

RESOLUTION NO.: R-2020-075

Authorizing the City Manager to execute a Sixth Lease Amendment between the City of Columbia and First-Citizens Bank & Trust Company for lease of approximately 13,647 square feet located in the basement of 1225 Lady Street

BE IT RESOLVED by the Mayor and City Council this 21st day of July, 2020, that the City Manager is hereby authorized to execute the attached Sixth Lease Amendment, or on a form approved by the City Attorney, between the City of Columbia and First-Citizens Bank & Trust Company for lease of approximately 13,647 square feet of office space located in the basement of 1225 Lady Street.

(Funding Code: 1018701 636300)

Requested by:

Assistant City Manager Simons

Approved by:

Cheresa H. Wilson
City Manager

Approved as to form:

Teresa A. Knox
City Attorney

STPj
Mayor

ATTEST:

Erika D. Hammond
City Clerk

Introduced: 7/21/2020
Final Reading: 7/21/2020

ORIGINAL
STAMPED IN RED

SIXTH LEASE AMENDMENT

THIS SIXTH LEASE AMENDMENT (the "*Amendment*"), made by and between **FIRST-CITIZENS BANK & TRUST COMPANY**, a North Carolina banking corporation, as successor by merger with First Citizens Bank and Trust Company, Inc. (herein called "*Landlord*"), and **THE CITY OF COLUMBIA**, a municipality in the State of South Carolina (herein called "*Tenant*").

WITNESSETH:

WHEREAS, Landlord is the owner of that certain commercial office building located at 1225 Lady Street, in the City of Columbia, Richland County, South Carolina (the "*Building*"); and

WHEREAS, Landlord and Tenant entered into that certain Office Lease Agreement dated May 8, 2007, (the "*Initial Lease*") pursuant to which Landlord leases to Tenant the Demised Premises being more particularly described in the Lease; and

WHEREAS, the Initial Lease was previously amended by First Amendment to Lease dated June 6, 2007, Second Amendment to Lease dated on or about August 2, 2007, Third Amendment to Lease dated August 20, 2011, Fourth Amendment to Lease dated May 31, 2017, and Fifth Amendment to Lease dated October 30, 2019 (collectively the "*Prior Amendments*" and together with the Initial Lease the "*Lease*"); and

WHEREAS, Tenant has exercised its right to terminate the Lease prior to the scheduled expiration date as of the Early Expiration Date but only as to a portion of the Demised Premises; and

WHEREAS, Tenant has requested and, pursuant to the terms and conditions set forth herein, Landlord agrees to release a portion of the Demised Premises from the terms and conditions of the Lease; and

WHEREAS, Landlord and Tenant agree to modify the Lease by this Amendment to memorialize: (i) the portion of the Demised Premises and Building which Tenant will continue to occupy under the terms of the Lease, and (ii) to make such other changes to the Lease as set forth herein; and

WHEREAS, capitalized terms used but not defined in this Amendment shall have the meanings prescribed to them in the Lease.

NOW THEREFORE, for and in consideration of the mutual promises and undertakings of the parties as set forth herein and in the Lease, Five and no/100 (\$5.00) Dollars, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant, intending to be legally bound, hereby agree as follows:

1. The above-stated recitals are incorporated herein as if repeated verbatim.
2. Demised Premises. As of the Effective Date, the Demised Premises which is leased to Tenant under the Lease is (described in Article A of the Lease, as previously amended) is comprised of the portion of the Building and that contains 34,221 rentable square feet located on the first (1st) and second (2nd) floor(s) and the basement of the Building. As of the Release Date (defined below), and subject to the terms and conditions set forth herein, the Demised Premises shall be reduced to 13,647 rentable square feet located only in the basement of the Building. The Demised Premises that shall remain subject to the terms and conditions of the Lease, as adjusted hereby, shall be as approximately shown on the floor plan attached hereto as Exhibit "A" and incorporated herein by reference. As of the Release Date, all references in the Lease to the Demised Premises shall thereafter refer to the Demised Premises as adjusted herein, together with the non-exclusive rights to the Common Areas as described below.
3. Release. As of 11:59 PM (Eastern) on July 14, 2020 (the "Release Date"), Tenant shall have no further claim to the portion of the Building comprising 20,574 rentable square feet and located on the first (1st) floor and second (2nd) floor of the Building, formerly occupied by Tenant, and released and removed from the description of the Demised Premises in Section 2 above (and including any and all installations made therein by Tenant, except Tenant shall have the right, prior to the Release Date, to remove its merchandise, personal property, and trade fixtures,

and any other removable items which are the property of the Tenant) (said released portion being the "Released Space"); and, Tenant does hereby remise, release and forever quit claim to the Landlord its successors and assigns, all interest it acquired in the Released Space by any construction or installation it has performed or caused to be performed therein. Tenant shall remain liable for the performance of all of its obligations and for the payment of rent and other charges which it is to pay to the Landlord for the Released Space pursuant the provisions of the Lease, which shall be accrued as of the Release Date, and for the performance of all other terms, covenants and provisions of the Lease to the Release Date. On the Release Date, Landlord and Tenant hereby release and discharge each other from any and all claims, actions and liabilities as to the Released Space *only*, provided, however, that either party shall have the right to enforce any then unsatisfied obligation of the other party maturing prior to the Release Date.

4. Term. Notwithstanding anything in the Lease to the contrary, Landlord and Tenant acknowledge and agree that, commencing on July 15, 2020 (the "*Term Conversion Date*"), the Term of the Lease shall change and become a month-to-month Term. Following the Term Conversion Date either party to the Lease shall be permitted to terminate the Term of the Lease by giving the other party not less than thirty (30) days prior written notice of its intent to terminate the Lease. Any such termination shall be effective as of 11:59 PM (Eastern) on the last day of the month immediately following the month in which the terminating party provides notice to the other party.

5. Pro Rata Share. Commencing on the Release Date, and notwithstanding anything in the Lease to the contrary, Tenant's Pro Rata shall be based on the revised rentable square footage of the Demised Premises set forth herein and shall be deemed to be 0.33% (i.e. 13,647 s.f. / 41,633 s.f.).

6. Parking. The Lease is hereby amended so that, as of the Release Date, and notwithstanding anything in the Lease to the contrary, Tenant shall have the right to use fourteen (14) parking spaces in the parking lot located on the Landlord's Property and adjacent to the Building. The parking space made available to Tenant hereunder are identified on the drawing attached hereto and included herein by reference as Exhibit "B".

7. Except as modified or amended hereby, the terms and provisions of the Lease, as previously amended, shall remain in full force and effect. If any terms of this Amendment are inconsistent with any one or more terms of the Lease, the terms of this Amendment shall control; provided, however, that all of the provisions of the Lease affected by this Amendment shall be deemed amended, whether or not actually specified herein, if such amendment is clearly necessary to effectuate the intent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Sixth Lease Amendment to be executed and effective as of the date of the last signature hereinbelow (the "*Effective Date*").

LANDLORD:
FIRST-CITIZENS BANK & TRUST COMPANY,
a North Carolina banking corporation

By: [Signature]
Name: Jessica Lutch
Title: VP
Date Signed by Landlord: 8/7/20

[Signature]
Witness #1

[Signature]
Witness #2

TENANT:
CITY OF COLUMBIA, SOUTH CAROLINA

By: [Signature]
Name: Teresa B. Wilson
Title: City Manager
Date Signed by Tenant: 7/28/2020

[Signature]
Witness #1

[Signature]
Witness #2

APPROVED AS TO FORM

[Signature]
Legal Department City of Columbia, SC

EXHIBIT "A"

[Floor Plan Showing "New" Demised Premises]

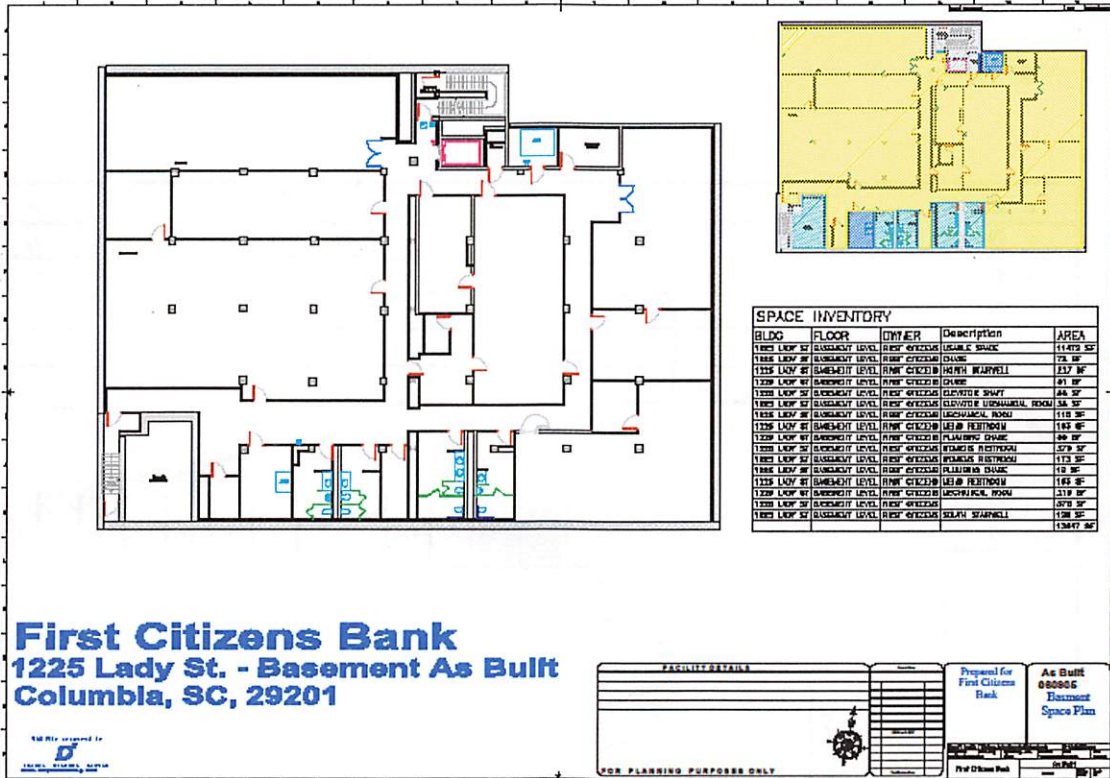


EXHIBIT "B"

[Drawing to Show Fourteen (14) Parking Spaces]

● City Parking

