

#2707
13-R-3440

First Reading

Committee _____
Date _____
Chair Michael B. [Signature]
Referred To _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
Readings
 Consent V Vote RC Vote

(Do Not Write Above This Line)

A RESOLUTION BY

PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A NEW LEASE AGREEMENT WITH THE ATLANTA WESTSIDE RETAIL VILLAGE PARTNERS, LLC, ON BEHALF OF THE ATLANTA POLICE DEPARTMENT, FOR THE RENTAL OF 1,252 SQUARE FEET OF OFFICE SPACE LOCATED AT 843 MARTIN LUTHER KING, JR. BOULEVARD, ATLANTA, GEORGIA, FOR THE DEPARTMENT OF POLICE ZONE ONE INVESTIGATIONS PRECINCT, FOR A TERM OF UP TO THREE (3) YEARS FROM THE DATE FULLY EXECUTED, AT A RENTAL RATE OF \$1 PER YEAR, TO BE CHARGED TO AND PAID FROM FUND ACCOUNT AND CENTER NUMBER 1001 (GENERAL FUND), 240403 (APD POLICE PRECINCT ZONE 1), 5223103 (BUILDING RENTAL OR LEASE SERVICES), 3223000 (PATROL). (OPERATING/LEASE RENTAL - BUILDING), 3223000 (PATROL); AND FOR OTHER PURPOSES.

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred: _____
Referred To: _____
Date Referred: _____
Referred To: _____
Date Referred: _____
Referred To: _____

Committee	ASLA	Committee	
Date	8/27/13	Date	
Chair	<u>Michael B. [Signature]</u>	Chair	
Action	Fav, Adv, Hold (see rev. side)	Action	Fav, Adv, Hold (see rev. side)
Other		Other	
Members	<u>A. H. [Signature]</u> <u>[Signature]</u> <u>[Signature]</u>	Members	
Refer To		Refer To	
Committee		Committee	
Date		Date	
Chair		Chair	
Action	Fav, Adv, Hold (see rev. side)	Action	Fav, Adv, Hold (see rev. side)
Other	ADOPTED BY	Other	
Members	SEP 03 2013	Members	
Refer To	COUNCIL	Refer To	
Refer To		Refer To	

CERTIFIED
SEP 03 2013
ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
SEP 03 2013
Rhonda Daphnia Johnson
MUNICIPAL CLERK

MAYOR'S ACTION
APPROVED
SEP 12 2013
WITHOUT SIGNATURE
BY OPERATION OF LAW



A RESOLUTION BY

PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A NEW LEASE AGREEMENT WITH THE ATLANTA WESTSIDE RETAIL VILLAGE PARTNERS, LLC, ON BEHALF OF THE ATLANTA POLICE DEPARTMENT, FOR THE RENTAL OF 1,252 SQUARE FEET OF OFFICE SPACE LOCATED AT 843 MARTIN LUTHER KING, JR. BOULEVARD, ATLANTA, GEORGIA, FOR THE DEPARTMENT OF POLICE ZONE ONE INVESTIGATIONS PRECINCT, FOR A TERM OF UP TO THREE (3) YEARS FROM THE DATE FULLY EXECUTED, AT A RENTAL RATE OF \$1 PER YEAR, TO BE CHARGED TO AND PAID FROM FUND ACCOUNT AND CENTER NUMBER 1001 (GENERAL FUND), 240403 (APD POLICE PRECINCT ZONE 1), 5223103 (BUILDING RENTAL OR LEASE SERVICES), 3223000 (PATROL). (OPERATING/LEASE RENTAL - BUILDING), 3223000 (PATROL); AND FOR OTHER PURPOSES.

WHEREAS, Atlanta Westside Retail Village Partners, LLC, has offered the Atlanta Police Department a \$1 per year lease agreement ("agreement") for 1,252 square feet of office space at 843 Martin Luther King, Jr. Boulevard, Atlanta, Georgia ("Walmart Mini Precinct"); and

WHEREAS, the initial term of the lease agreement is up to three (3) years from the date fully executed; and

WHEREAS, under the agreement, the City has the right to terminate this Lease upon thirty (30) days prior written notice to the landlord; and

WHEREAS, The Department of Police desires to enter into the new lease agreement with Westside Retail Village Partners, LLC, for 1,252 square feet of office space at 843 Martin Luther King, Jr. Boulevard, Atlanta, Georgia, for use as the Zone One Investigations Mini Precinct.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor be and is hereby authorized to enter into a new lease agreement with Atlanta Westside Retail Village Partners, LLC, on behalf of the Atlanta Police Department, for the lease of 1,252 square feet of office space at 843 Martin Luther King, Jr. Boulevard, Atlanta, Georgia for the Department of Police Zone One Investigations Mini Precinct, for a term of up to three (3) years from the date fully executed, at a rental rate of \$1 per year, to be charged to and paid from 1001 (General Fund), 240403 (APD Police Precinct Zone 1), 5223103 (Operating/Lease Rental - Building), 3223000 (Patrol).

BE IT FURTHER RESOLVED, that the City Attorney be and is hereby directed to review the lease agreement prior to execution by the Mayor.



BE IT FINALLY RESOLVED, that the agreement shall not be binding upon the City and the City will incur no obligation or liability under it until it has been approved by the City Attorney as to form, executed by the Mayor, and attested to by the Municipal Clerk.

A true copy,

A handwritten signature in black ink, appearing to be "K. Miller", written over a horizontal line.

Deputy Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

SEP 03, 2013
SEP 12, 2013



LEASE AGREEMENT

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Exhibit "A" - Floor Plan of Premises

Exhibit "B" - Condition of Space Upon Delivery to Tenant



LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease”) is made and entered into as of the ____ day of _____, 2013, by and between **ATLANTA WESTIDE RETAIL VILLAGE PARTNERS, LLC (“Landlord”)**, and **CITY OF ATLANTA (“Tenant”)**, upon all of the terms, provisions, covenants and conditions of this Lease, and in consideration of the mutual covenants, obligations and agreements contained in this Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows.

WHEREAS, the City of Atlanta’s Police Department (“APD”) has identified certain retail space in that certain shopping center known as Historic Westside Village located in Fulton County, Georgia, at 843 Martin Luther King, Jr. Boulevard, Atlanta, Georgia 30310, comprising approximately one thousand two hundred fifty two (1,252) square feet, and desires to lease such for use as a fully operational zone investigative precinct; and

WHEREAS, a fully operational zone investigative precinct shall be open to the general public and are staffed by sworn law enforcement personnel; and

WHEREAS, a fully operational zone investigative precinct will typically operate seven (7) days a week and are typically staffed during the hours of 8am until 12am midnight; and

WHEREAS, zone investigative precincts provide police visibility as they serve as APD employee worksites, which also provide patrol officers with secondary locations where they may complete reports and take brief respites from their patrols; and

WHEREAS, zone investigative precincts are extensions of the zone’s main precinct and are a conduit of communication between the community and the department; and

WHEREAS, a zone investigative precinct may typically contain cameras mounted in the interior thereof which may provide live feeds from the area surrounding the precinct and the perimeter thereof; and

WHEREAS, through the operation of zone investigative precincts located throughout the City, APD is able to increase community presence there by reducing crime and promoting quality of life in partnership with residents of the City of Atlanta; and

WHEREAS, Resolution [_____] adopted by the Atlanta City Council on [_____] 2013, and approved [by the Mayor/per City Charter Section 2-403] on [_____] 2013, and made a part hereof by this reference authorizes the Mayor to enter into this Lease on behalf of the City of Atlanta with Landlord under the terms and conditions specified herein.

1.

PREMISES

(a) **Premises.** Subject to the terms hereof, Landlord hereby leases the Premises to Tenant, and Tenant hereby agrees to lease and take upon the terms and conditions hereinafter set forth, certain retail space in that certain shopping center known as Historic Westside Village (the



"Project") located in Fulton County, Georgia, at 843 Martin Luther King, Jr. Boulevard, Atlanta, Georgia 30310, comprising approximately **one thousand two hundred fifty two (1,252)** square feet, shown on the attached **Exhibit "A"** (the "**Premises**") attached hereto and hereby made a part hereof. The Premises are part of the Project.

(b) Common Areas. During the Term and subject to the provisions and conditions of this Lease, Tenant will have the non-exclusive right to use the Common Areas. For purposes of this Lease, the term "**Common Areas**" will mean all areas and spaces made available by Landlord from time to time for the common and non-exclusive use of Landlord, Tenant, other tenants and occupants of the Project, and others designated by Landlord.

(c) Unrestricted Landlord Rights. Notwithstanding anything to the contrary contained herein, Landlord shall have the unrestricted right to make changes to or to reconfigure all portions of the Project (except for the Premises), including, without limitation the Common Areas, in Landlord's reasonable discretion, and Landlord will have the right to close, from time to time, the Common Areas for such temporary periods as Landlord deems legally sufficient to evidence Landlord's ownership and control thereof and to prevent any claim of adverse possession by, or any implied or actual dedication to, the public or any party other than Landlord; *provided, however*, that such activities will not affect Tenant's vehicular and pedestrian access to the Project and the Premises, which Landlord hereby grants to Tenant twenty-four (24) hours seven (7) days a week, together with the right of Tenant to utilize any parking area of the Project, or Tenant's use of the Premises.

2.

TERM

(a) This Lease will commence on _____, 2013 (the "**Commencement Date**"), provided Landlord may extend the Commencement Date as necessary to account for construction delays or other eventualities. Unless terminated pursuant to **paragraph 2(b)**, and subject to and upon the terms and condition herein this Lease shall automatically renew on the anniversary of the Commencement Date for another Lease Year (the "**Renewal Date**") and shall be for a term of no longer than three (3) years. For purposes of this Lease, (i) "**Lease Year**" will mean the 12-month period beginning on the Commencement Date and each 12-month period thereafter, or partial year as applicable; and (ii) "**Term**" will mean the time period between the Commencement Date and the date this Lease terminates.

(b) Landlord has the right to terminate this Lease pursuant to **paragraph 10** and in the case of no default, upon thirty (30) days prior written notice to Tenant. Tenant has the right to terminate this Lease upon thirty (30) days prior written notice to Landlord.

3.

RENT

Subject to and upon the terms and conditions herein, Landlord hereby leases to Tenant the Premises for the amount of One Dollar and No/100 (\$1.00) per year.



4.

USE OF PREMISES

The Premises may be used only for the **Services**. The Premises will not be used: **(i)** for any purposes not set forth above, **(ii)** for any illegal purposes, **(iii)** in any manner to create any nuisance or trespass, **(iv)** in any manner to vitiate the insurance or increase the rate of insurance on the Premises, or **(v)** in violation of the use restrictions set forth in the rules and regulations adopted by Landlord.

5.

COMPLIANCE WITH REGULATIONS

(a) Laws. Tenant represents and warrants that it shall comply with all applicable governmental laws, statutes, ordinances, rules, regulations or other requirements (the "**Laws**") with respect to the use, operation and occupancy of the Premises and the business conducted by Tenant therein, and with respect to any design plans, improvements, alterations or additions made by or on behalf of Tenant to the Premises. Landlord covenants, represents and warrants that Landlord, at its sole cost and expense, will cause the Project to be in compliance with all applicable Laws, and that the Project shall comply with all applicable Laws throughout the Term of this Lease together with all extensions and renewals of the Term.

(b) Americans with Disabilities Act. The parties acknowledge that the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and regulations and guidelines promulgated thereunder, as all of the same may be amended and supplemented from time to time (collectively referred to herein as the "**ADA**") establish requirements for business operations, accessibility and barrier removal, and that such requirements may or may not apply to the Premises and the Project depending on among other things: **(i)** whether Tenant's business is deemed a "public accommodation" or "commercial facility"; **(ii)** whether such requirements are "readily achievable"; and **(iii)** whether a given alteration affects a "primary function" or triggers "path of travel" requirements. The parties hereby agree that: **(A)** Landlord shall be responsible for ADA compliance in the Common Areas, and **(B)** other than as required by Landlord on Exhibit "B", Tenant shall be responsible for the ADA compliance in the Premises, including any leasehold improvements or other work to be performed in the Premises under or in connection with this Lease. To the extent permitted by law, Tenant and Landlord hereby agree to indemnify and hold harmless the non-defaulting party from and against any and all claims, demands, actions, damages, fines, judgments, penalties, costs (including reasonable attorneys' fees and consultants' fees), liabilities and losses resulting from the other's failure to make alterations required by the ADA, as now or hereafter amended, and the rules and regulations promulgated thereunder

6.

INSURANCE AND INDEMNITY

(a) To the extent permitted by law, Tenant agrees to indemnify, defend and hold harmless Landlord, its agents, servants, employees and the holder of any deed to secure debt or ground lessor of and from any loss, attorney's fees, expenses or claims: **(i)** occurring in the Premises, unless caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors, **(ii)** arising out of any and all defaults by Tenant, its agents, employees or contractors under this Lease or **(iii)** arising out of any negligent or willful act or omission of Tenant, its agents,



employees or contractors. Landlord agrees to indemnify, defend and hold harmless Tenant, its agents, servants and employees and permit its successors and assigns of and from any loss, attorney's fees, expenses or claims: **(I)** arising out of any and all defaults by Landlord under this Lease, or **(II)** arising out of any negligent or willful act or omission of Landlord, its agents, employees or contractors. In no event shall either party be liable for any consequential damages (including, without limitation, lost rental income or lost profits) suffered by the other party as a result of any default hereunder.

(b) To the extent permitted by law, Tenant hereby releases and relieves Landlord, and waives its entire right of recovery against Landlord, for loss or damage arising out of or incident to the perils actually insured against pursuant to the terms hereof, which perils occur in, on or about the Premises, whether due to the negligence of Landlord or Tenant, or their agents, employees, contractors, or invitees. Tenant shall, upon obtaining the policies of insurance as set forth above, give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Lease.

7.

REPAIRS BY LANDLORD

From and after the Commencement Date, Landlord's maintenance and repair obligations as to the Premises shall be as follows:

(i) Landlord shall have no maintenance or repair obligations as to the Premises or any portions of the building systems (including, without limitation, water, sewer, electrical, heating, plumbing, fire suppression, ventilation and air-conditioning systems) which are located within the Premises or which serve the Premises exclusively.

(ii) Subject to **paragraph 7(i)** above, Landlord, at Landlord's sole cost and expense, shall ensure the Premises are delivered according to the specifications set forth in **Exhibit "B"** hereto.

(iii) Notwithstanding anything to the contrary in **paragraph 7(ii)** above, Tenant shall cause a contractor, reasonably approved by Landlord, to make such repairs as may be made necessary by any willful or negligent act or omission of Tenant or its employees, agents, customers, invitees, licensees or contractors, and the cost of such repairs shall be borne by Tenant.

Landlord shall be under no obligation to make any inspection of the Premises or to make any repairs until after written notice from Tenant to Landlord of the need thereof. As soon as reasonably practical, Tenant shall report in writing to Landlord any defective condition known to Tenant which Landlord is required to repair, and Tenant's failure so to report such defects or needed repairs shall make Tenant responsible to Landlord for any damage or liability incurred by Landlord by reason of such defect, or by reason of any delay in the repair of such defect. Tenant hereby specifically waives any applicable law requiring inspection of the Premises by Landlord. Landlord shall in no event be liable for any lost business, lost profits or consequential damages resulting from Landlord's failure to make repairs or otherwise.



8.

REPAIRS AND ALTERATIONS BY TENANT

(a) Tenant shall keep and maintain the non-structural elements of the Premises, and every part thereof including, without limitation, the portions of the Building's water, sewer, electrical, heating, plumbing, fire suppression, ventilation and air-conditioning systems located within or exclusively serving the Premises, in good order, condition and repair. Trash will be disposed of by Tenant in trash dumpsters designated by Landlord. Any expense incurred by Landlord in the removal of any trash or debris not so removed by Tenant shall be assessed as Additional Rent and immediately reimbursed by Tenant. All parts of the interior of the Premises shall be painted, wallpapered, varnished or otherwise redecorated at Tenant's own expense and at Tenant's discretion. Upon written notice from Landlord, Tenant agrees to return the Premises to Landlord at the expiration of this Lease as a paint-ready shell, in as good condition and repair as on the Commencement Date hereof, normal wear and tear and permitted alterations excepted.

(b) After initial build-out as described in **paragraph 9** below, Tenant shall make no alterations, additions, or improvements to the Premises, except repairs and replacements of trade fixtures or equipment with new fixtures or equipment of equal or greater value, without the prior written consent of Landlord, and Landlord may impose, as a condition of such consent, such requirements as are reasonable including, without limiting the generality of the foregoing, requirements as to the manner in which, the time or times at which, such work shall be done. Landlord shall have the right in its sole, reasonable discretion, which shall not be unreasonably withheld, to approve or disapprove any contractor or subcontractor, and shall be afforded the opportunity to do so no less than seven (7) days prior to commencement of any construction in the Premises.

(c) To the extent permitted by law, Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims from mechanics or materialmen or other liens in connection with any alterations, additions, or improvements. Tenant will promptly bond or discharge any liens which may be filed in connection with alterations, additions, repairs, or improvements to the Premises within ten (10) days after written notice from Landlord. Tenant shall be responsible for complying with all government codes and ordinances made necessary when making alterations, additions or improvements to the Premises. At reasonable times and with reasonable notice to Tenant Landlord may the right to enter the Premises for the purpose of posting notices of non-responsibility as may be permitted by law or desired by Landlord. Notwithstanding anything to the contrary herein, on or before the expiration or earlier termination of this Lease, (i) Tenant may remove from the Premises, its equipment and furniture; and (ii) Landlord may require Tenant to remove from the Premises all such equipment and furniture. Tenant shall repair all damage resulting from any such removal.

9.

BUILD-OUT; UTILITIES; SIGNAGE

(a) Build Out. Landlord is to deliver Premises to Tenant as delineated in the attached **Exhibit "B"**.

(b) Utilities. Electricity, gas, water and sewer will be directly metered and billed by the respective utility providers (each a "**Utility Provider**") individually to Tenant at Tenant's expense.



Tenant shall be responsible for contracting with each Utility Provider for the installation of a dedicated meter for said individual billing. Nothing contained herein will be construed as creating any obligation for Landlord to provide for utilities service to the Premises nor to pay any expenses associated therewith, except as otherwise expressly set forth herein.

(c) Signage. Tenant may not advertise or place signs on the Premises without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion.

10.

DEFAULT/REMEDIES

(a) Event of Default. Each of the following shall constitute an Event of Default hereunder:

(i) Tenant's interest herein, or any part thereof, is assigned or transferred either voluntarily or by operation of law (except as expressly permitted herein), including, without limitation, filing of a petition by or against Tenant under any insolvency or bankruptcy law;

(ii) Tenant makes a general assignment or any assignment for the benefit of its creditors;

(iii) Tenant fails to remedy any default in the payment of any sum of money due under this Lease for more than ten (10) days after written notice to Tenant; or

(iv) Tenant fails to remedy any default in the keeping of any nonmonetary term, covenant, or condition herein with all reasonable dispatch for more than twenty (20) days after written notice to Tenant, and has not commenced to cure using all reasonable efforts.

(b) Remedies. Immediately upon the occurrence of any Event of Default, Landlord shall have the right, at its option, in addition to any other remedy Landlord may have hereunder or by operation of law, without any further demand or notice, to re-enter the Premises and eject all persons therefrom, using all reasonable, legal force to do so, and either: (i) declare this Lease at an end, in which event Tenant shall immediately pay Landlord a sum of money owed, or (ii) without terminating this Lease may re-let the Premises, or any part thereof, as the agent and for the account of Tenant upon such terms and conditions as Landlord may deem advisable, in which event the rent received on such re-letting shall be applied first to the reasonable expense of such re-letting, including necessary renovation and alteration of the Premises, any real estate commissions paid, and all other expenses of preparing the Premises for occupancy by the new tenant, and thereafter toward payment of all sums due or to become due hereunder. If a sufficient sum shall not be thus realized to pay all sums owing by Tenant hereunder, including the entire remaining Term of the Lease, Tenant will pay Landlord any deficiency and Landlord may bring an action therefor as such monthly deficiency shall arise. Any such re-entry shall be allowed by Tenant without let or hindrance, and Landlord shall not be liable in damages for any such re-entry, or guilty of trespass or forcible entry provided it has not used willful misconduct.



(c) Cure of Breach. In the event of any default hereunder by Tenant (beyond any applicable notice and cure provision of **paragraph 10**, Landlord may at any time, cure such breach for the account of and at the expense of Tenant. Any sums expended by Landlord to cure any such breach shall be paid to Landlord by Tenant within ten (10) days after demand as additional rent.

(d) Attorney's Fees. In the event Tenant is in default beyond all applicable cure periods and sums owing to Landlord hereunder are collected by or through an attorney at law, Tenant agrees to pay as additional rent reasonable attorney's fees.

11.
LATE DELIVERY

If Landlord is prevented by law or through no fault of Landlord from giving possession of the Premises on the date herein provided, there shall be no liability for damages of any kind resulting from such failure, Tenant's sole remedy being termination of this Lease after thirty (30) days written notice of right to cure to Landlord.

12.
RIGHT OF ENTRY

Landlord may enter the Premises at reasonable times and with reasonable notice to exhibit the same to prospective purchasers, at any time during the Lease Term, and to tenants any time during the final sixty (60) days of the Term. In addition, Landlord may enter the Premises at reasonable times and with reasonable notice to make repairs required under the terms hereof and to make repairs to other portions of the Project. Nothing herein shall be construed as limiting the right of any mortgage holder of the Premises from access to the Premises, upon reasonable notice, for purposes of appraisal, inventory, inspection or other such purposes.

13.
CONDITION OF PREMISES AT TIME OF DELIVERY

Landlord will deliver to Tenant possession of the Premises substantially in the condition as set forth on **Exhibit "B"**, and Tenant shall accept possession of the Premises in such condition, except as otherwise provided herein.

14.
ASSIGNMENT

Tenant shall not sublet said Premises or any part thereof nor assign this Lease, without in each case the prior written consent of Landlord, which may be granted or withheld in Landlord's sole discretion. Any transfer of this Lease from Tenant by merger, consolidation, liquidation, or otherwise by operation of law shall constitute an assignment for the purpose of this Lease and shall require the written consent of the Landlord. Likewise, Tenant shall not permit any business to be operated in or from the Premises by any concessionaire or licensee without the prior written consent of Landlord. At Landlord's option, and as a condition of any such assignment by Tenant, Tenant agrees to pay Landlord as Additional Rent, on demand, a Five Hundred Dollar (\$500.00) administrative processing fee in connection with such request and, in addition, reasonable out-of-pocket costs incurred by Landlord (including, without limitation, attorney fees) in connection



therewith. All monies so paid shall be non-refundable in any event, regardless of whether Landlord approves or rejects any such request by Tenant.

15.

DESTRUCTION OF PREMISES

If the Project or the Premises are totally destroyed by storm, fire, lightning, earthquake, flood or other casualty, this Lease shall terminate as of the date of such destruction, and rental shall be accounted for between Landlord and Tenant as of such date. If the Premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as use of the Premises has been destroyed, and Landlord shall restore the Premises to substantially the same condition as before such damage as speedily as practicable, whereupon Tenant shall resume payment of the full rent owing hereunder. Notwithstanding the foregoing, Landlord shall not be required to expend any amount greater than insurance proceeds actually received by Landlord arising out of such damage to the Premises. In the event of total destruction of the Premises and termination of this Lease, Tenant shall be entitled to retain proceeds of Tenant's insurance. If, as a result of any casualty which does not arise out of any negligent or willful act or omission of Tenant or its employees, agents or contractors, the Premises remains untenable for a continuous period in excess of one hundred eighty (180) days, provided Tenant is not then in default under this Lease, Tenant shall have the right to terminate this Lease by written notice given to Landlord within ten (10) days after the expiration of such one hundred eighty (180) day period.

16.

EMINENT DOMAIN

If the Premises or any part thereof are taken or condemned either permanently or temporarily by any competent authority by right of eminent domain, the entire compensation therefor, including without limitation all damages and compensation for the reversion and fee, shall belong to the Landlord without deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its right, title and interest to any such award. Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately recoverable by Tenant in Tenant's own right on account of any damage to Tenant's business and leasehold estate by reason of the condemnation, including any cost or loss to which Tenant might be put in removing Tenant's merchandise, furniture, fixtures and equipment. In such event, this Lease shall terminate as of the day possession shall be taken by such public authority, and Tenant shall pay rent up to and including the said date.

17.

NO PARTNERSHIP

This Lease shall not be construed as making Landlord in any manner or for any purpose a partner of Tenant in its business or otherwise, or a joint venturer or member of any joint enterprise with Tenant.



18.
NOTICES

All notices or consents required or permitted to be given hereunder will be in writing and will be deemed to be duly given if sent by certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight delivery service, and addressed as follows:

TENANT: _____ _____ Attention: _____	LANDLORD: 504 Fair Street, SW Atlanta, Georgia 30313 Attention: H. Jerome Russell, Jr.
---	---

Any notice given in the manner set forth above shall be deemed received by the party to whom such notice is addressed upon actual receipt. Either party may change the address to which notices to such party shall be sent by giving written notice thereof to the other party.

19.
USUFRUCT ONLY

This Lease creates the relationship of landlord and tenant only as between Landlord and Tenant. No estate passes out of the Landlord hereunder. Tenant only has a usufruct on the Premises, not subject to levy and sale, and not assignable by Tenant except as otherwise provided herein.

20.
SUBORDINATION/NON-DISTURBANCE

This Lease will be subordinate to any ground lease, mortgage, deed to secure debt or trust, or any other hypothecation for security (each a "**Security Instrument**"), now or hereafter placed upon the real property of which the Project and Premises are a part, and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Upon Tenant's receipt of a non-disturbance agreement, or reasonable assurance of same, from any such ground lessor, mortgagee or other deed or security holder, as applicable, Tenant agrees to execute any commercially reasonable subordination, non-disturbance and attornment agreement which may be required to effectuate such subordination, within ten (10) days after written demand.

21.
HAZARDOUS MATERIALS

Tenant will not use or permit any hazardous or toxic waste, substance, contaminant, asbestos, oil, radioactive or other material, the removal of which is required or the maintenance or storage of which is prohibited, regulated, or penalized by any local, state, or federal agency, authority, or governmental unit (collectively, "**Hazardous Substances**"), to be brought onto the Premises. If any Hazardous Substances are so brought onto the Premises, Tenant will cause the same to be immediately removed, unless the storage, use, treatment, and disposal of same is in full compliance with all applicable federal, state and local laws and regulations pertaining thereto, and Tenant's obligation to so remove shall survive the termination of this Lease. Tenant will not use nor suffer



the use of the Premises in any manner other than in full compliance with all applicable federal, state and local environmental laws and regulations. To the extent permitted by law, Tenant will and hereby does indemnifies, defends, and holds Landlord harmless from and against any and all costs, damages, and expenses, including without limitation reasonable attorney's fees, resulting, directly or indirectly, from any Hazardous Substances introduced in, on or under the Premises by or on behalf of Tenant, its agents, representatives, employees or contractors. This indemnity shall survive the expiration or earlier termination of this Lease.

22.

NO RECORDATION

The parties hereto agree that this Lease will not be filed nor recorded in any real estate or other public records except as required by law.

23.

ESTOPPEL CERTIFICATE

At any time and from time to time, Tenant agrees, within ten (10) days after any request from Landlord to execute, acknowledge and deliver to Landlord, or to such person as Landlord may request, a statement in writing certifying the following:

- (i) That this Lease constitutes the entire agreement between Landlord and Tenant and is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification);
- (ii) That Tenant has accepted possession, that the Term has commenced, that Tenant is occupying the Premises and whether Tenant knows of any default under the Lease by Landlord and any defaults or offsets which Tenant has against enforcement of this Lease;
- (iii) The actual Commencement Date and expiration date of the Lease; and
- (iv) That the Premises are open for business.

24.

LIMITATION OF LANDLORD'S LIABILITY

If Landlord fails to perform any covenant, term or condition of this Lease upon Landlord's part to be performed, and should Tenant, as a consequence of such default, recover a money judgment against Landlord, such judgment will be satisfied only out of (i) the proceeds of sale produced upon execution of such judgment, and levy thereon, (ii) the rents or other income from the Project receivable by Landlord, and (iii) the consideration received by Landlord's interest in the Project, and Landlord will not be liable for any deficiency. The provisions of this **paragraph 24** are not designated to relieve Landlord from the performance of any of its obligations hereunder, but rather to limit Landlord's liability in the case of recovery of a judgment against it, as aforesaid, nor shall any of the provisions of this **paragraph 24** be deemed to limit nor otherwise affect Tenant's right to obtain injunctive relief or specific performance. In the event of sale or other transfer of Landlord's right, title and interest in the Premises and an assumption of this Lease by the purchaser or



transferee, Landlord will thereafter be released from all liability and obligations hereunder, and the provisions of this **paragraph 24** shall inure to the benefit of any such purchaser or transferee.

25.
HOLDING OVER

If Tenant remains in possession after expiration or termination of the Term with or without Landlord's written consent, Tenant shall become a tenant-at-sufferance, and there shall be no renewal of this Lease by operation of law. During the period of any such holding over, all provisions of this Lease shall be and remain in effect except that the monthly rental shall be double the amount of rent (including adjustments as provided herein) payable for the last full calendar month of the Lease Term. However, nothing contained in this **paragraph 25** shall be construed as Landlord's consent for Tenant to hold over.

26.
RULES AND REGULATIONS

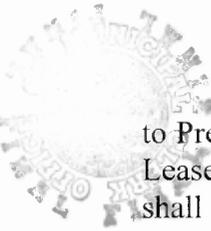
Landlord and the Association shall have the right to adopt reasonable rules and regulations for the benefit of all of the owners, occupants and tenants of the Project. Any such rules and regulations shall apply to all owners, occupants and tenants of the Project and shall be enforced in a non-discriminatory manner. Tenant agrees to comply with all such rules and regulations after Landlord gives notice of the same.

27.
SUBMISSION OF LEASE

The submission of this Lease for examination does not constitute an option nor offer for the Premises, and this Lease shall become effective only when fully executed counterparts of this Lease have been executed and delivered by both Landlord and Tenant.

28.
MISCELLANEOUS

- (a) Rights Cumulative. All rights, powers and privileges of Landlord hereunder shall be cumulative of each other and of any rights, powers and privileges provided by law.
- (b) No Waiver. The waiver of any breach of this Lease by Landlord, or any failure of Landlord to exercise any power given Landlord, or to insist upon strict compliance by Tenant with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of Landlord's right to demand strict compliance with the exact terms hereof. Landlord does not authorize any agent to waive any provision of this Lease.
- (c) Time of Essence. Time is of the essence of this Lease and all terms and conditions contained herein.
- (d) Parties Bound. This Lease shall be binding upon and inure to the benefit of Landlord and its successors and assigns. This Lease shall be binding upon and inure to the benefit of Tenant and its successors and, if this Lease shall be validly assigned or sublet, Tenant's assignees or subletees as



to Premises covered by such assignment or sublease. Whenever the singular number is used in this Lease, and when required by context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, and the word "person" shall include corporations, partnerships and other associations, all where the context so requires.

(e) Captions. The captions, headings and sub-headings set forth in this Lease are for the convenience of reference only, and shall not be used in interpreting this Lease.

(f) Entire Agreement. This Lease contains the entire agreement between the parties with respect to the subject matter hereof, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein, shall be of any force or effect.



IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

<p>LANDLORD:</p> <p>ATLANTA WESTSIDE RETAIL VILLAGE PARTNERS, LLC</p> <p>By: Historic Westside Village Retail Partners, LLC, member of Atlanta Westside Village Retail Partners, LLC</p> <p>By: RNU Partners, HWP I, LLC, sole member of Historic Westside Village Retail Partners, LLC</p> <p>By: _____ H. Jerome Russell, President & Manager</p>	<p>TENANT:</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p>
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EXHIBIT "A"

FLOOR PLAN OF PREMISES

[attached]



EXHIBIT "B"

CONDITION OF SPACE UPON DELIVERY TO TENANT