

RDA-6. A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 2 TO THE LEASE AGREEMENT BETWEEN THE RDA (LANDLORD) AND OPEN VISION ONE, LLC (TENANT), FOR USE OF APPROXIMATELY 4,236 SQUARE FEET OF GROUND FLOOR RETAIL SPACE AT THE ANCHOR SHOPS AND GARAGE, AS A FINE DINING RESTAURANT LOCATED AT 1560 COLLINS AVENUE, SUITE NOS. 3-4 (PREMISES); SAID AMENDMENT EXTENDING THE RENT ABATEMENT PERIOD DUE TO UNANTICIPATED DELAYS RELATED TO THE APPROVAL OF THE GREASE TRAP FOR THE RESTAURANT FOR UP TO AN ADDITIONAL EIGHT (8) MONTHS, UNTIL THE EARLIER OF (I) APRIL 24, 2025 OR (II) THE DATE THAT IS THIRTY (30) DAYS AFTER TENANT OPENS FOR BUSINESS; AND FURTHER, AUTHORIZING THE EXECUTIVE DIRECTOR TO FINALIZE AND EXECUTE THE AMENDMENT.

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, Executive Director

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 2 TO THE LEASE AGREEMENT BETWEEN THE RDA (LANDLORD) AND OPEN VISION ONE, LLC (TENANT), FOR USE OF APPROXIMATELY 4,236 SQUARE FEET OF GROUND FLOOR RETAIL SPACE AT THE ANCHOR SHOPS AND GARAGE, AS A FINE DINING RESTAURANT LOCATED AT 1560 COLLINS AVENUE, SUITE NOS. 3-4 (PREMISES); SAID AMENDMENT EXTENDING THE RENT ABATEMENT PERIOD DUE TO UNANTICIPATED DELAYS RELATED TO THE APPROVAL OF THE GREASE TRAP FOR THE RESTAURANT FOR UP TO AN ADDITIONAL EIGHT (8) MONTHS, UNTIL THE EARLIER OF (I) APRIL 24, 2025 OR (II) THE DATE THAT IS THIRTY (30) DAYS AFTER TENANT OPENS FOR BUSINESS; AND FURTHER, AUTHORIZING THE EXECUTIVE DIRECTOR TO FINALIZE AND EXECUTE THE AMENDMENT.

RECOMMENDATION

The Administration recommends that the Chairperson and Members of the Miami Beach Redevelopment Agency approve, in substantial form, Amendment No. 2 to the Lease, a copy of which is attached hereto as Attachment A; and authorize the Executive Director to finalize and execute the Amendment.

BACKGROUND/HISTORY

The Miami Beach Redevelopment Agency (RDA), (Landlord) and Open Vision One, LLC (Tenant) are parties to a lease agreement dated January 13, 2023, pursuant to Resolution No. 673-2022, for the retail spaces at the Anchor Shops, located at 1560 Collins Avenue, Suites Nos. 3-4 (Premises) for a fine dining restaurant (Lease). Tenant received possession of the Premises on January 25, 2023 (Commencement Date). The Lease term is for nine (9) years and 364 days from the Commencement Date with no renewal options.

On April 25, 2023, the City adopted Resolution No. 681-2023 approving Amendment No.1 to the Lease to adjust the Concession Fee for use of the Outside Concession Area from \$75.00 PSF to \$30.00 PSF for the first year following Rent Commencement and subject to rent escalations thereafter equal to 3% per year, as more particularly described therein. Upon obtaining possession of the Premises, the Tenant began renovation of the Premises to convert the former retail space to a new, fine dining venue at the Tenant's sole cost and expense. The Premises was expected to remain closed during the renovation process until the summer of 2024.

Tenant has been considerably delayed in its ability to begin construction as scheduled, and in turn will not be able to meet the opening date previously anticipated, due to delays in connection with the approval process for the installation of a grease trap at the Premises by the Department of Regulatory and Economic Resources (DERM).

ANALYSIS

Under the Lease, the Minimum Rent, Percentage Rent and Concession Fee payments are abated during months 8-19 from the Lease Commencement Date (or months 2-13 from the Rent Commencement Date) (Rent Abatement Period) to allow for construction and buildout of the restaurant. During the Rent Abatement Period, Tenant is still required to pay for the monthly Operating Expense payments due under the Lease. The Rent Abatement Period for the current Minimum Rent, in the amount of \$27,269.25/month, was due to expire on August 24, 2024.

Due to the aforementioned unexpected delays, the Tenant has requested an extension for an additional period the earlier of (i) eight (8) months, from August 25, 2024, through April 24, 2025, or (ii) thirty (30) days after Tenant opens for business to allow for the completion of the build-out of the Premises.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

The Executive Director recommends that the Chairperson and Members of the Miami Beach Redevelopment Agency approve, in substantial form, Amendment No. 2 to the Lease, a copy of which is attached hereto as Attachment A; and authorize the Executive Director to finalize and execute the Amendment.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Facilities and Fleet Management

Sponsor(s)

Co-sponsor(s)

Condensed Title

Amendment No. 2 to Lease with Open Vision One, LLC. 1560 Collins Ave. FF

RESOLUTION NO. _____

A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA), APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 2 TO THE LEASE AGREEMENT BETWEEN THE RDA (LANDLORD) AND OPEN VISION ONE, LLC (TENANT), FOR USE OF APPROXIMATELY 4,236 SQUARE FEET OF GROUND FLOOR RETAIL SPACE AT THE ANCHOR SHOPS AND GARAGE, AS A FINE DINING RESTAURANT LOCATED AT 1560 COLLINS AVENUE, SUITE NOS. 3-4 (PREMISES); SAID AMENDMENT EXTENDING THE RENT ABATEMENT PERIOD DUE TO UNANTICIPATED DELAYS RELATED TO THE APPROVAL OF THE GREASE TRAP FOR THE RESTAURANT FOR UP TO AN ADDITIONAL EIGHT (8) MONTHS, UNTIL THE EARLIER OF (i) APRIL 24, 2025 OR (ii) THE DATE THAT IS THIRTY (30) DAYS AFTER TENANT OPENS FOR BUSINESS; AND FURTHER, AUTHORIZING THE EXECUTIVE DIRECTOR TO FINALIZE AND EXECUTE THE AMENDMENT.

WHEREAS, the Miami Beach Redevelopment Agency (the "RDA") is a public body corporate and politic, which owns that certain project commonly known as the "Anchor Shops", containing a garage and ground floor retail spaces located in the area bounded by Washington Avenue and Collins Avenue, in the proximity of 16th Street; and

WHEREAS, the Miami Beach Redevelopment Agency (RDA) (Landlord) and Open Vision One, LLC (Tenant) are parties to a Lease Agreement dated January 13, 2023, pursuant to Resolution No. 673-2022, for use of approximately 4,236 square feet of the retail spaces at the Anchor Shops, located at 1560 Collins Avenue, Suites Nos. 3-4 (Premises), for the operation of a fine dining restaurant (Lease); and

WHEREAS, the Lease term is for nine (9) years and 364 days from January 25, 2023, the date Tenant received possession ("Commencement Date"); and

WHEREAS, on April 25, 2023, the City adopted Resolution No. 681-2023 approving Amendment No.1 to the Lease to adjust the Concession Fee for use of the Outside Concession Area from \$75.00 PSF to \$30.00 PSF for the first year following Rent Commencement and subject to rent escalations thereafter equal to 3% per year; and

WHEREAS, upon obtaining possession of the Premises, Tenant began renovations to convert the former retail space to a new, fine dining venue at the Tenant's sole cost and expense and the Premises was expected to remain closed during the renovation process until the summer of 2024; and

WHEREAS, due to unexpected delays in connection with the permitting process associated with the approval of the new grease trap at the Premises by the Department of Regulatory and Economic Resources (DERM), Tenant's construction schedule has been delayed and the previously anticipated opening date has also been delayed; and

WHEREAS, under the Lease, the Minimum Rent, Percentage Rent and Concession Fee payments are abated during months 8-19 from the Lease Commencement Date (or months 2-13 from the Rent Commencement Date) (Rent Abatement Period) to allow for construction and buildout of the restaurant, which Rent Abatement Period was due to expire on August 24, 2024; and

WHEREAS, during the Rent Abatement Period, Tenant is not required to pay the current monthly Minimum Rent payment, in the amount of \$27,269.25; however Tenant is still required to pay the monthly Operating Expense payments pursuant to the Lease; and

WHEREAS, due to the aforementioned unexpected delays, the Tenant has requested an extension of the Rent Abatement Period for up to an additional eight (8) months, until the earlier of (i) April 24 2025 or (ii) the date that is thirty (30) days after Tenant opens for business, in order to complete the build-out of the restaurant at the Premises; and

WHEREAS, based upon the aforementioned permitting delays, the Executive Director recommends approving, in substantial form, Amendment No. 2 to the Lease, a draft copy of which is attached as Attachment "A" to the RDA Memorandum accompanying this Resolution, memorializing the extended Rent Abatement Period.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, that the Chairperson and Members of the Miami Beach Redevelopment Agency (RDA) hereby approve, in substantial form, Amendment No. 2 to the Lease Agreement between the RDA (Landlord) and Open Vision One, LLC (Tenant), for use of approximately 4,236 square feet of ground floor retail space at the Anchor Shops and Garage, as a fine dining restaurant located at 1560 Collins Avenue, Suite Nos. 3-4 (Premises); said Amendment extending the Rent Abatement Period due to unanticipated delays related to the approval of the grease trap for up to an additional eight (8) months, until the earlier of (i) April 24, 2025 or (ii) the date that is thirty (30) days after Tenant opens for business; and further, authorize the Executive Director to finalize and execute the Amendment.

PASSED and ADOPTED this ____ day of _____ 2024.

ATTEST:

Steven Meiner, Chairperson

Rafael E. Granado, Secretary

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Redevelopment Agency
General Counsel

10/11/2024

Date

**AMENDMENT NO. 2 TO LEASE
BETWEEN
THE MIAMI BEACH REDEVELOPMENT AGENCY
AND
OPEN VISION ONE, LLC**

This Amendment No. 2 (Amendment) to the Lease, dated January 13, 2023 (Lease), by and between the Miami Beach Redevelopment Agency (RDA), a public body corporate and politic and existing under the laws of the State of Florida, having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida 33139 (Landlord) and Open Vision One, LLC, a Florida limited liability company, having its principal place of business at 1560 Collins Avenue, Suites 3 and 4, Miami Beach, FL 33139 (Tenant), is entered into this ____ day of _____, 2024:

RECITALS

WHEREAS, on January 13, 2023, pursuant to Resolution Number 671-2022, the Miami Beach Redevelopment Agency (RDA), (Landlord) and Open Vision One, LLC (Tenant) entered into a Lease for the operation of a restaurant at 1560 Collins Avenue, Suites 3 and 4 (Premises); and

WHEREAS, Tenant received possession of the Premises on January 25, 2023; and

WHEREAS, the initial Lease term is for nine (9) years and 364 days commencing on January 25, 2023, and ending on January 23, 2033, with no renewal options; and

WHEREAS, on April 25, 2023, pursuant to Resolution No. 681-2023, Amendment No.1 to the Lease was approved to adjust the Concession Fee for use of the Outside Concession Area from \$75.00 PSF to \$30.00 PSF for the first year following Rent Commencement and subject to rent escalations thereafter equal to 3% per year, as more particularly described therein; and

WHEREAS, the parties executed Amendment No. 1 on July 7, 2023 (the Lease and Amendment No. 1 shall be collectively referred to herein as the "Lease"); and

WHEREAS, due to delays in connection with the approval process for the installation of a grease trap at the Premises by the Department of Regulatory and Economic Resources (DERM), Tenant will not be able to meet the opening date previously anticipated; and

WHEREAS, under the Lease, the Rent Abatement Period for the current monthly Minimum Rent payment, in the amount of \$27,269.25, is set to expire on September 24, 2024; and

WHEREAS, on April 25, 2024, the Tenant requested an extension of the Rent Abatement Period by the earlier of (i) for an additional period of eight (8) months, from

ATTACHMENT A

August 25, 2024 through April 24, 2025; or (ii) thirty (30) days after Tenant opens for business; and

WHEREAS, on _____, 2024, the Chairman and Members of the Miami Beach Redevelopment Agency adopted Resolution No. _____, approving, in substantial form, this Amendment, granting Tenant the requested extension of the Rent Abatement Period.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Landlord and Tenant hereby agree to amend the Lease as follows:

1. ABOVE RECITALS.

The above recitals are true and correct and are incorporated as part of this Amendment.

2. MODIFICATIONS.

The Agreement is hereby amended (deleted items ~~struck through~~ and inserted items underlined) as follows:

Section 14 of the Lease Summary is hereby amended as follows:

14. Term of Lease (Section 1.1):

Lease Term is nine (9) years and 364 Days from the Commencement Date.
"Commencement Date": The date Landlord delivers Premises to the Tenant.

"Rent Commencement Date": 1) Following the earlier of one hundred and eighty (180) days from Commencement Date; or 2) the date any portion of the Premises opens for business.

Rent Abatement: During Months 2 - ~~43~~ 21 from the Rent Commencement Date (months 8-~~19~~ 27 of the Lease Term); however, not to exceed thirty (30) days after Tenant opens for business ("Rent Abatement Period"), Tenant shall not be required to pay the monthly Minimum Rent, Concession Fee or Percentage Rent of \$26,475.00 payment that would otherwise be due; however, Tenant shall be required to pay for all ~~Additional Rent payments~~ the monthly Operating Expense payment that would otherwise be due during this Rent Abatement Period.

"Renewal Options": None

3. RATIFICATION.

Except as amended herein, all other terms and conditions of the Lease shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Lease, the provisions of this Amendment shall govern.

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DRAFT

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their appropriate officials, as of the date first entered above.

FOR LANDLORD:

**THE MIAMI BEACH
REDEVELOPMENT AGENCY**

ATTEST:

By: _____
Rafael E. Granado, Secretary

**Eric T. Carpenter, P.E.
Executive Director**

Date

FOR TENANT:

OPEN VISION ONE, LLC

ATTEST:

By: _____
Secretary

President

Print Name

Print Name

Date