

ORDINANCE NO.: 2007-016

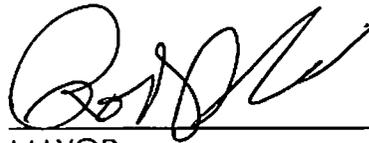
Authorizing execution of a Lease between the City of Columbia and the Columbia Metropolitan Convention and Visitors Bureau for first floor retail space in the Pendleton Street Parking Garage

ORIGINAL
STAMPED IN RED

BE IT ORDAINED by the Mayor and Council of the City of Columbia, South Carolina, this 4th day of April, 2007, that the City Manager is hereby authorized to execute the attached Lease between the City of Columbia and the Columbia Metropolitan Convention and Visitors Bureau for first floor retail space in the Pendleton Street Parking Garage.

Requested by:

Shawn Epps, Special Projects Administrator



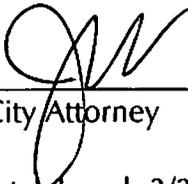
MAYOR

Approved by:



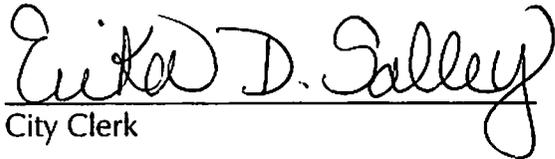
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 3/21/2007

Final Reading: 4/4/2007

LEASE

THIS LEASE, made and entered into as of the 19 day of ~~March~~^{Apr}, 2007, by and between CITY OF COLUMBIA ("Landlord") and COLUMBIA METROPOLITAN CONVENTION AND VISITORS BUREAU ("Tenant").

RECITAL: Landlord is in the process of constructing a parking deck (the "Garage") at Lincoln, Pendleton, and Park Streets in Columbia, SC and is constructing one (1) or more rental spaces for offices or other use. Tenant desires to lease one (1) of the spaces from Landlord.

Therefore, for valuable consideration, including the covenants herein, Landlord hereby agrees to lease the Premises (as hereinafter defined) to Tenant and Tenant hereby agrees to lease the Premises from Landlord in accordance with the following provisions.

1. Premises. The term "Premises" shall mean that certain space to be constructed within the Garage containing approximately 1,530 square feet and being shown and designated as "Retail 2" on the attached Exhibit "A".

2. Term of Lease. The term of this Lease (the "Lease Term") shall be for a period of five (5) years to commence on the first (1st) day of the month following the sixtieth (60th) day after substantial completion of construction of the Garage and other improvements or the month in which Tenant opens for business, whichever first occurs. If Tenant opens for business prior to the actual commencement of the Lease Term, Tenant shall pay prorata rent for the number of days from and including the date Tenant opened for business to the commencement date of the Lease Term (the "Interim Term").

3. Renewal. Tenant shall be entitled to renew the term hereof for two (2) successive periods of five (5) years each (each a "Renewal Term") for the rentals hereinafter set forth. No renewal hereunder shall be effective unless Tenant gives written notice of such election to renew to Landlord not later than one hundred eighty (180) days prior to the expiration of the Lease Term or then pending Renewal Term, as the case may be. If Tenant fails to timely give notice of renewal this Lease shall terminate on the last day of the then pending term. Notwithstanding the foregoing, this Lease shall not terminate unless Landlord has first given Tenant written notice reminding Tenant that it has not elected to renew and Tenant fails to give Landlord notice of renewal within fifteen (15) days thereafter. The term "Lease Term" shall be deemed to include any Renewal Term as the context may require.

4. Construction of Premises.

a. As used herein the term "Plans" shall mean the plans and specifications for the construction of the Garage including the Premises which are on file with the City of Columbia.

b. Landlord shall, at its expense, construct the Garage including the Premises. Construction shall be performed in a workmanlike manner in accordance with the Plans in all material respects and in accordance with standard trade practices and all applicable laws, ordinances, and regulations in all material respects. Landlord shall deliver the Premises in

a vanilla box finish as more fully set forth on the attached Exhibit "B". Landlord shall assign for Tenant's benefit any construction equipment or material warranties which Landlord has obtained in connection with the Premises.

c. The Premises shall be delivered to Tenant for Tenant upfit by April 30, 2007, (as may be reasonably extended for acts of God, unavailability of materials, or other causes beyond Landlord's control including delays caused by Tenant) and if not completed within thirty (30) days following said time period Tenant shall be entitled to terminate this Lease on thirty (30) days notice to Landlord, provided that if the Premises are delivered within said thirty (30) days this Lease shall not terminate.

5. Rent. Tenant agrees to pay to Landlord as annual rental for the Premises the following amounts for the following time periods, one-twelfth (1/12) of said annual rental to be paid monthly, in advance, on the first (1st) day of each month during the applicable period. Rent during the Interim Term (if any) shall be based on Sixty-eight and 70/100 Dollars (\$68.70) per day.

Initial 5 Year Term	\$22,950.00 (\$15.00 psf)	\$1,912.50 per month
1st Renewal Term	\$26,775.00 (\$17.50 psf)	\$2,231.25 per month
2nd Renewal Term	\$32,130.00 (\$21.00 psf)	\$2,677.50 per month

6. Use of Premises. Tenant agrees that the business to be operated by it on the Premises will not be operated in such a manner as to constitute a nuisance or a hazard and that in connection with the operation of the business Tenant will observe and comply with all applicable laws, ordinances, orders, and regulations prescribed by lawful authority having jurisdiction over the business operated in the Premises. Tenant may use the Premises for a visitor center and offices and such other purposes and uses approved in writing by Landlord, which approval shall not be unreasonably withheld. Without limiting the generality of the foregoing, the Premises shall not be used in violation of federal, state, or local law, rule, regulation, or ordinance related to the treatment, transportation, use, or disposal of toxic or hazardous wastes, materials, or substances, or any other substance that is prohibited or regulated by any governmental authority or that, even if not so regulated, could or does pose a hazard to the health and safety of the occupants of the Premises or surrounding property.

7. Repairs and Alterations. Landlord shall be responsible for repair of the roof and structural walls of the Premises, otherwise Landlord shall not be obligated to maintain the Premises or any improvements located thereon or any fixtures or equipment located therein during the Lease Term or any renewal thereof. Landlord shall and does hereby assign any assignable warranties it may have with regard to the Premises, or any component thereof.

Except for those repairs which are the responsibility of Landlord, Tenant agrees, at its sole cost and expense, to maintain, repair, and replace all of the improvements including, but not limited to, all mechanical systems, electrical systems, and plate glass located on the Premises in a good state of repair and to keep the Premises in a clean, neat, and orderly condition.

Tenant, at its sole cost and expense, may erect such additional improvements on the Premises as it deems appropriate and may make such alterations or major renovations to the existing improvements as it deems appropriate provided such alterations or renovations do not disturb the structural or aesthetic integrity of such existing improvements, reduce the size of the Premises, or diminish the value of the Premises. No such additional improvements shall be

made without the prior written consent of Landlord which shall not be unreasonably withheld. Tenant shall hold Landlord harmless from any claim, losses, damages, or liens arising as a result of such additions or renovations.

8. Communications Equipment. Tenant shall have the right, at its expense, to install, maintain, repair, operate, and replace communications and related equipment on the Premises including any antennae, transmitters, receivers, dishes, and related equipment. Upon the termination of this Lease Tenant shall remove all of such equipment and repair any damage to the Garage. In no event shall Tenant be permitted to penetrate the roof so as to render ineffective any roof guaranties or bonds or cause or permit any leaks or deterioration of the roof or any other part of the Garage.

9. Utilities. Landlord shall provide water and sewer services. Tenant shall be responsible for electricity, lights, heat, janitor service, or any other utility or service consumed in connection with the occupancy or use of the Premises by Tenant.

10. Signs. Tenant shall have the right to erect and maintain such sign or signs on the Premises as may be permitted by applicable law and DDRC requirements and subject to Landlord's prior consent which shall not be unreasonably withheld.

11. Taxes. Tenant shall pay during the Lease Term and the Interim Term (when due and before any past due or penalty date) all ad valorem taxes, if any, assessed against the Premises by the appropriate governmental authorities and also all ad valorem taxes levied against any stock or merchandise, furniture, furnishings, equipment, and other property located in, on, or upon the Premises.

12. Liability Insurance. Tenant shall provide and keep in force at its own expense during the Lease Term and the Interim Term public liability insurance for the protection of Landlord and Tenant and property damage insurance coverage with respect to the contents of the Premises. The insurance coverage to be provided by Tenant shall contain limits of not less than \$1,000,000.00 for injury or death to any one person and \$2,000,000.00 for injury or death for any accident, together with \$1,000,000.00 for damage to property.

13. Fire and Extended Coverage Insurance. Tenant may, at its cost and expense, insure its personal property and trade fixtures against fire, other casualty, and theft. In no event shall Landlord be liable or responsible for damage to Tenant or its property in the Premises.

14. Damage or Destruction by Fire, etc. If the Garage is damaged or destroyed by fire, flood, tornado, or by the elements, or through any casualty, or otherwise so as to render the Premises untenable, Landlord and Tenant each shall have the option, exercisable within sixty (60) days following such damage, of terminating this Lease, effective the date of mailing notice thereof. While the Premises are untenable Tenant's rent shall abate unless the damage was caused by Tenant.

15. Default. As used in this Lease, the term "event of default" shall mean any one of the following:

a. The failure of Tenant to make any payment of rent by the first (1st) day of the month in which the same becomes due and payable;

b. The failure of Tenant to fulfill any other duty or obligation imposed on Tenant by this Lease;

c. The appointment of a receiver or the entry of an order declaring Tenant bankrupt or the assignment by Tenant for the benefit of creditors or the participation by Tenant in any other insolvency proceedings;

d. The taking of the leasehold interest of Tenant hereunder pursuant to an execution on a judgment.

Upon the happening of any "event of default", Landlord may, at its option, accelerate payments due hereunder and terminate this Lease and expel Tenant and recover reasonable legal fees and costs therefrom without prejudice to any other remedy; provided, however, that before the exercise of such option in the event of default, in the case of failure by Tenant in the payment of rent or the payment of taxes or insurance costs or any other sums as required by this Lease, Landlord shall first have given written notice of such event of default to Tenant, which thereafter shall have ten (10) days within which to remedy or correct such monetary default, including the payment of any late fees or other charges assessed by the lender of Landlord, and in the case of failure by Tenant to perform any other condition imposed herein upon Tenant, Landlord shall have first given written notice of such event of default to Tenant, which thereafter shall have thirty (30) days (as to any event of default other than payment of rent or other monetary default) within which to remedy or correct such default; provided, that if such event of non-monetary default cannot reasonably be cured within said thirty (30) day period, Tenant shall not be deemed in default hereunder if cure is commenced within said period and diligently pursued thereafter. In addition to all other remedies Landlord shall be entitled to recover reasonable attorneys' fees and costs from Tenant incurred by Landlord in the enforcement of any rights under this Lease.

16. Indemnification. Tenant agrees hereby to indemnify and save Landlord harmless from any and all actions, demands, liabilities, claims, losses, or litigation, including court costs and reasonable attorneys' fees arising out of or connected with Tenant's occupancy or use of the Premises and/or which results from any alleged act or negligence of Tenant or any condition existing on the Premises.

17. Identity of Interest. The execution of this Lease or the performance of any act pursuant to the provisions hereof shall not be deemed or construed to have the effect of creating between Landlord and Tenant the relationship of principal and agent or of a partnership or of a joint venture and the relationship between them shall be and remain only that of Landlord and Tenant.

18. Notices. Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing and shall be either (i) delivered by hand, (ii) mailed by United States certified mail, return receipt requested, postage prepaid, (iii) sent by a reputable, national overnight delivery service (e.g., Federal Express, Airborne, etc.), or (iv) sent by facsimile (with the original being sent by one of the other permitted means or by regular United States mail) and addressed to each party at the applicable address set forth herein. Any such notice, request, or other communication shall be considered given or delivered, as the case may be, on the date of hand delivery (if delivered by hand), on the day following deposit in the United States mail (if sent by United States certified mail), on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day (if sent by overnight delivery service), or on the day sent by facsimile (if sent by

facsimile, provided the original is sent by one of the other permitted means as provided in this paragraph or by regular United States mail). However, the time period within which a response to any notice or request must be given, if any, shall commence to run from the date of actual receipt of such notice, request, or other communication by the addressee thereof. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice was given shall be deemed to be receipt of the notice, request, or other communication. By giving a least five (5) days prior written notice thereof, any party hereto may, from time to time and at any time, change its mailing address hereunder.

Landlord: City of Columbia
Attn: City Manager
1737 Main Street (29201)
PO Box 147
Columbia, SC 29217

with copy to: City of Columbia
Attn: Director of Parking
1737 Main Street (29201)
PO Box 147
Columbia, SC 29217

Tenant: Columbia Metropolitan Convention and Visitors Bureau
Attn: President & CEO of the Midlands Authority for
Conventions, Sports & Tourism
1101 Lincoln Street
Columbia, SC 29201

19. Entry of Landlord. Landlord may enter the Premise during business hours:

- a. To inspect or protect the Premises; and
- b. During the last six (6) months of the Lease Term if this Lease has not been renewed, to place a "for rent" sign on the Premises and to exhibit the Premises to prospective tenants.

No authorized entry by Landlord shall constitute an eviction of Tenant or a deprivation of its rights or alter the obligation of Landlord or create any right in Landlord adverse to the interest of Tenant hereunder.

20. Ownership of Improvements at Lease Expiration. At the expiration of the Lease the improvements on the Premises shall be and remain the sole property of Landlord. Provided that Tenant is not in default hereunder, any trade fixtures and signs purchased and installed (at Tenant's expense) and used by Tenant in the operation of its business on the Premises shall remain Tenant's sole property and Tenant shall have the right to remove same provided any damages in removal are repaired by Tenant.

21. Quiet Enjoyment. Landlord agrees that Tenant, upon observing and complying with the terms, covenants, and conditions of this Lease, shall enjoy the use and occupancy of the Premises during the Lease Term without any unreasonable hindrance or interference.

22. Holding Over. If Tenant holds over after termination of this Lease the tenancy thereafter shall be from month to month subject to all terms, conditions, and covenants of this Lease, provided that the monthly rent otherwise applicable shall be increased by fifty percent (50%).

23. Remedies Cumulative - Non-Waiver. No remedy herein or otherwise conferred upon or reserved to Landlord or Tenant shall be considered exclusive of any other remedy, but the same shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute. No delay or omission of Landlord or Tenant to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence thereto.

24. Assignment and Subletting. Tenant may not assign this Lease or sublet the Premises or any portion thereof or otherwise transfer any right or interest hereunder without the prior written consent of Landlord. Notwithstanding the foregoing, Tenant may at any time without Landlord's consent (but with notice to Landlord) assign this Lease or sublet the Premises to any parent, subsidiary, or affiliate of Tenant which shall include, without limitation, assignment by operation of law or as a consequence of merger. No assignment or sublet shall be deemed to relieve Tenant from any past or future liability or obligation hereunder.

25. Waiver of Subrogation. Landlord and Tenant hereby waive all rights of recovery and causes of action which either has or may have or which may arise hereafter against the other, whether caused by negligence, intentional misconduct, or otherwise for damage to the Premises, property, or business caused by any of the perils covered by fire and extended coverage building and contents and business interruption insurance, or for which either party may be reimbursed as a result of insurance coverage affecting loss suffered by it, provided, however, that the foregoing waivers shall apply only to the extent of any recovery made by the parties hereto under any policy of insurance now or hereafter issued and, further provided, that the foregoing waivers do not invalidate any policy of insurance of the parties hereto, now or hereafter issued, it being stipulated by the parties hereto that the waivers shall not apply in any case in which the application thereof would result in the invalidation of any such policy of insurance.

26. Subordination and Estoppel Agreements. Tenant shall from time to time provide Landlord or any mortgagee of Landlord with an estoppel letter, in a form reasonably requested by Landlord, confirming the status of the Lease, including whether or not any defaults exist. Tenant shall and does hereby subordinate to any mortgage(s) placed on the Premises by Landlord provided that the mortgagee shall acknowledge Tenant's right to enjoy the undisturbed use of the Premises so long as Tenant is not in default. Tenant shall execute such documents as may be reasonably required from time to time in accordance herewith, however, it is intended that the subordination provision hereof shall be automatic.

27. Liens. Landlord hereby waives any statutory lien on Tenant's property brought onto the Premises.

28. Enforcement / Attorneys' Fees. In any action brought hereunder by either Landlord or Tenant to enforce the obligations of the other hereunder, or for the recovery of sums due or damages hereunder, the prevailing party shall be entitled to recover reasonably attorneys' fees and costs.

29. Entire Agreement. This Lease contains all of the understandings by and between the parties hereto relative to the leasing of the Premises and all prior or contemporaneous agreements relative thereto have been merged herein or are voided by this instrument, which may be amended, modified, altered, changed, revoked, or rescinded in whole or in part only by an instrument in writing signed by each of the parties hereto.

30. Binding Effect. This Lease shall be binding upon and shall enure to the benefit of the parties hereto, their respective heirs, successors, and assigns.

31. No Waiver of Governmental Requirements. Any consent or approval given or action taken hereunder by the City of Columbia in its capacity as Landlord shall not be deemed to be a consent, approval, action, or waiver by the City of Columbia in any other capacity. For example, a consent to a use by Tenant or signage on the Premises shall not be deemed to override zoning or other laws as to use or DDRC approval as to signage.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date first above set forth.

CITY OF COLUMBIA

By:  (SEAL)
Print Name: Charles P. Austin, Sr.
Title: City Manager

COLUMBIA METROPOLITAN CONVENTION
AND VISITORS BUREAU

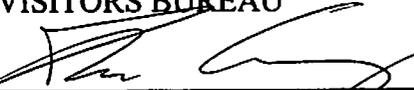
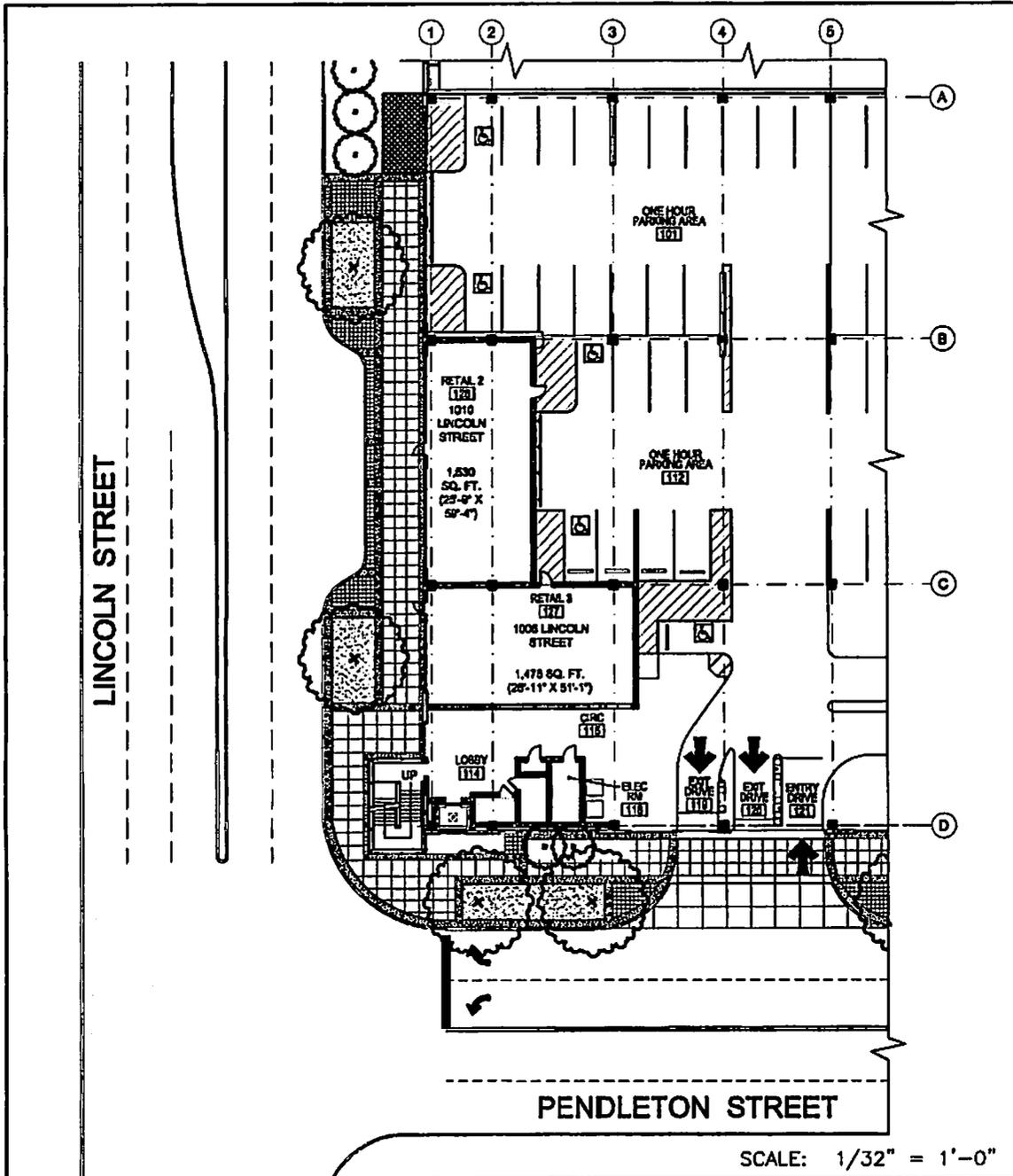
By:  (SEAL)
Print Name: STEVE CAMP
Title: PRESIDENT & CEO

EXHIBIT "A"

Premises

INFO SK 1



SCALE: 1/32" = 1'-0"

THE LPA GROUP  THE LPA GROUP INCORPORATED TRANSPORTATION CONSULTANTS 700 HUGER STREET • COLUMBIA, SC 29220	DESIGN BLH	DRAWN BKP	CHECK GWR	PROJECT NO. AR261009	DATE AUGUST 24, 2009
	CITY OF COLUMBIA COLUMBIA, SC PENDLETON STREET PARKING GARAGE 1ST FLOOR RETAIL SPACE				1 SKETCH REFERENCE

EXHIBIT "B"

Landlord shall deliver the Premises with the following items in place:

1. Plumbing / HVAC:
 - a. Split system heat pump with thermostat
 - b. Overhead potable water supply stubbed out with cap
 - c. Under slab waste line stubbed up with cap
2. Electrical:
 - a. 150 amp panel and meter base
 - b. Lights will be provided for minimum space lighting only
 - c. Raceway for telecommunications wiring into the space
3. Architectural:
 - a. CMU perimeter walls
 - b. Glass storefront, entry door, frame and hardware
 - c. Rear exit door and hardware

All other items shall be Tenant's responsibility including, but not limited to, the following:

1. Ceiling grid and tile
2. Branch electrical conduit, wiring, switches and receptacles
3. Supply and return HVAC duct work, grilles, and control system
4. Floor finishes
5. Millwork
6. Framing, drywall, and wall finishes
7. Fire alarm system
8. Branch raceways for telecom/data system
9. Doors, frames, and hardware
10. Window treatments