

**ORIGINAL
STAMPED IN RED**

RESOLUTION NO.: R-2021-014

Authorizing the City Manager to Execute a Sublease Agreement between the City of Columbia and K W Associates, LLC d/b/a KW Beverage for 920 A & B Hemlock Road

BE IT RESOLVED by the Mayor and City Council this 2nd day of March, 2021, that the City Manager is authorized to execute the attached Sublease Agreement, or on a form approved by the City Attorney, for lease of 920 A & B Hemlock Road, Richland County TMS #11206-06-22 for the terms and conditions contained therein for use by the Police Department.

(Funding Source: 1012403-636300)


Requested by:

City Manager/Chief Holbrook _____



Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 3/2/2021

Final Reading: 3/2/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SUBLEASE AGREEMENT
(Resolution No.: R-2021-014)

This Sublease Agreement (the "Lease") made by and between K W ASSOCIATES, LLC D/B/A KW BEVERAGE ("Landlord") and the City of Columbia ("Tenant") and is effective as of the date of the last signature.

In consideration of the mutual covenants and agreements herein contained, and of other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Landlord hereby demises and rents to Tenant and Tenant hereby subleases from Landlord the premises described below upon the terms, covenants and conditions hereinafter contained.

1. **Leased Premises.** The leased premises are located at 920 A & B Hemlock, in the City of Columbia, County of Richland, State of South Carolina (hereinafter referred to as "Premises"), and comprise the land and improvements as described on **Exhibit A**, which is incorporated herein by reference. The Premises are leased "As Is" without representation or warranty.

2. **Term.** The term of this Lease shall be three (3) years beginning on the date that possession of the premises is delivered to Tenant.

3. **Renewal Option.** This lease is renewable upon written consent and agreement by both parties for two (2) additional years.

4. **Rental Amount.** Tenant shall pay to Landlord, without demand, at such address as the Landlord may from time to time direct in writing to Tenant, monthly rent of two thousand five hundred dollars and 00/100 \$2,500. Cost per year after the first twelve (12) months will increase 3% annually.

Months 13-24	\$2,575
Months 25-36	\$2,653
Option Year 1	\$2,733
Option Year 2	\$2,815

5. **Grounds Maintenance.** Tenant shall be responsible for the reasonable maintenance the grounds of Premises.

6. **Utility Services.** Landlord shall pay for all water, electricity and other utilities consumed by Tenant on the premises during the term.

7. **Repairs, Maintenance and Replacements.** Landlord shall maintain the roof and exterior structure, and the HVAC system (except for ordinary maintenance), in good repair and shall at its own cost and expense promptly make all necessary repairs thereto. Landlord shall also be responsible for replacing within a reasonable amount of time any and all interior and exterior fixtures and/or structures that are beyond repair, including but not limited to, exterior structures, interior fixtures, HVAC system, and roofing.

Tenant shall maintain the interior of the leased premises in good repair, reasonable wear and tear excepted, to include any necessary lighting replacement and janitorial services, and Tenant shall at its own cost and expense make all necessary repairs to those improvements (except those items to be maintained by the Landlord set out above).

Tenant, at its sole cost and expense, shall comply with and shall cause the premises to comply with all federal, state and local statutes, laws, regulations and ordinances and shall be responsible for obtaining all required permits and certificates necessary to conduct its business in the premises.

Tenant covenants and agrees to perform all obligations on its part to be performed hereunder including, without limitation, the obligation, to conduct its business on the premises in a dignified manner and to maintain the premises in a clean and orderly condition. Failure of Tenant to perform its obligations as aforesaid shall give Landlord the right to terminate Lease Agreement if Tenant shall not have commenced compliance with the written notice of Landlord within

twenty-four (24) hours after receipt thereof and, upon such termination of Lease, Landlord may reenter the premises and shall have no further obligations hereunder.

In the event that the premises fall into disrepair or become uninhabitable for reasons which are not the fault of Tenant, Tenant will notify Landlord of the maintenance issue in writing. If Landlord does not enter and repair the premises to make it habitable again, Tenant may vacate premises and terminate this lease after ninety-six (96) hours of said written notice. For maintenance problems that do not make the premises uninhabitable, Tenant may vacate premises and terminate the lease if Landlord has not made the requested repairs within thirty (30) days of said notice unless they cannot be completed in that time period, in which case they must have been begun and diligently pursued to completion.

8. **Signs.** Tenant may, if necessary, erect and maintain a sign on the exterior of the leased premises. The sign shall be of a size, style and type and in such location as the Landlord may approve, which approval shall not be unreasonably withheld.

9. **New Construction and Alterations.** During the term, Tenant may, with Landlord's consent, which consent may not be unreasonably withheld, undertake construction of Tenant's improvements, and make alterations and take any other actions with respect to the improvements. Upon termination of this lease, Tenant shall remove such alterations, additions and improvements and restore the leased premises to their condition prior to alteration.

10. **Taxes.** Landlord shall pay all real property taxes associated with the Premises without contribution from the Tenant.

11. **Damage or Destruction by Fire or Other Casualty.** If the Premises are damaged or destroyed by fire, flood, tornado, hurricane, or by the elements, or through any casualty, or otherwise, after the commencement of the lease term, Tenant shall have the option to terminate the lease or for it to continue in full force and effect. If the Tenant does not terminate the lease, rent shall abate until the premises are restored to the condition that existed prior to the loss. Tenant shall have the right to declare the lease terminated at any time until the property has been restored to its previous condition.

12. **Default by Tenant.** If Tenant defaults in fulfilling any of the covenants in this lease, Landlord shall notify Tenant of the nature of the default. If such default is not remedied within thirty (30) days following such notice, all of Tenant's rights under this lease shall terminate and Tenant shall immediately quit and surrender the premises to Landlord. If the nature of the default is such that it cannot reasonably be cured within thirty (30) days and work thereon has been commenced within that period and diligently prosecuted to completion, Tenant's rights under this lease shall not terminate as a result of such default.

If Tenant's rights under this lease are terminated due to default, Landlord may immediately, or at any time thereafter, re-enter the leased premises and remove all persons and all property by any suitable action or proceeding by law and enjoy the premises. Landlord may, at its option, repair, alter, remodel and/or change the character of the premises as it may deem fit and/or at any time re-let the leased premises or any part thereof. The exercise by Landlord of any right granted in the sentence immediately preceding shall not relieve Tenant from the obligation to fulfill all other covenants required by this lease, at the time and in the manner provided herein. Landlord shall have the obligation to make reasonable attempts to re-let the premises and to mitigate its damages from the default. Landlord's expenses incurred in connection with repairing, altering, or remodeling the premises and any other expenses incurred by it in connection with the re-letting of the leased premises (including but not limited to brokerage fees) if any, shall be Landlord's obligation.

In the event of a breach by Tenant of any of the covenants or provisions of this lease, in addition to the remedies provided above, Landlord shall have all other remedies available at law or in equity.

13. **Default by Landlord.** If Landlord defaults in fulfilling any of the covenants in this lease, Tenant shall notify Landlord of the nature of the default. If such default is not remedied within thirty (30) days following such notice, Tenant may cure the default and deduct/offset the cost of the same against the Rent due hereunder.

In the event of an uncured breach of any of the covenants or provisions hereof, Tenant shall have, in addition to the remedies above, the right to invoke any remedy available at law or in equity.

14. **Termination.** Notwithstanding any other provision in this lease, either party may terminate this lease

upon thirty (30) days written notice to the other party. Upon such termination, neither party shall have any further obligation to the other party and this lease shall be null and void.

15. **Quiet Enjoyment.** Landlord covenants that Tenant, so long as Tenant is not in default, shall and may peaceably and quietly have, hold and enjoy said premises for and during the lease term.

16. **Notices.** Any notice, demand and/or request which under the terms of this lease or under any statute must or may be given or made by either of the parties to the other party shall be in writing and shall be given by registered or certified mail with return receipt requested, addressed to the party as follows:

Landlord:

K W Associates, LLC d/b/a KW Beverage
c/o James F. Kirkham
825 Bluff Road
Columbia, SC 29201

Tenant:

City Manager
City of Columbia
P.O. Box 147
Columbia, SC 29217

Either party may designate a different address for receipt of notices by written notification to the other party. Any notice under this lease shall be deemed to have been given at the time it is placed in the mail with sufficient postage prepaid.

17. **Relationship Between the Parties.** Nothing herein shall be deemed or construed as creating the relationship of principal and agent or partnership or joint venture between the parties; it being agreed and understood that the parties have no relationship other than that of landlord and tenant.

18. **Assignment or Subletting.** Tenant may not assign this lease or sublet the leased premises.

19. **Entire Agreement.** The parties further agree that this written lease expresses the entire agreement between the parties and may not be changed orally, but only by an instrument in writing signed by the party against whom enforcement of such change is sought. All prior negotiations and representations of the parties are merged herein and are void and unenforceable unless contained in this agreement.

20. **Captions.** The captions contained herein are for convenience and reference only and shall not be deemed as part of this lease or construed in any manner to limit or amplify the terms and provisions of this lease to which they relate.

WITNESSES:

LANDLORD:

K W ASSOCIATES, LLC D/B/A KW BEVERAGE

By: _____

James F. Kirkham

Its: Member

Date: _____

WITNESSES:

Erika D. M. Hammond

TENANT:

CITY OF COLUMBIA

By: *Teresa B. Wilson*

Teresa B. Wilson

Its: City Manager

Date: 3/8/2021 | 5:48:03 PM EST

APPROVED AS TO FORM

Legal Department City of Columbia, SC

2/16/2021

EXHIBIT "A"

ALL that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being near the City of Columbia, in the County of Richland, State of South Carolina, the same being shown and delineated as Parcel 2 containing 0.58 acre (25,123 sq. ft.) on a plat prepared for Reggie L. Sherrill & Robin L. Sherrill by J. Don Rawls, Jr., RLS No. 13517, Cox and Dinkins, Inc., dated June 12, 2001 in the Office of the Register of Deeds for Richland County, South Carolina in Plat Book 540, at page 1031.

TOGETHER WITH all right, title and interest in and to that portion of the easement area known as Parcel 2 Easement Area (as defined in the Assignment of Easement in Record Book 963 at page 36), created in that certain Easement granted to B. H. Bignon and recorded in the Office of the Register of Deeds for Richland County, South Carolina in Deed Book 272, at page 179, and assigned to M and S. Properties, LLC in that certain Assignment of Easement dated August 2, 2004 and recorded August 2, 2004 in said Office in Book 963, at page 36.

DERIVATION: Deed to M and S Properties, LLC, a South Carolina limited liability company, from Reggie L. Sherrill and Robin L. Sherrill dated August 2, 2004 and recorded August 2, 2004 and recorded in the Office of the Register of Deeds for Richland County, South Carolina in Book 963, at page 38.

TAX MAP NO.: 11206-06-22 (for informational purposes only)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SUBLEASE AGREEMENT

This Sublease Agreement (the "Lease") made this 12th day of March, 2021, by and between K W ASSOCIATES, LLC D/B/A KW BEVERAGE ("Landlord") and the City of Columbia ("Tenant"). JAK

In consideration of the mutual covenants and agreements herein contained, and of other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Landlord hereby demises and rents to Tenant and Tenant hereby subleases from Landlord the premises described below upon the terms, covenants and conditions hereinafter contained.

1. **Leased Premises.** The leased premises are located at 920 A & B Hemlock, in the City of Columbia, County of Richland, State of South Carolina (hereinafter referred to as "Premises"), and comprise the land and improvements as described on **Exhibit A**, which is incorporated herein by reference. The Premises are leased "As Is" without representation or warranty.

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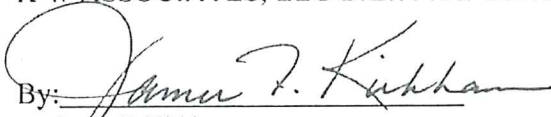
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[signature page to follow]

WITNESSES:

LANDLORD:

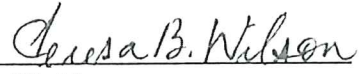
K W ASSOCIATES, LLC D/B/A KW BEVERAGE

By: 
James F. Kirkham
Its: Member

WITNESSES:

TENANT: CITY OF COLUMBIA

Ms. Teresa B. Wilson
City Manager

By: 
Its City Manager

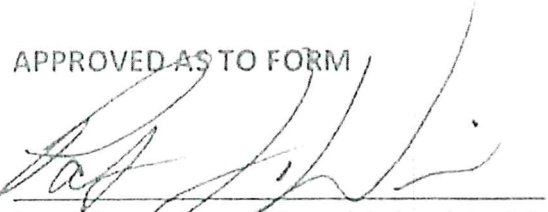
APPROVED AS TO FORM

Legal Department City of Columbia, SC
1/21/2021

EXHIBIT "A"

ALL that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being near the City of Columbia, in the County of Richland, State of South Carolina, the same being shown and delineated as Parcel 2 containing 0.58 acre (25,123 sq. ft.) on a plat prepared for Reggie L. Sherrill & Robin L. Sherrill by J. Don Rawls, Jr., RLS No. 13517, Cox and Dinkins, Inc., dated June 12, 2001 in the Office of the Register of Deeds for Richland County, South Carolina in Plat Book 540, at page 1031.

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