SOUTH CORE PARKING LEASE

2016
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THIS SOUTH CORE PARKING LEASE ("Lease") is made and entered into this ___ day of __________, 2016, by and between the City of St. Petersburg, Florida, a municipal corporation, whose address is P.O. Box 2842, St. Petersburg, Florida 33731, ("City") and James RE, LLC, a Florida limited liability company, whose address is 880 Carillon Parkway, St. Petersburg, Florida 33716 ("Tenant"), (collectively, "Parties").

RECITALS

WHEREAS, Real Estate & Property Management received a request from City Administration to prepare a South Core Development Assistance Agreement ("Assistance Agreement") for the Tenant; and

WHEREAS, the City was approached by local businessman Tom James about the prospect of building a world class art museum having a primary theme of western and wildlife art ("Museum") in the currently vacant commercial unit floors within the South Core Condominium building located at 100 Central Avenue; and

WHEREAS, the discussion focused on the prospect of a public-private partnership to support the redevelopment of the vacant space and the Tenant's desire to have the City directly assist with parking and other amenities; and

WHEREAS, the combined mixed use redevelopment of ±133,000 will initially be comprised of the ±80,000 sf Museum housing a portion of Tom James' personal western and wildlife art collection which is one of the premier collections of its type in the world, temporary museum exhibits, event space of ±6,000 sf ("Event Space"), and other retail, office, and restaurant uses to complement the redevelopment ("Project"); and

WHEREAS, the Project will add to the City's reputation as a city of the arts and world class museums adding to the energy and growth of the Central Avenue corridor drawing more people into St. Petersburg and expanding tourism spending in the City; and

WHEREAS, this Project will improve streetscape and walkability of the area by facilitating the connection to Beach Drive from Central Avenue; and

WHEREAS, the Project is estimated to cost up to $55 million (excluding artwork) and will create both permanent and temporary jobs; and

WHEREAS, in addition to the Assistance Agreement, Tenant desires to control certain City-owned parking spaces within the South Core Condominium building located at 100 Central Avenue, St. Petersburg, Florida 33701 ("South Core") for the benefit of its tenants, customers, clients and visitors (collectively referred to hereinafter as "Parkers"); and
WHEREAS, Association or its designee shall continue to manage the parking garage located at South Core ("South Core Garage"); and

WHEREAS, Tenant represents that in order to ensure the success of the Tenant and its tenants in the Tenant-owned Commercial Unit a minimum of two (2) Parking Floors in South Core Garage for the Parkers is necessary for Tenant's use; and

WHEREAS, City desires to assist Tenant by providing dedicated parking on certain City-owned Parking Floors; and

WHEREAS, this Lease stabilizes parking use and revenue for the South Core Garage; and

WHEREAS, this Lease is intended to memorialize the agreement between the Parties for the Tenant's use of the City-owned parking spaces within South Core; and

WHEREAS, South Core is subject to a Declaration of Condominium recorded at O.R. Book 1582, Page 2308, in the Public Records of Pinellas County, Florida ("Condo Docs"); and

WHEREAS, South Core is managed by the South Core Condominium Association, Inc. ("Association") and is comprised of the "Commercial Unit" (floors 1 and 2 of South Core) and the "Parking Unit" (floors 3 through 8 of South Core, that may be referred to herein as "Parking")

WHEREAS, the Tenant is the owner of the Commercial Unit pursuant to a Special Warranty Deed recorded at O.R. Book 18963; page 1393 in the Public Records of Pinellas County, Florida; and

WHEREAS, the City owns Parking Floors 3, 4, 7, and 8 of South Core ("City Owned Floors"); and

WHEREAS, Parking Floors 5, and 6 ("Private Owned Floors") are owned by other entities ("Private Parking Unit Owners"); and

WHEREAS, City acknowledges that Tenant's requested control of parking will assist in the success of Tenant.

NOW THEREFORE, in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants and agreements contained herein, the Parties hereto hereby agree as follows:

1. RECITALS. The above recitals are true and correct and are incorporated herein and made a part of this Lease by this reference.

2. PARKING FLOORS 3 AND 4. City hereby leases to Tenant and Tenant hereby leases from City the property identified as Parking Floors 3 and 4 of South Core ("Parking Floors 3 and 4").
3. **EFFECTIVE DATE.** The effective date of this Lease shall be the date the Mayor or his designee signs this Lease.

4. **COMMENCEMENT DATE.** This Lease shall commence on first (1st) day of the month after the issuance of a certificate of occupancy/completion for the Museum ("Commencement Date"). The Commencement Date shall be memorialized in writing by a Commencement Memorandum in a form substantially the same as Exhibit “A”, attached hereto.

5. **TERM; RENEWAL.** The term of this Lease is fifty (50) years ("Term"). Provided the Museum remains open to the public in accordance with this Lease, Tenant shall have the right to renew this Lease not earlier than the fortieth (40th) year of the Term and not later than twelve (12) months prior to the expiration of this Lease by submitting a written request to City, whereupon, the Parties shall negotiate in good faith for the terms and conditions of the renewal, including, but not limited to, the provision of adequate parking for the Museum under commercially reasonable rates and conditions. Such renewal shall be subject to the approval of the City Council of the City of St. Petersburg ("City Council") in its sole discretion.

6. **DEVELOPMENT.** This Lease is subject to and contingent upon the City and the Tenant entering into the South Core Development Assistance Agreement executed on [Date] ("Development Assistance Agreement") and the Tenant developing the Commercial Unit in accordance with the “Developer Work” defined therein.

7. **PURPOSE AND PERMITTED USE.** This Lease is granted to Tenant for the sole purpose of providing for, operating, and maintaining Parking Spaces, defined in Section 8.1 of this Lease, for the use of Parkers and for no other use ("Permitted Use").

8. **PARKING.**

   8.1. **Parking Spaces.** Parking Floors 3 and 4 contain approximately three hundred seventy-eight (378) parking spaces ("Parking Spaces").

   8.2. **Rent.** The following payments are collectively referred to as “Rent”:

   8.2.1. Rent for the first year, commencing on the Lease Commencement Date, shall be One Hundred Sixty-Five Thousand and No/100 Dollars ($165,000), payable in equal monthly installments of Thirteen Thousand Seven Hundred Fifty Dollars ($13,750), plus applicable taxes.

   8.2.2. Upon each yearly anniversary of the Lease Commencement Date during the Term, Rent shall be increased by the amount equal to one percent (1%) of the prior year’s Rent. Rent shall be payable in equal monthly installments.

      [For clarification purposes, the following is the application of the annual Rent adjustment:

      Year 1: $165,000.00]
Year 2: \( \$165,000.00 \times 1.01 = \$166,650.00 \)
Year 3: \( \$166,650.00 \times 1.01 = \$168,316.50 \)
Year 4: \( \$168,316.50 \times 1.01 = \$169,999.67 \) and so forth.

8.3. **Due Date.** Payment of Rent shall be made in a form acceptable to the City, and shall be due and payable in advance on the first (1st) day of the month ("Due Date") but not later than the fifth (5th) day of the month beginning on the Commencement Date and delivered to:

City of St. Petersburg
Director, Transportation and Parking Management
1 – 4th Street North
St. Petersburg, Florida 33701

8.4. **Parking Operations Plan.** A separate parking operations plan will be created by the City's Transportation and Parking Management Department, in cooperation with Tenant to provide Parking Floors 3 and 4 to be used to accommodate the Tenant, and its tenants, employees, and customers, that may include but is not limited to:

8.4.1. Issuance of credentials for Tenant to provide to Parkers for access to Parking Floors 3 and 4 ("Access Cards").

8.4.2. Tenant shall provide City or its designee, with the name and contact information of each Parker that receives an Access Card for South Core, including but not limited to vehicle(s) information including tag number(s), make of vehicle(s) and color of vehicle(s). Each Parker shall sign a parking agreement with Tenant regarding the use of the Access Card and the proper use of the Parking Floors. Tenant shall update this information upon any change related to the Parker(s) or their vehicle(s).

8.4.3. Tenant shall have operational control of Parking Floor 3 at all times (24/7/365) and shall retain all revenue received therefrom, except during the Grand Prix Race Event, set forth in Section 12 of this Lease ("Grand Prix"). City shall have operational control, set parking rates, and retain all parking revenue during the Grand Prix.

8.4.4. Tenant shall receive operational control of Parking Floor 4 between the hours of 6 AM and 6 PM each day, with the following exceptions: (i) Rowdies home games at Al Lang Stadium, and (ii) the Grand Prix (each, a "Parking Blackout Event"). City shall have operational control during the days of any Parking Blackout Events, shall set parking rates for those time periods, and shall retain all parking revenue received therefrom.

8.4.5. City shall have control of Parking Floor 4 each day after 6 PM until 6 AM the following day, shall set parking rates for those time periods, and retain all parking revenue received therefrom.
8.4.6. Any additional costs required to implement the Parking Operations Plan beyond the scope of such operations plan customarily extended to tenants of other parking facilities owned or managed by the City shall be at the Tenant's sole cost and expense.

8.5. Excess Parking. Tenant acknowledges that, to the extent it has excess parking available on Parking Floor 3 during any Parking Blackout Event, (except for the Grand Prix which is subject to Section 12 of this Lease) as determined by Tenant in its sole and absolute discretion, Tenant shall endeavor to extend control of such excess parking to City, but Tenant shall be entitled to all revenue generated therefrom, less applicable expenses incurred therefrom.

8.6. Monthly Parkers. To the extent Tenant determines, in its sole and absolute discretion, that it has excess parking available on Parking Floor 4, the Parties shall endeavor to develop a plan to accommodate monthly parkers and any revenue received therefrom shall be shared equally between the Parties. The City acknowledges the benefits of Tenant and its tenants being employment creators and will endeavor to extend additional monthly parking within Parking Floors 7 and 8 to accommodate additional Parkers on an as-needed basis.

8.7. Additional Parking. Tenant may request City Parking Floors 4 and/or 7 after 6 PM and before 6 AM for special event parking for Event Space events. The cost charged by City for such additional parking shall not exceed the current market rate for South Core Garage; except that no additional Parking Floor shall be available to Tenant on the days of any Parking Blackout Event. So as to not prohibit general public parking more than is necessary for the success of Tenant, utilization shall be measured each time parking is set aside so that the Parties can mutually agree to how much parking should be set aside for future Event Space events. The revenue received parking on City Parking Floors 4 and/or 7 for such Event Space events shall be shared equally between the City and Tenant.

9. TAXES.

9.1. Personal Property Taxes. Tenant shall be responsible for and shall pay before delinquency all municipal, county, state and federal taxes assessed during the Term, and the Renewal Term, if approved, against personal property of any kind owned by or placed in, upon or about Parking Floors 3 and 4 by the Tenant.

9.2. Real Property Taxes. Tenant shall pay directly to the taxing authorities, at its sole cost and expense, any real property taxes levied on Parking Floors 3 and 4 during the Term, and the Renewal Term, if approved. In the event Parking Floors 3 and 4 are assessed as part of a larger tax parcel, Tenant's tax obligation shall be pro-rated based upon the relative value of the various items included within the tax bill if such amounts can be determined with reasonable certainty from the Pinellas County Property Appraiser's records or, if not, pro-rated based upon square footage of Parking Floors 3 and 4 to the
total square footage upon which the taxes are levied. Taxes for any period, only a portion of which falls within the Term, shall be pro-rated.

9.3. **Property Owned by Governmental Unit.** The City Owned Floors are subject to Florida Statute 196.199, as it may be amended from time to time.

10. **ADDITIONAL RENT.** Tenant shall pay to the City all other amounts due to City pursuant to this Lease within fifteen (15) days after receipt of invoice from City. Additional Rent may include but is not limited to any cost or expense incurred by City related to this Lease that has been incurred as a result of an action by or on behalf of Tenant related to this Lease. ("Additional Rent").

11. **LATE FEE.** Any Rent installment or Additional Rent received more than five (5) days after the Due Date shall incur a late fee of One Hundred Twenty-Five Dollars ($125.00) to compensate City for the additional administrative expense and inconvenience occasioned thereby.

12. **GRAND PRIX.**

12.1. **Grand Prix Race Agreement.** This Lease is subject to current and future agreements with third parties for the conduct of "Race Events", in downtown St. Petersburg and defined in that certain September 16, 2004 agreement, as amended ("Grand Prix Race Agreement") and all rights (exclusive rights and other rights) and authority granted thereunder. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that (i) Parking Floors 3 and 4 and Tenant's business operations will be impacted by Race Events and other activities that will occur before, during and after Race Events (e.g., construction, set-up and tear down activities), (ii) a portion of Parking Floors 3 and 4 will be closed to the general public for certain periods of time in connection with Race Events (although ticket holders for Race Events may have access to Parking Floors 3 and 4) and (iii) Tenant shall not be entitled to any abatement or set off of any amounts owed the City for any impact to the Tenant's business operations related to any Race Event. In the event of a conflict or ambiguity between this Lease and any Grand Prix Race Agreement, the Grand Prix Race Agreement shall prevail. As used herein, the terms "Race Event," "Race Area" and "Race Period" shall have the meanings set forth in the Grand Prix Race Agreement. A copy of the Grand Prix Race Agreement is available in the City Clerk's office.

12.2. **Grand Prix Race Event.** In the absence of a written agreement between the Tenant and Race Event promoter which specifically provides otherwise, the Tenant shall comply with the following regulations pertaining to the Leased Parking Floors 3 and 4 during Race Events and such other regulations as may be imposed from time to time:

12.2.1. Temporary outdoor uses are prohibited.
12.2.2. All uses, including but not limited to retail and food uses, operating from
temporary or portable structures or vehicles such as semi-trailers, step vans,
recreational or other vehicles with or without cooking facilities, are prohibited.

12.2.3. Sale or distribution of food or any other item on or in Parking Floors 3 and 4, is
prohibited.

12.2.4. Temporary structures, including tents are prohibited.

12.2.5. Temporary signs, including signs on vehicles and buildings, visible from a street
right-of-way and/or the Race Area are prohibited. Any sign erected shall be a
permanent sign that has received all required permits.

12.2.6. Streamers, pennants, banners, and inflatables, located within Parking Floors 3 and
4, which are visible from any street right-of-way and/or the Race Area, are
prohibited.

13. PARKING SUSPENSION. In the event of a declared emergency or severe weather
conditions posing a significant and imminent threat to public safety as determined in the
City's sole discretion ("Emergency"), City reserves the absolute right to close the Parking
Floors and suspend all parking. Notwithstanding the foregoing, City may utilize Parking
Floors 3 and 4 at no cost during an Emergency to support response to the Emergency.

14. CONDITION OF PARKING FLOORS 3 AND 4. Tenant has inspected Parking Floors 3 and
4 and accepts Parking Floors 3 and 4 in an "as is" condition with all its faults. City has made
no representations, statements, or warranties, either expressed or implied, as to the condition
of Parking Floors 3 and 4, or as to its fitness for a particular use. The City and its respective
agents and employees shall not be responsible or liable at any time for:

14.1. Any defects, latent or otherwise, in/on Parking Floors 3 and 4, or

14.2. For any loss of life, or injury or damage to any person or to any property or business of
Tenant or those claiming by, through or under Tenant, caused by, or resulting from acts
of God or the elements, or resulting from any defect or negligence in the occupancy,
construction, operating or use of any buildings or improvements in Parking Floors 3 and
4, or any of the equipment, fixtures, machinery, appliances or apparatus therein.

15. CASUALTY. If Parking Floors 3 and 4 are damaged by any casualty so as to render Parking
Floors 3 and 4 unusable for the Permitted Use, this Lease may be terminated by the City or
Tenant. Any fee paid to the City in advance shall be prorated up to the date of the casualty
and refunded to Tenant.
16. **NOTICE TO PARKERS.** Tenant shall provide the following disclosure to all Parkers

"Applicable fees and charges are for parking spaces only. Neither the City of St. Petersburg nor its designee(s) assume any responsibility whatsoever for loss or damage of the vehicle or its contents, however caused. Vehicles should be locked and secured by the owner and valuables should not be left in or on the vehicle. You must abide by the rules and regulations set forth in the parking agreement as they may be amended or changed from time to time."

17. **INSURANCE.**

17.1. Commencing no later than the Commencement Date, and continuing for the duration of the Term, Tenant shall maintain insurance in accordance with this Section 17. All of the insurance required under this Section 17, shall be effected under enforceable policies issued by insurers licensed to do business in the State of Florida, recognized by the State Insurance Department and rated "A-" or better by a rating agency such as A.M. Best or its equivalent. Such policy or policies shall include products-completed operations and contractual liability coverage or endorsements and shall have the following minimum limits:

17.1.1. **Commercial General Liability.** Commercial General Liability Insurance Policy protecting the City against all claims or demands that may arise or be claimed on account of Tenant's use of Parking Floors 3 and 4 in an amount of at least $1,000,000 per occurrence $2,000,000 general aggregate, $1,000,000 for injuries to any one person, and $1,000,000 for damages to property. Commercial General Liability limits may be adjusted from time to time, in the City's sole discretion to reflect the then current, generally acceptable policy limits.

17.1.2. **Worker Compensation.** Worker Compensation Insurance in compliance with the laws of the State of Florida. Employers Liability coverage with minimum limits of $100,000 each accident, $100,000 each employee and $500,000 policy limit for disease.

17.1.3. **Personal Property.** Tenant shall be responsible for securing, at its own expense, whatever insurance coverage it may desire on its personal property.

17.2. All policies except Worker's Compensation and Personal Property policies, shall name the City as an additional insured, be in occurrence form, provide contractual liability covering the liability assumed in this Lease and shall not exclude any activity that would normally be associated with use of Parking Floors 3 and 4 without the prior written approval of the City, which may be granted or denied in the City's sole discretion. All policies shall provide that the policy shall not be subject to cancellation or material change which affects the City, except upon at least thirty (30) days prior written notice to the City at the address set forth in Section 51 of this Lease.

17.3. Tenant shall provide the City with duly executed certificates of all insurance required by this Lease, any endorsements, enhancements and exclusions, together with
satisfactory evidence of the payment of the premiums thereon prior to the Commencement Date and Tenant shall maintain current certificates of insurance on file with the City at all times during the Term. Not less than one (1) day prior to the expiration of the term of such policies, a certificate showing renewal of coverage shall be delivered to the City without demand. In the event that Tenant does not provide the City with a certificate showing renewal of coverage, Tenant shall simultaneously with the expiration of the term of such policy cease all use of Parking Floors 3 and 4, including any approved use by others, until Tenant has provided the City with a certificate showing renewal of coverage.

17.4. It shall be a material default of this Lease if Tenant fails to furnish certificates showing policies paid in full as provided in this Lease. The City may, after written notice to Tenant and failure of Tenant to provide the certificate within ten (10) days of such notice pursue one of the following remedies: (i) obtain the insurance the City deems necessary, and the premiums on that insurance shall be an additional fee to be paid by Tenant, or (ii) terminate this Lease.

17.5. The insurance coverages and limits are set in the City's sole discretion and are subject to change or revision as the need arises. The City may, in its sole discretion, change the required insurance coverage and limits from time to time. The City shall provide Tenant thirty (30) days' notice of any such changes. Failure of Tenant to comply with any changes within thirty (30) days of receipt of written notice from the City shall be considered a material default.

18. INDEMNITY AND DISCLAIMERS.

18.1. Tenant Indemnification. Tenant shall defend at its expense, pay on behalf of, hold harmless and indemnify the City, Association, their officers, employees, agents, invitees, contractors, elected and appointed officials (collectively, "Indemnified Parties") from and against any and all claims, demands liens, penalties, fines, fees, judgments, losses and damages (whether or not a lawsuit is filed) including, but not limited to, costs, expenses and attorneys' fees at trial and on appeal (collectively, "Claims") for bodily or personal injuries, including death at any time resulting there from, sustained by any person or persons, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:

18.1.1. Ownership: Occupancy or Use. Solely due to the ownership, occupancy or use of South Core by the Indemnified Parties,

18.1.2. Performance of this Lease. The performance by Tenant of its obligations in this Lease (including future changes and amendments thereto) by Tenant, its employees, agents and representatives.
18.1.3. **Compliance and Conformity.** The failure of the Parkers, Tenant, its employees, agents or representatives to comply and conform with any applicable law, statute, ordinance or regulation now or hereinafter in force that applies to Tenant's performance of its obligations hereunder; or

18.1.4. **Negligent, or Reckless, Act or Omission.** Any negligent or reckless act, or omission of the Parkers, Tenant, its employees, agents, or representatives.

18.2. **Insurance Obligations.** The provisions of Section 18 of this Lease are independent of, and shall not be limited by, any insurance obligations in this Lease, and shall survive the expiration or earlier termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination. The purchase of insurance coverage required by this Lease, or otherwise, shall not relieve Tenant of any duties set forth in Section 18 of this Lease.

18.3. **Disclaimers.**

18.3.1. **Tenant Installed Equipment.** The Indemnified Parties shall not be responsible or liable at any time for any damage or failure caused by any equipment, machinery, installed by Tenant or installed on behalf of Tenant, including but not limited to items set forth in the Assistance Agreement.

18.3.2. **Tenant Personal Property.** Tenant, its employees, agents or representatives, shall store personal property inside South Core at its own risk.

18.3.3. **Tenant Business or Property Damage.** The Indemnified Parties shall not be responsible or liable at any time for any damage to any personal property of Tenant, or its employees, agents or representatives unless such damage is due to the Indemnified Parties negligence or wrongful act.

18.3.4. **Acts or Omissions of Third Parties.** The Indemnified Parties shall not be responsible or liable to Tenant, its employees, agents, or representatives, for any damage to either person or property that may be occasioned by or through the acts or omissions of third parties.

18.3.5. **Property Defects.** The Indemnified Parties shall not be responsible or liable for any defect in South Core nor shall it be responsible or liable for any damage to any property of Tenant, its employees, agents, representatives or volunteers caused by or resulting from burst, broken or leaking pipes or by or from, steam or the running, backing up, seepage, or overflow of water or sewage in any part of South Core or for any damage caused by or resulting from acts of God or the elements, the failure of any public utility in supplying utilities to South Core or for any damage caused by or resulting from any defect or negligence in the occupancy, construction, operation or use of South Core by Tenant or any other person or by or from the acts of
negligence of any occupant of South Core. Tenant, its employees, agents, representatives or volunteers shall not be responsible or liable for any defect in South Core nor shall they be responsible or liable for any damage to any property the Indemnified Parties or any person caused by or resulting from burst, broken or leaking pipes or by or from, steam or the running, backing up, seepage, or overflow of water or sewage in any part of South Core or for any damage caused by or resulting from acts of God or the elements, the failure of any public utility in supplying utilities to South Core or for any damage caused by or resulting from any defect or negligence in the occupancy, construction, operation or use of South Core by any other person or by or from the acts of negligence of any occupant of South Core.

18.4. **Notice.** Tenant shall give prompt notice to City in case of fire, or accidents, or other casualties on or about Parking Floors 3 and 4.

19. **ENVIRONMENTAL COMPLIANCE.** As of the Commencement Date the City is unaware of any violation of any Environmental Laws (as defined hereunder) concerning Parking Floors 3 and 4. For purposes of this Lease, the following words and phrases shall have the following meaning except where the text clearly indicates a contrary intention:

19.1. "Environment" shall mean soil, surface waters, groundwater, land, stream and sediments, surface or subsurface strata, ambient air, interior and/or exterior of any building or improvement and any environmental medium.


19.3. "Hazardous Material(s)" shall mean without limitation (i) those substances included within the definitions of "Hazardous Substances", "Hazardous Materials", "Toxic
Substance", or "Solid Waste" in any Environmental Law; (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (iii) any materials, waste, or substance which is (A) petroleum, petroleum by-products, residuals and petroleum degradation by-products; (B) asbestos; (C) polychlorinated biphenyl's; (D) flammable explosives; or (E) radioactive materials; and (iv) such other substances, materials, and wastes which are or become regulated or controlled under any Environmental Law.

19.4. "Release(d)" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the Environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

19.5. Tenant shall not cause or permit any Hazardous Material to be used, stored, or generated on Parking Floors 3 and 4, except for materials of types and quantities relevant to its business and customarily used or found in its business. Tenant shall use and store materials in conformity with all Environmental Laws and other Laws, the National Fire Protection Association ("NFPA") Code, local fire codes and regulations as they may be amended from time to time.

19.6. Tenant shall not cause or permit the Release of any Hazardous Materials, contaminant, or pollutant in, on, or under Parking Floors 3 and 4 or into any ditch, conduit, stream, storm sewer, or sanitary sewer connected thereto or located thereon.

19.7. If any Hazardous Material is Released by Tenant or any other occupant of Parking Floors 3 and 4, or their employees, agents, representatives, invitees, guests, contractors or subcontractors on or about Parking Floors 3 and 4 in violation of the foregoing provisions, Tenant shall immediately, properly and in compliance with applicable Laws notify the proper authorities as required by applicable Laws, clean up and remove the Hazardous Material from Parking Floors 3 and 4 and any other affected property and clean or replace any affected personal property (whether or not owned by the City), at Tenant's expense (without limiting the City's other remedies therefor). Such cleanup and removal work shall be subject to the City's prior written approval (except in emergencies), and shall include, without limitation, any testing, investigation, preparation and implementation of any remedial action plan required by any court or governmental body having jurisdiction or required by the City. In the event the City elects in its sole and absolute discretion to have any testing, investigation and/or cleanup (including but not limited to preparation and implementation of a remedial action plan) performed by a City contractor (or contractors), Tenant shall assist the contractor(s) with such testing, investigation and/or cleanup as directed by the contractor(s) and the City and promptly pay the contractor(s) the total amount charged by the contractor(s) in connection with the testing, investigation and cleanup. If the City or any governmental
body arranges for any tests or studies showing that this Section has been violated, Tenant shall pay for the costs of such tests.

19.8. The City shall promptly notify Tenant of every demand, notice, summons, or other process received as to any Claim or legal proceeding that involves Tenant or Parking Floors 3 and 4.

19.9. Tenant shall promptly notify the City of every demand, notice, summons, or other process received as to any Claim or legal proceeding that involves the City or Parking Floors 3 and 4, including: (i) any investigation or cleanup demanded or threatened by any government or regulatory authority with respect to the release of Hazardous Materials in or upon Area or the migration thereof to other property; and (ii) any demands or Claims made or threatened by any party relating to any loss or injury resulting from any Hazardous Material in or upon Parking Floors 3 and 4. Tenant shall also notify the City of any violation of Environmental Law or incident that may or does result in an illegal release of Hazardous Materials.

19.10. Tenant shall allow authorized representatives of the City or state and federal environmental personnel, at a reasonable time, access to Parking Floors 3 and 4 for the following purposes:

19.10.1. Conducting an environmental audit or other inspections of Parking Floors 3 and 4.

19.10.2. Reviewing and copying of any records that must be kept under any environmental permit.

19.10.3. Viewing the facility, equipment, practices, or operations regulated or required under such permit.

19.10.4. Sampling or monitoring any substances or parameters at any location subject to any environmental permit or federal, state or municipal environmental law or regulation.

19.10.5. The City may terminate this Lease subject to the notice and cure provisions of Section 21.

19.11. The provisions of Section 19 of this Lease shall survive the expiration or earlier termination of this Lease.

19.12. Nothing in this Lease shall be interpreted as limiting the City's ability to seek contribution from any potentially responsible parties for the violation of any Environmental Laws.
20. **WAIVER OF SUBROGATION.** City and Tenant hereby waive any rights each may have against the other on account of any loss or damage incurred by City or Tenant, as the case may be, to their respective property, or Parking Floors 3 and 4 or its contents arising from any risk generally covered by fire and extended coverage insurance policies. The Parties each, on behalf of their respective insurance companies insuring the property of either City or Tenant against any such loss or damage, waive any right of subrogation that such companies may have against City or Tenant, as the case may be. Each party covenants with the other that, to the extent such insurance endorsement is available; it shall obtain for the benefit of the other, a waiver of any right of subrogation from their respective insurance companies, if such endorsement is requested.

21. **DEFAULT.** If City or Tenant fails to observe any of the covenants or obligations to be performed hereunder or to comply with any of the other provisions of this Lease, such act or omission shall constitute a material default under this Lease. In the event of a material default, the non-defaulting party shall give written notice to the defaulting party and such defaulting party thereafter fails to cure any such default involving the payment of money within fifteen (15) days after the date on which such notice was given, or if the default involves some act or omission other than the payment of money within thirty (30) days after the date on which such notice was given. The non-defaulting party shall not exercise the remedies set forth in this Lease, unless the cure thereof is not undertaken promptly within such period and thereafter expeditiously completed, then in any such event, the non-defaulting party shall have the right to exercise any remedies available to it at law or in equity.

22. **REMEDIES.** On the occurrence of any material default, the non-defaulting party may, at such time after the prescribed cure periods set forth in this Lease have expired, with or without additional notice or demand and without limiting the exercise of any right or remedy available to it at law or in equity:

22.1. **Termination.** Terminate this Lease, and cancel all Access Cards; or

22.2. **Remedies Not Limited.** Pursue any legal or equitable remedy now or hereafter available to the non-defaulting party, whether at law or in equity, including, but not limited to, specific performance and damages.

23. **CESSATION OF OPERATIONS.** Notwithstanding the provisions of Sections 21 and 22 of this Lease, the City may terminate this Lease upon written notice in the event that Tenant ceases to continuously operate the Museum for any consecutive ninety (90) day period, except that any cessation of Museum operations for its repair, renovation or reconstruction for which a building permit is in effect shall not apply towards the aforementioned ninety (90) day limitation.

24. **NO WAIVER.** No provision of this Lease will be deemed waived by either Party unless expressly waived in writing signed by the waiving Party. No waiver shall be implied by delay or any other act or omission of either Party. No waiver by either Party of any provision of this
Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and the City’s approval (Mayor Approval or City Council Approval) respecting any action by Tenant shall not constitute a waiver of the requirement for obtaining the City’s approval respecting any subsequent action.

25. ENTIRE AGREEMENT; MODIFICATION. This Lease constitutes the entire agreement between City and Tenant with respect to the subject matter hereof and no modification shall be valid, unless made by a supplemental written agreement executed and approved by the Parties.

26. APPLICABLE LAW AND VENUE. This Lease shall be governed by and interpreted in accordance with the laws of the State of Florida. Venue for any action brought in state courts shall be in Pinellas County, St. Petersburg Division. Venue for any action brought in Federal Court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. Each party waives any defense of improper or inconvenient venue as to either court and hereby consents to personal jurisdiction in either court.

27. BROKERAGE FEES/COMMISSIONS. City and Tenant warrant to each other that there is no broker or other individual entitled to any fee or commission because of this Lease. The Parties shall indemnify each other and hold each other harmless from any loss, damage, cost and expense, including reasonable attorney’s fees, which the Parties may sustain or incur because of any real estate commission or fee claimed to be due by, through or under the Parties.

28. RELATIONSHIP BETWEEN PARTIES. The relationship of the Parties are that of landlord and tenant. Nothing contained herein, either in the method of computing fees owing to City or otherwise, shall create between the Parties hereto, or be relied upon by others, as creating any other relationship, including but not limited to a partnership, association, or joint venture.

29. NON-DISCRIMINATION. Tenant shall not discriminate against anyone in the use of City Owned Floors on the basis of race, color, religion, gender, national origin, marital status, age, disability, sexual orientation, genetic information or other protected category.

30. RECORDABILITY. This Lease shall not be recorded in the public records of Pinellas County, Florida.

31. SEVERABILITY. Should any section or any part of any section of this Lease be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not render void, invalid or unenforceable any other section or any part of any section of this Lease.
32. NO ASSIGNMENT; NO SUBLEASE.

32.1. **Consent Required.** Tenant may not delegate performance nor assign this Lease or any of its rights under this Lease without City's prior written consent that shall be granted or withheld in the City's sole discretion. Any such purported delegation or assignment shall be null and void and shall constitute a material default of this Lease and cause for immediate termination. Any purported involuntary assignment of this Lease or assignment by operation of law, whether by bankruptcy or insolvency, merger (whether as the surviving or disappearing corporation), consolidation, dissolution, reorganization, transfer of the Tenant or controlling interest in the Tenant, or court order effectuating such assignment or any other method, shall be null and void and shall constitute a material default of this Lease and cause for immediate termination, unless such underlying transaction is approved by the City Council which approval shall be in the sole discretion of the City Council.

32.2. **Assumption and Release.** Upon a permitted assignment under this Section, the assignee shall assume all rights and obligations of Tenant under this Lease. Any assignee of Tenant shall deliver to City an assumption agreement in a form reasonably satisfactory to City within ten (10) days after approval by the City Council of such assignment. Notwithstanding anything to the contrary contained in this Lease, upon a permitted assignment of this Lease, the assigning Tenant's liability under this Lease shall not terminate.

32.3. **Sublease.** Tenant shall not have the right to sublease, assign or otherwise dispose of the Parking Floors 3 and 4 or this Lease or any part thereof, or of its right, title or interest therein or its power to execute this Lease or any amendment or modification thereto, to any person, company or corporation, without City Council's prior written consent which shall be granted or withheld in the City Council's sole discretion. Any purported sublease or other disposition that is not authorized by the City Council shall be void and shall be deemed a material default of this Lease and cause for immediate termination.

33. **CONSTRUCTION; HEADINGS.** This Lease has been prepared by City and reviewed by Tenant and its professional advisors. City and Tenant believe that this Lease expresses their agreement and that it should not be interpreted in favor of either City or Tenant or against City or Tenant merely because of their efforts in preparing it. The section headings, titles of subsections, and the index hereto are for convenience of reference only and in no way shall be used to define, limit or otherwise describe the scope or intent of any provisions hereof.

34. **DUE AUTHORITY.** Each party to this Lease represents and warrants to the other party that (i) it is a duly organized, validly existing entity, and in good standing under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this Lease to so execute the same and fully bind the party on whose behalf they are executing this Lease.
35. CITY AS A MUNICIPAL CORPORATION. Nothing contained herein shall be interpreted to require City to take any action or refrain from taking any action that would be adverse to its status as a municipal corporation.

36. DEFINED WORDS. Any word or phrase that appears in this Lease in parentheses or set off by quotation marks and capitalized shall have the meaning denoted by its context.

37. SINGULAR/PLURAL, GENDER. When the context permits, a word or phrase used in the singular means the plural and when used in any gender, its meaning also includes all genders.

38. CITY CONSENT AND ACTION.

38.1. Approval. For the purposes of this Lease, any required written consent, permission, approval or agreement ("Approval") by City means the Approval of the Mayor or his designee unless otherwise set forth herein and such Approval shall be in addition to any and all regulatory approvals for permits and/or other licenses required by law or this Lease.

38.2. Action. For the purposes of this Lease any right of City to take any action permitted, allowed or required by this Lease, may be exercised by the Mayor or his designee, unless otherwise set forth herein.

39. NON-APPROPRIATION. The obligation of City to fund any expenditures required by this Lease shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential City services have been budgeted and appropriated, sufficient monies for the funding of any expenditures that are due during that year. Notwithstanding the foregoing, City shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of City pursuant to this Lease.

40. PAYMENT AND PERFORMANCE BOND. For any construction work on City-owned property, Tenant shall require its general contractor to secure a payment and performance bond which shall name City as the obligee/owner in accordance with Section 255.05, or Chapter 713, Florida Statutes, as applicable, or successor laws. Notice is hereby given that no contractor, subcontractor or any other person who may furnish any material, service or labor for any building, improvement, alteration, repairs or any part thereof, or for the destruction or removal of any building or structure, shall at any time be or become entitled to any lien on or against South Core or Parking Floors 3 and 4 or other City-owned property.

41. FACSIMILE/ELECTRONIC. A facsimile (fax) or electronic copy (e-mail or pdf) of this Lease and any signatures thereon shall be considered for all purposes as originals.

42. COMPLIANCE WITH LAWS. Tenant shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, the federal and state constitutions, and orders and decrees of any lawful authorities having jurisdiction over the matter at issue (collectively,
“Laws”), with respect to Parking Floors 3 and 4 and the Tenant’s use of Parking Floors 3 and 4 including, but not limited to, the Florida public records law (i.e. Chapter 119, Florida Statutes).

43. **CONDO RULES AND REGULATIONS.** Tenant shall comply with all rules and regulations set forth in the Condo Docs and as may be promulgated by the Association in the future.

44. **AMERICANS WITH DISABILITIES ACT OF 1990.** Tenant assumes all responsibility including, but not limited to, financial, construction and physical modification costs, provision of auxiliary aids, services and legal costs, for ensuring compliance with all aspects of the Americans with Disabilities Act of 1990 (ADA) and any amendments thereto and regulations promulgated thereunder including, but not limited to Title II, Structural and Title III, Programmatic Accessibility Standards as well as any future additions.

45. **RETURN OF PARKING FLOORS 3 AND 4.** At the end of the Term or Renewal Term then in effect or upon earlier termination Tenant shall surrender and deliver Parking Floors 3 and 4 to the City in as good condition as it was on the Commencement Date, ordinary wear, decay and damage by the elements excepted. Tenant, at its sole expense, shall remove from Parking Floors 3 and 4 all advertising, trade fixtures, furnishings, personal property, and equipment (collectively “Personal Property”). Any damage to Parking Floors 3 and 4 caused by such removal must be repaired by Tenant at Tenant’s sole cost and expense. If any of the Personal Property is not removed within thirty (30) days of the end of the Term or Renewal Term then in effect or the early termination date, the City may at its option deem the Personal Property abandoned and take possession of it or City may effect such removal and/or restoration at Tenant’s expense. Tenant shall pay City such expense promptly upon receipt of an invoice therefor. All improvements, additions or changes made by Tenant at any time shall become the property of the City upon expiration of the Term, or any Renewal Term thereof, or early termination of this Lease.

46. **HOLD-OVER.** This Lease shall expire at the end of the Term, unless renewed as provided herein.

47. **REPLACEMENT PARKING FLOORS.** City is under no obligation to locate or provide replacement Parking Floors under any circumstances, including but not limited to, substantial damage to the existing Parking Floors 3 and 4 by fire, flood, hurricane, tornado, earthquake or other form of natural disaster, or termination of this Lease.

48. **TIME PERIODS.** Time periods herein shall include Saturdays, Sundays, and state and national legal holidays, and any time period provided for herein shall end at 5:00 p.m. Time is of the essence in this Lease.
49. CONDEMNATION.

49.1. Condemnation. If during the Term, or any Renewal Term then in effect, the whole of South Core or Parking Floors 3 and 4 are condemned or taken in any manner for public use, or if a portion of South Core or Parking Floors 3 and 4 (including access to South Core) are condemned or taken in any manner or degree to an extent that Parking Floors 3 and 4 are not suitable, as determined by Tenant in its reasonable discretion, for the Permitted Use, then in that event, Tenant or City may elect to terminate this Lease as of the date of the vesting of title in the condemning authority, and neither Tenant nor City shall have any further obligations or rights hereunder except for any obligations existing at the time of termination. As used in this Section 49.1, a condemnation or taking includes a deed given or transfer made in lieu thereof.

49.2. Award. City shall be entitled to that portion of the condemnation award attributable to City's interest in Parking Floors 3 and 4. Tenant shall be entitled to that portion of the condemnation award attributable to the loss of Tenant's leasehold in Parking Floors 3 and 4, Tenant's improvements and fixtures on Parking Floors 3 and 4, its business losses and its relocation costs.

50. FIRST RIGHT TO NEGOTIATE. In the event this Lease is terminated for any reason, Tenant shall, for a period of ninety (90) days from the date of such termination, have the first right to negotiate a new South Core Parking Lease with City.

51. NOTICES. Any demand, notice, or request permitted or required under the provisions of this Lease shall be in writing and shall be either hand-delivered or mailed by certified mail, return receipt requested, with all postage pre-paid, addressed to the party or Parties for whom it is intended as follows:

If to the City:
City of St. Petersburg, Florida
Real Estate & Property Management Department
Attention: Director
1 – Fourth Street North, St. Petersburg, Florida 33701
Telephone:  (727) 893.7500 / Facsimile: (727) 893.4134

Copy to
City of St. Petersburg
Transportation and Parking Management
Attention: Director
1 – Fourth Street North, St. Petersburg, Florida 33701

If to Tenant:
James RE, LLC
Attention: Thomas A. James
52. **FORCE MAJEURE.** Neither Party shall be liable to the other for any failure to perform under this Lease to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, extreme weather, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimated duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as reasonably possible.

SIGNATURE PAGES FOLLOW THIS PAGE
REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
IN WITNESS WHEREOF, the Parties to this Lease have caused this Lease to be executed by their duly authorized representatives as of the day and year first above written.

WITNESSES

Sign: James RE, LLC, a Florida limited liability company
Print: By: Thomas A. James, as its Manager

Sigh: Sharon Taylor
Print: Date

5/3/18
WITNESSES

Sign: __________________________________________
Print: _________________________________________

Sign: __________________________________________
Print: _________________________________________

REVIEWED

Bruce E. Grimes, Director
Real Estate and Property Management

REVIEWED

Evan Mory, Director
Transportation and Parking Management

APPROVED AS TO CONTENT:

__________________________________________
City Attorney (Designee)

By: ________________________________________
Assistant City Attorney

APPROVED AS TO FORM:

__________________________________________
City Attorney (Designee)

By: ________________________________________
Assistant City Attorney

THE CITY OF ST. PETERSBURG

By: ________________________________________
Rick Kriseman, as its Mayor

ATTEST

Chan Srinivasa, City Clerk

Date

Legal: 00267628.doc V. 17 Compare to V. 18
EXHIBIT “A” Lease Commencement Memorandum follows this page.
LEASE COMMENCEMENT MEMORANDUM

THIS LEASE COMMENCEMENT MEMORANDUM ("Memorandum"), is made and entered into this ___ day of __________, 2016, by and between the City of St. Petersburg, Florida, a municipal corporation, whose address is P.O. Box 2842, St. Petersburg, Florida 33731, ("City") and James RE, LLC, a Florida limited liability company, whose address is 880 Carillon Parkway, St. Petersburg, Florida 33716 ("Tenant"), (collectively, "Parties").

WITNESSETH

WHEREAS, the City and Tenant entered into a lease agreement dated ________________, 2016 ("Lease") pursuant to St. Petersburg City Council Resolution 2016-__; and

WHEREAS, the Lease shall commence on first (1st) day of the month after the issuance of a certificate of occupancy/completion for the Museum ("Commencement Date");

WHEREAS, the site plan was approved on ________________, 20___

NOW THEREFORE, the Parties agree that commencement of the Term of the Lease occurred on ________________, 20___ and each party to this Memorandum represents and warrants to the other party that (i) it is duly organized, qualified and existing entity under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this Memorandum to execute the same and fully bind the party on whose behalf they are executing.

SIGNATURE PAGES FOLLOW THIS PAGE

REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
IN WITNESS WHEREOF the Parties hereto have caused this document to be executed by their duly authorized representatives on the day and date first above written.

WITNESSES

Sign: ______________________
Print: ______________________

James RE, LLC, a Florida limited liability company

By: DRAFT

Thomas A. James, as its Manager

______________________________________
Date

v18 South Core Parking Lease 00267628.docx
WITNESSES

Sign:________________________
Print:______________________

Sign:________________________
Print:______________________

Reviewed by:

__________________________
Bruce Grimes, Director
Real Estate & Property Management

CITY OF ST. PETERSBURG, FLORIDA,
a Florida municipal corporation

By: DRAFT
Rick Kriseman, as Mayor

ATTEST

By:__________________________
Chandrahasa Srinivasa, City Clerk