

Downtown Development Project and Parking Agreement

This Parking Agreement (the "Agreement") made and entered into this _____ day of _____, 2017, by and between Downtown Slugger, LLC, a North Carolina limited liability company (hereinafter referred to as LLC) and the City of Greensboro (hereinafter referred to as City).

WITNESSETH

WHEREAS, the LLC desires to lease 265 parking spaces in a new City parking deck to be located at 415 Bellemeade Street in downtown Greensboro, North Carolina, at the regular market rates for assigned, reserved, or general parking in City parking facilities;

WHEREAS, the City desires to provide parking to the LLC as part of the Eugene Downtown Development Project which includes construction of a new City parking deck, a new office building owned and operated by LLC, and a future retail, office, hotel, and residential building located below and above the new City parking deck;

WHEREAS, the new City parking deck is anticipated to be completed on or before December 31, 2018.

NOW, THEREFORE, the parties agree to the following:

1. LLC agrees to invest at least \$17 million to construct a 75,000 ± square foot office building on a portion of the property owned by Greensboro Baseball LLC and more particularly described as Parcel #0001758 and addressed as 408 Bellemeade Street.
2. The City agrees to lease to LLC up to a maximum of 265 parking spaces as agreed to by the parties in the new City parking deck at the regular market rates in effect on January 1, 2019. The City agrees to assign fifty percent (50%) of available parking spaces, not to exceed 50 spaces, on the first level of the new City parking deck and to assign fifty percent (50%) of available parking spaces on the second level of the new City parking deck to LLC, up to a total of 100 assigned parking spaces. If 50 assigned parking spaces are not available on the first level, then the difference between those spaces assigned to LLC on the first level and 50 may be assigned on the second level provided that the total assigned spaces on the second level do not exceed fifty percent (50%) of available parking spaces. The remaining 165 parking spaces will be available as general, unreserved and unassigned, parking spaces. The future lease will continue in full force and effect for forty (40) years (the "Term"), provided that LLC invests at least \$100,000 in the new City parking deck improvements pursuant to § 4.125 of the City Charter (such investment to be applied to enhanced technology for ingress and egress), and unless sooner terminated under the provisions of this Agreement. During the term of the future lease, LLC, or its tenants as assigned by LLC, shall pay regular market rates for assigned, reserved, or general parking spaces, as those rates may be adjusted by the City from time to time.

3. If the new City parking deck is not available on January 1, 2019, then the City will provide up to a maximum of 265 parking spaces at one-half of regular market rates in other City parking facilities, including both parking decks and surface parking lots, as close to the LLC's building as practicable, until such time as the new City parking deck becomes available for public parking.
4. The following conditions and provisions are expressly understood and agreed by the LLC for monthly parking:
 - a) The LLC is responsible for having every LLC employee, tenant, or contractor (each an "Authorized Parker") that wishes to park in a City parking facility complete the attached Application for Monthly Parking Permit and return it to the City of Greensboro Parking Operations Office, signed and dated by the Authorized Parker. LLC shall send a monthly spreadsheet to the City of Greensboro Parking Operations Office, indicating every Lessee Authorized Parker that has been issued a proximity control card with the card number.
 - b) The total monthly payments are to be mailed or delivered on or before the 1st day of each month at the prevailing market rate for monthly space rental in the deck. If the prevailing monthly parking rate is increased during the term of the future lease, the LLC will be responsible for paying the increased rate or will have the option to terminate the future lease. Payments should be mailed to:

City of Greensboro
Collections Division
P.O. Box 3136
Greensboro, NC 27402-3136
 - c) The monthly payments are to be paid by LLC no later than the first day of each month in advance. The failure to make payments by the 10th of the month will result in forfeiture of monthly parking privileges.
 - d) Notwithstanding the foregoing, the LLC may delegate the obligations under this Section 4 directly to its tenants who will handle all parking matters for its employees or invitees directly with the City.
3. The City will not be responsible for loss by fire, theft, or damage to vehicles. Articles left in vehicles are at the Authorized Parker's risk. Notwithstanding the foregoing, the City will provide and regularly maintain adequate lighting and security cameras, for the safeguarding of the premises and the automobiles parked thereon.
4. Monthly parking provides for entry and exit of the parking lot at any time.
5. It is agreed that if any of the conditions and provisions herein are violated by LLC or any Authorized Parker, the City will give a notice to LLC of the violation, unless in cases of emergencies, where there is no time for prior notice. If the violation is

not corrected within a reasonable time, the vehicle in violation may be towed and/or the monthly parking privileges for that Authorized Parker may be terminated.

6. One proximity control card per space will be issued to LLC for its Authorized Parkers to enter and exit the lot under the agreed terms. A one-time proximity control card deposit equaling one half of the monthly parking rate is due and payable each time a proximity control card is issued to LLC. The card deposit is refundable at the time of cancellation if the LLC does not owe any money on its account. The control card will remain the property of the City of Greensboro, and may not be misused, loaned, sold or assigned and shall be returned to the Parking Attendant's Supervisor, located at the assigned Parking Deck, at the termination of this Agreement. The card deposit is half of the current rate and/or any future rate increases.
7. A non-refundable fee of \$5.00 per card shall be assessed for replacement of lost proximity control cards (the "Replacement Fee"). Replacement cards shall be requested from the Supervisor at the assigned Parking Deck and the Replacement Fee shall be payable upon receipt of the replacement card.
8. The LLC agrees that only one vehicle per card will be parked in the lot at any given time under this Agreement or the Lease Agreement.
9. A specific space will not be reserved for each monthly Authorized Parker within the reserved area. Monthly parking privileges are on a first come first serve basis.
10. This Agreement may be extended for an additional period by mutual agreement of the parties hereto provided that written notice is given no less than four weeks prior to the expiration of this Agreement. The parties agree to negotiate any extension in good faith.
11. This Agreement shall be governed by and construed in accordance with the law of the State of North Carolina.
12. There shall be no termination without cause of this Agreement or the future lease.
13. Any violation of the terms of this Agreement or the future lease by either party shall constitute a default and shall be grounds for termination. In the event of a default on any of the mutually agreed upon terms and conditions of this Agreement or the future lease that would result in termination of the Agreement or the future lease, the non-breaching party will provide thirty (30) days written notice to be delivered by hand or First Class mail to the breaching party. Provided, however, it shall no longer be considered a default if the breaching party promptly commences a cure of any non-monetary default and diligently pursues such cure to its conclusion and such default is cured within ninety (90) days.
14. All notices and other communications pursuant to this Agreement shall be in writing and shall be delivered by hand, email, or First Class mail as follows:

To the City:

Robin Davenport
Parking Operations Manager
P.O. Box 3136
Greensboro, NC 27402
Fax: (336) 412-3957
Email address: robin.davenport@greensboro-nc.gov

To the LLC:

Downtown Slugger, LLC
Attn: Robin Team
P.O. Box 1066
Lexington, NC 27292
Phone: 336-243-2600
Email address: rteam@cipnc.com

With a copy to:

Tuggle Duggins P.A.
Attn: Nathan Duggins
P.O. Box 2888
Greensboro, NC 27401
Email address: nduggins@tuggleduggins.com

15. Upon termination or expiration of this Agreement (i) LLC shall remain obligated to compensate the City for spaces to be leased hereunder through termination, and (ii) LLC shall be entitled to a refund of any unused prepaid fees through termination or expiration.
16. Neither party hereto shall assign this Agreement without prior written permission of the other party, which shall not be unreasonably withheld.
17. This Agreement, together with the attachments hereto, supersedes all previous oral and written agreements between City and LLC and contains the entire understanding to date of the Agreement between the parties with respect to the subject matter hereof. This Agreement is subject to approval by the Greensboro City Council. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. Any and all counterparts may be delivered by facsimile or e-mail. No amendment to this Agreement shall be effective unless evidenced in writing and signed in ink by both parties.
18. E-Verify. LLC certifies that it currently complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and that at all times during the term of this Contract, it will continue to comply with these requirements. LLC also certifies that it will require that all of its subcontractors that perform any work pursuant to this

Agreement to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Violation of this section shall be deemed a material breach of this Agreement.

19. Iran Divestment Act Certification. As of the date of this Agreement, LLC certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58 and that LLC will not utilize any subcontractor found on the State Treasurer's Final Divestment List. All individuals signing this Agreement on behalf of LLC certify that they are authorized by LLC to make this certification.
20. In the event the LLC or other parties desire to pursue valet parking, the City agrees to cooperate with such concept in the design of the entrance to the new City parking deck.

{The remainder of this page is left blank intentionally}

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

DOWNTOWN SLUGGER, LLC

Name: Robin A. Team, Jr.
Title: Manager

ATTEST:

CITY OF GREENSBORO

City Clerk

City Manager

Recommended by: _____
Director of Transportation

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Deputy Finance Director

Approved as to Form:

City Attorney