

ORIGINAL  
STAMPED IN RED

ORDINANCE NO.: 2012-114

*Authorizing the City Manager to execute a License Agreement between the City of Columbia and Core Campus Investment Partners, LLC licensing the use of the Sumter Street Parking Garage for the placement of amenities and parking for the Core Campus Project tenants and the placement of support structures and utilities, if any, within the Sumter Street Parking Garage and giving Core Campus Investment Partners, LLC an Installment Purchase Option*

BE IT ORDAINED by the Mayor and Council this \_\_\_ day of \_\_\_\_\_, that the City Manager is authorized to execute the attached License Agreement between the City of Columbia and Core Campus Investment Partners, LLC licensing the use of the Sumter Street Parking Garage for the placement of amenities and parking for the Core Campus Project Tenants and the placement of support structures and utilities, if any, within the Sumter Street Parking Garage, and giving Core Campus Investment Partners, LLC an installment purchase option to purchase the City's interest and rights in those portions of the Sumter Street Garage owned by the City subject to the rights of others owning or having interests in the Sumter Street Garage.

Requested by:

Major Benjamin



MAYOR

Approved by:



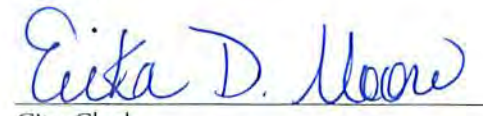
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 12/4/2012

Final Reading: 12/18/2012

## LICENSE AGREEMENT

This License Agreement (this "Agreement") dated as of December 19, 2012 (the "Effective Date") by and between Core Campus Investment Partners LLC, a Delaware limited liability company or its assigns ("Licensee"), and the City of Columbia, South Carolina, a body politic of the State of South Carolina ("City"). City and Licensee are sometimes referred to herein separately as a "Party" and together as the "Parties."

### Recitals:

- A. Licensee has entered into an Agreement of Purchase and Sale dated August 24, 2012 to purchase the property located at 1426 Main Street, Columbia, South Carolina ("Licensee's Property"), on which Licensee and its Affiliates (defined in Section 5(a)) plan to design, construct and develop a student housing project in excess of 150 bedrooms per acre (the "Project").
- B. Pursuant to that certain Order on a Special Exception granted by City of Columbia Board of Zoning Appeals set forth on Exhibit A hereto (the "Order"), City of Columbia Board of Zoning Appeals has granted Licensee a special exception to exceed the maximum density of 150 bedrooms per acre subject to the condition that Licensee provide an executed lease for the required off-street parking prior to the issuance of any permits (the "Parking Condition"). Attached hereto as Exhibit B is a letter from the City Zoning Administrator confirming that this Agreement satisfies the Parking Condition.
- C. Licensee desires to enter into this Agreement to satisfy the Parking Condition and comply with the Order, and to set forth the terms and conditions for the licensing by City to Licensee of the right to use and occupy certain parking spaces in the Sumter Street Garage located at 1400 Sumter Street, Columbia, South Carolina (the "Sumter Premises") and for City to lease certain parking spaces to Licensee for use by the tenants of the Project, all as more particularly provided herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. **License and Reserved Spaces.**

- (a) City hereby grants to Licensee, and its employees, independent contractors, subcontractors, tenants, customers, invitees, representatives and agents, successors and assigns (collectively, the "Licensee Parties"), a license (the "License") for the right to use and occupy eighty-two (82) parking spaces on the top level of the Sumter Premises for the purpose of developing, constructing and placing thereon the Amenity Improvements (defined in Section 9) and other amenities as Licensee shall determine for use by the tenants of the Project (the "Amenities Spaces"), and any additional spaces within the Sumter Premises required by Licensee for the installation of utilities and to provide structural support for any improvements developed, constructed or placed in or upon the Amenities Spaces (the "Support Spaces"), including ingress and egress to the Sumter Premises for the Licensee Parties (such areas are referred to as the "Licensed Area"). City shall take all action necessary with regard to the Sumter Premises which may be required for Licensee to obtain its DDR approval, including permitting Licensee to alter the physical appearance of the Sumter Premises (at the cost of Licensee), and for Licensee to obtain any easements required by Licensee for the use of the stairwell on the southeast corner of the Sumter Premises (including moving such stairwell inside the Sumter Premises). This License does not extend to the parking spaces leased to the Marriot and any use of those spaces by Licensee must be under a separate agreement between Licensee and the Marriot. Further, this License and the rights granted hereby do not extend to or include any portions of the first floor of the Sumter Premises which are not owned by the City or the basement of the Sumter Premises. Any rights or interests necessary for Licensee to place structural supports or utilities on the first floor or in the basement of the Sumter Premises shall be obtained from the owner of the first floor or basement.
- (b) The Licensed Area is to be used by Licensee for the construction, development and use of certain amenities in the Licensed Area and the use of such amenities by the tenants of the Project and their guests. Such construction and development of the amenities and structural supports in the Licensed Area shall comply with all applicable federal, state or local laws, codes, rules and regulations. Licensee shall secure the Licensed Area to limit the use of the amenities to the tenants of the Project and their guests.
- (c) City shall not be required to perform any additional work or furnish any additional materials to or otherwise prepare the Licensed Area for License Parties' occupancy except as otherwise provided herein. Nothing contained in this Agreement shall give Licensee any right or license to use or occupy any area outside the footprint of Sumter Premises, including but not limited to adjacent sidewalks and/or alleyways.
- (d) Commencing August 15, 2014 and through the end of the Term, City shall lease to Licensee for use by the tenants of the Project such number of parking spaces in the

Sumter Premises above Level 3-A as may be necessary for Licensee to meet all applicable zoning ordinances (but in any event no less than 338 parking spaces) (the "Sumter Premises Parking Spaces"). The Sumter Premises Parking Spaces shall be so leased to Licensee for 12 month terms at a monthly fee equal to Thirty-six and no/100 Dollars (\$36.00) per Sumter Premises Parking Space during the five (5) year period commencing August 15, 2014. Commencing August 15, 2019, City may increase such monthly fee up to Three and no/100 Dollars (\$3.00) per leased Sumter Premises Parking Space. City may on each one year anniversary thereafter increase such monthly fee by the average percentage increase of parking fees in other City-owned parking facilities but in no case greater than 3% per year. Notwithstanding the foregoing, the monthly fee per leased Sumter Premises Parking Space shall in no event be greater than the monthly fee offered to the general public for parking in the Sumter Premises from time to time.

- (e) Commencing August 15, 2014 and through the end of the term, City shall lease to Licensee for use by the tenants of the Project up to twenty-six (26) motorcycle parking spaces (the "Motorcycle Spaces") in the Sumter Premises other than in the Licensed Area or the Sumter Premises Parking Spaces with a minimum of two Motorcycle Spaces located on Level 3-A and two Motorcycle Spaces located on Level 3-B. The Motorcycle Spaces shall be so leased to Licensee for 12 month terms at a monthly fee equal to \$25.00 per Motorcycle Space during the five (5) year period commencing August 15, 2014. Commencing August 15, 2019, City may increase such monthly fee up to Three and no/100 Dollars (\$3.00) per leased Motorcycle Space. City may on each one year anniversary thereafter increase such monthly fee by the average percentage increase of parking fees in other City-owned parking facilities but in no case greater than 3% per year. Notwithstanding the foregoing, the monthly fee per leased Motorcycle Space shall in no event be greater than the monthly fee offered to the general public for similar parking in the Sumter Premises.
- (f) Notwithstanding anything to the contrary in this Agreement, the City may lease any of the Amenities Spaces or Support Spaces in the Sumter Premises after the Effective Date of this Agreement prior to Licensee commencing construction of the Amenity Improvements. Licensee will provide the City with no less than forty-five (45) days prior written notice of the anticipated date that construction will commence in the Licensed Area in order for the City to make the parking spaces available for such construction as provided in this Agreement.
- (g) Notwithstanding anything to the contrary in this Agreement, the City may lease any of the Sumter Premises Parking Spaces and Motorcycle Spaces that will be leased to Licensee for use by the tenants of the Project (but will not be used in connection with the construction of the Amenity Improvements) after the Effective Date of this Agreement and prior to August 15, 2014.

- (h) City shall from time to time commencing August 15, 2014 and through the end of the Term make available for lease to Licensee for use by the tenants of the Project up to fifty (50) parking spaces in the City Center Garage located at 1227 Taylor Street, Columbia, South Carolina or in other City-owned parking facilities, if needed by Licensee, at the then most favorable monthly rate for the general public per leased space for parking in the parking facility in which the applicable leased space is located. Monthly parking fees for such parking spaces may be increased from time to time by Columbia City Council in its sole and exclusive discretion.
- (i) Licensee shall be responsible for the payment of any real or personal property taxes, assessments or other fees that may be assessed against the Amenity Improvements as a result of this License. To the extent any other taxes, assessments or fees are assessed as a result of this License, City and Licensee shall cooperate in good faith to protest, dispute and minimize such taxes, assessments and fees.

2. **Term; Termination.**

- (a) The term of this Agreement and the License granted herein (the “Term”) shall commence on the Effective Date and shall terminate on the fifty-five (55) year anniversary of the Effective Date, unless otherwise provided in Section 2(b), or upon Licensee’s exercise of the Purchase Option (as defined in Section 13).
- (b) If either Party defaults in the performance of any of its obligations hereunder and such default continues for more than ninety (90) days after delivery of written notice thereof from the non-defaulting Party (except that if any non-monetary default cannot be cured with the exercise of reasonable diligence during such ninety (90) day period, such period shall be extended for such additional time as is reasonably necessary to effectuate the cure thereof, provided that the defaulting Party has commenced to cure such default within such ninety (90) day period and thereafter diligently prosecutes such cure to completion), then the non-defaulting Party shall have the right to terminate this Agreement upon written notice to the defaulting Party. In addition to such right of termination, the non-defaulting Party may pursue any other remedies available at law or in equity with respect to such default.

3. **License Fee.** In full consideration of the grant of the License to Licensee and City’s obligations hereunder, Licensee shall pay to City during the Term a license fee (the “License Fee”) equal to Five Thousand and no/100 Dollars (\$5,000.00) per year for the Amenities Spaces plus Sixty and no/100 Dollars (\$60.00) per year for each of the Support Spaces payable in equal monthly installments on the first day of each month of the Term commencing August 15, 2014.

#### 4. Insurance.

- (a) During the Term of this Agreement, Licensee shall procure and maintain insurance insuring the City from and against claims for any injuries to persons or damage to the Sumter Premises which may arise from or in connection with the construction, use or failure of the Amenity Spaces and Support Spaces or the acts or omissions of the Licensee Parties:
  - (i) Commercial general liability insurance in an amount not less than Six Hundred Thousand and no/100 Dollars (\$600,000.00) per occurrence combined single limit for bodily injury, personal injury and/or property damage with an aggregate liability of not less than One Million and no/100 Dollars (\$1,000,000.00);
  - (ii) During the construction and development of the Amenity Spaces and Support Spaces or during the removal of the amenities and support structures as hereinafter provided, the Licensee shall provide in a separate policy of Owner's and Contractor's Protective Liability Insurance issued in the name of City in an amount not less than Six Hundred Thousand and no/100 Dollars (\$600,000.00) per occurrence combined single limit for bodily injury, personal injury and/or property damage with an aggregate liability of not less than One Million and no/100 Dollars (\$1,000,000.00);
  - (iii) Licensee will cause all contractors or other persons doing work on the Project to comply with the insurance requirements set forth in City Code Sec. 11-71 and to the extent that the insurance requirements set forth in this Agreement are in conflict with or in amounts less than those required by the aforesaid ordinance, the said ordinance shall prevail.
  - (iv) All insurance shall be primary insurance as respects the City, its officials, and employees. Any insurance or self-insurance maintained by the City, its officials and employees shall be in excess of insurance provided by Licensee and shall not contribute to it.
  - (v) Licensee shall procure and shall maintain during the Term of this Agreement, Worker's Compensation Insurance in accordance with the laws of the State of South Carolina for all of the employees to be engaged in any work on Sumter Premises pursuant to this Agreement, and in case any such work is sublet, Licensee shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of such subcontractor's employees to be engaged in such work unless such employees are covered by the protection

afforded by Licensee's Workers' Compensation Insurance. Licensee shall not permit any person who is not protected by Worker's Compensation Insurance or a properly approved self-insured Worker's Compensation Program to perform any work related to this Agreement.

- (b) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either Party, reduce in coverage or in limits unless thirty (30) days' prior written notice, by certified mail, return receipt requested, has been given to the City. The City may require proof of such insurance coverages at any time during the Term of this Agreement.
- (c) Licensee shall furnish the City with a certificate showing satisfactory proof of coverage of the insurance required by this Agreement to insure and fully indemnify the City as provided for herein during construction and development of the Amenity Improvements and support structures and such shall be approved by the City prior to commencement of the work. Licensee shall require all Licensee Parties performing construction on the Sumter Premises to procure similar insurance prior to construction and such shall be approved by the City prior to commencement of the work by the Licensee Parties.
- (d) Licensee shall furnish the City with a certificate showing satisfactory proof of coverage of the insurance required by this Agreement to insure and fully indemnify the City as provided for herein prior to the Licensee Parties' use and occupancy the Sumter Premises and such shall be approved by the City prior to the Licensee Parties' use and occupancy of the Sumter Premises.
- (e) City shall be specifically covered and named as an additional insured in liability all policies required by this Agreement.
- (f) During the Term of this Agreement, City shall maintain fire and casualty insurance on the Sumter Premises in such amounts as the City, in its reasonable discretion deems appropriate. Licensee Parties shall not be named as an additional insured or loss payee in such insurance policies.
- (g) City and Licensee shall each cooperate with and provide reasonable access to the Sumter Premises and License Area by representatives of insurance companies and insurance brokers or agents.

5. **Indemnification.** Licensee shall indemnify, defend and hold harmless City and its officials and employees (the "City Indemnitees"), from and against all claims, causes of action, damages, cost and expense relating to the Amenities Spaces and the Support Spaces and the structural supports placed therein by reason of in connection with (i) any injury to or death of any person, or damage to or loss of property, or any other matter occurring, resulting

from or connected with the use, condition or occupancy of the Amenities Spaces and the Support Spaces and the structural supports placed thereon by the Licensee Parties or (ii) any breach by Licensee under this Agreement. For purposes of this Agreement, "Affiliate" means, in respect of any person or entity ("Person"), any other Person that directly or indirectly through one or more intermediaries' controls, is controlled by or is under common control with such Person. As used in this definition, "control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

6. **Assignment; Sublicensing.** This Agreement and the License granted hereby is personal to Licensee and shall not be assigned by Licensee, nor shall Licensee sublicense or otherwise permit or suffer the occupancy of any portion of the Licensed Area by any third party other than the Licensee Parties, without first obtaining the prior written consent of City; provided, however, that Licensee may assign this Agreement and the License without the consent of City to an Affiliate of Licensee or to any purchaser of Licensee's Property or to any lender for collateral purposes. Without limiting the foregoing, in the event the purchaser of Licensee's Property is a not-for-profit organization which is then leasing a parking facility at parking fees greater than such fees set forth in this Agreement, Licensee shall provide reasonable notice of such sale to the City so that the City may adjust the parking fees in this Agreement to make such fees set forth in this Agreement commensurate with such other party fees.

7. **Repair Obligations and Use of Sumter Premises.**

(a) City shall at all times keep and maintain the Sumter Premises other than the Licensed Area, and shall cause the Sumter Premises other than the Licensed Area to be kept and maintained, in good repair and working order commensurate with parking garages of the same age, condition and construction in the City. Without limiting the foregoing, City shall make repairs to and perform maintenance upon: (1) all structural and non-structural elements of the Sumter Premises, including exteriors walls and structural elements of floors; (2) all mechanical, electrical, plumbing, fire/life safety systems and any other utility or other systems serving the Sumter Premises in general; and (3) all common areas, including demising partitions, common entrances, corridors, doors, loading docks and stairways. However, City shall have no obligation to improve existing structural elements or walls to support the Amenity Improvements.

(b) Licensee shall at all times keep and maintain the Licensed Area, and shall cause the Licensed Area, to include the structural supports placed within the support spaces, to be kept and maintained, in good repair and working order. Without limiting the foregoing, Licensee shall make repairs to the following to the extent such repairs are caused by the acts of Licensee Parties: (1) all structural and non-structural elements of the Licensed Area, including exteriors walls and structural elements of floors; (2) all mechanical, electrical, plumbing, fire/life safety systems and any other utility



or other systems serving the Licensed Area in general; and (3) all areas, including demising partitions, entrances, corridors, doors, loading docks and stairways.

- (c) City shall not during the Term change the use of the Sumter Premises to any use other than a parking garage similar to such use as of the Effective Date.

## 8. Alterations.

- (a) Other than those that are a result of the drawings set forth in Section 8(b), Licensee shall not make any structural alterations, additions or changes to the Licensed Area without first obtaining the prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed.
- (b) City hereby consents to the improvements to be constructed on and above the Amenities Spaces and related structural construction substantially in accordance with Exhibit C hereto (the "Amenity Improvements"). The Amenity Improvements shall comply in all material respects with all applicable local, state and federal codes. City may, at City's sole cost and expense, engage a structural engineer to review the Amenity Improvements and Licensee shall incorporate commercially reasonable design changes. During the construction of the Amenity Improvements and support structures, Licensee shall use commercially reasonable efforts to prevent the interruption of existing businesses within the Sumter Premises, including City's operation of the remaining public parking in the Sumter Premises; provided that in no event shall Licensee be responsible for any lost revenue to the City during such construction. During the construction of the Amenity Improvements and support structures, Licensee shall not impede or interfere with the ability of Marriot or other parking tenants/customers to utilize parking in the Sumter Premises pursuant to any lease of a portion of the Sumter Premises with the City. Licensee shall pay promptly when due the entire cost of any work in the Sumter Premises undertaken by Licensee so that the Sumter Premises shall at all times be free of liens for labor and materials arising from the work. Licensee shall procure all necessary permits before undertaking any work, do all work in a good and workmanlike manner and comply in all material respects with all governmental requirements. Licensee shall not permit any mechanics', laborers' or materialmen's liens to be filed against the Sumter Premises by reason of any work, labor, services or materials performed at or furnished to, or claimed to have been performed at or furnished to, the Sumter Premises, by, or at the direction of, Licensee or anyone holding the Licensed Area through or under the Licensee. If any such liens shall at any time be filed or claimed, Licensee shall have the right to contest such liens in good faith and with reasonable diligence, provided Licensee has deposited with City or a title company security reasonably satisfactory to City to assure payment and to prevent any sale, foreclosure or forfeiture of the Sumter Premises by reason of non-payment. On final determination of the lien or claim for lien, Licensee shall immediately pay any judgment, with all costs and charges, and shall have the lien released of record and

any judgment satisfied. If Licensee shall fail to contest the liens with due diligence or shall fail to cause the liens to be discharged or bonded over or establish a title indemnity within 30 days after being notified of their filing and, in any case, before any sale, foreclosure or forfeiture then, in addition to any other right or remedy of City, City may discharge the liens by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by City, and the amount paid by City and all costs and expenses, including reasonable attorneys' fees, expenses and court costs, incurred by City in procuring the discharge of the liens or judgment shall be due and payable by Licensee to City within ten (10) business days after demand by City. Prior to any of the Licensee Parties commencing any work at the Sumter Premises for the Amenity Improvements, support structures or utilities, Licensee shall furnish a surety bond or bonds in an amount at least equal to one hundred percent (100%) of the amount of the contract price for the work as security for the faithful performance of any contract for the work and for payment of all persons performing labor for such work under any contract for such work and furnishing materials in connection with the contract for the work. The surety bond, or bonds, shall be executed by a company duly authorized to do business in the state of South Carolina, which surety company must be listed in the current version of United States Treasury Department Circular 570. Each bond shall be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the surety and certified to include the date of the bond. Said surety shall be subject to approval by the City's attorney. The City reserves the right to accept or reject the qualification of any bonding company submitted by the Licensee Parties.

9. **Intentionally Deleted**

10. **Quiet Enjoyment**. City covenants and agrees that, so long as Licensee shall not be in default of this Agreement beyond the cure period set forth in Section 2(b), the Licensee Parties shall and may peaceably and quietly have, hold and enjoy the Licensed Area for the Term, as same may be extended, without disturbance, hindrance or ejection by or from City (subject, however, to the provisions hereof) or any one claiming by, through or under City.

11. **Fire, Explosion or other Casualty**. If the Sumter Premises, or any part thereof, is damaged by fire, explosion or any other casualty or cause in any manner, the damage shall promptly be repaired and rebuilt by City at City's expense, if the City in its sole and exclusive discretion elects to repair or rebuild the Sumter Premises or any part thereof. If the casualty, or if the City elects to repair or rebuild, the repairing or rebuilding, render all or any part of the Licensed Area unusable by Licensee Parties as provided herein, the License Fee shall be proportionately abated from the date when the damage occurred until the date City completes its repair and rebuilding work, which proportion shall be computed based on the relation which the portion of the Licensed Area rendered unusable bears to the total Licensed Area or any part thereof. Should the City elect to repair or rebuild the Sumter Premises, or any part thereof, City shall have no obligation to repair or rebuild Licensee's amenities in the Licensed Area or support structures located in the Support Spaces and such

shall be at Licensee's cost and expense; however, City, if it elects to repair or rebuild the Sumter Premises, or any part thereof, will coordinate the repair and rebuilding with Licensee. Licensee shall insure such against such damage in its discretion and at such levels of insurance coverage that it deems appropriate. Notwithstanding the foregoing, (x) the Purchase Option of Licensee shall remain in full force and effect and (y) City shall use its best efforts to provide alternative parking to Licensee for use by the tenants of the Project at the then prevailing market rate, in each case, during the period that the Sumter Premises are so damaged.

12. **Surrender.** Upon the termination of this Agreement, Licensee shall cease use of the Licensed Area and vacate the Sumter Premises and the Licensed Area shall be returned to the City in substantially its original condition (ordinary wear and tear excepted) and Licensee shall, at its cost and expense, remove the Amenity Improvements in the Licensed Area or support structures located in the Support Spaces. During the removal of the Amenity Improvements in the Licensed Area or support structures located in the Support Spaces, Licensee shall use commercially reasonable efforts to prevent the interruption of existing businesses within the Sumter Premises, including City's operation of the remaining public parking in the Sumter Premises; provided, that in no event shall Licensee be responsible for any lost revenue to the City during such removal. During the removal of the Amenity Improvements and support structures, Licensee shall not impede or interfere with the ability of the Marriot or other parking tenants/customers to utilize parking in the Sumter Premises pursuant to any lease of a portion of the Sumter Premises with the City. Prior to commencement of construction at the Sumter Premises, Licensee shall furnish a surety bond or bonds in an amount at least equal to one hundred (100%) percent of the amount of the actual final costs for the work to so return to substantially is original condition as security for the faithful performance of Licensee's obligation to return the Sumter Premises to the City in its original condition and removal of the Amenity Improvements in the Licensed Area or support structures located in the Support Spaces, at Licensee's cost and expense, and for payment of all persons performing labor under any contract for the work and furnishing materials in connection with the contract for the work. The surety bond, or bonds, shall be executed by a company duly authorized to the business in the state of South Carolina, which surety company must be listed in the current version of United States Treasury Department Circular 570. Each bond shall be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the surety and certified to include the date of the bond. Said surety shall be subject to approval by the City's attorney. The City reserves the right to accept or reject the qualifications of any bonding company submitted by the Licensee Parties. The amount of the surety bond or bonds shall be adjusted every five (5) years during the Term by the average of the Consumer Price Index for the past five (5) years to cover any estimated increase in the costs for the return of the Sumter Premises to the City substantially in its original condition and removal of the Amenity Improvements and the support structures located in the Support Spaces. Should the average of the Consumer Price Index for the past five (5) years be a negative number, the surety bond amount shall not be reduced.

### 13. Option to Purchase.

- (a) City hereby irrevocably grants to Licensee an exclusive option to purchase the Sumter Premises ("Purchase Option") upon the terms and conditions set forth herein for a purchase price equal to the Purchase Price (defined below). Licensee may exercise the Purchase Option at any time after the Effective Date and prior to the expiration of the Term by the delivery of written notice to City of Licensee's intent so to exercise the Purchase Option. Within five business days of the exercise of the Purchase Option, City and Licensee shall enter into a purchase contract for the purchase and sale of the Sumter Premises in a form customarily used for purchases and sales of similar properties in the city of Columbia, which contract shall include the following: (1) earnest money of 5% of the Purchase Price; (2) a closing date within 90 days of execution of such contract; (3) the sale of the Property by City by quit claim deed; and (4) the sale being subject to existing covenants, conditions and restrictions of record (including utility easements in favor of City not evidenced by an easement). The Purchase Option does not extend to or include any portions of the first floor of the Sumter Premises which are not owned by City or the basement of the Sumter Premises. Licensee and its Affiliates shall take the Sumter Premises AS IS AND WHERE IS, WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.
- (b) For purposes of this Agreement, "Purchase Price" means (i) the value of the Sumter Premises based upon an appraisal obtained by Licensee (the "Licensee Appraisal") or (ii) in the event City notifies Licensee that it does not approve of such Licensee Appraisal (it being agreed that City shall be deemed to have approved such Licensee Appraisal if it fails to notify Licensee that it does not approve of such Licensee Appraisal within 10 business days of the date it receives such Licensee Appraisal from Licensee), the value of the Sumter Premises which shall be the average of the appraised values of the Licensee Appraisal and an appraisal obtained by City and delivered to Licensee within 30 days of the date the Licensee Appraisal was delivered to City (the "City Appraisal"), provided that the difference in the respective values of the Licensee Appraisal and the City Appraisal is less than or equal to 5%. If the difference in the respective values of the Licensee Appraisal and the City Appraisal is greater than 5%, then an appraiser (the "Third Appraiser") mutually acceptable to Licensee and City shall review each of the Licensee Appraisal and the City Appraisal and shall give its determination of the appraised value of Sumter Premises (the "Third Appraisal"). If Licensee and City cannot agree on a Third Appraiser, then, within 10 days of the date the City Appraisal is delivered to Licensee, the then acting President of the Appraisal Institute located nearest to Sumter Premises shall appoint an appraiser having the qualifications set forth below and such appraiser shall provide the Third Appraisal. If the Third Appraisal is a

value that is between the values in the Licensee Appraisal and the City Appraisal, then the Appraised Value shall be the average of the value in the Third Appraisal and the value in whichever of the Licensee Appraisal or City Appraisal that is closer to the value in the Third Appraisal. If the Third Appraisal is not a value that is between the values in the Licensee Appraisal and the City Appraisal, then the Appraised Value shall be the value set forth in whichever of the Licensee Appraisal or the City Appraisal that is closer to the value in the Third Appraisal. Licensee shall pay the costs of the Licensee Appraisal, City shall pay the costs of the City Appraisal, and if a third appraiser is required, Licensee and City shall equally share the cost of the Third Appraiser. Any appraisal obtained under this paragraph shall determine the fair market value of Sumter Premises based upon an approximation of the value in a sale to a third party in an arms-length transaction and shall be conducted by an independent, third party, certified real estate appraiser having at least 15 years of commercial real estate experience in Columbia, South Carolina and designated as an "M.A.I." or its equivalent by the Appraisal Institute.

- (c) City hereby covenants and agrees that during the Term of this Agreement, City shall not commit, approve, consent to or permit any Unpermitted Transfer (as defined below) without the prior written consent of Licensee, which consent may be withheld in Licensee's sole discretion. Any Unpermitted Transfer which is effected without the prior written consent of Licensee shall be void, invalid and ineffective and of no force or effect against Licensee or Licensee's rights hereunder and in the Sumter Premises. For purposes of this Agreement, an "Unpermitted Transfer" shall mean any of the following:
- (i) any master lease affecting the Sumter Premises;
  - (ii) any grant, sale, transfer or other conveyance of all or any portion of or interest in the Sumter Premises unless the deed or other instrument of conveyance expressly states that the grantee or transferee and its heirs, representatives, successors and assigns take subject to the interest of Licensee hereunder;
  - (iii) any mortgage, lien or other encumbrance of all or any portion of the Sumter Premises unless such mortgage, lien or encumbrance expressly states, without reservation, that it is in all respects subject to the interest of Licensee hereunder (Licensee, however, acknowledges and agrees to the existence of a certain lien on the net revenues of the Sumter Premises (as opposed to a lien on the Sumter Premises itself)) as contemplated in City's bonding ordinance);  
or
  - (iv) any other act or omission affecting the Sumter Premises which would diminish or otherwise adversely affect Licensee's interest pursuant to the Option granted herein.

The Purchase Option shall be subject to (1) the rights granted to third parties, their successors and assigns as provided in that certain Joint Use Agreement dated December 1, 1981 and any amendments thereto (the "Joint Use Agreement"), which is incorporated herein by specific reference thereto; (2) the exclusive parking rights in the Sumter Premises granted to the Marriot Hotel (for avoidance of doubt the owners or lessees of the building adjacent to the Project) pursuant to the Joint Use Agreement; (3) the private owner's ownership interest in the first floor of the Sumter Premises and (4) City being in compliance with Section 7.10 of the General Bond Ordinance No. 2005-119 enacted by the City Council of the City on November 11, 2005, as may be hereafter supplemented or replaced (the "Bonding Ordinance") at the time of closing. City shall at all times during the Term of this Agreement remain in compliance with such Section 7.10 of the Bonding Ordinance (or any similar section in replacement thereof); provided, that for purposes of such obligation of City, the "Rate Covenant" therein shall be calculated without including the Net Revenues arising from the Sumter Premises.

14. **Right of First Refusal.** In the event that City receives within thirty (30) years of the Effective Date a bonafide offer from a third party to purchase the Sumter Premises (a "Purchase Offer"), the City shall promptly provide such Purchase Offer to Licensee. In such case, Licensee shall have the first right to purchase the Sumter Premises upon the terms contained in the Purchase Offer (the "Offer Terms") (it being understood that Licensee shall be deemed to have declined to so purchase the Sumter Premises if it does not accept such offer within 20 business days of the date such Purchase Offer is delivered to Licensee). In the event Licensee shall decline to so purchase the Sumter Premises, City may sell the Sumter Premises solely to the purchaser, and upon the terms, set forth in the Purchase Offer delivered to Licensee; provided that Licensee shall have the right within such 20 business day period to exercise the Purchase Option set forth in Section 13. In the event City fails to close on such sale within 90 days of the date the Purchase Offer was delivered to Licensee, Licensee shall continue to have a right of first refusal to purchase the Sumter Premises upon the terms set forth in this Section 14. The rights granted in this Section 14 do not extend to or include any portions of the first floor of the Sumter Premises which are not owned by City or the basement of the Sumter Premises. The rights granted in this Section 14 shall be subject to (1) the rights granted to third parties, their successors and assigns as provided in the Joint Use Agreement; (2) the exclusive parking rights in the Sumter Premises granted to the Marriot Hotel (for avoidance of doubt the owners or lessees of the building adjacent to the Project) pursuant to the Joint Use Agreement; and (3) the private owner's ownership interest in the first floor of the Sumter Premises.

15. **Miscellaneous.**

- (a) Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand,

overnight mail, facsimile transmission or mail (with postage prepaid), to the following addresses:

In the case of Licensee:

Core Campus Investment Partners LLC  
2234 W. North Ave.  
Chicago, Illinois 60647  
Attn: Marc Lifshin  
FAX: (773) 227-5350

and

Core Campus Investment Partners LLC  
540 W. Madison, Suite 2500  
Chicago, Illinois 60661  
Attention: David B. Nelson  
FAX: (312) 526-5761

with a copy to:

Roberts McGivney Zagotta LLC  
55 W. Monroe Street, Suite 1700  
Chicago, IL 60603  
Attention: Michael S. Roberts  
FAX: (312) 878-5201

In the case of City:

City of Columbia  
1737 Main Street  
Columbia, SC 29201  
Attention: City Manager

w/ copy to:

City of Columbia  
Office of City Attorney  
P.O. Box 667  
Columbia, SC 29202

or to such other addresses or facsimile numbers as may be specified by like notice to the other Party. Any notice involving non-performance, termination or renewal shall be sent by hand delivery, recognized overnight courier or, within the United States, via certified mail,

return receipt requested. All other notices may also be sent by facsimile, confirmed by first class mail. All notices shall be deemed to have been given when received, if hand delivered; when transmitted, if transmitted by facsimile or similar electronic transmission method with confirmation of successful transmission; one working day after it is sent, if sent by recognized overnight courier; and three days after it is postmarked, if mailed first class mail or certified mail, return receipt requested, with postage prepaid.

- (b) This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement. This Agreement may be executed by facsimile signature or electronic media (including PDF) and each Party may fully rely upon such execution. This Agreement shall be fully enforceable against a Party which has executed this Agreement by facsimile or electronic media (including PDF).
- (c) This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
- (d) The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. When a reference is made in this Agreement to an Article or a Section, such reference shall be to an Article or Section of this Agreement unless otherwise indicated.
- (e) This Agreement and the exhibits and schedules referenced or attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter hereof. This Agreement is not intended to confer upon any Person other than the Parties any rights or remedies hereunder.
- (f) If any terms or other provision of this Agreement or the schedules or exhibits hereto shall be determined by a court, administrative agency or arbitrator to be invalid, illegal or unenforceable, such invalidity or unenforceability shall not render the entire Agreement invalid. Rather, this Agreement shall be construed as if not containing the particular invalid, illegal or unenforceable provision, and all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either Party. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent permitted under applicable law.



- (g) The Parties shall execute such additional agreements between the Parties and/or their respective Affiliates as may be reasonably necessary to effectuate the intent of this Agreement.
- (h) This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns, including any purchaser of the Sumter Premises (subject to Licensee's rights hereunder). The rights of Licensee and the obligations of City shall run with the land during the Term of this Agreement. Nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement.
- (i) This Agreement may be amended, modified or supplemented only by a written agreement signed by all of the Parties.
- (j) No failure or delay on the part of either Party in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.
- (k) Either Party may record a memorandum of this Agreement provided that the economic terms herein are not disclosed in such memorandum. Without limiting the foregoing, City may attach this Agreement to the City Council agenda for public review.
- (l) Ambiguities in this Agreement, if any, shall not be construed against the Licensee or the City.
- (m) This Agreement is expressly contingent upon Columbia City Council's approval authorizing this Agreement to be executed by the Columbia City Manager. Such approval is in Columbia City Council's sole and exclusive discretion.
- (n) Licensee acknowledges that this Agreement is a public document and is subject to public release as required by the South Carolina Freedom of Information Act.

**[Signature page follows]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**LICENSEE:**

CORE CAMPUS INVESTMENT PARTNERS LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY:**

CITY OF COLUMBIA, SOUTH CAROLINA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A

Order of Special Exception

Board of Zoning Appeals     )  
                                          )  
City of Columbia            )     ORDER  
                                          )     ON A SPECIAL EXCEPTION

Date Heard:                    August 14, 2012  
Property:                      09014-08-01 (1426 Main Street)  
Zoning District:              C-5 / DD (Central Business District/ Design Development  
                                          Overlay District)  
Applicant:                    Core Campus, LLC, Tom Harrington  
Other Parties in Interest:   None.

The City of Columbia Board of Zoning Appeals held a public hearing on August 14, 2012 to consider the special exception request of Core Campus, LLC, Tom Harrington, Applicant, pursuant to City of Columbia Code of Ordinances Section 17-321 (3), to exceed the maximum density of 150 bedrooms per acre for a private dormitory.

After consideration of the evidence and arguments presented, the Board decides as follows:

**Findings of Fact:**

Notice of the public hearing for this case was posted on the property, as well as notice was published in a newspaper of general circulation within the city no less than fifteen (15) days prior to this hearing.

The Applicant, Core Campus, LLC, Tom Harrington, is requesting a special exception to exceed the maximum density of 150 bedrooms per acre in a C-5 district to establish a private dormitory. The Applicant states that the Palmetto Center, 1426 Main Street, Columbia, SC, will be converted from office space to an 851 bed, 258 unit private dormitory. The Applicant proposes to provide 88 parking spaces and 215 bicycle spaces within the attached secure indoor basement owned by the building; the remaining 338 spaces will be located within the City of Columbia Sumter Street Garage on levels 3A and above. The application for special exception shall include an operation and management plan, which must include at least the following:

- Use and activity that will occur in conjunction with the dormitory use;
- Hours of operation of non-residential services;
- Security plan including provisions for common and parking areas;
- Noise control;
- Provisions for transportation including location for loading/unloading of shuttles or buses, if applicable;
- Location of entrances and exits;

- Location and management of parking for residents and visitors;
- Location of amenities and their relationship and compatibility with adjacent uses.

**Conclusions of Law:**

Pursuant to the Standard of Review in granting a special exception Section 17-112, we have heard the testimony and reviewed the Applicant's request for a special exception and find that all standards to establish a private dormitory with a density of more than 150 bedrooms per acre have been met. The proposed use, when operated in conformance with the application, submitted operation and management plan, and parking agreement would not negatively impact traffic circulation, vehicle or pedestrian safety. The private dormitory will have no greater impact on noise, lights, fumes, or obstruction of air flow on adjoining properties. In addition, we find that a private dormitory will not negatively impact the aesthetic character of the environs. The orientation and spaces of improvements will not change.

Therefore, based on all of the foregoing, the Applicant's request for a Special Exception to exceed the maximum density of 150 bedrooms per acre in a C-5 district to establish a private dormitory, as described above, is hereby **APPROVED, with the following conditions:**

- Construction, operation and/or use shall be in substantial compliance with the documents placed on file in conjunction with this case;
- The Applicant must provide an executed lease for the required off-street automobile and bicycle parking prior to the issuance of any permits.

**AND IT IS SO ORDERED!**

	<u>9/5/12</u>
Ernest W. Cromartie, III, Board Chairman	Date
	<u>9/5/12</u>
K. Brian Cook, Zoning Administrator	Date

Date Mailed to Applicant  
and Other Parties of Interest:

9/5/12

12-29 SE

**NOTICE OF APPEAL TO CIRCUIT COURT MUST BE FILED WITHIN  
THIRTY (30) DAYS AFTER THE DATE THIS ORDER WAS MAILED**

Exhibit B

Zoning Administrator Letter



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We Are Columbia

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Planning and Development Services • Zoning Division  
1136 Washington Street, Columbia, SC 29201 • Phone: 803-545-3333 • Fax: 803-733-8699

December 18, 2012

Core Campus Investment Partners, LLC  
Mr. Tom Harrington  
2234 West North Avenue  
Chicago, IL 60647

RE: 1426 Main Street (09014-08-01) Columbia, SC  
Parking Agreement / Special Exception Conditions

Dear Mr. Harrington:

A special exception was granted by the City of Columbia Board of Zoning Appeals on August 14, 2012 in order to exceed the maximum density of 150 bedrooms per acre for a private dormitory. A condition of that special exception was that the applicant must provide an executed lease for off-street automobile and bicycle parking for the spaces that could not be provided onsite. Testimony was given that 88 parking spaces and 215 bicycle spaces would be provided in the basement of the building at 1426 Main Street owned by the applicant, and the remaining 338 spaces would be located within the City of Columbia Sumter Street Garage on level 3A and above.

I have reviewed the parking agreement of December 18, 2012, between the City of Columbia and Core Campus for the 338 parking spaces on level 3A and above, and it does meet the conditions of the special exception approval.

Sincerely,

*K. Brian Cook*

K. Brian Cook  
Zoning Administrator

Exhibit C

**Amenity Improvements**





The Hub  
On Main Street  
Columbia, SC

Core Campus  
Developer  
Antunovich Associates  
Architects

December 21, 2012

D/DR  
Submission  
Package

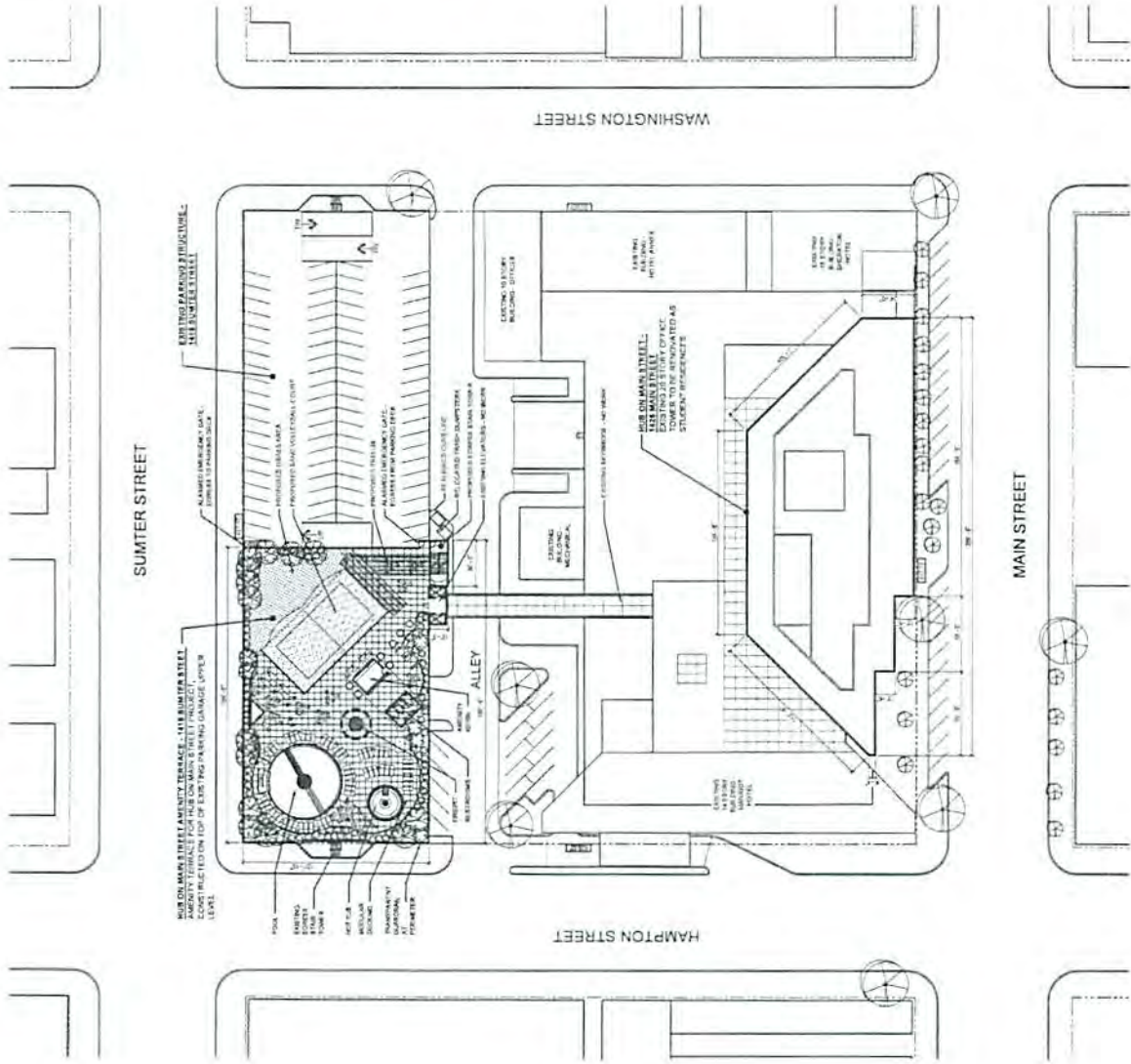
Site Plan



VICINITY PLAN  
Sheet 11

**HUB ON MAIN STREET**  
ADDRESS: 1423 MAIN STREET  
TMS: R09014-03-01  
ZONING: C5-00 (CITY CENTER OVERLAY)  
# OF STORIES: 20-STORIES (EXISTING)  
# OF RESIDENTIAL UNITS: 260 (PROPOSED)

**HUB ON MAIN STREET - AMENITY TERRACE**  
ADDRESS: 1415 SUMNER STREET  
TMS: R09014-03-09  
ZONING: C5-00 (CITY CENTER OVERLAY)  
# OF STORIES: 7-STORIES (EXISTING)



SITE PLAN  
Sheet 12



The Hub  
On Main Street  
Columbia, SC

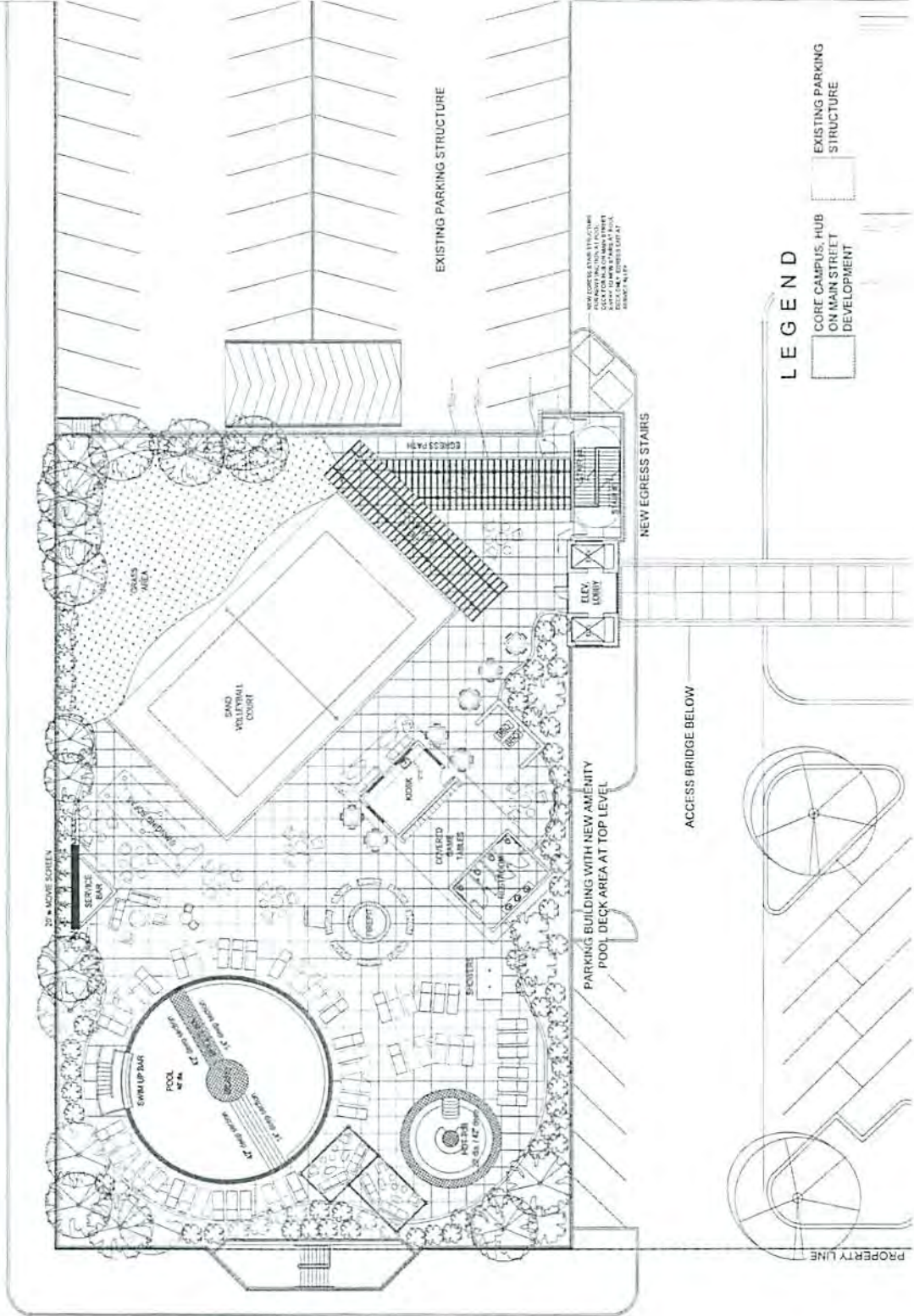
Core Campus  
Developer  
Antunovich Associates  
Architects

December 21, 2012

D/DRC  
Submission  
Package

Garage  
Amenity  
Terrace

SUMTER STREET



HAMPTON STREET



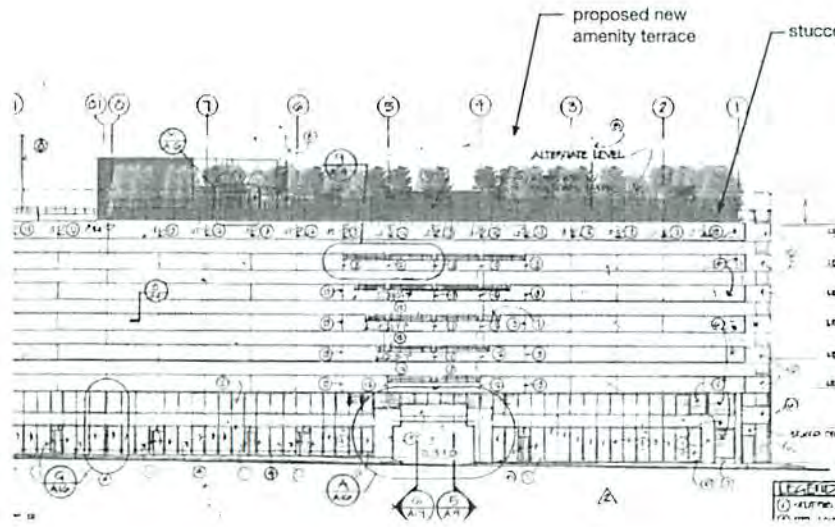
The Hub  
On Main Street  
Columbia, SC

Core Campus  
Developer  
Antunovich Associates  
Architects

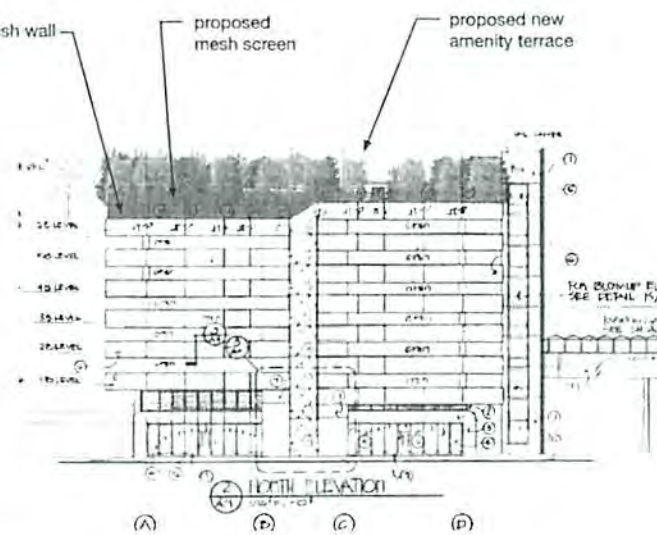
December 21, 2012

D/DRC  
Submission  
Package

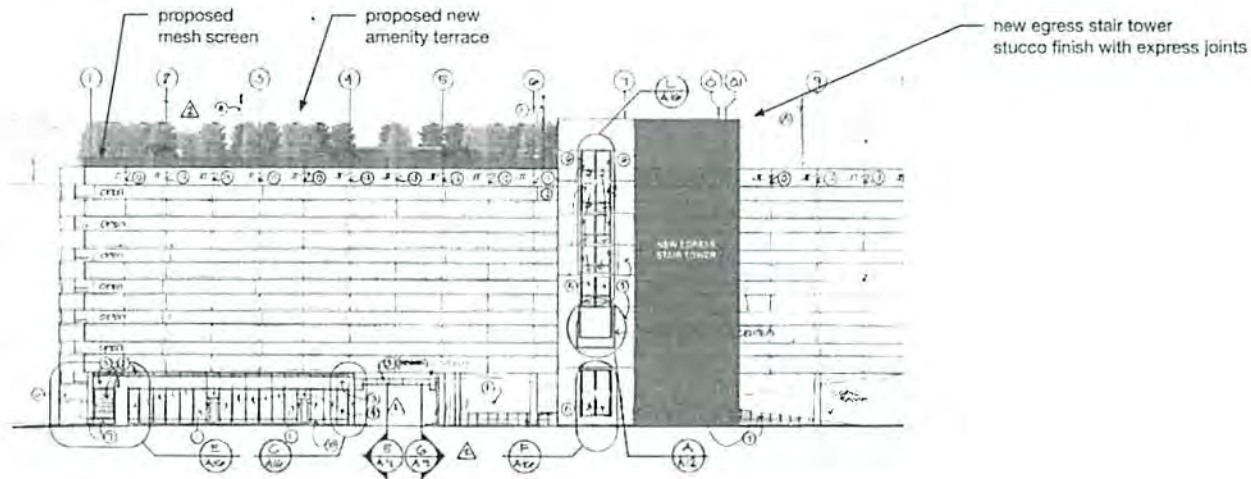
Amenity  
Terrace  
Elevations



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION

