NOTICE OF MEETING

A meeting of the Committee on Real Estate will be held beginning at 3:30 p.m. Tuesday, March 7, 2022, Conference Call: 1-929-205-6099; Access Code: 835 678 884. The agenda will be as follows:

AGENDA

Invocation – Councilmember Appel

Approval of Minutes:

February 22, 2022

a. An ordinance to authorize the Mayor to execute a deed and any other necessary documents, approved as to form by the Office of Corporation Counsel, Quit-claiming to Children’s Museum of Charleston the City of Charleston’s right, title and interest, if any, to that certain portion of property bearing TMS No. 460-16-02-010, and subject to certain exceptions and other matters to be approved by the Office of Corporation Counsel.

b. Request approval of an ordinance authorizing the Mayor to execute on behalf of the City the Lease Agreement between the City of Charleston and Lucier Enterprises, LLC. The monthly base rent is $3,816 ($36 per square foot), with a 3% annual increase. The tenant will also reimburse the City for property taxes, insurance, and CAM. The property is owned by the City of Charleston (401-B King St.)(Suite B in the Francis Marion parking garage retail complex)(TMS No. 460-16-04-008).

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.
AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE A DEED AND ANY OTHER NECESSARY DOCUMENTS, APPROVED AS TO FORM BY THE OFFICE OF CORPORATION COUNSEL, QUIT-CLAIMING TO CHILDREN'S MUSEUM OF CHARLESTON THE CITY OF CHARLESTON'S RIGHT, TITLE AND INTEREST, IF ANY, TO THAT CERTAIN PORTION OF PROPERTY BEARING TAX MAP NUMBER: 460-16-02-010, AND SUBJECT TO CERTAIN EXCEPTIONS AND OTHER MATTERS TO BE APPROVED BY THE OFFICE OF CORPORATION COUNSEL.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a deed and any other necessary documents quit-claiming to the Children's Museum of Charleston the City's right, title and interest, if any, to that certain portion of property bearing Tax Map Number 460-16-02-010.

Section 2. The form of the quit claim deed and other necessary documents referenced in Section 1 of this Ordinance shall be subject to the approval of the City's Office of Corporation Counsel. Upon the approval of the City's Office of Corporation Counsel of the form of such documents and any exceptions or other matters, the Mayor is authorized to execute such documents without further action of City Council.

Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this ___ day of _______ in the Year of Our Lord, 2022, in the ____ Year of the Independence of the United States of America.

By:

John J. Tecklenburg
Mayor

Attest:

Jennifer Cook
Clerk of Council
REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee
DATE: March 7, 2022

FROM: Leigh Balley
DEPT: BFRC

ADDRESS: 401-B King Street, Charleston, South Carolina (Suite B in the Francis Marion parking garage retail complex)

TMS: 460-16-04-008

PROPERTY OWNER: City of Charleston

ACTION REQUEST:
Request approval of an ordinance authorizing the Mayor to execute on behalf of the City the Lease Agreement between the City of Charleston and Lucier Enterprises, LLC.

ORDINANCE: Is an ordinance required? Yes [x] No [ ]

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

<table>
<thead>
<tr>
<th>Department Head</th>
<th>Signature</th>
<th>Attachments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Department</td>
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<tr>
<td>Chief Financial Officer</td>
<td>Signature</td>
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</tr>
<tr>
<td>Director Real Estate Management</td>
<td>Signature</td>
<td>Attachments</td>
</tr>
</tbody>
</table>

FUNDING: Was funding needed? Yes [ ] No [x]
If yes, was funding previously approved?* Yes [ ] No [ ]

*If approved, provide the following:
Dept/Div. _______ Acct: _______
Balance in Account _______ Amount needed for this item _______

NEED: Identify any critical time constraint(s).

*Commercial Property and Community & Housing Development have an additional form.
COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: March 7, 2022
FROM: Leigh Bailey DEPT: BFRC
ADDRESS: 401-B King Street, Charleston, South Carolina (Suite B in the Francis Marion parking garage retail complex)
TMS: 460-16-04-008

PROPERTY OWNER: City of Charleston
Request approval of an ordinance authorizing the Mayor to execute on behalf of the City the Lease Agreement between the City of Charleston and Lucier Enterprises, LLC.

ACTION REQUEST:

ORDINANCE: Is an ordinance required? Yes [X] No [ ]

ACTION: What action is being taken on the Property mentioned?

[ ] ACQUISITION
Seller (Property Owner) ________________________ Purchaser ________________________

[ ] DONATION/TRANSFER
Donated By: ____________________________________________________________

[ ] FORECLOSURE
Terms: ___________________________________________________________________

[ ] PURCHASE
Terms: ___________________________________________________________________

[ ] CONDEMNATION
Terms: ___________________________________________________________________

[ ] OTHER
Terms: ___________________________________________________________________

[ ] SALE
Seller (Property Owner) ________________________ Purchaser ________________________

[ ] NON-PROFIT ORG, please name ________________________
Terms: ___________________________________________________________________

[ ] OTHER
Terms: ___________________________________________________________________

[ ] EASEMENT
Grantor (Property Owner) ________________________ Grantee ________________________

[ ] PERMANENT
Terms: ___________________________________________________________________
COMMERCIAL REAL ESTATE FORM

☐ TEMPORARY
Terms:

☒ LEASE
Lessor: City of Charleston
Lessee: Lucier Enterprises, LLC

☐ INITIAL
City to lease suite B (approx. 1272 sq. ft.) to Lessee for a five year term, commencing March 2022. Monthly base rent is $3816.00, with a 3% annual increase. Tenant to also pay monthly Additional rent to reimburse the City for property taxes, insurance, and CAM expenses. Tenant has three options to renew the lease for additional five year periods so long as the Tenant is not in default of any terms of the lease. Tenant will have a one year option to also lease the open terrace area for an additional $1000.00 a month.

☐ RENEWAL
Terms:

☐ AMENDMENT
Terms:

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes ☐ No ☐ N/A ☒

Results:

______________________________
Signature: Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

______________________________

NEED: Identify any critical time constraint(s).
AN ORDINANCE

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY A LEASE AGREEMENT BETWEEN THE CITY OF CHARLESTON AND LUCIER ENTERPRISES, LLC.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a Lease Agreement between the City and Lucier Enterprises, LLC, as set forth in the Lease Agreement attached to this Ordinance as "Exhibit A" and incorporated herein by reference.

Section 2. This ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of _____ in the Year of Our Lord, 2022 and in the 246th Year of the Independence of the United States of America.

______________________________
John J. Tecklenburg, Mayor

ATTEST:

______________________________
Jennifer Cook
Clerk of Council
EXHIBIT A

(Attach Lease Agreement between the City and Lucier Enterprises, LLC)
STATE OF SOUTH CAROLINA   )       LEASE AGREEMENT
COUNTY OF CHARLESTON     )

THIS LEASE AGREEMENT (the “Lease” or “Agreement”), is dated __________, 2022 (the “Effective Date”), and is between CITY OF CHARLESTON, a South Carolina municipal corporation (the “City” or “Landlord”), and LUCIER ENTERPRISES, LLC, a South Carolina limited liability company (the “Tenant”).

WHEREAS, for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the City hereby permits the use to Tenant, and Tenant accepts, subject to the terms herein set forth, a portion of the commercial retail space of the Francis Marion parking garage retail complex, more fully described below and incorporated by reference herein, located at 401 King Street, in the City and County of Charleston, State of South Carolina (hereinafter referred to as the “Leased Premises”).

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties agree as follows:

1. **Scope and Use:** The City agrees to lease the Leased Premises to the Tenant for use as a cigar lounge and for no other purposes without the prior written consent of the Landlord. The Premises may not be used for sleeping quarters or apartments, for games of chance or any form of gambling, or any other illegal activity.

2. **Term:** The initial term of this Agreement shall be for a period of five (5) years, commencing on March 1, 2022, and terminating February 28, 2027.

3. **Option to Renew:** Tenant shall have the option to renew the Lease upon the same terms and conditions as set forth herein for three additional 5-year terms provided all rents and obligations are kept current and Tenant is not in default of the lease. Tenant may exercise this option by delivery of notice in writing to Landlord at least ninety (90) days prior to the end of the initial term of the Lease or any renewal term.

4. **Premises:** The City hereby leases to the Tenant and the Tenant hereby leases from the City the commercial retail space commonly known as suite B of the Francis Marion parking garage retail complex (approximately 1,272 square feet), located at 401 King Street, Charleston, South Carolina, being a portion of property owned by the City bearing TMS No. 460-16-04-008, and more particularly described in Schedule A attached hereto and incorporated by reference herein.

Except for those obligations of Landlord specifically provided for herein, Tenant hereby accepts the Premises in their condition existing as of the Lease
Commencement Date, subject to all applicable zoning, municipal, county and federal and state laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby and by any schedules attached thereto. Tenant acknowledges that the Landlord has not made, and is under no obligation to make, any representation or warranty as to the suitability of the Premises for the conduct of Tenant’s business or any disclosure concerning the condition of the building and/or the Premises, except for those representations and warranties specifically provided herein.

5. **Rental Payments:** (a) Beginning on the Commencement Date and continuing thereafter throughout the Term, Tenant hereby agrees to pay Rent due and payable under this Lease. As used in this Lease, the term “Rent” shall mean Base Rent (as defined in Paragraph 6 below), Additional Rent (as defined in Paragraph 7 below), and any other amounts that Tenant agrees to pay under the provisions of this Lease that are owed to Landlord. Base Rent and Additional Rent shall be payable in advance and without demand on the first day of each calendar month during the Term. If the Term commences on a day other than the first day of a month, or terminates on a day other than the last day of a month, the Base Rent and, for purposes of calculating Additional Rent, operating expenses for the first and last partial month shall be prorated based upon the actual number of days in such a month. Except as specifically set forth herein, Base Rent and Additional Rent shall be due and payable in all events, without any setoff or deduction whatsoever, unless expressly allowed hereunder. All payments of Rent shall be made in legal tender at the address provided in writing by the Landlord.

(b) No payment by Tenant or acceptance by Landlord of an amount less than the Rent herein stipulated shall be deemed a waiver of any additional amount due. No partial payment or endorsement on any check or any letter accompanying any payment of Rent shall be deemed an accord and satisfaction, but Landlord may accept such payment without prejudice to Landlord’s right to collect the balance of any Rent due under the terms of this Lease. All payments received by Landlord shall be applied by Landlord to Tenant’s account as Landlord shall reasonably determine, regardless of any notation that may be made on any check or any letter accompanying such payment.

6. **Base Rent:** Tenant shall pay to the Landlord, as rent throughout the Term, base monthly rental ("Base Rent") in the amount of Three Thousand Eight Hundred Sixteen and no/100 Dollars ($3,816.00), together with all other sums due and owing under this Lease ("Rent"), without deduction, set off, prior notice or demand. The rental rate shall have an annual increase of three percent (3%) as set forth below. Rental payments shall be due and payable, in advance, on or prior to the first day of each month during the term of this Lease.
<table>
<thead>
<tr>
<th>Lease Period</th>
<th>Annual Rent</th>
<th>Monthly Rent</th>
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<tbody>
<tr>
<td>Year 1</td>
<td>$45,792.00</td>
<td>$3,816.00</td>
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<tr>
<td>Year 2</td>
<td>$47,165.76</td>
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</tr>
<tr>
<td>Year 5</td>
<td>$51,539.16</td>
<td>$4,294.93</td>
</tr>
</tbody>
</table>

7. **Additional Rent:** Tenant shall reimburse the Landlord, as Additional Rent, the Tenant's proportionate share ("Premises Percentage") of the building operating expenses (hereafter defined) paid or incurred by the Landlord. The Tenant's Premises Percentage of the operating expenses shall be determined by multiplying the total of the operating expenses by the Tenant's Premises Percentage as set forth in the approximate square footage herein. All amounts payable by the Tenant under this Paragraph as operating expenses may be estimated and shall be paid in equal monthly installments in advance at the same time and place as provided herein for the payment of the Base Rent. Such payment shall initially be equal to one-twelfth (1/12th) of the total of the Landlord's reasonable estimate of the operating expenses for the calendar year, adjusted to reflect the Landlord's reasonable estimate of anticipated increases or decreases in the operating expenses.

Landlord shall provide, in writing, the monthly amount of Additional Rent due and payable from the Tenant for the first Term year at least ten (10) days prior to the Commencement Date of the Lease. During the remaining Term of this Lease, within one hundred twenty (120) days of the end of each calendar year, the Landlord shall determine the actual amount of the operating expenses for the immediately preceding year and furnish the Tenant with a copy of such calculation, including a calculation of the Tenant’s proportionate share. The Tenant shall be given a credit against the next operating expenses payment(s) due from the Tenant or, if the term of the Lease has expired, a refund. If the amount paid by the Tenant for that year is less than the Tenant's proportionate share of the operating expenses, the Tenant shall pay to the Landlord the deficit within thirty (30) days of receipt of the calculation. Appropriate adjustment shall be made for any period of less than one (1) full year.

The term “operating expenses” as used herein shall include all costs of operation and maintenance of the building as determined by standard accounting practices and shall include, but not be limited to, the following costs: real and personal property taxes, water and sewer charges, usage fees, insurance premiums, and utility services if applicable.

The failure of the Tenant to pay the Tenant's Premises Percentage of the operating expenses within the time provided in this Lease shall constitute a default under the terms hereof in like manner as the failure of the Tenant to pay the Base Rent when due.
8. **Option to Lease:** For and in consideration of the covenants and conditions herein contained, Landlord grants to the Tenant the exclusive right and option to lease the open terrace on the second level of the parking garage (approximately 1,960 square feet), on the following terms and conditions:

   (a) The Option shall be in effect for a period of one (1) year, commencing with the Commencement Date of this Agreement.

   (b) At any time during the Option period, the Tenant may exercise this Option by providing written notice to the Landlord to the address provided herein.

   (c) Tenant shall pay to the Landlord, in addition to all other sums due and owing under this Lease, a monthly Base Rent in the amount of One Thousand and no/100 Dollars ($1,000.00), without deduction, set off, prior notice or demand. The rental rate shall have an annual increase of three percent (3%). Rental payments shall be due and payable, in advance, on or prior to the first day of each month during the term of this Lease.

   (d) Tenant shall reimburse the Landlord, as Additional Rent, the Premises Percentage of the building operating expenses (as defined in Paragraph 7), if applicable.

   (e) All remaining terms and conditions of this Lease shall remain in effect and applicable to the lease of the open terrace should Tenant exercise this Option.

   (d) The Option is granted for the purpose of providing the Landlord and Tenant the appropriate time to determine whether the Tenant may renovate or make improvements to the open terrace that are suitable for Tenant’s business.

9. **Maintenance and Repair:** The City shall maintain (or cause to be maintained) in good condition and repair the structural portions of the Premises, including the foundation and roof. The Tenant shall maintain (or cause to be maintained) in good condition and repair the plumbing, heating, and air conditioning systems, and electrical and mechanical lines and equipment associated therewith. Except as otherwise expressly provided in this Lease, the City shall not be required to make (or cause to be made) any repairs or improvements to the Premises. Tenant shall be solely responsible for, and shall reimburse the City upon demand for, the costs of repairs, alterations or replacements which are required as a result of (i) Tenant’s actions in connection with the construction of any alterations made by Tenant, or (ii) the negligence of Tenant or the officers, shareholders, directors, agents, employees, contractors, and invitees of Tenant.

Except as provided in the terms herein, Tenant shall, at its own cost and expense, keep in good repair all portions of the Premises, except those for which the City is responsible under the terms of this Lease, including but not limited to interior
glass and windows, doors, interior walls and finish work, fixtures, floors and floor coverings, and supplemental or special heating and air conditioning systems, servicing the same exclusively, and shall take good care of the Premises and its fixtures and permit no waste, except normal wear and tear with due consideration for the purpose for which the Premises are leased.

10. **Tenant’s Renovations; Alterations:** (a) Tenant may renovate and/or alter the Premises with the prior written consent of the Landlord and under the terms and conditions contained herein (the “Tenant’s Renovations”). The Tenant’s Renovations shall be performed in compliance with the design, plans, and specifications approved by the City (“Upfit Plans”). The City’s approval must be in writing and obtained by the Tenant prior to the commencement of any renovation work. The City’s written approval shall not be unreasonably withheld. Tenant’s Renovations shall be built out by Tenant’s contractor in a good and workmanlike manner in conformity with all current laws, ordinances, codes and regulations, including without limitation the ADA, and by a contractor who is licensed in the State of South Carolina, bonded, and insured. Tenant shall be solely responsible for costs incurred in connection with the design and construction of the Tenant’s Renovations. Tenant agrees to coordinate all phases of design and construction of the Tenant’s Renovations with a designated City employee who will serve as the City’s Project Manager. The Tenant will coordinate with the City to minimize impacts on the City’s operations at the Francis Marion parking garage during construction of the Tenant’s Renovations.

(b) Any improvements constructed on the Premises, including the Tenant’s Renovations, shall remain upon the Premises at the termination of this Lease and shall, without compensation to Tenant, become the property of the City at the termination of this Lease.

(c) Nothing herein shall be construed so as to subject the Premises, or permit the Premises to be subjected to liens of any laborer, contractor, mechanic or materialman or to any other liens arising out of or connected with the development, construction or maintenance of any improvements, alterations or additions to existing improvements (except for statutory liens arising in the ordinary cause which are promptly discharged), unless City expressly consents to such liens in writing. Tenant shall indemnify and hold harmless City from and against any mechanic’s lien or other liens and any and all costs associated therewith, including reasonable attorney’s fees and costs. If requested by City, Tenant shall be required to “bond off”, within fifteen (15) business days, any filed mechanic’s lien in accordance with SC Code section 29-5-110, as amended.

11. **Assignment and Subletting:** Tenant may not assign or sublet the Premises without the prior written approval by the City Council for the City of Charleston. Consent to sublease or assign shall not constitute a waiver of this provision with respect to subsequent subleases.
12. **Insurance Required:** Tenant shall provide, at Tenant's sole expense the following insurance coverage:

   (a) **Liability.** A general liability Policy with limits of $1,000,000 per person/occurrence for bodily injury for injury or death of any one person, $100,000 for property damage to or loss of property of others, subject to an aggregate limit of $2,000,000 for all bodily injury and property damage or loss due to an insured risk.

   (b) **Worker's Compensation.** Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of South Carolina, including employer's liability insurance in the limits required by South Carolina.

   (c) **Property.** The City shall insure the Premises (not to include the Tenant's personal property) against casualty and fire in amounts reasonably determined to be appropriate by the City. The Tenant shall insure its personal property, including, but not limited to, equipment, trade fixtures and improvements.

   (d) **Insurance Policies.** Insurance required hereunder shall be issued by companies authorized to do business in the State and holding a “General Policyholders Rating” of not less than “A” as set forth in the most current issue of “Best Insurance Guide,” or any successor thereto (or if there be none, an organization having a national reputation). No policy carried by Tenant shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ prior written notice to Landlord. Not less than thirty (30) days prior to the expiration of such policies, Tenant shall furnish Landlord with renewals or “binders” thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant upon demand. Tenant shall not do or permit to be done anything which shall invalidate the insurance policies carried by Landlord. Executed copies of policies of insurance or certificates thereof shall be delivered to Landlord within thirty (30) days after the Commencement Date. All insurance obtained by Tenant shall be primary. All insurance obtained by Tenant shall name Landlord as an additional insured.

13. **Damage or Destruction Casualty:** If any of the structures on the Premises is damaged or destroyed by fire or other casualty in an amount that is less than 50% of its fair market value, the City, or at the City’s election the Tenant, shall commence restoration of the affected structures within one hundred eighty (180) days of the date of such damage or destruction and shall diligently pursue such restoration to completion and to a condition reasonably equivalent in design, quality, size and utility to the structure as it existed immediately prior to the damage or destruction. Insurance proceeds of any applicable party shall be made available to the party restoring the Premises. If any structure on the Premises is damaged or destroyed by fire or other casualty in an amount of 50% or more of its fair market value, City shall have the option of (1) terminating this Lease by giving written notice to Tenant, in which event the
Term of this Lease shall expire and Tenant shall immediately vacate the Premises; or (2) repairing, restoring, rebuilding, reconstructing or replacing the structure, or at its election having Tenant do so, such work to commence within one hundred eighty (180) days of the date of such damage or destruction and to continue until completion and to a condition reasonably equivalent in design, quality, size and utility to the structure as it existed immediately prior to the damage or destruction; provided however, City will repair and restore the affected structure if Tenant agrees to pay any costs of repair and restoration that exceed the amount of insurance proceeds available to the City or Tenant as a result of the damage, and provided further that Tenant provide City documentation of its ability to meet the financial obligations required to complete the repair and restoration. All repairs and restoration pursuant to this Section shall be constructed in a good and workmanlike manner in conformity with all current laws, ordinances, codes and regulations, including without limitation the ADA, and by a contractor who is licensed in the State of South Carolina, bonded, and insured.

14. **Indemnity:** Commencing on the Commencement Date, Tenant will indemnify and defend City and hold City harmless from and against all claims, actions, liens, demands, expenses and judgments for loss, damage, or injury to property or person occurring on or about the Premises or in any way related to the use or occupancy of the Premises by Tenant. If City, without fault on its part, is made a party to any litigation commenced by or against Tenant, Tenant agrees to defend and hold City harmless therefrom and to pay all costs, expenses and reasonable attorney fees incurred or paid by City in connection with such litigation.

Any construction contract, rental, service, or other agreement entered into by Tenant that requires the Tenant to be named as an additional insured or to be indemnified shall also require the City be named as an additional insured and/or indemnified, as applicable. The Tenant shall be responsible for ensuring these provisions are incorporated into the agreements.

15. **City's Inspections:** City, through its officers, employees, consultants and other authorized representatives, shall have free and unobstructed access to the Premises or any portion thereof at reasonable times and at reasonable intervals for purposes of reasonable inspections.

16. **Events of Default by Tenant:** Any one or more of the following events shall amount to an Event of Default or Default by Tenant under this Lease:

   (a) Failure by the Tenant to pay any item agreed to be paid at the time specified herein and continuing for a period of twenty (20) or more days therefrom.

   (b) Failure of Tenant to provide any certificate required hereunder within the time therein specified.
(c) Failure of the Tenant to observe and perform any covenant, condition or agreement in this Lease on the part of the Tenant to be observed or performed within thirty (30) days after written notice specifying such failure and requesting that it be cured given to the Tenant by the City, unless the City shall agree in writing to an extension of such time prior to its expiration, provided, however, if the failure is such that cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by Tenant within the applicable period and diligently pursued until the problem is corrected.

(d) The dissolution or liquidation of the Tenant or the filing by the Tenant of a voluntary petition in bankruptcy or failure by the Tenant promptly to lift any execution, garnishment or attachment of such consequence as will impair the ability of the Tenant to carry on its operations at the Premises, or the commission by the Tenant of any act of bankruptcy, or adjudication of the Tenant as a bankrupt, or assignment by the Tenant for the benefit of its creditors, or the entry by the Tenant into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Tenant in any proceeding for its reorganization instituted under the provision of the general Bankruptcy Act, as amended, or under any similar act in any domestic or foreign jurisdiction which may now be in effect or hereafter enacted.

(e) The occupancy of any portion of the Premises by an assignee, licensee, sublessee or other third party who is not approved by the City Council for the City of Charleston.

17. City's Remedies on Default: Whenever any Event of Default shall have happened and be subsisting, the City may at its option take any one or all of the following remedial steps:

(a) The City, without terminating this Lease, may (i) exclude and remove the Tenant and all persons and contents from the Premises by force, summary proceedings, or otherwise, without being liable to Tenant therefor, and Tenant hereby expressly waives the service of any notice in writing of intention of City to reenter or to institute legal proceedings to that end; (ii) reenter and take possession of the Premises.

(b) The City may take whatever action at law or in equity may appear necessary or desirable to collect any amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Tenant under this Lease.

(c) Terminate this Lease.

No action taken pursuant to this Paragraph shall require the City to return all or any portion of monies paid hereunder, all of which shall survive any such action, and
the City may take whatever action at law or in equity as may appear necessary and desirable to collect any other amounts then due and thereafter to become due and/or to enforce the performance and observance of any obligation, agreement or covenant of the Tenant hereunder.

18. **Tenant's Remedies on Default:** Whenever any Event of Default shall have happened and be subsisting, the Tenant may at its option take any one or all of the following remedial steps:

(a) The Tenant, without terminating this Lease, may continue to possess and operate the Premises and enforce, by law, equity or other legal means its rights under this Lease in the courts of the State of South Carolina.

(b) The Tenant may take whatever action at law or in equity may appear necessary or desirable to collect any amounts then due and thereafter to become due or otherwise to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease.

(c) The Tenant may terminate this Lease.

19. **Remedies Cumulative; Non-Waiver:** No remedy herein or otherwise conferred upon or reserved to City or Tenant shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity; and every power and remedy given by this Lease may be exercised from time to time as often as occasion may arise or as may be deemed expedient. No delay or omission of City to exercise any right or power arising from any default on the part of Tenant shall impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein. The acceptance of rent by City with knowledge of a default by Tenant hereunder shall not constitute a waiver of such default.

20. **Quiet Enjoyment:** If Tenant shall pay all Rent and perform and observe all of the other covenants and conditions to be performed and observed by it hereunder, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment of the Premises without interference from Landlord or any person lawfully claiming through Landlord.

21. **Estoppel Certificate:** Within ten (10) days after written request thereof by the City, Tenant shall deliver in recordable form a statement to City, certifying any facts that are then true with respect to this Lease, including without limitation (if such be the case), that this Lease is in full force and effect, that Tenant is in possession and that Tenant claims no defense or set-off to the due and full performance of its obligations under this Lease.
22. **Subordination and Attornment:** Tenant agrees that this Lease shall be subject and subordinate to any mortgages now or hereafter placed upon the Premises and to all modifications thereto, and to all present and future advances made with respect to any such mortgage or deed of trust provided the mortgagee named in said mortgage shall agree in writing to recognize and not disturb Tenant's possession of the Premises under the terms of this Lease in the event of foreclosure. Tenant agrees to attorn to the mortgagee under any such mortgage.

23. **Notices:** All notices provided for in this Lease shall be in writing and shall be deemed to be given when sent by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

   **If to the City:**
   
   City of Charleston
   Real Estate Management
   2 George Street, Suite 2600
   Charleston, SC 29401

   **With a copy to:**
   
   City of Charleston
   Office of Corporation Counsel
   50 Broad Street
   Charleston, SC 29401

   **If to Tenant:**
   
   __________________________
   __________________________
   __________________________

   **With a copy to:**
   
   __________________________
   __________________________
   __________________________

24. **Governing Law:** This Lease shall be construed and enforced in accordance with the laws of the State of South Carolina without regard to its choice of law principles. In the event of a dispute between the Parties to this Lease regarding or related to the terms and provisions contained herein, the Parties mutually agree that the sole venue for any such dispute shall be the State or Federal courts located in Charleston County, South Carolina.

25. **Successors:** This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, except as otherwise provided for in this Lease.
26. **Nature and Extent of Lease:** This Lease, including the exhibits attached hereto, contains the complete agreement between the parties regarding the terms and conditions of the Lease of the Premises, and there are no oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto which have not been incorporated herein. This Lease may be modified only by written instrument duly executed by both parties or their respective successors in interest.

27. **Litigation:** The prevailing party shall recover all reasonable attorneys’ fees and costs incurred by or on behalf of such prevailing party if (a) either party institutes litigation for a breach of the terms and conditions of this Lease, (b) either party institutes litigation for possession of the Premises, (c) either party is made party to litigation instituted by a third party relating to the Premises. Such attorneys’ fees and costs may be levied against the party whose conduct necessitated the use of an attorney whether or not litigation is prosecuted to judgment.

28. **Compliance with Laws:** At all times during the Term of this Lease, Tenant shall comply at its sole cost and expense with all current federal, state, county and City laws, ordinances, codes and regulations, and with any direction or recommendation of any public officer or officers pursuant to law, or any reasonable request of any insurance company carrying any insurance on the Premises, and any insurance inspection or rating bureau which shall impose any duty upon Landlord or Tenant with respect to the Premises or the Tenant’s use or occupation of the Premises, and shall bear all costs of any kind or nature whatsoever occasioned by or necessary for compliance with the same. If, during the Term of this Lease any present or future law, ordinance, code or regulation mandates that an alteration, repair, addition, or other change be made to all or any portion of the building or Premises, including, without limitation, any structural alterations to the building or Premises, such work shall be performed at Tenant’s expense.

29. **Non-Discrimination:** No covenant, agreement or other instrument shall be effected or executed by Tenant, or any of his successors or assigns, whereby the Premises or any portion thereof is restricted by Tenant, or any successor in interest, upon the basis of race, color, religion, age, sex, national origin, familial status, disability or sexual orientation in the use or occupancy thereof. Tenant shall comply with all applicable federal, state and local laws in effect from time to time which prohibit discrimination by reason of race, color, religion, age, sex, national origin, familial status, disability or sexual orientation in the operation and management of the Premises.

30. **Smoke or Odor of Tobacco on Premises:** Tenant agrees that at any time should the odor of tobacco and/or smoke disturb another Tenant of the building, as determined by the Landlord at its reasonable discretion, the Tenant shall remedy any such disturbance within a commercially reasonable time and shall make certain the odor and/or smoke are contained within the Tenant’s leased Premises and do not disturb another Tenant of the building. Landlord acknowledges the Tenant’s patrons smoke tobacco on the Premises and authorizes such tobacco use so long as Tenant
complies with all City, County, State, and Federal laws, regulations, and/or ordinances.

31. **Force Majeure:** A party shall not be liable for any failure of or delay in the performance of this Lease for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders, epidemics or pandemics, or any other force majeure event.

32. **Mutual Negotiation:** This Lease has been negotiated by Landlord and Tenant and this Lease, together with all of the terms and provisions hereof, shall not be deemed to have been prepared by either Landlord or Tenant, but by both equally.

33. **Severability:** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

34. **Headings:** The headings as to the contents of particular paragraphs herein are intended only for convenience and are in no way to be constructed as a part of this Lease or as a limitation of the scope of the particular paragraphs to which they refer.

35. **Counterparts:** This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective Hands and Seals on the day and year first hereinabove written.

**WITNESSES:**

**LANDLORD**

CITY OF CHARLESTON

By: ____________________________

Its: ____________________________

**TENANT**

LUCIER ENTERPRISES, LLC

By: ____________________________

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Exhibit A