

consideration local codes and ordinances regarding setbacks, etc., and from said plan, the minimum number of parking stalls acceptable to LESSEE is 44. In the event 44 stalls are not available, LESSEE shall have the option to terminate this lease upon giving LESSOR five (5) days written notice.

(B) LESSOR agrees to construct on-site improvements on the demised premises at the lowest possible cost in accordance with plans and specifications prepared by LESSEE, a copy of which has been initialled by LESSEE and LESSOR, and is attached hereto and made a part hereof. LESSEE is hereby authorized to make such changes in plans and specifications as may be desirable or as may be necessary or proper in accordance with applicable building codes, without the written consent of LESSOR, so long as said changes do not materially affect the appearance or structure of the proposed building, it is understood that if said changes change the cost of on-site or off-site construction as set forth in the construction contract to be entered into between LESSOR and the contractor, LESSEE will notify LESSOR that such change has been made. LESSOR further agrees to commence construction of the building promptly and to complete or contract to complete same as rapidly as conditions permit, but in any event to complete same before the expiration of 180 days from the date a contractor is selected as provided herein. LESSOR shall submit bids to the LESSEE within 60 days after the signing of this agreement. LESSEE shall have the right to ~~en-~~ ^{and LESSOR} ~~certify~~ certain competitive bids from other contractors but, in any case, the LESSEE must approve a contractor within 60 days of the signing hereof. LESSEE will use its best efforts in collecting construction bids to limit the cost of improvements to One Hundred Thousand and No/Hundredths DOLLARS (\$ 100,000.00); however, in the event the lowest bid received by LESSEE is in excess of One Hundred Ten Thousand and No/100ths DOLLARS (\$ 110,000.00), LESSEE shall have the option to terminate this lease by giving LESSOR ten (10) days written notice. The date of completion of the building shall be evidenced by a Certificate of Occupancy or by written agreement of the parties. It is specifically understood that LESSEE will be responsible for paying all construction costs ^{as described in paragraph 4, subparagraph E, except} ~~but rent will be based only on on-site improvements.~~ soil tests, title policy and engineering reports.

(C) At all times until improvements are completed, LESSEE shall have the right to enter upon the premises for the purpose of inspecting construction and progress of the building and improvements, provided that LESSEE shall not interfere with the progress of the construction.

(D) All risk of loss to the demised premises prior to completion of the improvements shall remain with the LESSOR and any damages shall be promptly repaired by LESSOR.

(E) For purposes of computation of the amount of minimum monthly rental, "on-site improvements" shall include only the restaurant buildings, the landscaping, the parking lot surface and necessary fencing provided for in the plans and specifications, and shall ~~not~~ include, by way of example, and not limitation, work required in order to render the parcel included in the leased premises capable of accommodating the improvements from a physical standpoint and in compliance with laws and the rights of the owners of adjoining parcels, such as demolition of existing buildings, removal of underground obstructions, soil fill, compacting of soil, and other work required to re-establish the bearing values required to support the improvements, ~~making public utility services available at the boundaries of the leased premises.~~ street, curbs, sidewalk or other ~~access~~ ^{access} construction or improvements, all improvements required by public agency or governmental subdivision as a condition precedent to the use of said parcel for restaurant purposes, whether on said parcel or not, ~~soil tests, surveys, engineering reports, title reports and policies, attorneys' or accountants' fees.~~

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