

ORIGINAL  
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**RESOLUTION NO.: R-2018-052**

*Authorizing the City Manager to execute a Lease between the City of Columbia and TN Development Corporation for the lease of approximately thirteen (13) acres on the N/S of West Beltline Boulevard, Richland County TMS #11610-01-02 and 11605-06-06*

BE IT RESOLVED by the Mayor and City Council this 19th day of June, 2018, that the City Manager is authorized to execute the attached Lease, or on a form approved by the City Attorney, between the City of Columbia and TN Development for the lease of approximately thirteen (13) acres on the N/S of West Beltline Boulevard, Richland County TMS #11610-01-02 and 11605-06-06.

*(Funding Source: N/A)*

Requested by:

Assistant City Manager Gentry

Mayor



Approved by:

Cherese Wilson  
City Manager

Approved as to form:

[Signature]  
City Attorney

ATTEST:

[Signature]  
City Clerk

Introduced: 6/19/2018

Final Reading: 6/19/2018

STATE OF SOUTH CAROLINA            )  
                                                          )  
COUNTY OF RICHLAND                )        LEASE AND OPTION TO PURCHASE

**WHEREAS**, the City of Columbia (the “City” or “Tenant”) is interested in acquiring property on West Beltline Boulevard in furtherance of a City initiative to redevelop a blighted area into a vibrant mixed-use area including recreational uses and green space for neighborhood residents, citizens, and visitors to the city; and

**WHEREAS**, TN Development Corporation (“TN” or “Landlord”) is the record owner of the real property more specifically described in Exhibit A, attached, which real property consists of 13 acres of undeveloped land containing no structures or infrastructure; and

**WHEREAS**, the City wants to rent the real property from Landlord with the intent to immediately begin development of the Property into recreational green space; and

**WHEREAS**, the City intends to apply for various grants for assistance with development costs for the Property and, in the near future, to purchase the Property from Landlord to maintain the Property as recreational green space for the residents of and visitors to the City of Columbia;

**NOW, THEREFORE**, this lease is made and entered into as of the date of the last signature hereto, by and between Landlord and Tenant.

**PREMISES.** Subject to the terms and conditions set forth hereinafter, Landlord leases to Tenant, and Tenant rents from Landlord, the real property (the “Property”) on Beltline Boulevard, in Columbia, South Carolina, bearing TMS# 11610-01-02 and 11605-06-06, containing 13 acres more or less, and is more fully described in the attached Exhibit A. The Property does not include the front parcel (along Beltline Boulevard) containing 3.5 acres, more or less, (the “Front Parcel”).

**TERM OF LEASE.** The term of this Lease shall commence on the execution hereof and shall be for a period of twenty (20) years, renewable for an additional two (2) five-year (5) Terms by mutual agreement, unless terminated by way of Tenant’s exercise of its right to purchase the Property or other termination provision hereinafter set forth.

**RENT.** Tenant agrees to pay to Landlord an annual rental rate for the Property in the total sum of Dollars \$1 per year. Landlord at the time of execution of this Lease acknowledges receipt of the payment of rent for the entire Lease Term.

**RENOVATION, REPAIRS AND ALTERATION OF PROPERTY.** Tenant shall be responsible for any and all repairs, replacements, renovations, construction, restoration, and maintenance

of the Property. Tenant agrees, throughout the Term, to maintain the Premises and any Improvements thereon, in a clean and safe manner and to make, at its expense, such ordinary repairs and replacements as may be required to keep said Premises in good condition. Tenant accepts the Premises in its present "AS IS" condition. Tenant shall, at its own expense, keep and maintain the Premises and appurtenances and every part thereof, in good order and repair, except portions of Premises to be repaired by Landlord as described below. Tenant shall, at its expense, maintain in good condition, working order and repair the entire Property. Tenant agrees to keep the Property in a good state of repair and keep the Property in a neat, clean and orderly condition. Upon prior written consent of the Landlord, Tenant, at its own cost and expense and in a good, workmanlike manner, may make such alterations and repairs to the Premises as Tenant may require for the conduct of its business. However, Tenant may not materially alter the basic character of the Property or Improvements, or weaken any structure on the Property or Premises.

**USE OF PREMISES.** Tenant shall use the Property solely as public recreational green space. Tenant shall be responsible for the Property's proper use, care and maintenance and shall not allow the Property to constitute a nuisance or hazard.

**UTILITIES.** Tenant shall be responsible for electricity, lights, heat, janitor service, or any other utility or service consumed in connection with the renovation, use, or occupancy of the Property by Tenant.

**IDENTITY OF INTEREST.** The execution of this Lease or the performance of any act pursuant to the provisions hereof shall not be deemed or constructed 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.

**OPTION TO PURCHASE.** Throughout the Term of this Lease, Tenant shall have an option to purchase the Leased Premises and the Front Parcel ("***Option to Purchase***"). In the event that Tenant shall elect to exercise its Option to Purchase as described in this Section, Tenant shall deliver written notice to Landlord of such election ("***Tenant's Option Notice***"). Upon receipt of Tenant's Option Notice, Tenant and Landlord shall enter into a contract for the purchase and sale of the Leased Premises setting forth the terms and conditions of such sale (the "***Contract***"). In the event that tenant shall deliver Tenant's Option Notice on or before the second anniversary of the Commencement Date, the Contract shall set forth a purchase price for the Leased Premises equal to the appraised value. In the event that Tenant's Option Notice is delivered after the second anniversary of the Commencement Date, the parties agree that the purchase price for the Leased Premises and/or the Front Parcel shall be determined based on the Appraised Value (as defined below) of the Leased Premises and/or Front Parcel. In order to

determine the Appraised Value, Tenant and Landlord shall each select an appraiser licensed in SC who shall each provide an appraisal setting for the fair market value of the Leased Premises and/or Front Parcel. The two (2) appraisers so chosen shall select a third appraiser who shall also provide an appraisal setting for the fair market value of the Leased Premises and/or Front Parcel. For purposes of this Section, the average of the fair market values of Leased Premises and/or Front Parcel stated in the three (3) appraisals shall be the "*Appraised Value*". Tenant and Landlord agree to work in good faith to negotiate the remaining terms of the Contract. Simultaneous with the execution of this Lease, the parties hereto agree to execute a Memorandum of Tenant's Option to Purchase and record the same in the Office of the Register of Deeds at the Effective Date. Further, any deed conveying the Property from Landlord to Tenant shall state that the Property shall be used for public recreational use only.

**MEMORANDUM OF LEASE.** Landlord and Tenant agree, upon the request of the other, to execute a memorandum of this Lease suitable for recording in the Richland County Register of Deeds Office.

**PROPERTY INSURANCE.** Landlord shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Property and Premises, in the amount of the full replacement value thereof. Tenant shall be responsible for payment of the premium during the Lease Term, as Additional Rent.

**LIABILITY INSURANCE.** Tenant will procure and keep in effect during the Lease Term and any extension thereof, at its sole cost and expense, a comprehensive general liability insurance policy with respect to bodily injury and property damage resulting from or occurring in connection with Tenant's use and/or occupancy of the Premises. Such policy shall name the Landlord as an additional insured.

**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 Property during the Lease Term without any unreasonable hindrance or interference.

**ASSIGNMENT AND SUBLETTING.** Tenant shall not assign this Lease. Tenant shall not mortgage or encumber this Lease or sublet the Leased Property or any part thereof to others without the Landlord's prior written consent, such consent not to be unreasonably withheld or delayed. In the event of any assignment or sublease, Tenant shall remain fully and primarily liable for the payment of all amounts required to be paid hereunder and the performances of all terms, covenants and conditions herein undertaken by Tenant. A consent of Landlord shall not be a consent for a subsequent assignment or subletting. The interest of the Tenant in this Lease is not assignable by operation of law, without the written consent of Landlord. For purposes of this Section a sale or assignment of 50% or more of the Tenant's assets or membership shall constitute an assignment requiring the permission of Landlord. This Lease may be assigned by Landlord.

**ACCESS EASEMENT.** Landlord hereby imposes on the Front Parcel for the benefit of the Property; the Tenant, their guests, licensees, customers, and agents; non-exclusive, perpetual easement for ingress and egress for vehicular and pedestrian traffic over and across the Front Parcel (need to designate where the access is the "Easement Area").

**NOTICES.** Any notice or other communication required to be given a party hereto shall be in writing and delivered via facsimile, hand delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below (or at such other address as a party may so decide after notice is given in the manner prescribed herein). For all purposes hereunder, "receipt" shall be deemed to occur on the date that such communication was placed in the mail or, if delivered via facsimile, on the date such was faxed provided that a duplicate copy was delivered by one or more of the other means of delivery described herein.

As to Landlord:

**TN Development Corporation  
c/o Michael Strange, Executive Director  
1225 Lady St.  
Ste 201  
Columbia, SC 29201  
Email:mcstrange@columbiasc.net**

As to Tenant:

**City of Columbia Parks & Recreation Department  
c/o Randy Davis, Director  
1111 Recreation Drive  
Columbia, SC 29203  
Email: radavis@columbiasc.net**

**TERMINATION.** Tenant may terminate this Lease for any reason AFTER providing Landlord with thirty (30) days written notice.

**ENTIRE AGREEMENT.** This Lease contains all of the understandings by and between the parties hereto relative to the leasing of the Property, 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. IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year last written below.

IN WITNESS WHEREOF, each party hereto has caused this Lease to be executed, all as of the date below.

WITNESS:

Erika D. Moore  
Shirley Daniels

THE CITY OF COLUMBIA

By: Teresa Wilson  
Teresa Wilson  
City Manager

TN DEVELOPMENT CORPORATION

Montrika Martin  
Deane Jacob

By: Michael C. Strange  
Michael C. Strange  
Executive Director

Dated: \_\_\_\_\_

APPROVED AS TO FORM  
5-24-2018  
Legal Department City of Columbia, SC

DRAFT

**Legend**

- Additional Recreation Area
- Recreation Area
- Urban Farm
- Commercial Food Cooperative
- Possible Development
- Current Ownership
- Private
- State
- City of Columbia
- Street
- Roadway
- 20' Offset

