall this lease be void, but Lessee shall not be liable for rent until such time as Lessor offers to deliver possession of the leased premises to the Lessee. In the event that Lessee is unable to occupy any portion of the leased premises due to unsatisfactory indoor air quality test results then Lessee may void the lease for the affected portion of the premises. By occupying the leased premises as a tenant, or installing fixtures, facilities, or equipment or performing finished work, Lessee shall be deemed to have accepted the same and to have acknowledged that the premises are in the condition required by this lease. In the event of any dispute, the certificate of OCCUPANCY ISSUED BY THE CITY BUILDING DEPARTMENT shall be conclusive that the leased premises are in the condition required by this lease and are ready for occupancy.

2. Use of Premises.

Lessee has examined and knows the condition of the leased premises, and agrees:

1. To use these premises for reasonable office related services which do not materially damage the leased premises.
2. To surrender possession of these leased premises at the expiration of this lease without further notice to quit, in as good condition as reasonable use will permit.
3. To keep the premises in good condition and repair as provided for herein below at Lessee's own expense and not to commit or permit any waste or nuisance.
4. Not to use the leased premises for living quarters or residence.
5. Not to make any unlawful, immoral or improper use of the leased premises, or any occupancy thereof contrary to law or contrary to any directions, rules, regulations, regulatory bodies, or officials having jurisdiction thereof or which shall be injurious to any person or property.
6. Not to cook with open flame, range top, grill, etc. unless Lessee installs ventilation and fire suppression equipment required by building codes and approved by Landlords insurance carrier.

3. Damages to Interior or Structure.

Lessee shall pay (a) for any expense, damage or repair not covered by property damage and casualty insurance occasioned by the stopping of waste pipes or overflow from bathtubs, closets, washbasins, basins or sinks, and (b) for any damage to window panes, window shades, curtain rods, wallpaper, furnishings, or any other damage to the interior of the leased premises, not covered by property damage and casualty insurance and caused by Lessee's use thereof

4. Repairs, Maintenance and Alterations by Lessee.

The Lessee has promised that the leased premises shall at all times be kept in good order, condition and repair by Lessee, at its own expense, with respect to repairs not covered by property damage and casualty insurance and caused by the Lessee, and in accordance with all laws, directions, rules and regulations of regulatory bodies or officials having jurisdiction.

If Lessee refuses or neglects to commence repairs within 10 days after receipt of written demand from Lessor, or adequately to complete such repairs without liability to Lessor for any loss or damages that may accrue to Lessee's stock or business by reason thereof, and if Lessor shall make such repairs, Lessee shall pay to Lessor, on demand, as additional rent, the costs thereof with interest at the maximum legal rate from the date of commencement of those repairs.

Lessee shall make no changes, improvements, alterations, or additions to the leased premises unless such changes, improvements, alterations, or additions: (a) are first approved in writing by Lessor; (b) are not in violation of restrictions placed thereon by the investor financing the construction of the building; and (c) will not materially alter the character of such

premises and will not substantially lessen the value thereof. Lessor may not unreasonably withhold approval, and if there is a dispute as to reasonableness, it shall be determined by arbitration.

If structural alterations become necessary because of the application to the business carried on by Lessee of any law, ordinance, rule or regulation of any regulatory body, or because of any act or default on the part of Lessee, or because Lessee has overloaded any electrical or other facility, Lessee shall make such structural alterations at its own cost and expense, after first obtaining Lessor's written approval of plans and specifications and furnishing such indemnification against liens, costs, damages and expenses as Lessor may reasonably require.

Lessee may place partitions and fixtures (including light fixtures) and make improvements and other alterations in the interior of the leased premises at its own expense. These improvements or alterations installed or made by Lessee, other than those of a structural nature, shall remain the property of the Lessee provided, however, that prior to commencing any such work Lessee shall first obtain the written consent of Lessor to the proposed work.

Lessor may require that such structural alterations work be done by Lessor's own employees or under Lessor's direction but at the expense of the Lessee, and Lessor may, as a condition to consenting to such work, require that Lessee give security that the premises will be completed, free and clear of liens and in a matter satisfactory to Lessor, and that the premises will be repaired by Lessee or restored by Lessee to its former condition at the termination of the lease at Lessee's sole cost and expense. Lessee shall have the option to perform such services themselves, in which event Lessor shall pass along any savings in CAM to Lessee.

5. Mechanics and Other Liens Imposed by Lessee.

Lessee shall keep the leased premises and the improvements thereon at all times during the term hereof free of mechanics and material men's liens and other liens of like nature, other than liens created and claimed by reason of any work done by or at the instance of Lessor. Should Lessee fail to fully discharge any such lien or claim, Lessor, at its option, may pay the same or any part thereof.

All amounts so paid by Lessor, together with interest thereon at the maximum legal rate from the time of payment by Lessor until repayment by Lessee, shall be paid by Lessee upon demand, and if not so paid, shall continue to bear interest at the aforesaid rate, interest payable monthly, as additional rent.

6. No Signs without Approval of Lessor.

Any and all signs placed by or for Lessee, on the exterior of the leased premises, or on the real property on which the leased premises are located, shall be so placed and allowed to remain in place only with the approval of Lessor in writing except that the Lessee has the right to place the decal of the City of Key West and identification by department on storefronts.

Nor shall Lessor, or its successor or the owner of the leased premises, be charged with the costs of installing, maintaining, changing, or removing such sign or signs. Lessor shall have the right to approve the design, type, size, lettering and location of every sign to be erected in, upon or about the leased premises.

Any signs placed upon or about such leased premises shall, upon the end of the term of the lease or upon the earlier termination thereof, be removed by Lessee, and Lessee shall repair any damage to the leased premises which shall be occasioned thereto by reason of such removal.

7. No Exterior Paint Without Lessor Approval.

Lessee shall not decorate or paint the exterior of the leased premises, or any part thereof, except in the manner, and of a color, approved by Lessor.

8. Trash Control.

Lessee shall provide and maintain sanitary and rat-proof receptacles with covers at or about the leased premises in which to place any and all refuse or trash, and to place this refuse and trash in receptacles. Lessee shall make Lessee's own arrangements and pay for garbage and trash pick-up service on or from the leased premises, and should not permit the same to accumulate and remain on the premises except during reasonable intervals between pick-up service.

9. Sidewalk Maintenance.

By
5/3/10

At all times, Lessee shall keep the sidewalks in front of the leased premises clean and in a sightly and sanitary condition and not exhibit or display any goods, wares or merchandise thereon.

10. Replacement of Glass.

At Lessee's own cost and expense, unless covered by property damage and casualty insurance and if caused by the Lessee Lessee shall replace all glass in, upon or about the leased premises that shall be broken during the term herein specified unless caused by Lessor, an agent or employee of Lessor, or Lessor's successor.

11. Right of Re-Entry.

Lessor shall have the right, by itself or agent or with others, to enter the premises at reasonable hours to examine or exhibit the premises, or to make such repairs and alterations as shall be deemed necessary for the safety and preservation of the building, to inspect and examine, to post such notices as Lessor may deem necessary to protect Lessor against loss from liens of laborers, material men or others, and for the purpose of permitting or facilitating Lessor's performance of its obligations hereunder, or for any other reasonable purpose which does not materially diminish Lessee's enjoyment or use of the leased premises.

Lessee expressly waives any claim for damages, including loss of business, resulting from Lessor's entry, from the erecting of scaffolding or other structures to facilitate repairs, or from Lessor's other reasonable activities for the purpose of altering, improving, or repairing the leased premises in conformity herewith.

With 24 hours advance notice and at a time that will not materially interfere or disrupt Lessee's business Lessee agrees to permit Lessor, at any time within 60 days prior to the expiration of this lease, to place upon or in the window of the leased premises any usual or ordinary For Rent or similar sign and to allow prospective tenants, applicants or agents of Lessor to enter and examine the leased premises during the last 60 days of the term hereof, and to permit Lessor or Lessor's agents, at any time during the term hereof, to conduct prospective purchasers through the leased premises during reasonable business hours.

12. Assignment or Sub-Letting.

No assignment, sublease or sale of this lease or any interest therein may be made by Lessee without the written consent of Lessor having first been obtained thereto, which consent Lessor shall grant unless Lessor has a valid reason, which can be substantiated. If there is a dispute as to whether Lessor has a valid reason for withholding consent, it shall be determined by arbitration.

Any attempted assignment, sublease or sale of this lease or any interest therein shall be null and void and have no effect unless such consent shall have been obtained. Any assignment by operation of law shall be subject to the same conditions and restrictions as an assignment by Lessee. If such consent is given by Lessor, any and all sub-lessees shall be responsible tenants, and Lessee shall not be relieved of any liability hereunder by Lessee's assignment, vacation or subletting thereof.

It is agreed that one of the conditions moving Lessor to make this lease is the personal confidence reposed by it in Lessee, combined with the belief that Lessee will be a tenant and occupant satisfactory to Lessor.

Nothing herein shall prevent the Lessor from assigning its interest under this lease, provided, however, that any assignee shall be subject to the same obligations and duties as the original Lessor.

13. Right of Lessor to Pay Obligations of Lessee to Others.

If Lessee shall fail or refuse to pay any sums due to be paid by it under the provisions of this lease, or fail or refuse to maintain the leased premises or any part thereof as herein provided, then, and in such event, Lessor, after 10 days notice in writing by Lessor to Lessee, shall have the right to pay any such sum or sums due to be paid by Lessee and to do and perform any work necessary to the proper maintenance of the leased premises; and the amount of such sum or sums paid by Lessor for the account of Lessee and the cost of any such work, together with interest thereon at the maximum legal rate from the date of payment thereof by Lessor until the repayment thereof to Lessor by Lessee, shall forthwith be paid by Lessee upon demand in writing.

The payment by Lessor of any such sum or sums or the performance by Lessor of any such work shall be prima facie evidence of the necessity therefor.

14. Surrender and Return of Leased Premises.

Bf
5/3/10

On the last day of the term hereby created or on the sooner termination thereof, Lessee shall peaceably surrender the leased premises in good order, condition and repair, broom clean-fire and other unavoidable casualty, reasonable wear and tear only excepted. On or before the last day of the term hereby created or on the sooner termination thereof, Lessee shall, at its expense, remove its trade fixtures, signs and carpeting from the leased premises and any property not removed shall be deemed abandoned. All alterations, additions, improvements and fixtures (other than Lessee's trade fixtures, signs and carpeting) which shall have been made or installed by either Lessor or Lessee upon the leased premises and all hard surface bonded or adhesively affixed flooring shall, without charge, remain upon and be surrendered with the leased premises as a part thereof, without disturbance, molestation or injury.

15. Event of Default

Each of the following shall be deemed an Event of Default:

- a. Default in the payment of rent or other payments hereunder.
- b. If Lessee shall default in the performance or observance of any OF Lessee's covenants or conditions of this lease.
- c. Abandonment of the premises.
- d. The filing or execution or occurrence of:
 1. A petition in bankruptcy by or against Lessee.
 2. A petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or other relief of the same or different kind under any provision of the Bankruptcy Act.
 3. Adjudication of Lessee as a bankrupt or insolvent or insolvency in the bankruptcy equity sense.
 4. An assignment for the benefit of creditors whether by trust, mortgage, or otherwise.
 5. A petition or other proceeding by or against Lessee for, or the appointment of, a trustee, receiver, guardian, conservator or liquidator of Lessee with respect to all or substantially all its property.
 6. A petition or other proceeding by or against Lessee for its dissolution or liquidation, or the taking of possession of the property of the Lessee by any governmental authority in connection with dissolution or liquidation.
 7. The taking by any person of the leasehold created hereby or any part thereof upon execution, attachment, or other process of law or equity.

16. Fair Notice of Default.

The parties are desirous of giving one another fair notice of any default before sanctions are imposed. In the event of an act of default with respect to any provision of this lease, neither party can institute legal action with respect to such default without first complying with the following conditions:

- a. Notice of such event of default must be in writing and mailed to the other party by U.S. Certified Mail, return receipt requested;
- b. Such written notice shall set forth the nature of the alleged default in the performance of the terms of this lease and shall designate the specific paragraph(s) therein which relate to the alleged act of default;
- c. Such notice shall also contain a reasonably understandable description of the action to be taken or performed by the other party in order to cure the alleged default and the date by which the default must be remedied, which date can be not less than ten business days from the date of mailing the notice of default.

17. Termination.

Upon occurrence of any Event of Default, and after proper notice of default has been given, Lessor may, at its option, in addition to any other remedy or right given hereunder or by law:

- a. Give notice to Lessee that this lease shall terminate upon the date specified in the notice, which date shall not be earlier than five days after the giving of such notice; or,
- b. Immediately after ten days of default, and without further notice or demand, enter upon the leased premises or any part thereof, in the name of the whole, and upon the date specified in such notice, or any other notice pursuant to law, or upon such entry, this lease and the term thereof shall terminate.

18. Repossession.

BJ
5/3/10

Upon termination of this lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, the Lessor may enter forthwith, without further demand or notice upon any part of the premises, in the name of the whole, if he has not theretofore done so, and resume possession wither by summary proceedings, or by action at law or in equity, or by force or otherwise, as Lessor may determine, without being liable in trespass or for any damages. In no event shall such re-entry or resumption of possession or reletting as hereafter provided be deemed to be acceptance or surrender of this lease or a waiver of the rights or remedies of Lessor hereunder.

19. Court Action, Attorneys' Fees and Costs.

If, upon failure of either party to comply with any of the covenants, conditions, rules or regulations of and in this lease, and a lawsuit should be brought for damages on account thereof, or to enforce the payment of rent herein stipulated, or to recover possession of the premises or to enforce any provision hereof, the losing party agrees to pay to the prevailing party reasonable costs and expenses incurred in prosecuting these suits as determined by the court including attorneys' fees

20. Default by Lessor.

In the event of any default by Lessor, Lessee, before exercising any rights that it may have at law to cancel this lease, must first send notice by registered or certified mail to Lessor, and shall have offered Lessor fifteen (15) days in which to correct and cure the default or commence a good faith effort to cure such default.

21. Reletting after Termination.

Upon termination of this lease in any manner above provided, Lessor shall use reasonable efforts to relet the premises. Lessor shall be deemed to use reasonable efforts if it leases the whole or any part of the premises, separately, or with other premises, for any period equal to or less than or extending beyond the remainder of the original term, for any sum or to any lessee or for any use it deems reasonably satisfactory or appropriate.

22. Damages.

Upon termination of this lease in any manner above provided, or by summary proceedings or otherwise, Lessee shall pay to Lessor forthwith without demand or notice the sum of the following:

- a. All rent, additional rent and other payments accrued to the date of such termination and a proportionate part otherwise payable for the month in which such termination occurs.
- b. The costs of making all repairs, alterations and improvements required to be made by Lessor hereunder, and of performing all covenants of Lessee relating to the condition of the premises during the term and upon expiration or sooner termination of this lease, such costs to be deemed prima facie to be the costs estimated by a reputable architect or contractor selected by Lessor & Lessee or the amounts actually expended or incurred thereafter by Lessor.

23. Operating Costs.

All operating expenses of Lessee of whatever nature, are the sole obligation of Lessee.

24. Intentionally Deleted.

25. Abandonment.

If Lessee shall be in default in the payment of the rental and shall vacate or abandon the premises or any part thereof (in absence of Lessee therefrom for a period of five days after such default shall be considered such an abandonment thereof), Lessor may, if it so elects, re-enter the leased premises and remove the contents and take possession of the leased premises and relet the same or any part thereof, at such rental and upon such terms and conditions as it may deem proper and apply the proceeds thereof, less the expenses, including the usual agent's commission so incurred, upon the amount due from Lessor hereunder, and Lessee shall be liable for any deficiency.

If Lessor shall take possession of the premises and relet the same, such reletting shall not operate as a termination of this lease unless Lessor so elects, such election to be evidenced by written notice to Lessee; nor shall such action by Lessor operate as a waiver of any rights or remedies of Lessor hereunder.

By
5/3/10

26. Holdover.

If Lessee shall holdover after the expiration of the term hereof, with the consent of Lessor, express or implied, such tenancy shall be from month to month only, and not a renewal hereof; and Lessee agrees to pay rent and all other charges as hereinabove provided, and also to comply with all covenants of this lease for the time Lessee holds over. If Lessee shall hold over without the consent of Lessor, express or implied, then Lessee shall be construed to be a tenant at sufferance at 150% the rent herein provided, prorated by the day until possession is returned to Lessor. If Lessee shall hold over with the consent of Lessor, Lessee shall be entitled to possession until Lessor has given Lessee 30 days notice that such month to month tenancy shall be terminated; otherwise, notice is only required as hereinafter provided as notice of default.

27. Destruction of Leased Premises.

If the leased premises shall, at any time after the execution of the lease, be damaged or destroyed by fire or other unavoidable casualty including the deterioration of the indoor air quality to the extent that the leased premises shall be unfit for occupancy and use by Lessee, and to the extent that the same cannot be rebuilt or restored by Lessor within 120 days thereafter; then and in such event, either Lessor or Lessee may, at their respective option, terminate this lease by notice in writing to the other of them within thirty days after such damage or destruction; provided, however if the leased premises can be rebuilt or restored within 120 days, Lessor shall, at its own cost and expense and with due diligence, rebuild and restore the leased premises, and a just and proportionate part only of the rentals hereby reserved shall be paid by Lessee to Lessor until such work shall have been completed. During such reconstruction, should the Lessee be forced to lease other premises, such amount paid for the other premises shall be deducted from the amount owed to Lessor, provided that such deduction shall not exceed the amount owed Lessor. Lessee will pay only for space that Lessee continues to occupy during re-construction.

If Lessor shall rebuild or restore the leased premises, then and in such event, the full amount of the insurance payable under policies of fire property damage and casualty insurance shall be paid to Lessor for use in the rebuilding and restoration of the leased premises.

28. Removal of Trade Fixtures.

Lessee shall have the right, upon the expiration of the term of this lease, or at any time during such term if Lessee shall not be in default, to remove from the leased premises all fixtures and equipment placed thereon by Lessee, even though permanently affixed to the leased premises; provided, however, that Lessee, in effecting removal, shall restore the leased premises to a good, safe, sound, orderly and sightly condition.

29. Eminent Domain.

If the leased premises or any part thereof shall be taken by eminent domain, which taking shall render the remainder of the leased premises unsuitable for occupancy and use by Lessee for the purpose intended by Lessee, then and in such event, the full current amount payable to the date of taking, or the prorated amount of that month's rent to the date of taking, shall be paid to Lessor, and this lease shall terminate as of the date of taking.

If only a part of the leased premises shall be taken by eminent domain, and such taking shall not unduly interfere with the occupancy and use of the leased premises for the purpose intended by Lessee, then and in such event, the full amount payable-for and upon such taking shall be paid to Lessor, and from and after the date of such taking only a just and proportionate part of the rentals for the leased premises hereby reserved shall be paid by Lessee.

Lessee shall have the right to claim and recover from the condemning authority, but not from Lessor, such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damage to Lessee's leasehold interest, to Lessee's business by reason of the condemnation, and for or on account of any cost or loss to which Lessee might be put in removing Lessee's merchandise, furniture, fixtures, leasehold improvements and equipment.

30. Subordination.

If Lessor shall desire at any time, and from time to time to secure a loan or loans upon the security of the real property and the improvements thereon, including the leased premises, then and in such event, Lessee hereby agrees to make and enter into a subordination agreement or agreements with any responsible lending agency that Lessor shall designate, wherein and whereby Lessee's rights, titles and interests in and to the real property and the improvements are subordinated to the lien of any

Bd
5/31/10

mortgage or mortgages to be made, executed and delivered by Lessor as security for that loan or loans; provided, however, that the subordination shall be upon the following conditions:

- a. The execution of the subordination agreement or agreements by Lessor shall impose no personal liability whatsoever upon Lessee.
- b. Any such mortgage or mortgages shall provide that the mortgagee shall agree to give to Lessee all notices required to be given to Lessor as mortgagor under the terms and conditions of those mortgages, or any loan agreement or agreements, or under the laws of the state where the leased premises are situated.
- c. The mortgage or mortgages shall further provide that in the event of any default on the part of Lessor under the terms and conditions thereof or the obligation secured, Lessee may, at its own election, cure such default, and any amount expended by Lessee in so doing shall be paid by Lessor to Lessee, with interest thereon at the maximum legal rate per annum from the time or times any expenditure or expenditures for such purpose were made, upon demand by Lessee therefore.
- d. Lessor shall indemnify and hold harmless the Lessee of and from any and all liability, cost or expense to which Lessee may be put by reason of the failure of Lessor to keep and perform any of the covenants and agreements set forth and contained in such mortgage or mortgages and the obligations thereby secured.

31. Sale by Lessor.

In the event of a sale or conveyance by Lessor of all or part of the leased premises, the same shall operate to release Lessor from any future liability upon any of the covenants or conditions, express or implied, herein contained in favor of Lessee, and in such event Lessee agrees to look solely to the responsibility of the successor in interest of Lessor in and to this lease. This lease shall not be affected by any such sale, and Lessee agrees to attorn to the purchaser or assignee.

32. Applicable Law.

This lease shall be subject to and governed by the laws of the state where the leased premises are situated, regardless of the fact that one or more of the parties now is or may become a resident of a different state.

33. Assignment of Personal Property Warranties.

Lessor hereby assigns to Lessee any and all rights it has under any manufacturers' or dealers' warranties covering the personal property and fixtures leased herein.

34. Proration:

If any prorations are required to be made under the terms of this lease, the prorations shall be made as of the first day of the lease term.

35. Broker.

The Landlord and the Tenant recognize Prudential Knight & Gardner as the Broker who brought about this Lease. The Landlord or successors or assigns shall pay any Broker's commission due under separate agreement.

36. Recording

Either party may record this lease in the public records of Monroe County, Florida.

**SECTION III
GENERAL LEASE PROVISIONS**

1. Intentionally Deleted

2. Intentionally Deleted

3. Intentionally Deleted

BJ
5/13/10

4. Nature of Relationship Between Parties.

The sole relationship between the parties created by this agreement is that of lessor and lessee. Nothing contained in this lease shall be deemed, held, or construed as creating a joint venture or partnership between the parties.

5. Notices.

Copies of all notices and communications concerning this lease shall be mailed to the parties at the addresses written on page one of this lease, and any change of address shall be communicated to the other party in writing. Any documents which may adversely affect the rights of any party to this lease shall be dispatched by certified mail, return receipt requested. For all documents mailed to persons in the continental United States, the time period on all notices shall begin running on the day following the date that the document is postmarked. For documents mailed to persons outside the continental United States, the time period begins to run on the date that the document is received by the other party.

6. Waiver and Consent.

Lessor's or Lessee's consent to or waiver of any of the terms or conditions of the lease on any one occasion shall not be deemed a waiver or consent with regard to any such term or condition for any other occasion or to any other act or conduct. The waiver by Lessor or Lessee of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition.

Whenever under this lease provision is made for Lessee to secure the written consent or approval by Lessor, such consent or approval shall be in writing and shall not be unreasonably withheld.

No covenant, term or condition of this lease shall be waived except by written consent of the Lessor and Lessee and the forbearance by Lessor or Lessee in any regard whatsoever shall not constitute a waiver of the covenant, term or condition to be performed.

7. Provisions of Lease.

Each term and each provision of this lease to be performed by Lessee shall be construed to be both a covenant and a condition.

**SECTION IV
CONSTRUCTION AND INTERPRETATION**

1. Entire Agreement.

The terms of this document constitute the entire agreement between the parties, and the parties represent that there are no collateral agreements not otherwise provided within the terms of this agreement.

2. Intentionally Deleted.

3. Interpretation.

Whenever any word is used in this agreement in the masculine gender, it shall also be construed as being used in the feminine and neuter genders, and singular usage shall include the plural and vice versa, all as the context shall require.

4. Partial Invalidity.

If any provision of the contract is held to be invalid or unenforceable, all the remaining provisions shall nevertheless continue in full force and effect.

5. Marginal Headings.

The marginal and topical headings of the paragraphs of this agreement are for convenience only, and are not to be considered a part of this agreement or used in determining its content or context.

6. Modification.

BT
5/3/10

Any modification or amendment of this agreement shall be in writing and shall be executed by all parties.

7. Succession of Benefits.

The provisions of this agreement shall inure to the benefit of and be binding upon the parties thereof, their heirs, executors, administrators and permitted assignees.

8. Time.

Time is of the essence in this agreement for each and every term, condition, covenant and provision.

**SECTION V
EXECUTION, ACCEPTANCE AND ACKNOWLEDGMENT**

1. Intentionally Deleted

2. Governing Law. The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

3. Interlineations and Initials.

The parties recognize that because of the exigencies of the modern world, the mechanics of drafting, the convenience of the parties, and the economy of costs, they may have in their own handwriting made minor changes in this instrument. These minor changes have been initialed by all parties, if any changes have been made, fore and aft of the changes on all originals to prevent any extension or alteration of that change by any of the parties or others. Unless otherwise indicated by the placement of a date beside the change, these changes were intended by the parties to have occurred as of the effective date of this instrument. Any interlined changes made by the parties after the effective date of this instrument shall be initialed by all parties, dated, and have the date itself initialed fore and aft by all parties to this instrument.

4. Execution.

All parties named in the caption as parties shall sign below and at least one of the parties shall initial all pages of all original copies of this instrument. Furthermore, all documents such as schedules, exhibits and like documents which are expressly incorporated herein shall be initialed by all parties and either exchanged or attached to the originals which are given to any party named on the caption page of this instrument. It is the intent of the parties that all pages be initialed on all originals that are exchanged in order that no substituted pages or misunderstanding shall ever become possible to create problems in satisfying the intended objectives of this instrument.

5. Acknowledgment.

The notary public who have acknowledged the signatures of the various parties as designated in the acknowledgments hereof certify that this instrument was acknowledged by the signing party before the notary on the date of the notarization. If the instrument was subscribed by any of the parties in a representative capacity, then the notary ascertained that the signing party signed for the principal named by that party and in the capacity in which that party indicated he signed.

Hillsborough Center Associates, L.L.C.
By: Brian J Lynch

Witness: [Signature]

Witness: [Signature]

Subscribed and Sworn before me this 16 day of April, 2010

By: Brian Lynch

*By
5/3/10*

Notary Public Dolores Prost (Seal)

STATE OF New Jersey

County of Morris

DOLORES PROST
NOTARY PUBLIC
State of New Jersey
My Commission Expires 03/22/11

JKSLOO
City of Key West, Lessee
By: Jim Scholl, City Manager

MAEK Z FINIGAN
Witness:
MARLYN WIRBERT
Witness:

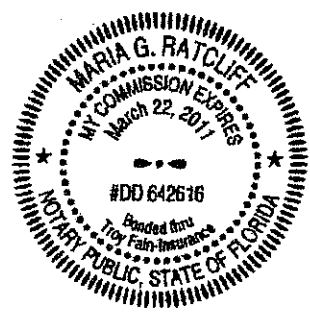
Subscribed and Sworn before me this 15 day of APRIL, 2010

By Jim Scholl

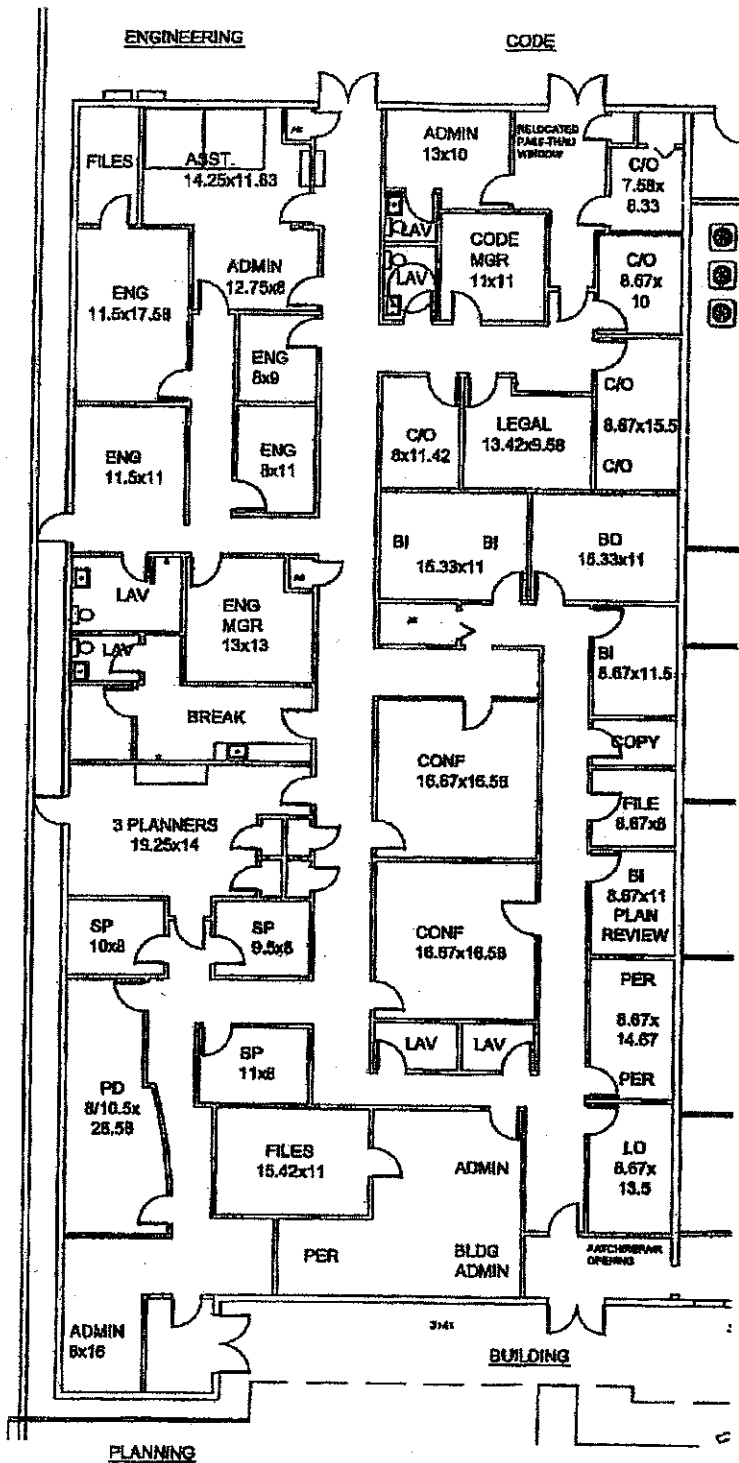
Notary Public Maria G. Ratcliff (Seal)

STATE OF Florida

County of Monroe



Ref
5/3/10



PARTIAL FLOOR PLAN - A

SCALE = 1/16" = 1'-0"

8,103 s.f.
4-5-10

Handwritten signature: B.J.
5/3/10

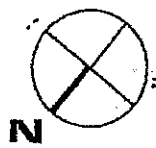
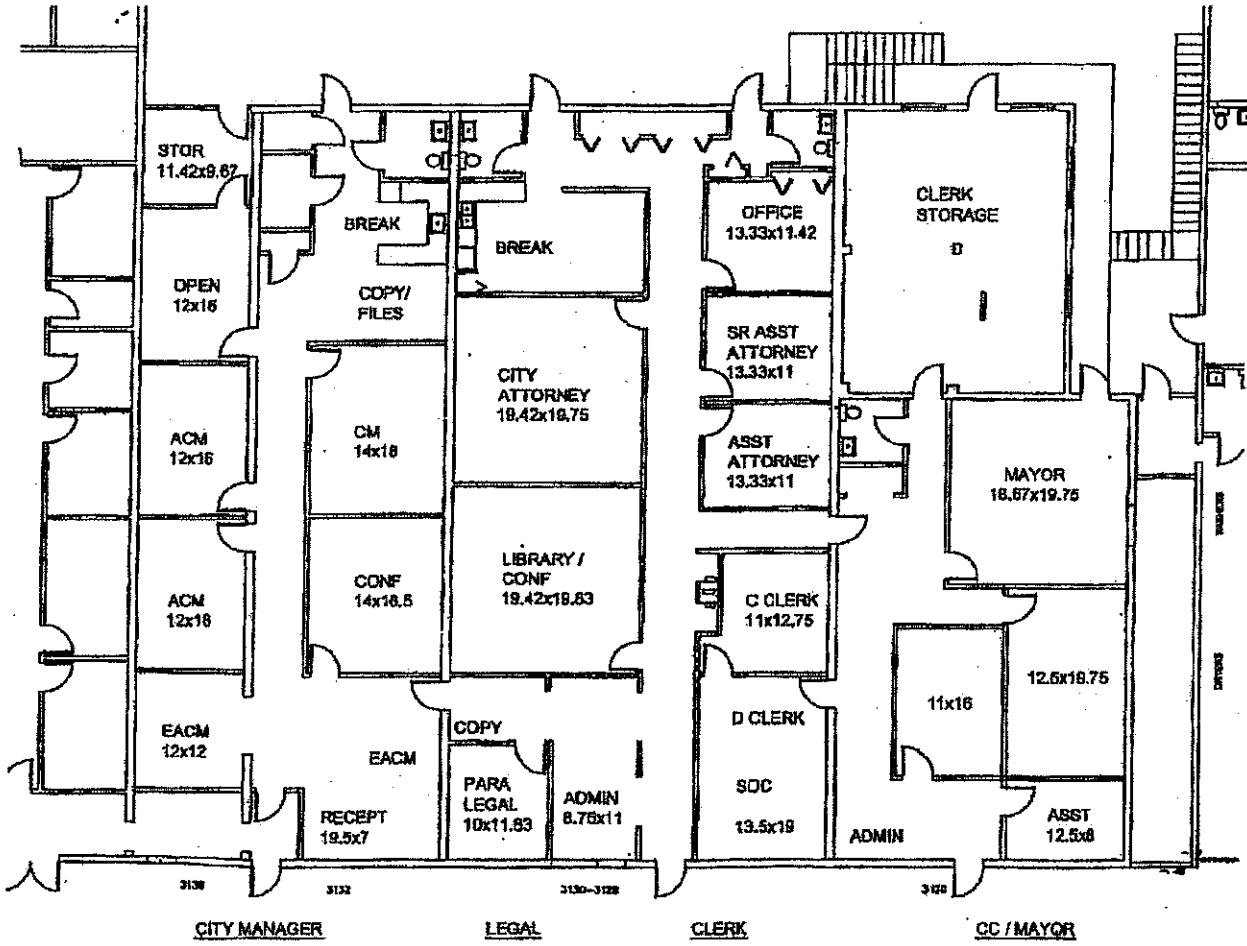
Habana Plaza
Key West, FL
Project # 05-2014

3-15-10

City move-in Plan A

CSI #	Type of Work	remarks	Landlord	Lassee	Total
			cost	cost	cost
02050	Demolition		\$2,625	\$4,375	\$7,000
06400	Millwork		\$0	\$0	\$0
08200	Door/Frames/Hardware	new doors	\$0	\$3,600	\$3,600
09250	Gyp. Bd. Partitions		\$0	\$4,800	\$4,800
09500	Suspended Ceilings - reworked	patch and repair	\$0	\$2,400	\$2,400
09600	Suspended Ceilings - new		\$0	\$0	\$0
09680	Flooring - tile	patch and repair	\$1,000	\$1,500	\$2,500
09900	Painting	the entire plan	\$20,258	\$0	\$20,258
15000	Mechanical	moving diffusers if necess.	\$0	\$1,500	\$1,500
15400	Plumbing	with demo to cap sink	\$0	\$0	\$0
18000	Electrical	rework outlets, misc.	\$0	\$3,850	\$3,850
16001	Tele/data	NOT ESTIMATED	n/a	n/a	n/a
18002	Fire alarm		\$0	\$0	\$0
	Subtotal		\$23,883	\$22,025	\$45,908
	contingency	10%	\$2,388	\$2,203	\$4,591
	General Conditions	project management/supervision	\$2,388	\$2,203	\$4,591
	O&P	3% overhead & profit	\$716	\$661	\$1,377
	architectural services		\$3,045	\$2,808	\$5,853
	Total		\$32,420	\$29,899	\$62,319
	square footage	8,103		cost per SF	\$7.69

By
5/3/10



PARTIAL FLOOR PLAN - B

8,104 s.f.

SCALE = 1/16" = 1'-0"

3-25-10

Bf
5/3/10

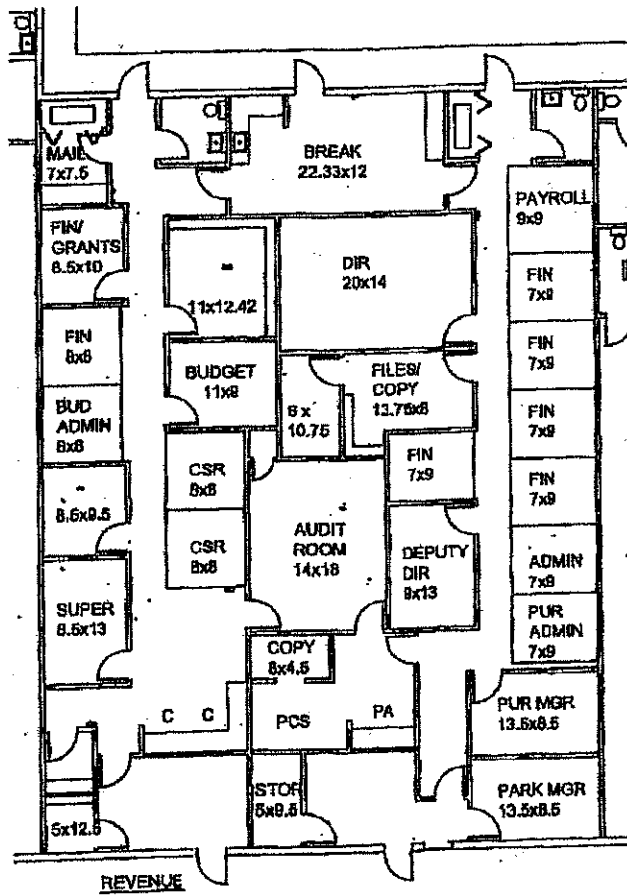
Habana Plaza
Key West, FL
Project # 05-2014

3-15-10

City move-in Plan B

CSI #	Type of Work	remarks	Landlord	Lessee	Total
			cost	cost	cost
02050	Demolition		\$3,150	\$1,400	\$4,550
06400	Milwork		\$0	\$0	\$0
08200	Door/Frames/Hardware	new doors	\$0	\$18,000	\$18,000
09250	Gyp. Bd. Partitions		\$3,750	\$12,000	\$15,750
09500	Suspended Ceilings - reworked	patch and repair	\$0	\$0	\$0
09500	Suspended Ceilings - new		\$5,000	\$0	\$5,000
09680	Flooring - tile	new in alley	\$6,000	\$1,000	\$7,000
09900	Painting	the entire plan	\$20,280	\$0	\$20,280
15000	Mechanical	new in alley plus moving minor	\$17,850	\$0	\$17,850
15400	Plumbing	with demo to bathroom	\$0	\$0	\$0
16000	Electrical	rework outlets and lights as need'd	\$8,875	\$8,800	\$15,675
18001	Teledata	NOT ESTIMATED	n/a	n/a	n/a
16000	Fire alarm		\$0	\$0	\$0
	Subtotal		\$82,885	\$41,200	\$104,085
	contingency	10%	\$6,289	\$4,120	\$10,409
	General Conditions	project management/supervision	\$6,289	\$4,120	\$10,409
	O&P	3% overhead & profit	\$1,887	\$1,236	\$3,123
	architectural services		\$6,289	\$4,120	\$10,409
	Total		\$83,637	\$54,796	\$138,433
	square footage	8,104		cost per SF	\$17.08

BJ
5/3/10



PARTIAL FLOOR PLAN - C

4,639 s.f.

SCALE = 1/16" = 1'-0"

3-12-10

BJ
5/3/10

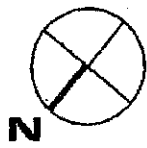
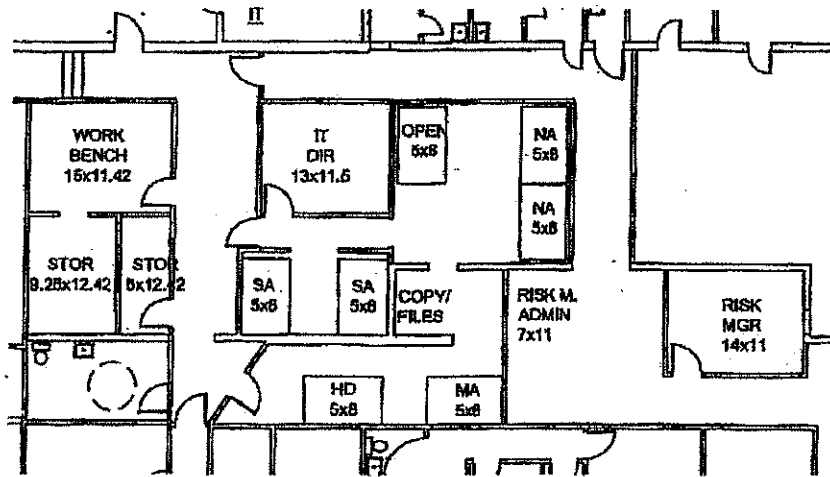
Habana Plaza
 Key West, FL
 Project # 05-2014

3-15-10

City move-in Plan C

CSI #	Type of Work	remarks	Landlord	Lassee	Total
			cost	cost	cost
02050	Demolition		\$525	\$2,800	\$3,325
06400	Milkwork		\$0	\$0	\$0
08200	Door/Frames/Hardware	new doors	\$0	\$4,800	\$4,800
09250	Gyp. Bd. Partitions		\$1,500	\$4,200	\$5,700
09500	Suspended Ceilings - reworked	patch and repair	\$0	\$3,000	\$3,000
09500	Suspended Ceilings - new		\$0	\$0	\$0
09680	Flooring - tile	patch and repair	\$0	\$2,000	\$2,000
09900	Painting	the entire plan	\$11,598	\$0	\$11,598
15000	Mechanical	moving diffusers if necess.	\$0	\$1,500	\$1,500
15400	Plumbing		\$0	\$0	\$0
16000	Electrical	rework outlets, misc.	\$0	\$4,400	\$4,400
16001	Tele/data	NOT ESTIMATED	n/a	n/a	n/a
16000	Fire alarm		\$0	\$0	\$0
	Subtotal		\$13,623	\$22,700	\$36,323
	contingency	10%	\$1,362	\$2,270	\$3,632
	General Conditions	project management/supervision	\$1,362	\$2,270	\$3,632
	O&P	3% overhead & profit	\$409	\$681	\$1,090
	architectural services		\$2,043	\$3,405	\$5,448
	Total		\$18,799	\$31,326	\$50,125
	square footage	4,639		cost per SF	\$10.81

Bf
 5/3/10



PARTIAL FLOOR PLAN - D'

2,275 s.f.

SCALE = 1/16" = 1'-0"

3-18-10

BJ
5/3/10

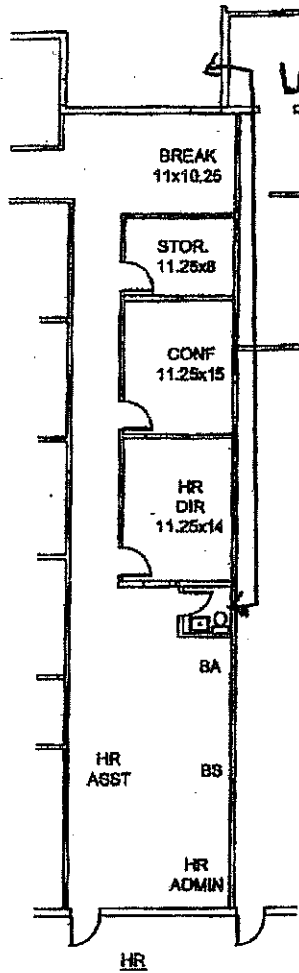
Habana Plaza
 Key West, FL
 Project # 05-2014

3-18-10

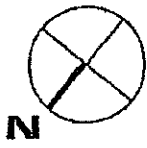
City move-in Plan D.

CSI #	Type of Work	remarks	Landlord	Lessee	Total
			cost	cost	cost
02050	Demolition		\$2,100	\$525	\$2,625
06400	Millwork		\$0	\$0	\$0
08200	Door/Frames/Hardware	new doors	\$0	\$4,800	\$4,800
09250	Gyp. Bd. Partitions		\$4,500	\$7,500	\$12,000
09500	Suspended Ceilings - reworked		\$0	\$1,000	\$1,000
09500	Suspended Ceilings - new		\$8,250	\$0	\$8,250
09680	Flooring - tile	new and patch/repair	\$9,900	\$1,000	\$10,900
09900	Painting	the entire plan	\$5,688	\$0	\$5,688
15000	Mechanical	rework existing add new	\$14,025	\$1,000	\$15,025
15400	Plumbing		\$0	\$0	\$0
16000	Electrical	rework existing add new	\$8,076	\$3,300	\$12,375
16001	Tele/data	NOT ESTIMATED	n/a	n/a	n/a
16000	Fire alarm		\$0	\$0	\$0
	Subtotal		\$53,538	\$19,125	\$72,663
	contingency	10%	\$5,354	\$1,913	\$7,266
	General Conditions	project management/supervision	\$5,354	\$1,913	\$7,266
	O&P	3% overhead & profit	\$1,606	\$574	\$2,180
	architectural services		\$5,354	\$1,913	\$7,266
	Total		\$71,205	\$25,436	\$96,641
	square footage	2,275		cost per SF	\$42.48

BF
 5/3/10



LESSOR AGREES TO RELOCATE
 LAVATORY TO REAR OF
 DEMISED PREMISES AT
 LESSOR'S EXPENSE



PARTIAL FLOOR PLAN - E

1,443 s.f.

SCALE = 1/16" = 1'-0"

3-25-10

BJ
 5/3/10

Habana Plaza
 Key West, FL
 Project # 05-2014

3-15-10

City move-in Plan E

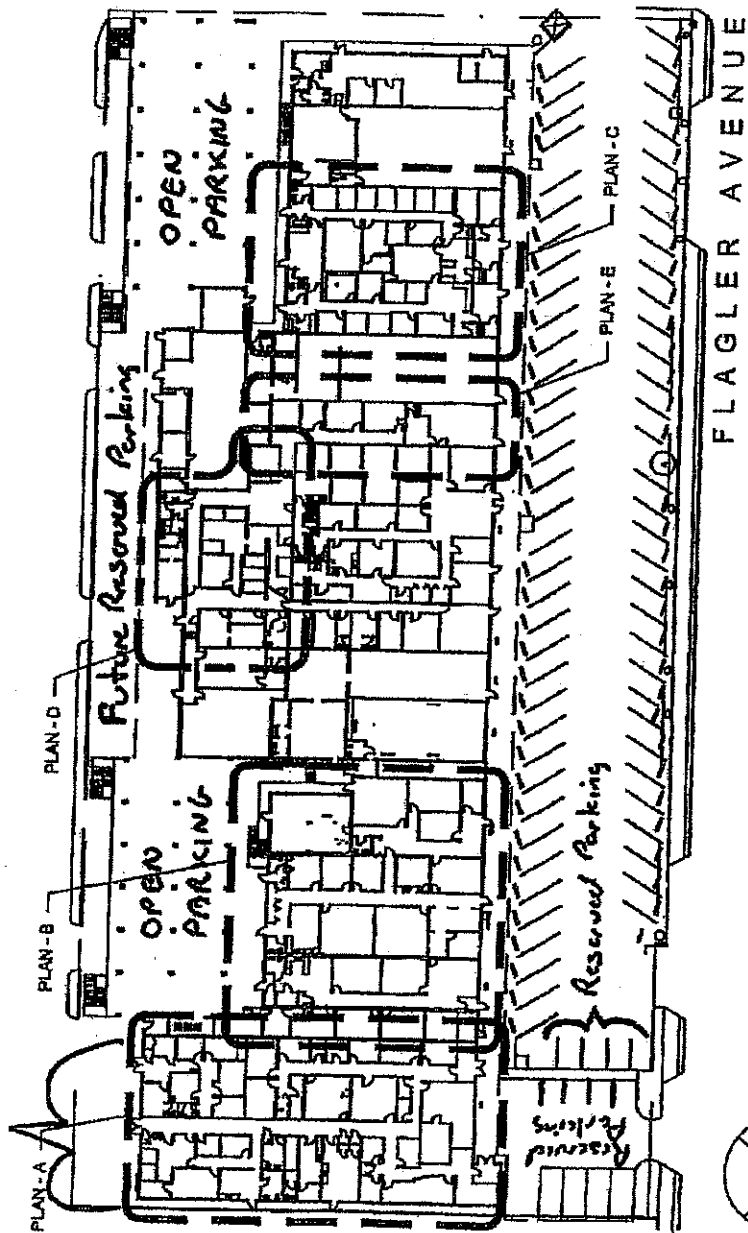
CSI #	Type of Work	remarks	Landlord	Lessee	Total
			cost	cost	cost
02050	Demolition		\$1,050	\$0	\$1,050
06400	Milwork		\$0	\$0	\$0
08200	Door/Frames/Hardware	new doors	\$0	\$3,600	\$3,600
09250	Gyp. Bd. Partitions		\$0	\$7,500	\$7,500
09500	Suspended Ceilings - reworked		\$0	\$0	\$0
09500	Suspended Ceilings - new		\$5,250	\$0	\$5,250
09680	Flooring - tile	new	\$6,300	\$0	\$6,300
09900	Painting	the entire plan	\$3,608	\$0	\$3,608
15000	Mechanical	rework existing add new	\$8,925	\$0	\$8,925
15400	Plumbing		\$0	\$0	\$0
16000	Electrical	rework existing add new	\$4,125	\$3,025	\$7,150
16001	Tele/data	NOT ESTIMATED	n/a	n/a	n/a
16002	Fire alarm		\$0	\$0	\$0
	Subtotal		\$29,258	\$14,125	\$43,383
	contingency	10%	\$2,926	\$1,413	\$4,339
	General Conditions	project management/supervision	\$2,926	\$1,413	\$4,339
	O&P	3% overhead & profit	\$878	\$424	\$1,301
	architectural services		\$2,926	\$1,413	\$4,339
	Total		\$38,912	\$18,786	\$57,699
	square footage	1,443		cost per SF	\$39.99

By
 5/3/10

Exhibit "F"

BJ
5/13/10

KENNEDY DRIVE



Reserved Parking

OVERALL SITE PLAN

N.T.S.

9-25-10

*By
5/3/10*

Exhibit "G"

CAM breakdown for 2009 is:

Property Taxes:	\$59,894
Insurance:	\$61,041
Maintenance:	\$53,065
Area Lighting:	\$ 3,500
Management Fees:	<u>\$60,000</u>

\$237,500/50,000 sq ft = \$4.75 sq ft

BF
5/3/10

RESOLUTION NO. 11-154

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY AND HILLSBOROUGH CENTER ASSOCIATES, LLC FOR THE PROPERTY LOCATED AT 3132 FLAGLER AVENUE; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached First Amendment to Lease Agreement between the City and Hillsborough Center Associates, LLC is hereby approved.

Section 2: That the City Manager, upon advice and consent of the City Attorney, is hereby authorized to execute the First Amendment.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 17 day of May, 2011.

Authenticated by the presiding officer and Clerk of the Commission on May 18, 2011.

Filed with the Clerk May 18, 2011.



CRAIG CATES, MAYOR

ATTEST



CHERYL SMITH, CITY CLERK

FIRST AMENDMENT TO COMMERCIAL LEASE

THIS FIRST AMENDMENT TO COMMERCIAL LEASE (the "Amendment") is made this ~~31st~~ day of May, 2011 (the "Amendment Effective Date"), by and between **RL BB-FL HILLSBOROUGH, LLC**, a Florida limited liability company (hereinafter referred to as "Lessor"), whose address for purposes of notice is c/o Rialto Capital Advisors, LLC, 700 NW 107th Ave, Suite 200, Miami, FL 33172; Attention: Matt Papunen, and **THE CITY OF KEY WEST**, a municipal corporation (hereinafter referred to as "Lessee"), whose address for purposes of notice is P.O. Box 1409, Key West, FL, 33041. Capitalized terms which are used herein which are not separately defined shall have the meanings set forth in the Lease Agreement and/or the Option Contract (each of which is itself defined below).

WITNESSETH:

WHEREAS, Hillsborough Center Associates, LLC, a New Jersey limited liability company (the "Original Landlord"), and Lessee entered into that certain Commercial Lease (the "Lease Agreement") on the 16th day of April, 2010, but effective as of April 1, 2010 (the "Original Effective Date") pertaining to certain premises (the "Leased Premises") located at (and as part of a development which includes improvements beyond the Leased Premises) 3100 through 3140 Flagler Avenue, Key West, Florida and more particularly described on the legal description attached hereto as **Schedule 1** (the "Property"); and

WHEREAS, the Property was encumbered by a mortgage (the "Mortgage"), which has been foreclosed by Lessor; and,

WHEREAS, Lessor has taken title to the Leased Premises as provided in the Certificate of Title recorded April 18, 2011 (the "Transfer Date") in Official Records Book 2513, Page 1896, of the Public Records of Monroe County, Florida; and

WHEREAS, prior to Lessor taking possession (and without the approval of Lessor or its predecessor in title to the Mortgage), Original Landlord and Lessee agreed verbally to reconfigure the Leased Premises to be occupied by Lessee pursuant to the Lease Agreement, represented on **Exhibits "A" through "E,"** which are attached to the Lease Agreement; and

WHEREAS, the configuration of Suites 2, 4 and 5 (a/k/a Units B, D and E respectively) has been changed slightly; and

WHEREAS, Suites 1 and 3 (a/k/a Units A and C) have been completed and are currently being occupied by Lessee, as is Suite 4 (a/k/a Unit D), in its modified configuration; and

WHEREAS, Suites 2 and 5 (a/k/a Units B and E) have not yet been completed pursuant to the estimated dates set forth on the first page of the Lease Agreement and at this time are not occupied by Lessee; and

WHEREAS, Lessee has taken the position that Lessor is in default under the terms of the Lease Agreement, all as set forth in the notice from Lessee dated February 22, 2011 (the "**Notice of Default**"), which position Lessor denies (the positions of Lessee and Lessor being hereafter defined as the "**Dispute**"); and

WHEREAS, the Lessor and Lessee now desire to amend the Lease Agreement to address the issues set forth above and to resolve the Dispute, including a new timeline for completion of Suites 2 and 5 (a/k/a Units B and E), and otherwise modify the Lease Agreement on terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. The foregoing recitations of fact are true and correct and incorporated herein by this reference. Exhibits "A," "B," "C," "D" and "E" to the original Lease Agreement are deleted in their entirety and replaced with Exhibits "A," "B," "C," "D" and "E" attached to this Amendment, said Exhibits reflecting the configuration of each of the applicable Suites as same may have been modified on or before the Amendment Effective Date. In addition, Exhibits "B-1" and "E-1" attached to this Amendment reflect the work to be performed by Lessor to Suites 2 and 5 as a condition to Lessee's obligation to pay rent with respect to such Suites.

2. The parties agree that the Rental Commencement Dates for the Suites currently being occupied by Lessee, and that the net rentable square footage of said Suites are as follows:

- a. Suite 1- June 26, 2010 - Square Footage: 8,103
- b. Suite 3- August 17, 2010 - Square Footage: 4,639
- c. Suite 4- September 1, 2010 - Square Footage: 931

Lessee further acknowledges and agrees with Lessor that all build outs, improvements and any other repair, construction and/or renovation obligations of Lessor with respect to Suite 1, Suite 3 and Suite 4 have been satisfied and completed and have been fully paid for by Lessor or Lessor's predecessors in interest, and the condition of all such Suites is satisfactory to Lessee in all respects as of the date hereof. Additionally, Lessee represents and warrants that Certificates of Occupancy have been issued for Suite 1, Suite 3 and Suite 4.

3. The improvements required to be made to Suite 2 (a/k/a Unit B) by Lessor pursuant to the "City move-in Plan B" which is part of Exhibit "B" to the original Lease Agreement, have been modified to raise the floor for a portion of said unit; removal of the carpet; sealing of floor; and addition of acoustical ceilings tiles (as needed). As such, the breakdown/scope of work to be performed by Lessor (the "**Landlord's Work**") with respect to Suite 2 is as set forth in Exhibit "B-1" attached hereto.

a. The parties hereto agree that Landlord's Work with respect to Suite 2 shall be completed within ninety (90) days from the date Lessor obtains the necessary permits to complete Landlord's Work with respect to Suite 2. Lessor shall provide Lessee written notice that Lessor has substantially completed with regard to Suite 2. Thereafter, Lessee shall have 5 days within which to deliver written notice to Lessor accepting Suite 2 for occupancy or written notice specifying in detail the item or items to be corrected. Thereafter, Lessor shall correct said items within a reasonable time and provide Lessee written notice of same.

b. The parties hereto agree that the net rentable square footage of Suite 2 is 8104.

c. The Rental Commencement Date with respect to Suite 2 shall commence upon the Lessee's written notice to Lessor accepting Suite 2 for occupancy or upon Lessor's written notice to Lessee that Lessor has corrected items specified by Lessee. In the event Lessee fails to provide written notice to Lessor of acceptance or specifying items to be corrected, the Rental Commencement Date shall be the fifth (5th) business day after Lessor has provided Lessee with written notice that Landlord's Work with respect to such Suite is substantially complete (or such earlier date as Lessee may have taken occupancy of such Suite), which Rent Commencement Date is estimated to be August 18, 2011 (although such is not guaranteed by Lessor).

4. The improvements required to be made to Suite 5 (a/k/a Unit E) by Lessor pursuant to the "City move-in Plan E" which is part of Exhibit "E" to the original Lease Agreement, have been modified in accordance with the Lessee's request. As such, the breakdown/scope of Landlord's Work with respect to Suite 5 is as set forth in **Exhibit "E-1"** attached hereto.

a. The parties hereto agree that Landlord's Work with respect to Suite 5 shall be completed within ninety (90) days from the date Lessor obtains the necessary permits to complete Landlord's Work with respect to Suite 5. Lessor shall provide Lessee written notice that Lessor has substantially completed with regard to Suite 5. Thereafter, Lessee shall have 5 days within which to deliver written notice to Lessor accepting Suite 5 for occupancy or written notice specifying in detail the item or items to be corrected. Thereafter, Lessor shall correct said items within a reasonable time and provide Lessee written notice of same.

b. The parties hereto agree that the net rentable square footage of Suite 5 is 2,494.

c. The Rental Commencement Date with respect to Suite 5 shall commence upon the Lessee's written notice to Lessor accepting Suite 5 for occupancy or upon Lessor's written notice to Lessee that Lessor has corrected items specified by Lessee. In the event Lessee fails to provide written notice to Lessor of acceptance or specifying items to be corrected, the Rental Commencement Date shall be the fifth (5th) business day after Lessor has provided Lessee with written notice that Landlord's Work with respect to such Suite is substantially complete (or such earlier date as Lessee may have taken occupancy of such Suite), which Rent Commencement Date is estimated to be August 18, 2011 (although such is not guaranteed by Lessor).

5. The paragraph styled "Leased Premises" on page 1 of the Lease Agreement is hereby modified to provide that the total square footage which will ultimately be occupied by Lessee is now 24,271 square feet as a result of the change in the plans for Suites 4 and 5 (a/k/a Units D and E, respectively).

6. The parties acknowledge and agree that Lessee paid security deposits to Original Landlord for Suites 1, 3 and 4 in the total amounts of \$8,103.00, \$4553.00, and \$1,259.00, respectively (the "**Original Security Deposits**"). Concurrently with the execution of this Amendment, Lessee shall pay Lessor the security deposits for Suite 2 and Suite 5 in the amounts of \$8,104.00, and \$2,494.00 respectively (the "**New Security Deposits**"). So long as Lessee returns possession of the Leased Premises to Lessor in the condition required by terms of the Lease Agreement at the conclusion of the term of the Lease Agreement and otherwise complies with all of Lessee's obligations under the Lease Agreement (as modified by this Amendment, including but not limited to paying Lessor the Construction Reimbursement Amounts described below), Lessor shall return the Original Security Deposits and the New Security Deposits to Lessee (or such portion thereof as may remain after Lessor has applied any portion of the Original Security Deposits and/or New Security Deposits toward the cost incurred by Lessor in returning the Leased Premises to the condition required by terms of the Lease Agreement, and less any unpaid Construction Reimbursement Amounts) within 30 days of the end of the term of the Lease Agreement.

7. The parties agree that Lessee is obligated to reimburse Lessor for construction and renovation expenses (the "**Construction Reimbursement Amounts**") in the total amount of \$154,390.76. Further, the parties herein expressly agree that Lessee's liability for construction and renovation expenses shall not exceed \$154,390.76 in the event Lessor's actual expenditures for construction and renovation exceeds \$154,390.76.

a. As provided for in the Lease Agreement, Lessee began to reimburse Lessor for construction and renovation improvements by making payments (the "**Construction Reimbursement Payments**") for Suites 1, 3 and 4 at the rate of \$00.17 per square foot per month, commencing June 26, 2010, August 17, 2010 and September 1, 2010 respectively, and has made Construction Reimbursement Payments totaling \$24,694.00 as of April 13, 2011.

b. Lessee shall make Construction Reimbursement Payments to reimburse Lessor for construction and renovation improvements for Suites 2 and 5 at the rate of \$00.17 per square foot per month commencing on the Rental Commencement Dates for such Suites.

c. Lessee shall pay Lessor on December 31, 2013 (or, in the event of an earlier termination of the Lease or Lessee's right to possession of the Leased Premises, upon the date of such termination of the Lease or Lessee's right to possession) an amount equal to total of all Construction Reimbursement Amounts (i.e., \$154,390.76) LESS the total of all Construction Reimbursement Payments previously made by Lessee to Lessor

8. Lessor and Lessee hereby agree that Section I Paragraph 3 of the Lease Agreement erroneously stated that Base *Monthly* Rent shall be \$12.00 per square foot. The

parties hereby agree that the Base *Annual* Rent shall be \$12.00 per square foot and all references in the Lease Agreement to Base *Monthly* Rent of \$12.00 shall be modified to reflect a Base *Annual* Rent of \$12.00 per square foot. All payments of rent, additional rent, and all Construction Reimbursement Payments shall be paid to Lessor at the address set forth below for notice to Lessor.

9. Lessee hereby acknowledges and agrees that upon the execution of this Amendment and Lessor's commencement of Landlord's Work with respect to Suite 2 and Suite 5 pursuant to the terms of this Amendment, Lessor shall be in full compliance with its obligations under the Lease Agreement as modified by this Amendment, that the Dispute shall have been fully and satisfactorily resolved, and that Lessee withdraws the Notice of Default and waives any and all rights to declare Lessor in breach of the Lease Agreement for any matter in existence (or which would exist but for passage of time or giving of notice) as of the Amendment Effective Date. Lessee and Lessor acknowledge that the Lease Agreement, as modified by this Amendment, is in full force and effect, binding upon the parties in accordance with its terms and as of the date of execution of this Amendment, and with the exception of prepaid common area maintenance payments made from and after the Transfer Date, and prepaid security deposits, neither party has any claim, charge, lien, or right to setoff under this Lease Agreement or otherwise against Rent or other charges due under this Lease Agreement.

10. Upon obtaining final certificate(s) of occupancy for both of Suite 2 and Suite 5, Lessor shall provide signage for the Leased Premises which is comparable to signage currently existing at the Leased Premises, at Lessor's sole cost and expense, so long as said cost does not exceed the estimate provided to Lessor in the amount of \$9,916.88. In the event that the cost of providing such signage (determined by Lessor after receipt of a proposal for the construction of such signage) exceeds the estimated cost, then Lessor shall provide such signage only after Lessee shall have paid Lessor an amount equal to the difference between the actual cost and the estimated cost.

11. Section I, paragraph 2 of the Lease Agreement, styled "Term of Lease," is deleted in its entirety and replaced with the following:

"This Lease Agreement shall be effective for the period beginning on April 1, 2010, and ending on December 31, 2013; provided, however, that the specific Effective Dates and Rental Commencement Dates for each unit of the Leased Premises may vary, but (subject to the Lessee's right to renew as provided for in Section I, paragraph 19 of the Lease Agreement, as amended) this Lease Agreement shall terminate as to all Suites comprising the Leased Premises on December 31, 2013."

12. Section I, paragraph 19 of the Lease Agreement, styled "Renewal," is deleted in its entirety and replaced with the following:

"The Lessor herein grants to the Lessee an option to renew this Lease Agreement for two (2) one (1) year terms following the expiration of the initial term on December 31, 2013 [i.e., from January 1, 2014 to December 31, 2014 (the "First

Renewal Term"), and from January 1, 2015 to December 31, 2015 (the "**Second Renewal Term**"), on the same terms and conditions contained in this Agreement, subject to rent increases as provided for herein, and provided no default by Lessee has occurred and is then continuing hereunder. The Lease Agreement can only be extended in its entirety; i.e., Lessee may only extend lease as to all of the Leased Premises, and not only as to some of the suites. Lessee shall give Lessor written notice of its intention to renew at least 120 days prior to the expiration of the initial term in order to extend lease for the First Renewal Term, and At Least 120 Days Prior to the Expiration of the First Renewal Term in order to extend the lease for the Second Renewal Term. In the event Lessee fails to give Lessor written notice of its election to exercise its option to renew as set forth above, such option shall then be and become null and void and of no further force and effect. Lessee shall be deemed to have waived any option for a Second Renewal Term of this Agreement if Lessee has not exercised its option for the First Renewal Term.

For the First Renewal Term, the annual base rent shall be derived by taking the base rent charged at the expiration of the initial term of this Lease Agreement and increasing same by five percent (5.00%).

For the Second Renewal Term the annual base rent shall be derived by taking the base rent charged at the expiration of the First Renewal Term and increasing same by five percent (5.00%). "

In the event Lessee fails to exercise its options to renew as set forth above but Lessee remains in possession of the Leased Premises, Lessee shall be a month-to-month tenant and monthly base rent shall be equal to 150% of the then-current rate for the previous month.

13. Section I, paragraph 6, styled "Cost of Living Escalation," is deleted in its entirety and replaced with the following:

"Base annual rent shall be fixed at \$12.00 per square foot per year for the first eighteen (18) months following the Rental Commencement Date for each Suite. Commencing upon the expiration of eighteen (18) months from each Rental Commencement Date (for each Suite) and every twelve (12) months thereafter, base annual rent for each Suite shall increase annually by three and one-half percent (3.50%)."

14. The second sentence in the last paragraph on page one of the Lease Agreement is deleted in its entirety and replaced with the following:

"Lessor will provide indoor air quality testing for Suites 2 and 5 with results consistent with the air quality of the suites previously occupied by Lessee at the time those suites were initially occupied by Lessee, prior to Lessee's acceptance of Suites 2 and 5 for occupancy, at Lessor's sole cost and expense."

15. The last sentence of Section I, paragraph 14 is modified to provide that any insurance coverage shall contain a waiver of the insurer's right of *subrogation* against Lessor.

16. Section I, paragraph 15 is modified to read "Waiver of Subrogation on Casualty Insurance."

17. INTENTIONALLY OMITTED.

18. Any rights which Lessee and/or Lessor have to audit CAM charges shall be limited to time frames from and after the Transfer Date.

19. If either party shall be delayed, hindered or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor trouble, inability to procure material, failure of power, riots, insurrection, war or other reasons of like nature not the fault of the party delayed, in performing work or doing acts required under this Lease Agreement, the period for the performance of any such act shall be extended for a reasonable period. Neither Lessor nor Lessee shall be deemed in default with respect to the performance of any of the terms, covenants and conditions of this Lease Agreement if same shall be due to any of the foregoing. Notwithstanding the foregoing, the provisions of this paragraph shall at no time operate to excuse Lessee from any obligations for payment of Rent, Additional Rent, or any other payments required by the terms of this Lease Agreement when due, and all such amounts shall be paid when due.

20. Lessor and Lessee hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other, upon any matters whatsoever arising out of or in any way connected with this Lease Agreement or this Amendment, Lessee's use or occupancy of the Leased Premises, and/or any claim of injury or damage.

21. All notices, demands, requests, and other communications required or permitted hereunder shall be in writing. All such notices, demands, requests and other communications (and copies thereof) shall be deemed to be delivered: (a) if sent by messenger, upon personal delivery to the party to whom the notice is directed; (b) if sent by facsimile, upon electronic or telephonic confirmation of receipt from the receiving facsimile machine; (c) if sent by overnight courier, with request for next Business Day delivery, on the next Business Day after sending; or (d) whether actually received or not, two (2) Business Days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows (or to such other address as the parties may specify by notice given pursuant to this Section):

TO LESSOR: c/o Rialto Capital Advisors, LLC
700 NW 107th Avenue
Suite 200
Miami FL 33172
Attention: Matt Papunen
Telephone No. 305-485-2717
Facsimile No. 305-485-2724
Email Address: Matt.papunen@rialtocapital.com

WITH A COPY TO: Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 22nd Floor
Miami, Florida 33131
Attention: Jon Chassen, Esq.
Telephone No. 305-350-7270
Facsimile No. 305-351-2270
Email Address: jchassen@bilzin.com

TO LESSEE: At the address set forth on the
first page of this Amendment
Attn: City Manager
Telephone No. (305) 809-3886
Facsimile No. (305) 809-3888
Email address: jscholl@keywestcity.com

22. This Amendment may be executed in counterparts. Except as expressly modified by this Amendment, all terms and conditions of the Lease Agreement remain in full force and effect, and binding upon the parties in accordance with its terms. In the event of any conflict between the terms of the Lease Agreement and the terms of this Amendment, the terms of this Amendment shall control. Lessee further represents and warrants it is not in default of any of the conditions or covenants of the Lease Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed this 31 day of May, 2011.

ATTEST:

By: Cheryl Smith
Cheryl Smith, City Clerk

THE CITY OF KEY WEST, a Municipal Corporation

By: Craig Cates
Printed Name: Craig Cates
Its: Mayor

WITNESSES:

Vivian Perez
Signature of Witness
Vivian Perez
Printed Name of Witness

Portia H. Navarro
Signature of Witness
PORTIA H. NAVARRO
Printed Name of Witness

STATE OF FLORIDA)

COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 31st day of May, 2011, by Craig Cates, as Mayor, of The City of Key West, a municipal corporation, who is personally known to me or has produced _____ as identification.

(Notary Seal)

Susan P. Harrison
Notary Public, State of Florida
Print Name: SUSAN P. HARRISON

My Commission Expires: April, 2015



WITNESSES

Signature of Witness

Matthew Papinen
Printed Name of Witness

Signature of Witness

MICHAEL ORLINSKY
Printed Name of Witness

RL BB- FL HILLSBOROUGH, LLC

By: RL BB Financial, LLC, its sole member

By: Anthony Seijas

Name: **Anthony Seijas**
Title: **Chief Operating Officer**

STATE OF FLORIDA

COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me this 24 day of May, 2011, by ANTHONY SEIJAS as COO of RL BB Financial, LLC, as the sole member of RL BB-FL HILLSBOROUGH, LLC, who is personally known to me or has produced _____ as identification.

(Notary Seal)



MAYLEN DELGADO
MY COMMISSION # EE 077248
EXPIRES: April 22, 2015
Bonded Thru Budget Notary Services

Maylen Delgado
Notary Public, State of Florida

Print Name: Maylen Delgado

My Commission Expires: 4/22/15

SCHEDULE I

Legal Description of Property

Parcel I: Commencing at the Northwest corner of Block 2, of RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Monroe County, Florida, according to the Plat thereof recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; thence run Southerly along the Easterly boundary line of 13th Street a distance of Two Hundred Twenty (220) feet to the intersection of 13th Street and Riviera Drive; thence run Easterly along the Northerly boundary line of Riviera Drive a distance of Four Hundred (400) feet; thence run Northerly and parallel to 13th Street a distance of Two Hundred Twenty (220) feet to the Southerly boundary line of Flagler Avenue; thence run Westerly along the Southern right of way of Flagler Avenue a distance of Four Hundred (400) feet to the intersection of 13th Street and Flagler Avenue, Point of Beginning.

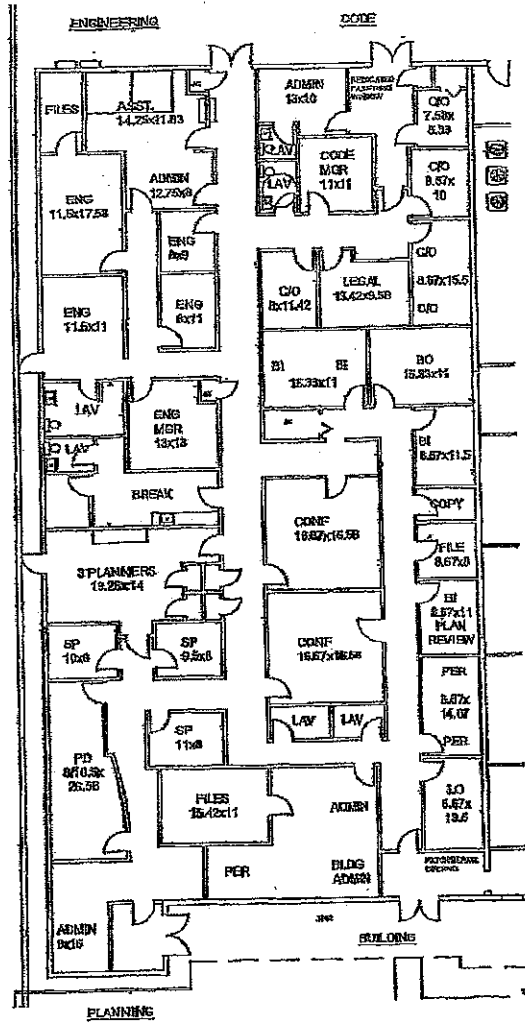
AND ALSO;

Parcel II: On the Island of Key West, described as follows: BEGIN at the Northwest corner of Block 2, RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Florida, between Eleventh Street and Seventeenth Street and lying South of Flagler Avenue, Key West, Monroe County, Florida, as recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; run thence in an Easterly direction along the Southeast right-of-way of Flagler Avenue 400 feet to the Point of Beginning; thence run in an Easterly direction along the Southeast right-of-way line of Flagler Avenue; a distance of 71.98 feet; thence run at right angles in a Southerly direction a distance of 220 feet to Riviera Drive, run thence in a Westerly direction, along the Northeast right-of-way line of Riviera Drive, a distance of 71.98 feet; run thence at right angles in a Northerly direction a distance of 220 feet to the Point of Beginning.

Parcel Identification Number: RE: 00069090-000000/Ak Key 1072982

MONROE COUNTY
OFFICIAL RECORDS

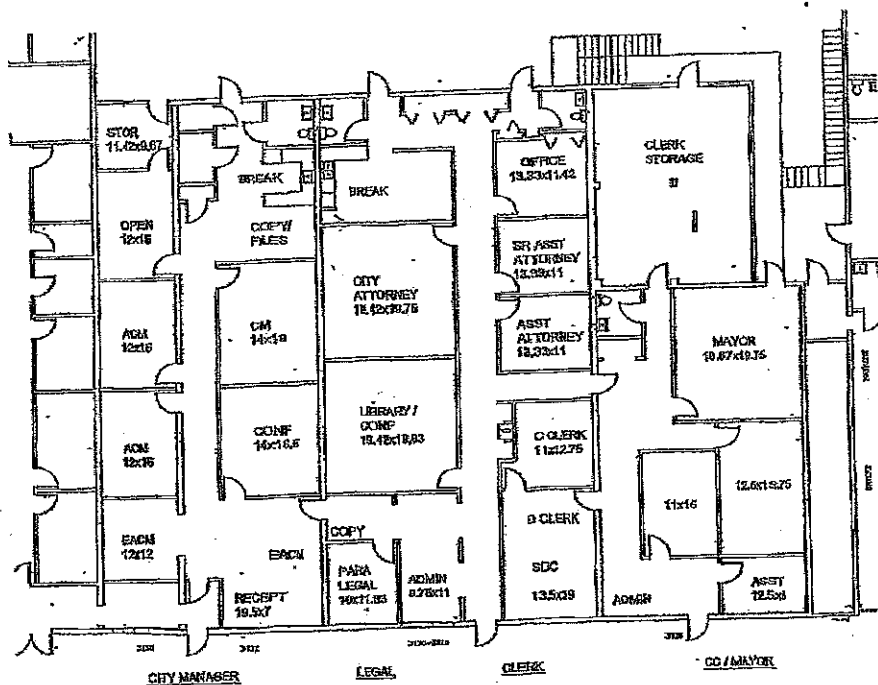
Exhibit A




PARTIAL FLOOR PLAN - A
8,103 s.f.
 SCALE = 1/16" = 1'-0"
 4-5-70

3140

Exhibit B




PARTIAL FLOOR PLAN - B 8-104 6.E
 SCALE = 1/16" = 1'-0" 8-25-80

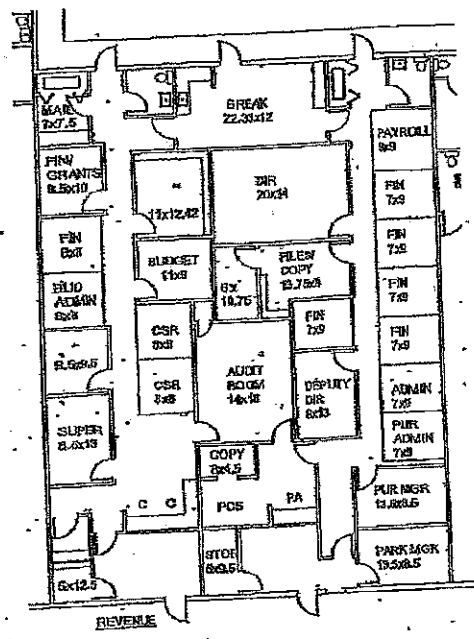
Haberman Plaza

Exhibit B1

	3130-3132	3136	3138	3132
3130 - 3132, 3136, 3138, 3132 Ringer (suite B)				
Seal floor	\$4,000.00	\$1,875.00	\$975.00	\$2,000.00
Remove carpet and acoustical ceiling	\$2,750.00	\$1,875.00	\$9,750.00	\$8,875.00
Metal stud walls with drywall and sound board	\$6,750.00	\$9,875.00	\$3,800.00	\$5,000.00
New acoustical ceiling	\$10,000.00	\$4,787.00	\$8,800.00	\$4,875.00
Move lights and add outlets for new offices	\$5,875.00	\$8,000.00	\$8,125.00	\$750.00
Move AC vents for new offices	\$750.00	\$2,500.00	\$3,500.00	\$2,625.00
Solid core doors with hardware	\$3,500.00	\$4,975.00	\$4,500.00	\$10,750.00
New carpet and vinyl base	\$7,250.00	\$9,000.00	\$3,950.00	\$4,668.00
Paint throughout			\$625.00	
Demolish existing duct work			\$1,875.00	
Cut opening in block wall for lobby			\$2,250.00	
Float floor			\$6,875.00	
New AC duct work and install AC unit				\$2,900.00
Remove tile floor				\$10,000.00
Raise concrete floor to meet ADA requirements				\$4,875.00
Remove acoustical ceiling and old header walls				\$2,250.00
new custom entry door for ADA ramp				\$2,250.00
Expier for ADA ramp	\$62,375.00	\$45,912.00	\$45,225.00	\$57,918.00

Total: \$211,430.00

Exhibit C

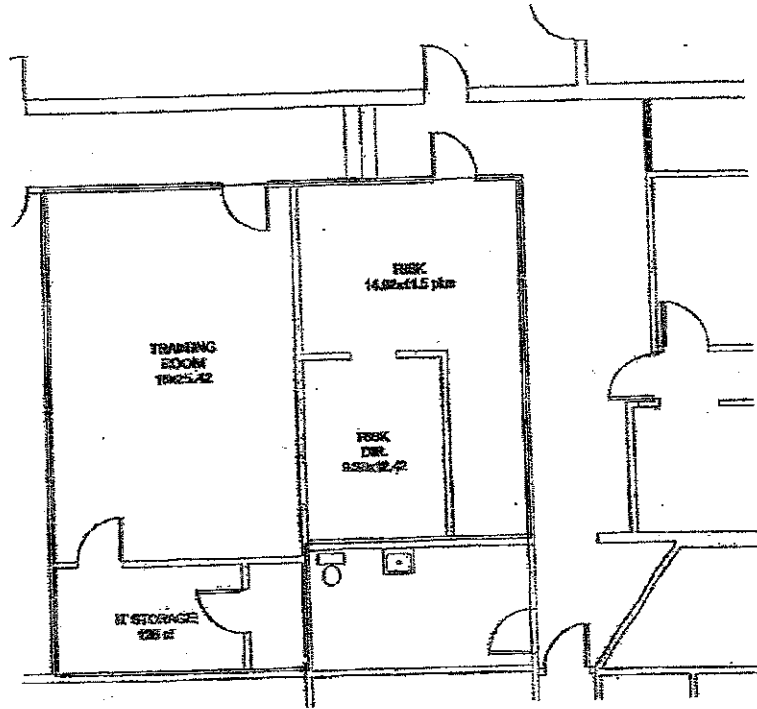


PARTIAL FLOOR PLAN - C

SCALE = 1/4" = 1'-0"

4,639 s.f.
3-22-10

Exhibit D

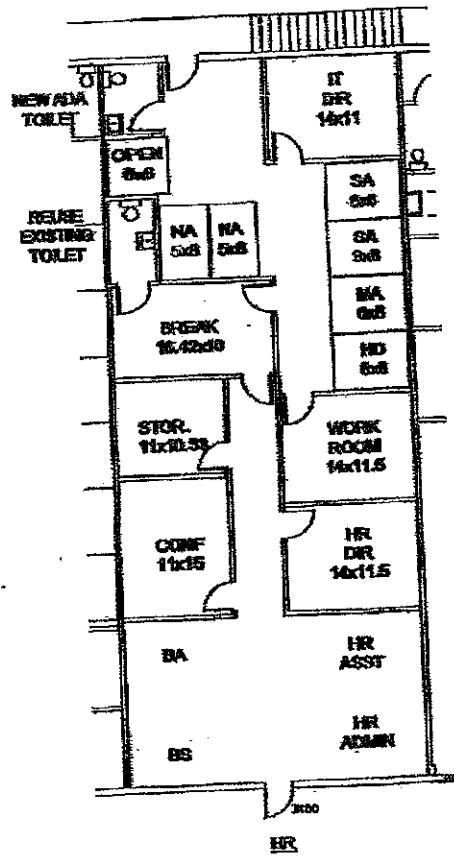


**ALTERNATE #2
PARTIAL FLOOR PLAN - D/E**

SCALE = 1/8" = 1'-0"

091 of.
7-23-83

Exhibit E



**ALTERNATE #1
PARTIAL FLOOR PLAN - D/E**

2,001 s.f.

SCALE - 1/16" = 1'-0"

7-14-10

Exhibit B1

3100 Flagler (Suite E)	
Demo	\$7,750.00
Front floor	\$4,960.00
Metal framing	\$5,200.00
Drywall and sound board	\$18,600.00
Interior doors and hardware	\$13,175.00
Glass impact doors and windows for new entry	\$5,415.00
AC ductwork	\$5,100.00
Electrical - reroute for new outlets throughout, lighting, emergency lighting exit lights and s	\$26,190.00
Paint throughout	\$9,300.00
New acoustical ceiling	\$7,750.00
Plumbing	\$4,650.00
Seal floor	\$13,000.00
New carpet and vinyl base	\$13,400.00
Total:	\$133,400.00

Executive Summary



TO: City Commission

CC: Jim Scholl, Mark Finigan, David Fernandez

FR: Larry Erskine
Marilyn Wilbarger, RPA, CCIM

DT: May 10, 2011

RE: Amendment to the Lease for City Offices at Habana Plaza

ACTION STATEMENT

This is a request to approve the first amendment to the city lease for space at 3100 - 3140 Flagler Avenue in Habana Plaza.

HISTORY

In April of 2010 the City signed an agreement to lease space at Habana Plaza for the temporary re-location of administrative offices while a new city hall could be completed. Subsequently events have taken place that require the City to amend the lease prior to the remaining re-location as follows:

Space re-location

This change is based upon the prior owner's request to re-locate the original space designated as Unit D which houses IT and Risk Management, and Unit E which houses Human Resources. These units, located in the rear of the building are completely raw space with no existing improvements and therefore expensive to finish for short term occupancy. When Grimm's Grill vacated, the Owner approached the city with taking that space instead to house these groups at no additional cost to the City. This is a substantially better location, the square footage is comparable and the space plan works as well for City purposes. The total square footage will change slightly from 24,224 to 24,271 square feet. The amendment calls for the construction to be completed within 90 days of permit issuance and permit application to be made within 5 days of the execution of the amendment.

Term

The original lease calls for the city to occupy the premises for a minimum of two years or until March of 2013. As the occupancy of the remaining units has been delayed the owners have requested that the term be extended until the end of 2013. The delay in occupancy was caused by the foreclosure and subsequent sale of the property which is now titled to a new institutional ownership entity with the financial capacity to finish the space immediately.

Rent

There is no change as the base rent for each unit will remain fixed at an annual rate of \$12.00 per square foot for eighteen months and will increase by 3.5% annually thereafter.

Renewal

The City will have the right to renew the lease for two, one year terms at a 5% increase for each renewal term.

Signage

The Lessor will provide signage as Lessor's sole expense.

Common Area Maintenance:

The City will agree to accept the charges of \$4.75 per square foot as the actual costs for common area maintenance from the date of occupancy until the date of the transfer of ownership. Going forward, costs will be paid on an estimated basis and reconciled annually as per the lease agreement.

Construction Costs:

The City will agree pay \$154,390, which is an increase of \$5,851, as the total construction reimbursement amount for improvements to the space.

FINANCIAL STATEMENT:

The original projected and amended annual rental costs are as follows:

1. Original projected rental costs to re-locate all three city locations

26,458 sf. @ \$12.00 psf	\$317,496
NNN charges @\$4.75	\$125,675
26,458 sf @\$2.00 psf improvement costs	\$52,916
Total Annual Rent	\$496,087

Off-setting Annual Expense Reductions

Rent for 626 Duval - 5712 s.f. @ \$30.07	(\$171,759)
Property coverage premium reduction	(\$30,000)

Total Annual Increase in Rental Cost **\$294,328**

2. First Amendment Rental Costs

24,271 sf. @ \$12.00 psf	\$291,252
NNN charges @\$4.75	\$115,287
24,271 sf. improvement costs	\$51,463
Total Annual Rent	\$458,002

Off-setting Annual Expense Reductions

Rent for 626 Duval - 5712 s.f. @ \$30.07	(\$171,759)
Property coverage premium reduction	(\$30,000)

Total Annual Increase in Rental Cost **\$256,243**

RECOMMENDATION:

Staff believes that the amended terms will serve the city well and recommends approval of the lease amendment as proposed.

ATTACHMENTS:

Lease Amendment
Lease

SCHEDULE 1

Legal Description of Property

Parcel I: Commencing at the Northwest corner of Block 2, of RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Monroe County, Florida, according to the Plat thereof recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; thence run Southerly along the Easterly boundary line of 13th Street a distance of Two Hundred Twenty (220) feet to the intersection of 13th Street and Riviera Drive; thence run Easterly along the Northerly boundary line of Riviera Drive a distance of Four Hundred (400) feet; thence run Northerly and parallel to 13th Street a distance of Two Hundred Twenty (220) feet to the Southerly boundary line of Flagler Avenue; thence run Westerly along the Southern right of way of Flagler Avenue a distance of Four Hundred (400) feet to the intersection of 13th Street and Flagler Avenue, Point of Beginning.

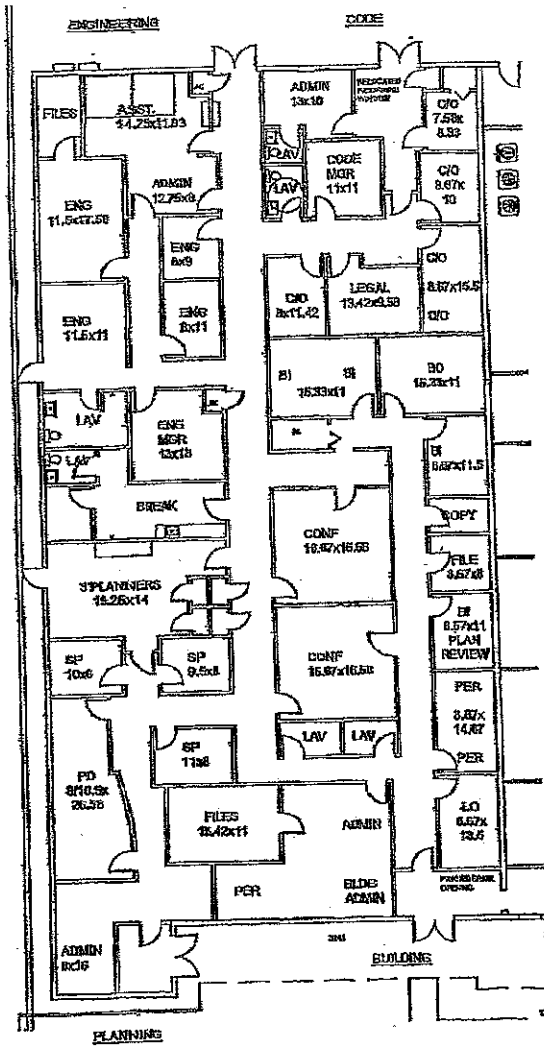
AND ALSO:

Parcel II: On the Island of Key West, described as follows: BEGIN at the Northwest corner of Block 2, RIVIERA SHORES SUBDIVISION, a subdivision of a part of the City of Key West, Florida, between Eleventh Street and Seventeenth Street and lying South of Flagler Avenue, Key West, Monroe County, Florida, as recorded in Plat Book 3, at Page 148, of the Public Records of Monroe County, Florida; run thence in an Easterly direction along the Southeast right-of-way of Flagler Avenue 400 feet to the Point of Beginning; thence run in an Easterly direction along the Southeast right-of-way line of Flagler Avenue; a distance of 71.98 feet; thence run at right angles in a Southerly direction a distance of 220 feet to Riviera Drive, run thence in a Westerly direction, along the Northeast right-of-way line of Riviera Drive, a distance of 71.98 feet; run thence at right angles in a Northerly direction a distance of 220 feet to the Point of Beginning.

Parcel Identification Number: RE: 00069090-000000/Alt Key 1072982

MONROE COUNTY
OFFICIAL RECORDS

Exhibit A



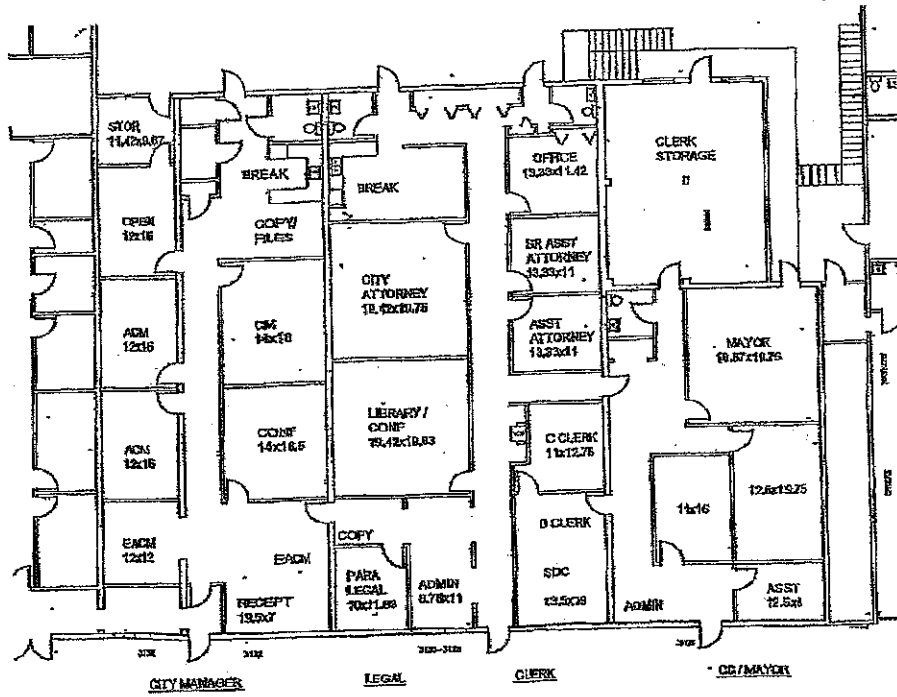
PARTIAL FLOOR PLAN - A

SCALE = 1/16" = 1'-0"

8,103 s.l.
4-8-80

3140

Exhibit B



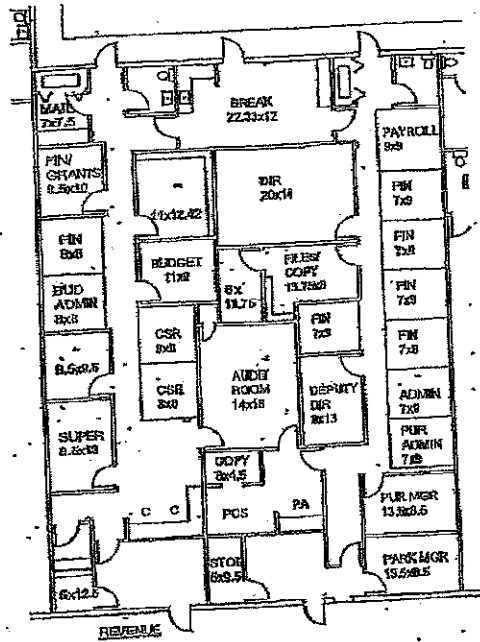

PARTIAL FLOOR PLAN - B
9.104 G.L.
8-25-90
 SCALE = 1/16" = 1'-0"

Habana Plaza

Exhibit B1

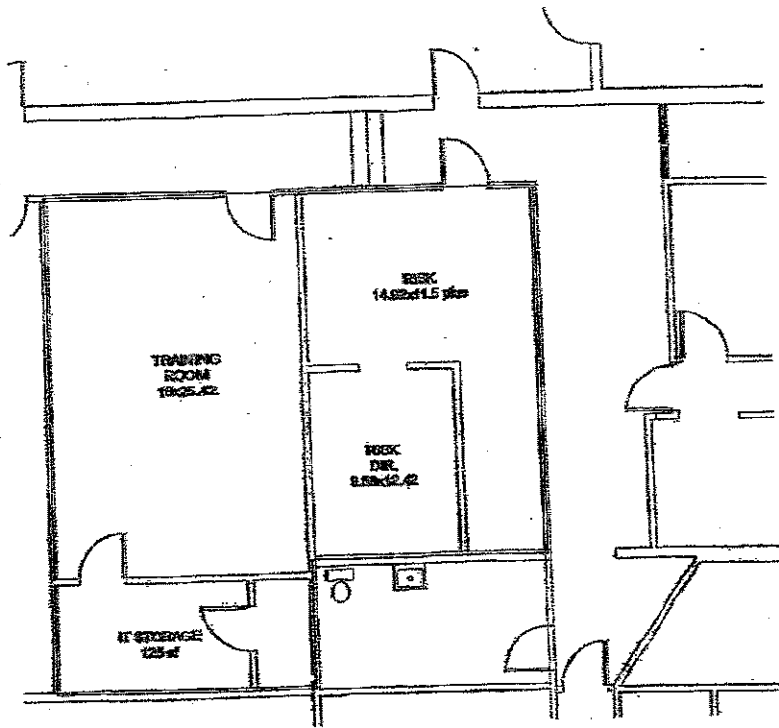
	3180-3128	3128	3131	3132
3130 - 3128, 3128, 3128, 3132 Hoyer (Suite B)				
Seal Floor	\$4,000.00	\$1,875.00	\$875.00	\$2,000.00
Remove carpet and acoustical ceiling	\$2,750.00	\$1,875.00	-	\$8,375.00
Install stud walls with drywall and sound board	\$5,750.00	\$9,375.00	\$9,750.00	\$8,375.00
New acoustical ceiling	\$10,000.00	\$4,787.50	\$3,500.00	\$5,000.00
Move lights and add outlets for new offices	\$5,875.00	\$6,000.00	\$8,125.00	\$4,875.00
Move AC vents for new offices	\$750.00	\$2,500.00	-	\$750.00
Move AC vents for new offices	\$9,500.00	\$4,875.00	\$8,500.00	\$2,525.00
Install core doors with hardware	\$21,500.00	\$8,125.00	\$4,500.00	\$10,750.00
New carpet and vinyl base	\$7,250.00	\$5,000.00	\$3,850.00	\$4,568.00
Paint throughout	-	-	\$625.00	-
Demolish existing duct work	-	-	\$1,875.00	-
Fit opening in block wall for lobby	-	-	\$2,250.00	-
Float floor	-	-	\$6,875.00	-
New AC duct work and install AC unit	-	-	-	\$2,500.00
Remove tile floor	-	-	-	\$10,000.00
Raise concrete floor to meet ADA requirements	-	-	-	\$1,875.00
Remove acoustical ceiling and old hander walls	-	-	-	\$2,250.00
Install custom entry door for ADA ramp	-	-	-	\$2,250.00
Exterior ADA ramp	\$82,375.00	\$45,912.00	\$45,225.00	\$57,918.00
Total:				\$211,480.00

Exhibit C



 PARTIAL FLOOR PLAN - C 4,538 s.f.
SCALE = 1/8" = 1'-0" 3-12-10

Exhibit D




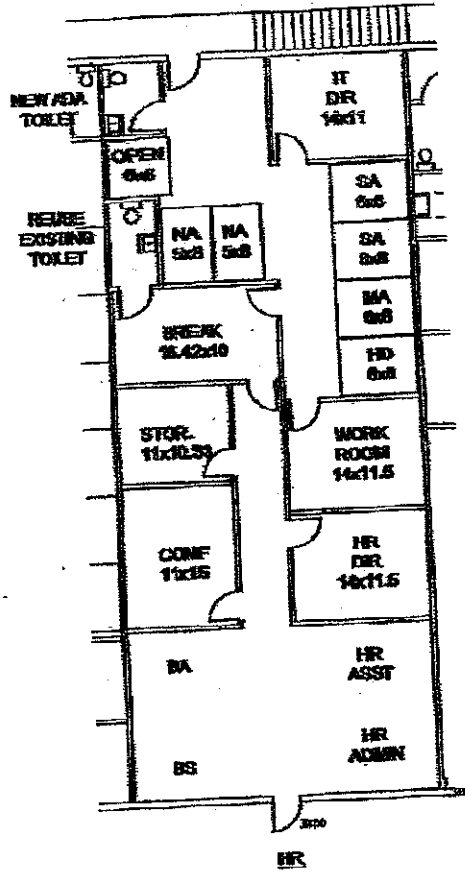
 **ALTERNATE #2**
PARTIAL FLOOR PLAN - D/E 201 s.c.
SCALE - 1/8" = 1'-0" 7-15-83

Exhibit E



ALTERNATE #1
PARTIAL FLOOR PLAN - D/E 2/204-21

SCALE = 1/16" = 1'-0"

7-14-10

Exhibit E1

3100 Regler (Suite E)	
Demo	\$7,750.00
Front floor	\$4,980.00
Metal framing	\$6,700.00
Drywall and sound board	\$18,600.00
Interior doors and hardware	\$19,475.00
Glass impact doors and window for new entry	\$5,100.00
AC electrical	\$5,100.00
Electrical - rewire for new outlets throughout, lighting, emergency lighting, exit lights and in	\$20,190.00
Paint throughout	\$9,300.00
New acoustical ceiling	\$9,300.00
Plumbing	\$7,750.00
Seal floor	\$4,850.00
New carpet and vinyl base	\$13,000.00
Total:	\$131,400.00