

COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF MADISON, WISCONSIN

Resolution No. 4539

Authorizing the CDA to execute a lease amendment with Wisconsin Science Museum, Inc. for the expansion of office and storage space at The Village on Park.

Presented March 9, 2023
Referred _____
Reported Back _____
Adopted _____
Placed on File _____
Moved By _____
Seconded By _____
Yeas _____ Nays _____ Absent _____
Rules Suspended _____
Legistar File 76593

WHEREAS, the Community Development Authority of the City of Madison (“CDA”) is the owner of The Village on Park, located at 2300 South Park Street (the “Property”) as described in Exhibit A; and

WHEREAS, the Property is improved with a commercial building known as The Village on Park (the “Building”); and

WHEREAS, the CDA and Wisconsin Science Museum Inc. (“Lessee”) are parties to a lease dated June 11, 2018 and recorded on June 15, 2018 as Document Number 5417651 with the Dane County Register of Deeds, Wisconsin (the “Lease”); and

WHEREAS, Lessee would like to expand into the adjacent space to its Leased Premises (the “Expansion Space”) per the below terms and conditions; and

WHEREAS, there are several areas in the Expansion Space where stormwater has seeped into the space; management has notified Lessee of this defect and they are willing to take the space on an as-is basis. In return, they would like a termination provision relating to the Expansion Space in the event stormwater enters into any part of said area (the “Termination Option”); and

WHEREAS, the Initial Lease Term expires on August 31, 2023 and Lessee has notified the CDA that it would like to exercise its Renewal Term 1 option as defined in Paragraph 5 of the Lease. The Expansion Space term would be concurrent with the Leased Premises, unless the Termination Option is exercised.

NOW, THEREFORE, BE IT RESOLVED that the CDA hereby authorizes the execution of a first lease amendment (the “First Amendment”) agreement with Lessee for office and storage space at The Village on Park materially, though not exclusively, per the following terms and conditions on a form approved by the City Attorney.

1. Leased Premises. Paragraph 1 of the Lease amended by:
 - a. Amending and restating Exhibit B that is referenced therein with a new floor plan that shows the Expansion Space.
 - b. Adding the following terms to the end of Paragraph 1:

As of the “Effective Date” of the First Amendment, which is defined as the later date it is signed by the CDA, the Lessee will lease the adjacent space as shown in the amended Exhibit B that totals approximately 2,015 square feet of rentable area which is defined as the “Expansion Space”.

In addition, as of the Effective Date all references to the Leased Premises in the Lease shall apply to the Expansion Space except as noted in the First Amendment. In the event the Lessee exercises its' Termination Option as defined below, then the Leased Premises shall revert to the original 2,000 square feet 30 days after the CDA receives a Termination Notice as defined below.

2. Initial Term. Paragraph 2 of the Lease is amended and restated as follows:

The "Initial Lease Term" shall be for five (5) years and two (2) months commencing on July 1, 2018 (the Lease Commencement Date") and ending on August 31, 2023 the (the "Initial Lease Term"). The Initial Lease Term and any exercised Renewal Terms, as defined below, is collectively defined as the "Lease Term". The term for the Expansion Space will commence as of the Effective Date and will be concurrent with the Leased Premises' Lease Term , unless the Lessee exercises its' Termination Option (as defined below).

3. Rent.

Paragraph 3 of the Lease is amended and restated as follows:

- a. Beginning on September 1, 2018, the Lessee shall pay to the CDA Nine Hundred Fifty and no/100 Dollars (\$950.00) per month ("Base Rent"). The Base Rent shall increase by Three Percent (3%) per year compounded annually as shown in the below "Monthly Rent Schedule".
- b. In addition to the Base Rent, the Lessee shall pay to the CDA Three Hundred Fifty and no/100 Dollars (\$350.00) per month to the CDA on April 1, 2023 (the "Expansion Rent"). The Expansion Rent shall increase as shown in the Monthly Rent Schedule. In the event the Lessee exercises its' Termination Option then the Expansion Rent will cease 30 days after the CDA receives a Termination Notice as defined below.

Monthly Rent Schedule		LEASED PREMISES	EXPANSION SPACE	
Rent Schedule:	Period:	Base Rent	Expansion Rent:	Total Rent:
Initial Term:	7/1/18 - 8/31/18:	\$0.00		
	9/1/18 - 8/31/19:	\$950.00		\$950.00
	9/1/19 - 8/31/20:	\$978.50		\$978.50
	9/1/20 - 8/31/21:	\$1,007.86		\$1,007.86
	9/1/21 - 8/31/22:	\$1,038.09		\$1,038.09
	9/1/22 - 3/31/23:	\$1,069.23		\$1,069.23
	4/1/23 - 8/31/23:	\$1,069.23	\$350.00	\$1,419.23

Renewal Option Terms				
Renewal Term #1:	9/1/23 - 8/31/24:	\$1,101.31	\$350.00	\$1,451.31
	9/1/24 - 8/31/25:	\$1,134.35	\$360.50	\$1,494.85
	9/1/25 - 8/31/26:	\$1,168.38	\$371.32	\$1,539.70
Renewal Term #2:	9/1/26 - 8/31/27:	\$1,203.43	\$382.45	\$1,585.88
	9/1/27 - 8/31/28:	\$1,239.53	\$393.93	\$1,633.46
	9/1/28 - 8/31/29:	\$1,276.72	\$405.75	\$1,682.47
Renewal Term #3:	9/1/29 - 8/31/30:	\$1,315.02	\$417.92	\$1,732.94
	9/1/30 - 8/31/31:	\$1,354.47	\$430.46	\$1,784.93
	9/1/31 - 8/31/32:	\$1,395.11	\$443.37	\$1,838.48

- c. Base Rent and Expansion Rent shall be payable in advance on the first day of each calendar month this Lease is in effect. All payments are to be made payable to Village on Park/ CDA of Madison and sent to the Property Management Company at the address specified in Paragraph 25.
- d. Any Base Rent, Expansion Rent or such other sums, if any, required to be paid by Lessee pursuant to the terms of this Lease which are not paid when due as described in Paragraph 3.c shall bear interest at the rate of twelve percent (12%) per annum, or the maximum rate permitted by law, whichever is less, from the date due until paid. The payment of such interest shall not excuse or cure any default by Lessee under this Lease. All future payments will be allocated first to any outstanding balances other than Base Rent and Expansion Rent. Any remaining monies will be allocated lastly to any Base Rent and Expansion Rent balance.

4. Renewal Options. Paragraph 5 of the Lease amended and restated as follows:

The Lease may be renewed upon the agreement of the Lessee and the CDA for three (3) subsequent three (3) year terms (individually referred to as "Renewal Term 1," "Renewal Term 2", "Renewal Term 3"-and collectively referred to as the "Renewal Terms"). The Lessee shall provide the CDA written notice of its request to renew the Lease no later than one hundred eighty days (180) days prior to the expiration of the Initial Lease Term or current Renewal Term. In addition, the CDA shall have the right to declare Lessee's exercise of a Renewal Option null and void if Lessee is in default under the Lease on the date Lessee exercises such Renewal Option or at any time thereafter until the commencement of the applicable Renewal Term for which the Renewal Option was exercised.

Base Rent and Expansion Rent during Renewal Terms are listed in the Monthly Rent Schedule. Lessee shall accept the Leased Premises on the first day of each Renewal Term in an "as-is" condition, without any representation, credit, allowance or buildout from the CDA with respect to the condition or improvement thereof.

5. CDA Improvements. Paragraph 9 of the lease is amended and restated as follows:

The CDA completed the following work (the "CDA Improvements") to the Leased Premises, at the CDA's sole expense, prior to the Lease Commencement Date. Any other improvements requested by the Lessee shall be made at the Lessee's sole expense and in accordance with the provisions of the below Paragraph 10.

- a. Installed LED lighting in the Leased Premises. If the Lessee wants to make any changes to the light fixtures or add track lighting, then Lessee must notify the CDA beforehand for its approval.
- b. Installed glass into one of the existing doors (roughly $\frac{3}{4}$ thereof) into Leased Premises.
- c. Installed glass into the two existing doors (roughly $\frac{1}{2}$ thereof) that are the primary entry point by the lower level restrooms. The Lessee is allowed to install vinyl lettering (subject to the CDA's approval of content) on the glass at its cost.

Lessee can use any of the CDA's available cubicles at no cost. The cubicles will be moved at Lessee's cost.

- 6. Right of First Refusal. Paragraph 15 of the Lease is deleted in its entirety, which includes Exhibit C referenced therein.
- 7. Right to Lease. Paragraph 16 of the Lease is deleted in its entirety.
- 8. Notices. Amend and restate the first paragraph of Paragraph 25 of the Lease with the following:

All notices to be given under the terms of this Lease shall be in writing, dated and signed by the person sending the same, and shall be sent by electronic mail, registered or certified mail, return receipt requested and postage prepaid, to the address of the parties specified below. If electing to use electronic mail, said emails shall be sent to the email addresses provided below with an active read receipt and shall include a statement that the electronic mail constitutes notice under the terms of this Lease. All time periods with respect to notice shall commence on the date that electronic notice is sent or the date upon which the certified mail notice is mailed plus three days thereafter.

For the: CDA: Community Development Authority of the City of Madison
c/o City of Madison
Economic Development Division
Office of Real Estate Services
Attn: Manager
P.O. Box 2983
Madison, WI 53703

Interim Manager:
mmikolajewski@cityofmadison.com

Property
Management
Company:

Founders 3 Real Estate
252 East Highland Avenue
Milwaukee, WI 53202

eboswell@cityofmadison.com

For the Lessee: Wisconsin Science Museum, Inc.
Charles J. Cowie
Acting Director
cjcowie@wiscimuseum.org

9. A new Paragraph 36 is added to the Lease as follows:

36. Expansion Space. The CDA and management team have disclosed to the Lessee that the Expansion Space has water/stormwater leaks in the space at various areas noted generally as dots in Exhibit B. Lessee should not be storing any of its personal property near the noted dot areas in the Expansion Space given its' personal property may endure water/stormwater damage in the event a leak occurs in said areas. The CDA is not making a representation that water/stormwater will only come in these dotted areas when in fact water/stormwater may leak into any part of the Expansion Space, and the Lessee is taking the sole risk for any water/stormwater damage to its personal property by accepting the First Amendment to the Lease.

In addition, the Lessee will hold the CDA and the City of Madison harmless and indemnify the CDA and the City of Madison for any water/stormwater damage to the Lessee's personal property in the Expansion Space or other water/stormwater issues arising from the Expansion Space. In consideration for the defective condition of the Expansion Space, the CDA is offering a below market rent for Expansion Space, and a "Termination Option". In the event any water enters into the Expansion Space, the Lessee may exercise its' Termination Option of the Expansion Space by sending the CDA a 30-day written notice (the "Termination Notice"). Lessee shall surrender the Expansion Space to the CDA Thirty (30) days after the Termination Notice.

The Lessee acknowledges that it is accepting the condition of the Expansion Space on an "as-is" condition, without any representation, credit, allowance or buildout from the CDA with respect to the condition or improvement thereof.

The CDA has provided a dehumidifier unit for the Lessee to use while it is occupying the Expansion Space. Lessee is responsible for emptying the water from the dehumidifier unit.

This paragraph will survive the termination of the Expansion Space and the expiration of the Lease.

10. EXHIBIT A of the Lease is amended and restated with the new legal definition for the property as follows:

Lot 1, Certified Survey Map No. 15938, City of Madison, Dane County, Wisconsin.
Parcel No: 251-0709-352-0406-9

11. EXHIBIT D of the Lease is amended and restated with the new rules and regulations for the Building and Property, which have been provided to the Lessee.

12. The First Amendment to the Lease will be recorded at the office of the Dane County Register of Deeds after it is executed by the parties.

13. All other terms and conditions of the Lease shall remain in full force and effect.

BE IT FINALLY RESOLVED that the President and the Secretary of the CDA are hereby authorized to execute, deliver and record the First Amendment to the Lease, and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution in a form approved by the City Attorney.

EXHIBIT A

Legal Description of the Property

Lot 1, Certified Survey Map No. 15938, City of Madison, Dane County, Wisconsin.

Tax Parcel No.: 251-0709-352-0406-9

EXHIBIT B

AMENDED AND RESTATED DEPICTION OF THE LEASED PREMISES AND EXPANSION SPACE

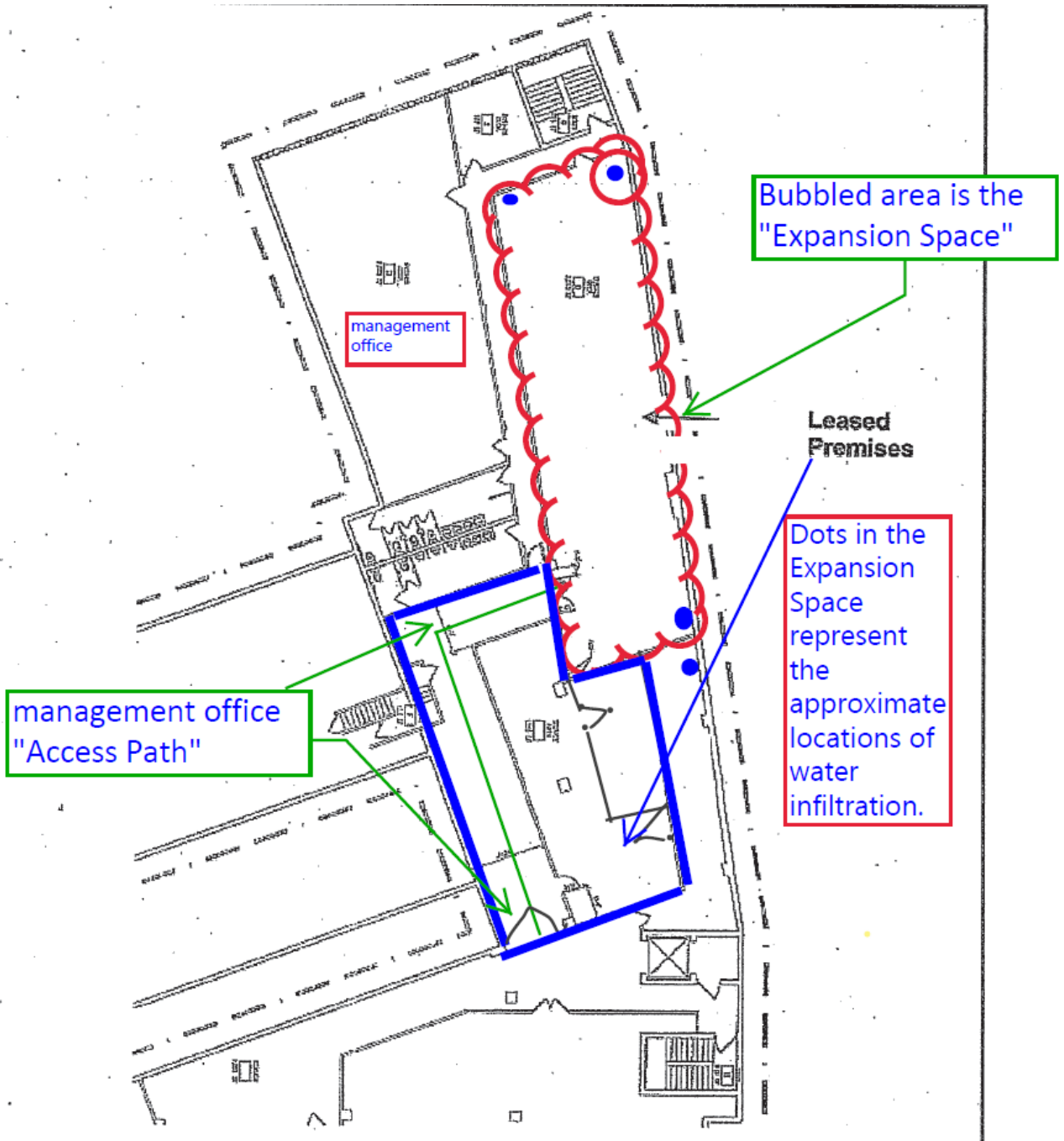


EXHIBIT D

AMENDED AND RESTATED RULES AND REGULATIONS

These Property "Rules" are in addition to the terms, covenants and conditions of the Lease for use of Leased Premises and Expansion Space ("Premises") in the Building, and the Common Areas. In the event these Property Rules conflict with any provision of the Lease, the Lease shall control. These Rules and Regulations apply to Lessee and its permittees:

GENERAL

1. Lessee, Lessee's, vendors and contractors are to abide by all Property Rules, including certificate of insurance requirements. Certificates of Insurance are to be kept current on file in the Founders 3 Real Estate Office. Certificates of Insurance must have these requirements prior to commencing work on the Property.
2. Lessee shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, or stairways of the Building. The Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Lessor would be prejudicial to the safety, character, reputation and interests of the Building and its tenants; provided that nothing herein contained shall be construed to prevent such access to persons with whom any Lessee normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Subject to the provisions of the Lease, no tenant and no employee or invitee of any tenant is permitted to use the roof, vacant spaces, or other areas marked "Do Not Enter" without Lessor's consent.
3. Lessee shall not use or keep in the Premises any kerosene, gasoline, or inflammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of office equipment. Lessee shall not use or permit to be used in the Premises any foul or noxious gas or substance, do or permit anything to be done in the Premises which materially obstructs, materially interferes, or materially injures Lessor or other tenants, nor shall Lessee bring into or keep in or about the Premises any birds or animals, except seeing eye dogs or certified service animals when accompanied by their masters.
4. Lessee shall not use any method of heating or air conditioning other than that supplied or approved by Lessor.
5. Lessee shall not waste electricity, water or air conditioning and agrees to cooperate fully with Lessor to assure the most effective operation of the Building's cooling system by complying with any reasonable governmental energy saving rules, laws or regulation of which Lessee has actual notice and which does not adversely affect the conduct of Lessee's business. The Lessor may set back suite thermostats in a manner to reduce energy during times when the Premises is not occupied per Schedule I.
6. Lessor reserves the right to exclude from the Building between the hours of 9:00 p.m. to 7:00 a.m. (Monday - Friday); after 3:30.p.m. on Saturday; all day on Sundays and legal holidays, any person unless that person has a pass and/or furnishes proper identification to Lessor's security personnel. Lessor reserves the right to change the aforementioned hours from time to time with notice to the tenants. Lessor reserves the right to prevent access to the Building in case of invasion, riot, earthquake or other emergency by closing the doors or by other appropriate action.
7. All water faucets or other water apparatus should be shut off before Lessee and its employees leave the Premises.
8. The toilet rooms, toilets, urinals, washbowls and other plumbing apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind shall be thrown therein.
9. Lessee shall not place in any trash receptacle any material, which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All refuse disposal by Lessee shall be made in accordance with directions issued by Lessor.
10. Lessee shall comply with all safety, fire protection and evacuation procedures and regulations reasonably established by Lessor and that are consistent with the Lease or any governmental agency.

11. Smoking is prohibited throughout the interior and exterior of the Property. Violators will be ticketed and/or removed from the Property.
12. No solicitation of business in the Building and/or Common Areas, nor distribution of handbills, political flyers or other advertising materials to customers, nor the placement of the same in or on Vehicles in the Common Areas.

PARKING

For purposes of these Rules "Vehicles" shall only mean licensed normal size passenger vehicles, motorcycles, SUV's and pickup trucks; however, Vehicles that are inoperable or in a state of disrepair are excluded from this definition.

13. Bicycles and Vehicles may only be parked in areas designated for such purpose, and shall park in one stripped parking space at a time. Negligently using more than one space or parking in unauthorized areas—driveways, sidewalks, landscaped areas, is strictly forbidden and subject to towing at the owner's expense without warning.
14. Timed parking stalls may not be circumvented by moving a Vehicle from one timed parking stall to another timed parking stall.
15. No servicing, repairing, cleaning, waxing or washing of Vehicles, except for such emergency repairs as may be necessary to start and move the Vehicle, shall be permitted to be performed in the Common Areas.
16. If an employee's Vehicle leaks oil onto the Property, and the security team can document it as the source of the oil damage, then the Lessor can ask said Vehicle owner to pay for the removal of the oil stain.
17. No overnight parking of Vehicles is allowed on the surface parking area, without the Lessor's permission.
18. The Lessee and its employees shall not invite to the Property, or permit the visit of, persons in such large numbers or under such conditions to interfere with the use and enjoyment of the Common Areas by the other adjacent Owners and their permittees during peak business hours, which are defined as Monday through Friday 8:00 AM – 5:00 PM unless it receives the Lessor's management company's approval.
19. Lessee and its employees should not park on the first level of the new Parking Garage. The Property's security team will be monitoring this provision, and may ticket any employee that is violating this rule.
20. Lessee shall only provide Parking Access Cards for the new Parking Garage to its employees and shall not lease or provide the Parking Access Cards to another user. Lessee must inform the Lessor which employees it allocated said Parking Access Cards to, the make and license of their Vehicle. Lessee shall inform the Lessor when the employee or car assigned to it changes.
21. Loss or theft of any Parking Access Card must be reported to the Lessor's management company immediately. Any passes reported as lost or stolen found to be in the possession of an unauthorized person shall be confiscated and the holder subject to revocation of parking privileges. Likewise, if any user is parking on the first level of the Parking Garage then the Lessor may revoke parking privileges after providing a notice to the user.

SAFETY

22. Vehicle owners are responsible for securing their own Vehicles. Lessor will not be responsible for lost or stolen personal property from any Vehicle parked in the Common Areas or damage thereto.
23. No Loitering (as defined below) shall be permitted in the Common Areas, and Lessee shall not promote Loitering to occur in the Common Areas. The term "Loitering" is defined as the act of remaining in the Common Areas, for a protracted period of time without any apparent purpose by a person or persons who are not any of the following: (i) a customer or patron of any Owner; (ii) a vendor, contractor and/or service provider for any Owner; (iii) an employee, agent or volunteer for any Owner; or (iv) a tenant or other lawful occupant of any Owner. The Lessor may take any reasonable actions to cause the removal of any person or persons loitering in the Common Areas.
24. No alcoholic beverages or illegal drugs of any kind whatsoever shall be used, served, or sold on the Common Areas.
25. The Lessor reserves the right to exclude or expel from the Property any person who, in Lessor's judgment is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules.

26. No firearms or weapons of any kind are allowed in the Common Areas unless it is an officer of the law or on duty security personnel with the appropriate credentials and the express permission from the Lessor.
27. The Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of the Lessor would be prejudicial to the safety, character, reputation and interests of the Lessor, the tenant and their permittees; provided that nothing herein contained shall be construed to prevent such access to persons with whom the Lessor, the tenant their permittees normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities.

ENFORCEMENT

28. The Lessor shall enforce these Rules in a non-discriminatory manner. If the Lessor agrees to less burdensome or more favorable rules and regulations for the benefit of any other tenant and Owner or their permittees, then these Rules may be amended to include any such less burdensome or more favorable rules and regulations.
29. Vehicles parked in violation of any of the Rules or in violation of posted signs or markings will be subject to receiving a warning slip, being ticketed and towed at the Vehicle owner's expense. The Lessor reserves the right to refuse to issue Parking Access Card to any person that the tenant assigns a card to who knowingly or willfully refuse to comply with these Rules or applicable laws

MODIFICATIONS

30. The Lessor reserves the right to close a portion of the Common Areas in order to make repairs or perform maintenance services, or to alter, modify, re-stripe or renovate the same, or if required by casualty, strike, condemnation, act of God, Law or governmental requirement, or any other reason beyond the Lessor's reasonable control
31. The Lessor reserves the right to make reasonable additions and modification to the Rules that do not cause any tenant to incur additional monetary costs, unless due to default.

END OF RULES