

RESOLUTION NO. 2011-116

AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO ENTER INTO A RENEWAL LEASE AGREEMENT WITH BEAUTY ON THE LINE, LLC FOR RETAIL SPACE AT THE LYNNFIELD BLUE LINE STATION FOR A TERM OF FIVE (5) YEARS

WHEREAS, the Greater Cleveland Regional Transit Authority owns property at 18900 Van Aken Boulevard, Shaker Heights, Ohio commonly known as the Lynnfield Blue Line Station; and

WHEREAS, the Authority currently leases space at this station to Beauty on the Line, LLC; and

WHEREAS, the Authority wishes to maximize the revenue from its real property assets; and

WHEREAS, Beauty on the Line, LLC wishes to continue leasing retail space at this location and the Authority wishes to renew its lease with Beauty on the Line, LLC.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the General Manager/Secretary-Treasurer is hereby authorized to enter into the attached lease agreement with Beauty on the Line, LLC for approximately 1,466 square feet of retail space in the building commonly known as the Lynnfield Blue Line Station.

Section 2. That the lease term shall be five (5) years.

Section 3. That the annual rent for each lease year shall be seven thousand eight hundred dollars (\$7,800.00) payable in equal monthly payments.

Section 4. That Beauty on the Line, LLC shall be responsible for its share of real property taxes, if any, and all utility charges as described in the lease terms under the Taxes and Utilities sections.

Section 5. That the General Manager/Secretary-Treasurer be, and is hereby authorized to enter into the Lease Agreement with Beauty on the Line, LLC for use of the Greater Cleveland Regional Transit Authority property identified above in the form of Attachment A hereto.

Section 6. That this resolution shall become effective immediately upon its adoption.

Attachment: Lease Agreement

Adopted: December 20, 2011



President *Acting*

Attest: 

CEO, General Manager/Secretary-Treasurer

LEASE

This Lease is made on _____, 2011, by the **GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**, a political subdivision organized under Ohio Revised Code Chapter 306, whose principal business office is located at 1240 West 6th Street, Cleveland, Ohio 44113-1331 ("Landlord"), and **BEAUTY ON THE LINE, LLC**, an Ohio limited liability company, whose principal business office is located at 18900 Van Aken Blvd., Shaker Heights, Ohio 44113 ("Tenant").

1. **AGREEMENT TO LEASE.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, according to the provisions of this lease.

2. **PREMISES.** The Premises are approximately 1,466 square feet of retail space in the building commonly known as the Lynnfield Blue Line Rapid Station located at 18900 Van Aken Blvd., Shaker Heights, Ohio 44113, but more particularly described in Exhibit "A" attached and made a part of this paragraph of this lease (the "Premises").

3. This section intentionally left blank.

4. **TERM.** (a) Commencement Date. The term of this lease will be Five (5) years, beginning on November 1, 2011 (the commencement date) and expiring on October 31, 2016.

(b) Early Termination: Either the Landlord or Tenant may terminate this lease at any time with Ninety (90) days written notice with no further obligations hereunder except for those obligations accruing prior to such termination, and this lease shall automatically terminate upon the conclusion of such ninety (90) day period.

(c) Possession. If for any reason Landlord cannot deliver possession of the Premises to Tenant on the commencement date, (i) this lease will not be void or voidable, (ii) Landlord will not be liable to Tenant for any resultant loss or damage, and (iii) unless Landlord is not able to deliver possession of the Premises to Tenant on the commencement date because of Tenant's delays, rent will be waived for the period between the commencement date and the date on which Landlord delivers possession of the Premises to Tenant. No delay in delivery of possession of the Premises will extend the term.

(d) Early Possession. At Tenant's request made at any time after a temporary certificate of occupancy has been issued for the Premises, Landlord may permit Tenant to occupy so much of the Premises as Tenant wishes to occupy prior to the commencement date. Landlord will cooperate with Tenant in order to ease Tenant's moving into the Premises. If Tenant occupies the Premises prior to the commencement date with Landlord's permission, all of the provisions of this lease will be in effect from the beginning of the occupancy; however, rent otherwise due under this lease will be abated up to the commencement date, and Tenant will pay as rent Landlord's actual costs (but in no event more than the base monthly rent which would have been due in the absence of any applicable abatements) incurred

by reason of the Tenant's early occupancy.

5. **RENT.** (a) Payment. Tenant shall pay Landlord the monthly rent stated in the Basic Lease Information page Exhibit "B" hereto, which is hereby incorporated herein by reference, in equal consecutive monthly installments on or before the first day of each month during the term of this lease. The monthly rent will be paid in advance at the address specified for Landlord in the basic lease information, or such other place as Landlord designates, without prior demand and without any abatement, deduction or setoff. If the commencement date occurs on a day other than the first day of a calendar month, or if the expiration date occurs on a day other than the last day of a calendar month, then the monthly rent for such fractional month will be prorated on a daily basis.

(b) Additional Rent. Tenant will pay to Landlord without deduction or offset all amounts which this lease requires Tenant to pay (the "additional rent"), including without limitation any increase in the monthly rent resulting from the provisions of paragraph 5(d) at the place where the monthly rent is payable. Landlord will have the same remedies for a default in the payment of additional rent as it has for default in the payment of monthly rent.

(c) Late Payment. If Tenant fails to pay any rent or additional rent on the date they are due and payable, such unpaid amount will be subject to a late payment charge equal to two percent (2%) of such unpaid amounts. This late payment charge is intended to compensate Landlord for its additional administrative costs resulting from Tenant's failure, and has been agreed upon by Landlord and Tenant, after negotiation, as a reasonable estimate of the additional administrative cost which will be incurred by Landlord as a result of Tenant's failure. The actual cost in each instance is extremely difficult, if not impossible, to determine. This late payment charge will constitute liquidated damages and will be paid to Landlord together with such unpaid amounts. The payment of this late payment charge will not constitute a waiver by Landlord of any default by Tenant under this lease.

(d) Annual Adjustment. Monthly rents will remain \$650.00 for the term of this lease and all extension periods.

6. **TAXES.** (a) Obligation for Payment. Tenant will pay all taxes (collectively the "tax"), including without limitation real estate tax related to Tenant's use of the Premises and personal property taxes and assessments assessed, levied, confirmed, or imposed during the term of this lease (other than net income taxes) whether or not now customary or within the contemplation of Landlord and Tenant: (1) upon, measured by, or reasonably attributable to the cost or value of Tenant's equipment, furniture, fixtures, and other personal property located in the Premises or by the cost or value of any leasehold improvements made in or to the Premises by or for Tenant regardless of whether title to such improvements is in Tenant or Landlord; (2) upon or measured by the monthly rent, including without limitation any gross receipts tax or excise tax levied by the federal government or any other governmental body with respect to the receipt of monthly rent; (3) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by Tenant of the Premises or any portion of the

Premises; (4) upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises; (5) upon the Premises and all personal property, furniture, fixtures, and equipment, and all replacements, improvements, or additions to them, whether owned by Landlord or Tenant; and (6) impositions based in whole or in part on monthly rent, whether made in addition to or in substitution for any other tax.

(b) Taxes Payable in Installments. Unless Landlord has exercised its rights under paragraph 6(f), and if, by law, any tax may at the option of the taxpayer be paid in installments (whether or not interest accrues on the unpaid balance of such tax), Tenant may exercise the option to pay the tax (and any accrued interest on the unpaid balance of such tax) in installments and in such event Tenant will pay such installments as they become due during the term of this lease as the same respectively become due and before any fine, penalty, further interest or cost may be added to them.

(c) Taxes for Period other than Term. Any tax, including taxes which have been converted into installment payments, relating to a fiscal period of the taxing authority, a part of which period is included within the term and a part of which is included in a period of time prior to the commencement or after the end of the term, will, whether or not such tax or installments are assessed, levied, confirmed, imposed upon or in respect of, or become a lien upon the Premises, or become payable, during the term, be adjusted between Landlord and Tenant as of the commencement or end of the term, so that Tenant will pay that portion of such tax or installment which that part of such fiscal period included in the term bears to such fiscal period, and Landlord will pay the remainder.

(d) Other Impositions. Tenant will not be obligated to pay local, state, or federal net income taxes assessed against Landlord; local, state, or federal capital levy of Landlord; or sales, excise, franchise, gift, estate, succession, inheritance, or transfer taxes of Landlord.

(e) Right to Contest Taxes. Tenant will have the right to contest the amount or validity, in whole or in part, of any tax by appropriate proceedings diligently conducted in good faith, only after paying such tax or posting such security as Landlord may reasonably require in order to protect the Premises against loss or forfeiture. Upon the termination of any such proceedings, Tenant will pay the amount of such tax or part of such tax as finally determined, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other related liabilities. Landlord will not be required to join in any such contest or proceedings unless the provisions of any law, or regulations then in effect will require that such proceedings be brought by or in the name of Landlord. In that event Landlord will join in such proceedings or permit them to be brought in its name; however, Landlord will not be subjected to any liability for the payment of any costs or expenses in connection with any such contest or proceedings, and Tenant will indemnify Landlord against and save Landlord harmless from any such costs and expenses.

(f) Estimated Payments. If Landlord elects to do so, then, in each December

during the term or as soon after December as practicable, Landlord will give Tenant written notice of its estimate of real property tax amounts payable under paragraph 6(a) for the ensuing calendar year. On or before the first day of each month during the ensuing calendar year, Tenant will pay to Landlord one-twelfth (1/12th) of such estimated amounts; however, if such notice is not given in December, Tenant will continue to pay on the basis of the prior year's estimate until the month after such notice is given. If at any time or times it appears to Landlord that the real property tax amounts payable under paragraph 6 (a) for the current calendar year will vary from its estimate by more than ten percent (10%), Landlord will, by written notice to Tenant, revise its estimate for such year, and subsequent payments by Tenant for such year will be based upon such revised estimate.

(g) Final Settlement. Within ninety (90) days after the close of each calendar year or as soon after such ninety-day (90) period as practicable, Landlord will deliver to Tenant a statement of amounts payable under paragraph 6(a) for such calendar year prepared by certified public accountants designated by Landlord, or prepared by Landlord and certified by one of its officers, and such certified statement will be final and binding upon Landlord and Tenant. If such statement shows an amount owing by Tenant that is less than the estimated payments previously made by Tenant for such calendar year, the statement will be accompanied by a refund of the excess by Landlord to Tenant. If such statement shows an amount owing by Tenant that is more than the estimated payments previously made by Tenant for such calendar year, Tenant will pay the deficiency to Landlord within thirty (30) days after the delivery of such statement.

7. **UTILITIES.** (a) Tenant's Obligation. Tenant will pay appropriate suppliers for all sewer, water, gas, electric, light, heat, telephone, power, and other utilities and communication services used by Tenant on the Premises during the term that are billed directly to Tenant. Tenant will also procure, or cause to be procured, without cost to Landlord, any and all necessary permits, licenses, or other authorizations required for the lawful and proper installation and maintenance upon the Premises of wires, pipes, conduits, tubes, and other equipment and appliances for use in supplying any such service to and upon the Premises. Landlord, upon request of Tenant, and at the sole expense and liability of Tenant, will join with Tenant in any application required for obtaining any such services.

(b) Warranty. Landlord warrants to Tenant that electricity, water, sanitary and drainage sewers, telephone, and natural gas will be available at the outside wall of the building throughout the term of this lease. If any such utility service becomes unavailable or is interrupted for more than twenty (20) consecutive days (without default by Tenant), Tenant may terminate this lease by notice to Landlord given within sixty (60) days after such services become unavailable, or within ten (10) days after the ninetieth (90th) day of interruption, as the case may be. The notice will specify a termination date no more than thirty (30) days after the date of such notice. This lease will end on the termination date, and rent and other charges will be appropriately prorated between Landlord and Tenant as of the termination date.

8. **INSURANCE.** (a) "All-Risk" Coverage. Tenant will, at its sole expense, obtain and keep in force from the commencement date or occupancy date whichever first occurs during

the term of this lease, "all-risk" coverage insurance insuring their contents and any improvements and betterments installed / constructed by them. The Landlord will carry insurance on all buildings and other improvements located on the Premises for the replacement value thereof and will charge the Tenant his proportionate share of the premium for such insurance calculated based on the Tenant's square footage versus the total square footage of the building. Tenant's proportionate share of insurance premium has been included in Tenant's monthly rent.

(b) General Liability. Tenant will, at its sole expense, obtain and keep in force during the term of this lease general liability insurance with a combined single limit of not less than two million dollars (\$2,000,000) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability, broad form property damage, host liquor liability, fire legal liability (minimum limit \$1 million), non-owned automobile liability, with respect to the Premises or arising out of the maintenance, use, or occupancy of the Premises. Such insurance will insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons and damage to property set forth in paragraph 19. Such insurance will be noncontributing with any insurance which may be carried by Landlord and will contain a provision that Landlord, although named as an insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, officers, and employees, or the property of such persons located on the leased Premises. The limits and coverage of all such insurance will be adjusted by agreement of Landlord and Tenant during every third lease year during the term of this lease in conformity with the then prevailing custom of insuring liability in the City of Cleveland.

(c) Other Matters. All insurance required in this paragraph and all renewals of it, will be issued by companies authorized to transact business in the State of Ohio, and rated at least A- Class X by AM Best's Insurance Reports (property liability) or approved by Landlord. The general liability insurance will be carried in the name of Tenant and will name Landlord as an additional named insured. All insurance policies will be subject to approval by Landlord and any lender as to form and substance; will expressly provide that such policies will not be canceled or altered without thirty (30) days' prior written notice to Landlord and any lender, in the case of "all-risk" coverage insurance, and to Landlord, in the case of general liability insurance; will, to the extent obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or a duplicate or certificate of such policy will be delivered to Landlord and any lender whom Landlord and Tenant may designate. Tenant may satisfy its obligation under this paragraph by appropriate endorsements of its blanket insurance policies.

9. WAIVER OF SUBROGATION. Landlord and Tenant waive all rights to recover against each other or against any other Tenant or occupant of the building, or against the offices, directors, shareholders, partners, joint ventures, employees, agents, customers, invitees, or

business visitors of each other or of any other Tenant or occupant of the building, for any loss or damage arising from any cause covered by any insurance required to be carried by each of them pursuant to paragraph 8 or any other insurance or self insurance plan actually carried by each of them. Landlord and Tenant will cause their respective insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the building or the Premises or the contents of either of them. Tenant will cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this paragraph not to obtain such waiver of subrogation rights endorsements.

10. **USES.** (a) Lawful Use Only. Tenant may use the Premises for retail or office purposes. Tenant will not use or occupy, or permit any portion of the Premises to be used or occupied, (i) in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement, or (ii) for any disreputable business or purpose, or (iii) in any manner or for any business or purpose that creates risks of fire or other hazards, or that would in any way violate, suspend, void, or increase the rate of fire or liability or any other insurance of any kind at any time carried by Landlord upon all or any part of the building in which the Premises are located or its contents. Tenant will comply with all laws, ordinances, orders, rules, regulations, and other governmental requirements relating to the use, condition, or occupancy of the Premises, and all rules, orders, regulations, and requirements of the board of fire underwriters or insurance service office, or any other similar body, having jurisdiction over the building in which the Premises are located. Any increase in the cost of any insurance carried by Landlord attributable to Tenant's activities, property, or improvements in the Premises or Tenant's failure to perform and observe its obligations and covenants under this lease will be payable by Tenant to Landlord, from time to time, on demand. A schedule or "make-up" of rates for the Premises or building of which the Premises are a part issued by the body making its fire insurance rates will be, as between Landlord and Tenant, conclusive evidence of the facts stated in it and of the items and charges in the fire insurance rates then applicable. The final judgment of any court, or the admission of Tenant, that Tenant has violated any law or requirement of governmental or insurance authorities affecting the Premises or building of which the Premises are a part will be conclusive evidence of such violation as between Landlord and Tenant.

(b) Right to Contest. Tenant will have the right to contest by appropriate proceedings diligently conducted in good faith in the name of Tenant, or, with the prior consent of the Landlord, in the name of Landlord, or both, without cost or expense to Landlord, the validity or application of any law, ordinance, order, rule, regulation or legal requirement of any nature. If compliance with any such law, ordinance, order, rule, regulation, or requirement may legally be delayed pending the prosecution of any proceeding without incurring any lien, charge, or liability of any kind against the Premises, or Tenant's interest in the Premises, and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure so to comply, Tenant may delay compliance until the final determination of such proceeding. Even if such lien, charge, or liability may be incurred by reason of any such delay, Tenant may so contest and delay, so long as (i) such contest or delay does not subject Landlord to criminal liability and (ii) Tenant furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or

injury by reason of any contest or delay. Landlord will not be required to join any proceedings referred to in this paragraph unless the provision of any applicable law, rule, or regulation at the time in effect requires that such proceedings be brought by or in the name of Landlord, or both. In that event Landlord will join the proceedings or permit them to be brought in its name if Tenant pays all related expenses.

11. REPAIRS AND MAINTENANCE. Tenant will, at its sole cost and expense, maintain the inside of the Premises and make necessary and customary repairs, restorations, and replacement to the inside of the Premises, including without limitation fixtures and appurtenances to the Premises as and when needed to preserve them in good working order and condition. All such repairs, restorations, and replacements will be in quality and class equal to the original work or installations. If Tenant fails to make such repairs, restorations, or replacements, Landlord may make them at the expense of Tenant and such expense will be collectible as additional charges and will be paid by Tenant within fifteen (15) days after delivery of a statement for such expenses. Notwithstanding the obligations assumed by Tenant under this paragraph, the Landlord will retain at its sole cost and expense the obligation to replace the roof, the furnace or boiler, central air conditioning compressor and evaporator, and structural exterior walls when Landlord finds that the need for such replacements are not the result of Tenant's fault or failure to properly maintain and repair or must be replaced because of a casualty not insured under Tenant's all-risk property insurance.

12. ALTERATIONS. Tenant acknowledges that the Premises are within an historic structure and that exterior improvements are governed by strict historic guidelines. Tenant shall follow all such current and future requirements for historic structures. In addition, Tenant will not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent; however Landlord's prior written consent will not be necessary for any alteration, addition, or improvement which (a) costs less than \$1,000 including labor and materials; (b) does not change the general character of the Premises, or reduce the fair market value of the Premises below its fair market value prior to the alteration, addition, or improvement, (c) is made with due diligence, in a good and workmanlike manner and in compliance with all laws as that term is defined in paragraph 10, (d) is promptly and fully paid for by Tenant, and (e) is made under the supervision of an architect or engineer reasonably satisfactory to Landlord and in accordance with plans and specifications and cost estimates approved by Landlord. Landlord may designate a supervising architect to assure compliance with the provisions of this paragraph, and if it does, Landlord will pay the supervising architect's charges. Subject to Tenant's rights in paragraph 14, all alterations, additions, fixtures, and improvements, whether temporary or permanent in character, made in or upon the Premises by Tenant, will immediately become Landlord's property and, at the end of the term of this lease will remain on the Premises without compensation to Tenant. By notice given to Tenant no less than ninety (90) days prior to the end of this lease, Landlord may require that any alterations, additions, fixtures and improvements made in or upon the Premises be removed by Tenant. In that event, Tenant will remove such alterations, additions, fixtures and improvements at Tenant's sole cost and will restore the Premises to the condition in which they were before such alterations, additions, improvements, and additions were made, reasonable wear and tear

excepted.

13. **MECHANIC'S LIENS.** Tenant will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, and for all materials furnished for or in connection with such work. Tenant will indemnify Landlord against and hold Landlord harmless from all liabilities, liens, claims, and demands on account of such work. If any such lien is filed against the Premises, Tenant will cause such lien to be discharged of record within ten (10) days after the filing of such lien. If Tenant desires to contest such a lien, it will furnish Landlord, within such ten-day period, security reasonably satisfactory to Landlord of at least one hundred fifty percent (150%) of the amount of the lien, plus estimated costs and interest. If a final non-appealable judgment establishing the validity or existence of a lien for any amount is entered, Tenant will satisfy it at once. If Tenant fails to pay any charge for which such a lien has been filed, and does not give Landlord such security, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with it, will be immediately due from Tenant to Landlord as additional rent. Nothing contained in this lease is the consent or agreement of Landlord to subject Landlord's interest in the Premises to liability under any lien law. If either Landlord or Tenant receives notice that a lien has been or is about to be filed against the Premises, or that any action affecting title to the Premises has been commenced on account of work done by or for Tenant or labor or materials furnished to or for Tenant, it will immediately give the other written notice of such notice. At least fifteen (15) days prior to the commencement of any work (including without limitation and maintenance, repairs, alterations, additions, improvements, or installations) in or to the Premises, by or for Tenant, Tenant will give Landlord written notice of the proposed work and the names and addresses of the persons supplying labor and materials for the proposed work. Landlord will have the right to post notices of nonresponsibility or similar notices on the Premises in order to protect the Premises against any such liens.

14. **SURRENDER OF PREMISES.** At the end of this lease, Tenant will surrender the Premises in good order and condition, ordinary wear and tear excepted. If Tenant is not then in default, Tenant may remove from the Premises any trade fixtures, equipment, and movable furniture placed in the Premises by Tenant, whether or not such trade fixtures or equipment are fastened to the building. Tenant will not remove any trade fixtures or equipment without Landlord's prior written consent if such trade fixtures or equipment are used in the operation of the Premises or if the removal of such fixtures or equipment will impair the structure of the building or if Landlord paid for said trade fixtures or equipment through rent abatement or other means. Whether or not Tenant is then in default, Tenant will remove such alterations, additions, improvements, trade fixtures, equipment, and furniture as Landlord has requested in accordance with paragraph 12. Tenant will fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions, and improvements. All trade fixtures, equipment, furniture, alterations, additions, and improvements not so removed will conclusively be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant or to any other person and without obligation to account for them. The Tenant will pay Landlord all expenses incurred in connection with Landlord's disposition of such property, including without limitation the cost of

repairing any damage to the building or Premises caused by removal of such property. Tenant's obligation to observe and perform this covenant will survive the end of this lease.

15. **HOLDOVER.** If Tenant holds over or remains in possession or occupancy of the Leased Premises after the expiration of the primary term or the renewal term or after any earlier termination of this lease, such holding-over or continued possession or occupancy, if rent is paid by Tenant and accepted by Landlord for or during any period of time it so holds over or remains in possession or occupancy, shall create only a tenancy from month to month at the last monthly rental and upon other terms (other than length of term) herein specified, which at any time may be terminated by either party giving the other party thirty (30) days' notice of its intentions to terminate the same.

16. **DAMAGE TO PREMISES.** In the event that the building or improvements now located on the leased Premises shall be so damaged or injured from any cause whatever during the term of this lease so as to render untenable all or any substantial part of the leased Premises, and if in the judgment of the Landlord and Tenant the Premises cannot within ninety (90) days be restored to their condition prior to such damage or injury, then the Tenant shall have the right to terminate this lease as of the end of the month immediately following the date of the damage or injury by giving notice in writing to the Landlord within thirty (30) days after such damage or injury. A condition for the exercise of the right to termination by the Tenant, shall be the enforceable assignment to the Landlord of Tenant's interests in all insurance proceeds payable as a result of said damage or injury, exclusive of insurance proceeds relating to damage or injury to property removable by Tenant under the provisions of paragraph 14. Rent and additional charges due hereunder shall be prorated and paid as of the last day of the month following the date of said damage or injury. If the period of time agreed upon by the parties shall be in excess of ninety (90) days, and the Tenant shall not have elected, as aforesaid, to terminate this lease, then this lease may not be terminated on account of such damage or injury, but the Tenant shall repair, reconstruct, or restore the leased Premises to a condition equivalent to that of their former condition. Tenant shall, upon completion of repair, recondition or restoration, be entitled to so much of the insurance proceeds payable to Landlord as a result of such damage or injury as are required to defray costs attributable to the repairs, reconstruction or restoration of Landlord's insurable interests.

17. **CONDEMNATION.** (a) Total Taking. If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "taking"), all of the Premises are taken, or if so much of the Premises are taken that the Premises (even if the restorations described in subparagraph (b) were to be made) cannot be used by Tenant for the purposes for which they were used immediately before the taking, this lease will end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority (in either case the "ending date"). If the lease ends according to this subparagraph (a), prepaid rent will be appropriately prorated to the ending date. The award in a taking subject to this subparagraph (a) will be allocated according to subparagraph (d).

(b) Partial Taking. If, after a taking, so much of the Premises remains that the Premises can be used for substantially the same purposes for which they were used immediately before the taking, (i) this lease will end on the ending date as to the part of the Premises which is taken, (ii) prepaid rent will be appropriately allocated to the part of the Premises which is taken and prorated to the ending date, (iii) beginning on the day after the ending date, rent for so much of the Premises as remains will be reduced in the proportion of the area of the Premises remaining after the taking to the area of the Premises before the taking, (iv) at its cost, Tenant will restore so much of the Premises as remains to a sound architectural unit substantially suitable for the purposes for which it was used immediately before the taking, using good workmanship and new first class materials, all according to paragraph 12, (v) upon the completion of restoration according to clause (iv), Landlord will pay Tenant the lesser of the net award made to Landlord on account of the taking (after deducting from the total award attorneys', appraisers' and other costs incurred in connection with obtaining the award, and amounts paid to the holders of mortgages affecting the Premises), or Tenant's actual out-of-pocket cost of restoring the Premises, and (vi) Landlord will keep the balance of the net award.

(c) Tenant's Award. In connection with any taking subject to subparagraph (a) or (b), Tenant may prosecute its own claim by separate proceedings against the condemning authority for damages legally due to it (such as the loss of fixtures which Tenant was entitled to remove, and moving expenses) only so long as Tenant's award does not diminish or otherwise adversely affect Landlord's award.

(d) Allocation of an Award for a Total Taking. If this lease ends according to subparagraph (a), the condemnation award will be paid in the order in this subparagraph to the extent it is sufficient:

(1) First, Landlord will be reimbursed for its attorneys' fees, appraisal fees, and other costs incurred in prosecuting the claim for the award.

(2) Second, Landlord will be paid compensation for lost rent and the reversion.

(3) Third, Tenant will be paid its adjusted book value as of the date of the taking of its improvements (excluding trade fixtures) made to the Premises. In computing its adjusted book value, improvements will be conclusively presumed to have been depreciated or amortized for federal income tax purposes over their useful lives with a reasonable salvage value.

(4) Fourth, the balance will be divided equally between Landlord and Tenant.

18. SUBORDINATION AND ATTORNMENT. (a) This lease and Tenant's rights under this lease are subject and subordinate to any conveyances made by Landlord as a part of any public/private Joint Venture, any ground lease or underlying lease, first mortgage, first deed of trust or other first lien encumbrance or indenture, together with any renewals, extensions, modifications, consolidations, and replacements of them, which now or at any subsequent time affect the Premises or any interest of Landlord in the Premises or Landlord's interest in this lease

and the estate created by this lease (except to the extent that any such instrument expressly provides that this lease is superior to it). This provision will be self-operative and no further instrument of subordination will be required in order to affect it. Nevertheless, Tenant will execute, acknowledge and deliver to Landlord, at any time and from time to time, upon demand by Landlord, such documents as may be requested by Landlord, any ground Landlord or underlying lessor or any mortgagee, or any holder of a deed of trust or other instrument described in this paragraph, to confirm or effect any such subordination. If Tenant fails or refuses to execute, acknowledge, and deliver any such document within twenty (20) days after written demand, Landlord, its successors and assigns will be entitled to execute, acknowledge, and deliver any such document on behalf of Tenant as Tenant's attorney-in-fact. Tenant constitutes and irrevocably appoints Landlord, its successors and assigns, as Tenant's attorney-in-fact to execute, acknowledge, and deliver on behalf of Tenant any documents described in this paragraph.

(b) If any person succeeds to Landlord's interest in the Premises, Tenant will pay to it all rents subsequently payable under this lease. Tenant will, upon request of any one so succeeding to the interest of Landlord, automatically become the Tenant of, and attorn to, such successor in interest without change in this lease. Such successor in interest will not be bound by (i) any payment of rent for more than one month in advance, or (ii) any amendment or modification of this lease made without its written consent, or (iii) any claim against Landlord arising prior to the date on which such successor succeeded to Landlord's interest, or (iv) any claim or offset of rent against the Landlord. Upon request by such successor in interest and without cost to Landlord or such successor in interest, Tenant will execute, acknowledge, and deliver an instrument or instruments confirming the attornment. The instrument of attornment will also provide that such successor in interest will not disturb Tenant in its use of the Premises in accordance with this lease. If Tenant fails or refuses to execute, acknowledge, and deliver any such instrument within twenty (20) days after written demand, such successor in interest will be entitled to execute, acknowledge, and deliver any such document for and on behalf of Tenant as Tenant's attorney-in-fact. Tenant constitutes and irrevocably appoints such successor in interest as Tenant's attorney-in-fact to execute, acknowledge and deliver on behalf of Tenant any document described in this paragraph.

19. LANDLORD'S RIGHT OF ACCESS. Landlord, its agents, employees, and contractors may enter the Premises at any time in response to an emergency, and at reasonable hours to (a) inspect the Premises, (b) exhibit the Premises to prospective purchasers, lenders, or Tenants, (c) determine whether Tenant is complying with its obligations in this lease, (d) supply any service which this lease requires Landlord to provide, (e) post notices of nonresponsibility or similar notices, or (f) make repairs which this lease requires Landlord to make, or make repairs to any adjoining space or utility services, or make repairs, alterations, or improvements to any other portion of the Landlord's adjacent premises; however, all such work will be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible. Tenant waives any claim on account of any injury or inconvenience to Tenant's business, interference with Tenant's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry. Landlord will at all times have a key with which to unlock

all of the doors in the Premises (excluding Tenant's vaults, safes and similar areas designated in writing by Tenant in advance). Landlord will have the right to use any means which Landlord may deem proper to open doors in the Premises and to the Premises in an emergency in order to enter the Premises. No entry to the Premises by Landlord by any means will be a forcible or unlawful entry into the Premises or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises, or any part of the Premises, nor will any such entry entitle Tenant to damages or any abatement of rent or other charges which this lease requires Tenant to pay.

20. INDEMNIFICATION. Tenant will indemnify Landlord, its agents, and employees against, and hold Landlord, its agents, and employees harmless from, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), losses, liabilities, judgments, and expenses (including, without limitation, attorneys' fees and court costs) incurred in connection with or arising from: (a) the use or occupancy of the Premises by Tenant or any person claiming under Tenant; (b) any activity, work, or thing done, or permitted or suffered by Tenant in or about the Premises; (c) any acts, omissions, or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees, or visitors of Tenant or any such person; (d) any breach, violation, or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this lease or any law, ordinance, or governmental requirement of any kind; or (e) (except for loss of use of all or any portion of the Premises or Tenant's property located within the Premises which is proximately caused by or results proximately from the negligence of Landlord), any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, visitors, or any other person entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against Landlord, its employees, or agents by reason of any such claim, Tenant, upon notice from Landlord, will defend the claim at Tenant's expense with counsel reasonably satisfactory to Landlord.

21 WAIVER AND RELEASE. Tenant waives and releases all claims against Landlord, its employees, and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this lease. In addition, Tenant agrees that Landlord, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or Tenant's business occasioned by theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling objects, steam, water, rain or snow, leak or flow of water (including water from the transit system, rain or snow from the Premises or into the Premises or from the roof, street, subsurface or from any other place, or by dampness or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances plumbing, air conditioning, or lighting fixtures of Premises, or from construction, repair, or alteration of the Premises or from any acts or omissions of any other Tenant, occupant, or visitor of the Premises, or from any cause beyond Landlord's control.

22 QUIET ENJOYMENT. So long as the Tenant pays the rent, and performs all of

its obligations in this lease, the Tenant's possession of the Premises will not be disturbed by Landlord, or anyone claiming by, through or under the Landlord.

23 **DEFAULT.** (a) Events of Default. The following occurrences are "events of default":

(i) Tenant defaults in the due and punctual payment of rent, and such default continues for five (5) days after notice from Landlord; however, Tenant will not be entitled to more than one (1) notice for default in payment of rent during any twelve-month period, and if, within twelve (12) months after any such notice, any rent is not paid when due, an event of default will have occurred without further notice;

(ii) Tenant vacates or abandons the Premises;

(iii) This lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged within fifteen (15) days after its levy;

(iv) Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved, or make an assignment for the benefit of creditors;

(v) Involuntary proceedings under any such bankruptcy laws or insolvency act or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of Tenant's property, and such proceeding is not dismissed or such receivership or trusteeship is not vacated within sixty (60) days after such institution or appointment;

(vi) Tenant fails to take possession of the Premises on the commencement date of the term; or

(vii) Tenant breaches any of the other agreements, terms, covenants, or conditions which this lease requires Tenant to perform, and such breach continues for a period of thirty (30) days after notice by Landlord to Tenant.

(b) Landlord's Remedies. If any one or more events of default set forth in subparagraph 23(a) occurs, then Landlord may, at its election, either:

(i) Give Tenant written notice of its intention to terminate this lease on the date of such notice or on any later date specified in such notice, and, on the date specified in such notice, Tenant's right to possession of the Premises will cease and the lease will be terminated (except as to Tenant's liability set forth in this subparagraph (i)) as if the expiration of the term fixed in such notice were the end of the term of this lease. If this lease is terminated pursuant to the provisions

of this subparagraph (i), Tenant will remain liable to Landlord for damages in an amount equal to the rent and other sums which would have been owing by Tenant under this lease for the balance of the term if this lease had not been terminated, less the net proceeds, if any, of any re-letting of the Premises by Landlord subsequent to such termination, after deducting all Landlord's expense in connection with such re-letting, including without limitation, the expenses set forth in subparagraph (ii)(2). Landlord will be entitled to collect such damages from Tenant monthly on the days on which the rent and other amounts would have been payable under this lease if this lease had not been terminated and Landlord will be entitled to receive such damages from Tenant on each such day. Alternatively, at the option of Landlord, if this lease is terminated, Landlord will be entitled to recover from Tenant: (A) the worth at the time of award of the unpaid rent which had been earned at the time of termination; (B) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amounts of such rent loss that Tenant proves could reasonably have been avoided; (C) the worth at the time of award of the amount by which the unpaid rent for the balance of the term of this lease after the time of award exceeds the amount of such rent loss that Tenant proves could reasonably be avoided; and (D) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this lease or which in the ordinary course of things would be likely to result from such failure. The "worth at the time of award" of the amount referred to in clauses (a) and (b) is computed by allowing interest at the highest rate permitted by law. The worth at the time of award of the amount referred to in clause (C) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of Cleveland, Ohio, at the time of award. For the purpose of determining unpaid rental under clause (C), the monthly rent reserved in this lease will be deemed to be the sum of the rent and additional charges due under paragraph 5 and the amounts last payable by Tenant pursuant to paragraph 5 for the calendar year in which the award is made; or

(ii) (1) Without demand or notice, re-enter and take possession of the Premises or any part of the Premises; and repossess the Premises as of the Landlord's former estate; and expel the Tenant from the Premises and those claiming through or under Tenant; and, remove the effects of both or either, without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or preceding breach of covenants or conditions. If Landlord elects to re-enter, as provided in this subparagraph (ii) or if Landlord takes possession of the Premises pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may, from time to time, without terminating this lease, re-let the Premises or any part of the Premises in Landlord's or Tenant's name but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this lease) and on such terms and conditions (which may include concessions of free rent, and the alteration and repair of the Premises) as Landlord, in its uncontrolled discretion, may determine. Landlord may collect and receive the rents for the Premises. Landlord will not be responsible or liable for any failure to re-let the Premises, or any part of the Premises, or for any failure to collect any rent due upon such re-letting. No such re-entry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this lease unless a written notice of such intention is given to Tenant. No notice from Landlord under this

lease or under a forcible entry and detainer statute or similar law will constitute an election by Landlord to terminate this lease unless such notice specifically says so. Landlord reserves the right following any such re-entry or re-letting, or both, to exercise its right to terminate this lease by giving Tenant such written notice, and in that event the lease will terminate as specified in such notice.

(2) If Landlord elects to take possession of the Premises according to this subparagraph (ii) without terminating the lease, Tenant will pay Landlord (a) the rent and other sums which would be payable under this lease if such repossession had not occurred, less (b) the net proceeds, if any, of any re-letting of the Premises after deducting all of Landlord's expenses incurred in connection with such re-letting, including without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, expenses of employees, alteration, remodeling, repair costs, and expenses of preparation for such re-letting. If, in connection with any re-letting, the new lease term extends beyond the existing term or the Premises covered by such re-letting include areas which are not part of the Premises, a fair apportionment of the rent received from such re-letting and the expenses incurred in connection with such re-letting will be made in determining the net proceeds received from such re-letting. In addition, in determining the net proceeds from such re-letting, any rent concessions will be apportioned over the term of the new lease. Tenant will pay such amounts to Landlord monthly on the days on which the rent and all other amounts owing under this lease would have been payable if possession had not been retaken and Landlord will be entitled to receive the rent and other amounts from Tenant on each such day; or (iii) Pay when due amounts payable under this lease or perform any of Tenant's other obligations under the lease within the time permitted for its performance, upon such notice or without notice, as may be reasonable under the circumstances and without waiving any of its rights under this lease. All amounts so paid by Landlord and all cost and expenses incurred by Landlord in connection with the performance of any such obligations (together with interest at the prime rate from the date of Landlord's payment of such amount or incurring of each such cost or expense until the date of full repayment by Tenant) will be payable by Tenant to Landlord on demand. In the proof of any damages which Landlord may claim against Tenant arising out of Tenant's failure to maintain insurance, Landlord will not be limited to the amount of the unpaid insurance premium but rather Landlord will also be entitled to recover as damages for such breach, the amount of any uninsured loss (to the extent of any deficiency in the insurance required by the provisions of this lease), damages, costs and expenses of suit, including attorney's fees, arising out of damage to, or destruction of, the Premises occurring during any period for which Tenant has failed to provide such insurance.

(c) Remedies Cumulative. Suit or suits for the recovery of the rents and other amounts and damages set forth in this paragraph may be brought by Landlord, from time to time, at Landlord's election, and nothing in this lease will be deemed to require Landlord to await the date on which the term of this lease expires. Each right and remedy in this lease will be cumulative and will be in addition to every other right or remedy in this lease or existing at law or in equity or by statute or otherwise, including, without limitation, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of any such rights or remedies will not preclude the simultaneous or later exercise by Landlord of any other such

rights or remedies. All such rights and remedies are cumulative and nonexclusive.

24 LANDLORD'S LIEN. To secure the payment of all rent and its performance of this lease, Tenant grants to Landlord an express first and prior contract lien and security interest on all property (including fixtures, equipment, chattels, and merchandise) which may be placed in the Premises, and also upon all proceeds of any insurance which may accrue to Tenant by reason of the destruction or damage of any such property. The Tenant will not remove such property from the Premises (except in the ordinary course of business) without the written consent of Landlord until all arrearages in rent have been paid. Tenant waives the benefit of all exemption laws in favor of such lien and security interest. This lien and security interest is given in addition to the Landlord's statutory lien and is cumulative with it. Upon the occurrence of an event of default, these liens may be foreclosed with or without court proceedings by public or private sale, so long as Landlord gives Tenant at least fifteen (15) days' notice of the time and place of the sale. Landlord will have the right to become the purchaser if it is the highest bidder at such sale. Contemporaneous with its execution of this lease (and if requested after such execution by Landlord), Tenant will execute and deliver to Landlord Uniform Commercial Code financing statements in form and substance sufficient (upon proper filing) to perfect the security interest granted in this paragraph. If requested by Landlord, Tenant will also execute and deliver to Landlord Uniform Commercial Code continuation statements in form and substance sufficient to reflect any proper amendment of, modification in, or extension of the security interest granted in this paragraph.

25. AFFIRMATIVE ACTION REQUIREMENTS.

(a) Executive Order 11246. During the performance of this contract, the Tenant agrees as follows:

- (1) The Tenant will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Tenant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Tenant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
- (2) The Tenant will, in all solicitations or advertisements for employees placed by or on behalf of the Tenant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- (3) The Tenant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Tenant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Tenant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Tenant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Tenant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Tenant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Tenant will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. The Tenant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Tenant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Tenant may request the United States to enter into such litigation to protect the interests of the United States.

(b) EEO-1 Report. Tenant agrees that if the total rent and additional charges due annually under this lease equals or exceeds \$50,000 and the total workforce at the Premises equals or exceeds fifty (50) persons, then Tenant will annually file with the Landlord a completed EEO-1 Report (O.M.B. Standard Form 100). Such reports are due March 31 for each year of the term.

(c) Affirmative Action Plan. If the annual rents and additional charges and employment at the Premises meet or exceed said thresholds, then within the first thirty (30) days of the term, Tenant shall submit an Affirmative Action Plan meeting the following requisites: (i) An equal employment policy statement for the employment of minorities and women together with a description of the manner and to whom the policy statement is circulated internally (within your company) and externally (all sources used for recruitment), and the title of the person responsible for the implementation of these policies; (ii) Goals and Timetables for hiring minorities and women for the next year, or duration of this contract, whichever is greater, including: a. total employees expected to be employed in each job category (use job categories shown in EEO-1 Report); b. total of each group of employees (Blacks, Hispanics, women, etc.) in each job category; c. labor market availability group information - availability of minorities and women. Use this information to establish the goals required in item "e." (contact State employment office to get this information); d. number of expected job opportunities. If not expected, goals are required in item "e." must still be established to allow for unexpected hiring. e. goals (number of minorities and women to be hired and percentage of total workforce). If goals are not reached within the period specified, Tenant must describe its reasons for not meeting the goals and demonstrate its good faith efforts used to meet the goals; and (iii) A statement describing the development and execution of the program, including the method to be used for recruiting job applicants and the method used for evaluating program. Recruiting efforts should be directed towards schools, colleges, universities, newspapers, radio, state employment offices, churches, social and employment agencies and other sources appropriate for your needs, i.e., labor unions.

26 MISCELLANEOUS PROVISIONS.

(a) No Offer Intended. The submission of this lease to Tenant is not an offer to lease the Premises, or an agreement by Landlord to reserve the Premises for Tenant. Landlord will not be bound to Tenant until Tenant has duly executed and delivered duplicate original leases to Landlord and Landlord has duly executed and delivered one of those duplicate original leases to Tenant.

(b) Brokers. Landlord has utilized the brokerage services of Ostendorf-Morris with regard to the Premises and this lease. Landlord shall pay the brokerage commission due to Ostendorf-Morris if required. Tenant agrees to indemnify Landlord against any loss, liability, and expense (including attorneys' fees and court costs) arising out of claims for fees or commissions from anyone with whom Tenant has dealt with regard to the Premises or this lease. Landlord agrees to indemnify Tenant against any loss, liability, and expense (including attorneys' fees and court costs) arising out of claims for fees or commissions from anyone other than Ostendorf-Morris with whom Landlord has dealt with regard to the Premises or this lease.

(c) No Merger. The surrender of this lease by Tenant or the cancellation of this lease by agreement of Tenant and Landlord or the termination of this lease on account of Tenant's default will not work a merger, and will, at Landlord's option, terminate any subleases or operate as an assignment to Landlord of any subleases. Landlord's option under this paragraph will be exercised by notice to Tenant and all known subtenants in the Premises.

(d) Estoppel Certificates. Within no more than ten (10) days after written request by Landlord, Tenant will execute, acknowledge, and deliver to Landlord a certificate stating (i) that this lease is unmodified and in full force and effect, or, if the lease is modified, the way in which it is modified accompanied by a copy of the modification agreement, (ii) the date to which rental and other sums payable under this lease have been paid, (iii) that no notice has been received by Tenant of any default which has not been cured, or, if such a default has not been cured, what Tenant intends to do in order to effect the cure, and when it will do so, (iv) that Tenant has accepted and occupied the Premises, (v) that Tenant has no claim or offset against Landlord, or, if it does, stating the circumstances which gave rise to the claim or offset, (vi) that Tenant is not aware of any prior assignment of this lease by Landlord, or, if it is, stating the date of the assignment and assignee (if known to Tenant), and (vii) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any prospective purchaser of the Premises and any prospective mortgagee or beneficiary under any deed of trust or mortgage encumbering the Premises. If Landlord submits a completed certificate to Tenant, and if Tenant fails to object to its contents within five (5) days after its receipt of the completed certificate, the matters stated in the certificate will conclusively be deemed to be correct. Furthermore, Tenant irrevocably appoints Landlord as Tenant's attorney-in-fact to execute and deliver on Tenant's behalf any completed certificate to which Tenant does not object within five (5) days after its receipt.

(e) No Waiver. No waiver of any condition or agreement in this lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the term of this lease will be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. The delivery of Tenant's keys to any employee or agent of Landlord will not constitute a termination of this lease unless Landlord has entered into a written agreement to that effect. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the rent or other charges stipulated in this lease will be deemed to be anything other than a payment on account of the earliest

stipulated rent. No endorsement or statement on any check, or any letter accompanying any check or payment as rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy available to Landlord. If this lease is assigned, or if the Premises or any part of the Premises are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the rent reserved in this lease. No such collection will be deemed a waiver of the covenant in this lease against assignment and subletting, or the acceptance of the assignee, subtenant, or occupant as Tenant, or a release of Tenant from the complete performance by Tenant of its covenants in this lease.

(f) Joint and Several Liability. If Tenant is composed of more than one signatory to this lease, each signatory will be jointly and severally liable with each other signatory for payment and performance according to this lease.

(g) Authority. If Tenant signs this lease as a corporation, each of the persons executing this lease on behalf of Tenant warrants to Landlord the Tenant is duly authorized and existing corporation, the Tenant is qualified to do business in the state of Ohio, that Tenant has full right and authority to enter into this lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon Landlord's request, Tenant will provide evidence satisfactory to Landlord confirming these representations.

(h) Captions, Exhibits, Gender, and Number. The captions and table of contents are inserted in this lease only for convenience of reference and do not define, limit, or described the scope or intent of any provisions of this lease. The exhibits to this lease are incorporated into the lease. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

(i) Entire Agreement. This lease contains the entire agreement between Landlord and Tenant with respect to its subject matter and may be amended only by subsequent written agreement between them. Except for those which are set forth in this lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this lease.

(j) Notice. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be delivered personally or shall be mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the parties at the following addresses, or such other or further addresses as either of the parties shall request by further written notice given in the manner herein required:

If to Landlord: Greater Cleveland Regional Transit Authority
Attention: Property Manager
Planning and Programming
1240 West 6th Street

Cleveland, Ohio 44113-1331

If to Tenant: Beauty On The Line, LLC
18900 Van Aken Blvd.
Shaker Heights, Ohio 44122
Attention: Annie McGrady

(k) Severability. If any provisions of this lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

(l) Governing Law and Venue. This lease will be governed by the law of the State of Ohio and will be construed and interpreted according to that law. Venue on any action arising out of this lease will be proper only in the Cuyahoga County, State of Ohio, Court of Common Pleas or in the case of Forcible Entry and Detainer actions, the Municipal Court having territorial jurisdiction.

(m) Binding Effect. This lease will inure to the benefit of, and will be binding upon, the successors and permitted assigns of Landlord and Tenant.

(n) Federal Transit Administration (FTA); Requirement (if applicable): (1) The project equipment shall be operated by the lessee to serve the best interest and welfare of the project sponsor lessor and the public. The terms and conditions for operation of service imposed by the grantee shall be evidenced in a service agreement. (2) The lessee shall maintain project equipment at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor lessor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project equipment. (3) The lease needs to cross reference a service agreement. A default under the lease is a default under the service agreement and vice versa.

IN WITNESS WHEREOF, Landlord and Tenant have signed and sealed this Lease as of the day and year first above written.

WITNESS:

TENANT: **Beauty On The Line, LLC**

By: _____

Its: _____

WITNESS:

LANDLORD: **Greater Cleveland Regional
Transit Authority**

By: _____
Joseph A. Calabrese, CEO

Its: General Manager/Secretary-Treasurer

The legal form and correctness of
the within instrument are hereby
approved.

Sheryl King Benford General Counsel,
Deputy General Manager - Legal Affairs

STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

BEFORE ME, a notary public in and for said County and State, came the Greater Cleveland Regional Transit Authority, a body politic, by Joseph A. Calabrese, CEO, its General Manager/Secretary-Treasurer, who acknowledged that he did execute the foregoing instrument, on behalf of said Authority; that the same is his free act and deed, individually and as such officer; and the free act and deed of the Authority.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio this ___ day of _____, 2011.

NOTARY PUBLIC

STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

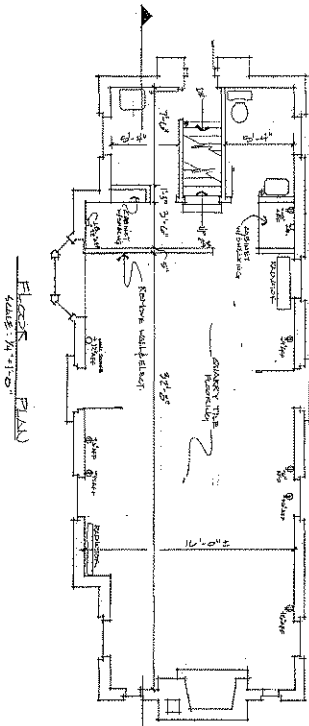
BEFORE ME, a notary public in and for said County and State, personally appeared the above named, _____, who acknowledged that he/she did sign the foregoing instrument on behalf of Beauty On The Line and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this ___ day of _____, 2011.

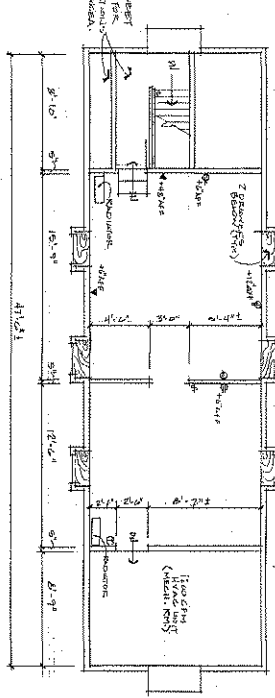
NOTARY PUBLIC

This instrument prepared by:
Kenneth E. Banks, Jr., Esq.
Greater Cleveland Regional
Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
(216) 566-5021

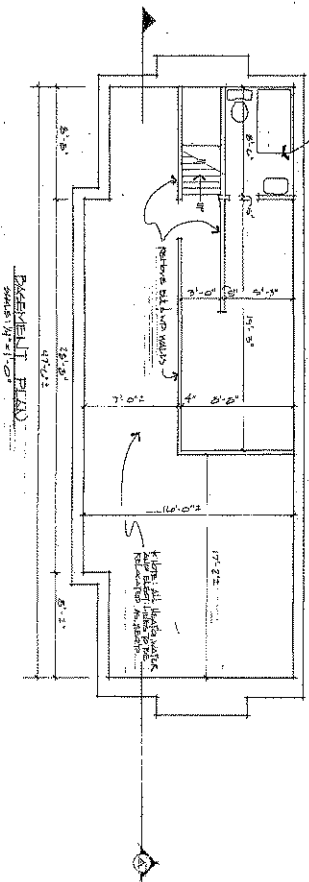
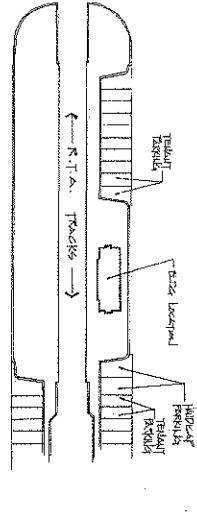
EXHIBIT A LYNNFIELD STATION



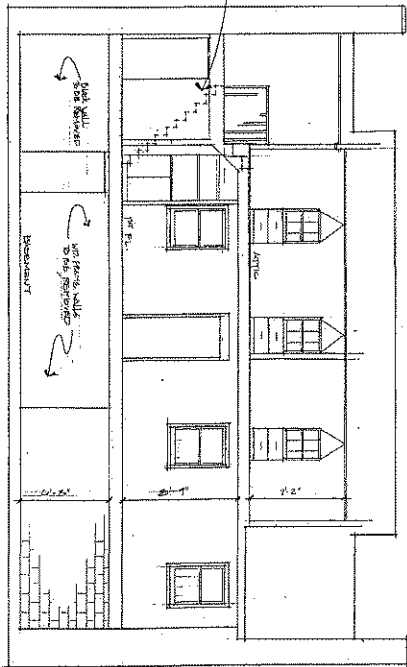
ATTIC PLAN
SCALE: 1/4" = 1'-0"



SITE PLAN
SCALE: 1/4" = 1'-0"



LONGITUDINAL SECTION



STAIRWELL TO BE
PROVIDED AS PER
SHEET A-3044

SHEET A-3044	STATION INTERIOR PLANS LYNNFIELD RAPID TRANSIT STATIONS AND PARKING LOTS	SECTIONS SHEET ON WHICH THIS IS CUT SHEET ON WHICH THIS APPEARS SECTION OR SECTION NO.	 GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY	CONSTRUCTION MANAGEMENT & ENGINEERING DEPARTMENT	DRAWN: [] CHECKED: [] APPROVED: []	REVISIONS:
					DATE: 10-28-87 JOB NO.: 2-1-11	

EXHIBIT "B"

BASIC LEASE INFORMATION

Date: _____ 2011

Landlord: Greater Cleveland Regional Transit Authority

Tenant: Beauty On The Line, LLC

Trade Name: Beauty On The Line, LLC

Premises: Retail Space in the Lynnfield Blue Line Station

City: Shaker Heights

County: Cuyahoga

State: Ohio

Zip Code: 44113

LENGTH OF TERM: Five (5) years

LEASE COMMENCEMENT DATE: November 1, 2011

MONTHLY RENT: \$650.00

LANDLORD'S ADDRESS FOR NOTICES: Greater Cleveland Regional Transit Authority
Attention: Property Manager
Programming and Planning
1240 West 6th Street
Cleveland, Ohio 44113-1331

TENANT'S ADDRESS FOR NOTICES: Beauty On The Line, LLC
Attention: Annie McGrady
18900 Van Aken Blvd.
Shaker Heights, Ohio 44122

The basic lease information is part of the lease. However, if any of the basic lease information contradicts any provision of the lease, the provisions of the lease will prevail.



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION:	Resolution No.: 2011-116
CONTRACT: LYNNFIELD BLUE LINE STATION RETAIL SPACE	Date: December 15, 2011
VENDOR: BEAUTY ON THE LINE, LLC	Initiator: Programming and Planning
AMOUNT: \$7,800/YEAR	
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: GCRTA wishes to renew a lease with Beauty on the Line, LLC for retail space at the Lynnfield Blue Line Station for the operation of a beauty salon that will provide an amenity to riders and maximize revenue from this real estate asset.
- 2.0 DESCRIPTION/JUSTIFICATION: Beauty on the Line, LLC has been leasing this retail space for over twenty years. It is a small mom and pop business. The new lease rate was set at \$650/month after the retail space was inspected by RTA's real estate manager and its real estate brokers. This is the rate that the tenant currently pays. They considered several factors including the location, age, condition, and potential re-marketing time. Higher rent would require RTA to make substantial improvements to this historic property and it was concluded that the most cost effective way to lease the space would be to renew with the current tenant. The term of the new lease will be five (5) years.
- 3.0 PROCUREMENT BACKGROUND: Not Applicable.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Not Applicable
- 5.0 POLICY IMPACT: This action is compliant with the Board of Trustees Real Estate Procedures that specify the Board of Trustees must approve all leases with total revenue to GCRTA in excess of \$25,000.
- 6.0 ECONOMIC IMPACT: Entering into this lease allows GCRTA to gain revenue from its real estate.
- 7.0 ALTERNATIVES: Recommend that GCRTA not renew the lease and advertise for a new tenant.
- 8.0 RECOMMENDATION: Staff recommends that the Board of Trustees approve the resolution to authorize leasing this property to Beauty on the Line, LLC.
- 9.0 ATTACHMENTS: None.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.

CEO, General Manager/Secretary-Treasurer