

INTRODUCED: February 22, 2016

AN ORDINANCE No. 2016-037

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Parking Lease between the City of Richmond, as Lessor, and 312 East Broad Street LP, as Lessee, for the purpose of leasing to 312 East Broad Street LP seven parking spaces in a portion of the City-owned parking facility located at 401 East Broad Street.

Patron – Mayor Jones

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAR 28 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Parking Lease between City of Richmond, as Lessor, and 312 East Broad Street LP, as Lessee, for the purpose of leasing to 312 East Broad Street LP seven parking spaces in a portion of the City-owned parking facility located at 401 East Broad Street. The Parking Lease shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. This ordinance shall be in force and effect upon adoption.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 28 2016 REJECTED: _____ STRICKEN: _____



~~FEB 10 2016~~
OFFICE OF CITY ATTORNEY

CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O & R REQUEST

FEB 3 2016
4-4619
Chief Administration Office
City of Richmond

O&R REQUEST

DATE: January 27, 2016 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor *[Signature]*

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *[Signature]*

THROUGH: John Buturla, Interim Deputy Chief Administrative Officer *[Signature]*

THROUGH: Lenora G. Reid, DCAO of Finance and Administration *[Signature]*

THROUGH: Jay Brown, Director, Budget & Strategic Planning *[Signature]*

FROM: Dr. Emmanuel O. Adediran, Director of Public Works *[Signature]*

FEB 08 2016

OFFICE OF CITY ATTORNEY

SUBJECT: TO AUTHORIZE THE CHIEF ADMINISTRATIVE OFFICER TO EXECUTE A PARKING LEASE AGREEMENT FOR 401 EAST BROAD STREET

ORD. OR RES. No. _____

PURPOSE: To authorize the Chief Administrative Officer (CAO) to execute a parking lease agreement, on behalf of the City, with 312 East Broad Street LP, in which the City will lease seven (7) parking spaces of a City-owned parking facility located at 401 East Broad Street for a term of three years with the option of two one-year renewals.

REASON: To enable the CAO to execute the parking lease agreement.

RECOMMENDATION: Approval is recommended by the City Administration.

BACKGROUND:

312 East Broad Street LP has owned the building at 312 East Broad St. since 2002 and has leased spaces at 401 E. Broad on a month to month basis since August 2004. In 2003, they

completely renovated 312 East Broad Street into two retail spaces of approximately 2500 SF each, plus 28 apartments, at a cost of \$4.3MM. Apartment units were available for rental in August of 2004.

312 East Broad Street LP lenders are requiring a longer lease controlling parking for zoning purposes, believing it leaves the project exposed to risk of losing zoning. The subject building is located in a B-4 zoning district which requires one (1) parking space for every four dwelling uses and no parking spaces for retail uses. Thus, the project requires seven (7) parking spaces to serve the twenty-eight (28) dwelling units.

312 East Broad Street LP is currently gutting one of the retail spaces and one of the apartments in the rear of the first floor for Walgreens Healthcare, at a cost of approximately \$130,000. Walgreens will invest approximately \$400,000 on fit up. They are one of the top tenants in the US in terms of credit and desirability. They will be a strong tenant and a great presence on Broad Street.

FISCAL IMPACT TO CITY/COST: No additional cost to the City.

FISCAL IMPLICATIONS: None

REVENUE TO THE CITY: Generate \$11,340 parking revenue annually.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: February 8, 2016

CITY COUNCIL PUBLIC HEARING: February 22, 2016

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance and Economic Development
(January 21, 2016)

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:

AFFECTED AGENCIES: Public Works

RELATIONSHIP TO EXISTING ORD. OR RES: None

REQUIRED CHANGES TO WORK PROGRAM (S): None

ATTACHMENTS: Zoning letter, Parking Lease Agreement

STAFF: Lynne Lancaster, DPW (646-6006)

Parking Lease

Section I Parties

This lease (the "*Lease*") is made between the *City of Richmond, Virginia*, a municipal corporation and political subdivision of the Commonwealth of Virginia as "*Lessor*," and 312 E. Broad Street LP, , a Limited Partnership, as "*Lessee*"

Lessor owns parking facility at 401 E. Broad Street, Richmond, Virginia (the "*Facility*"), and Lessee desires to lease seven (7) spaces in a portion of such facility, to use as available parking for itself, its agents, employees, and invitees together collectively referred to herein as its "*Invitees*."

Section II Leased Premises

Upon the terms, provisions and conditions set forth herein and each in consideration of the duties, covenants, and obligations of each of the parties hereunder, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor seven (7) parking spaces located in the Facility, more particularly as shown on Exhibit A (the "*Leased Spaces*").

Section III Term

This Lease shall commence at the beginning of _____, 2016 and expire at the end of _____, 2019 (the "*Term*"). This Lease shall be at will, and either party may terminate this Lease by giving thirty (30) days written notice to the other. Lessee shall have the option to renew the Lease for up to two one-year renewal terms (each a "*Renewal Term*") by giving notice to Lessor ninety (90) days prior to the end of the Term or the then-current Renewal Term. If notice is not given as provided herein, Lessee shall forfeit the renewal option.

**Section IV
Rent**

Monthly rent shall be payable by Lessee to Lessor in the amount of one hundred dollars (\$100.00) per parking space per month (the "Rent") at the first day of each month during the term of the lease without deduction or offset of any kind. . Any installment of the Rent accruing under the provisions of this Lease not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date when the Rent was payable under the terms of the Lease until the Rent is paid by the Lessee.

**Section V
Use of Leased Space**

The Leased Spaces shall be used solely as available parking Lessee and its Invitees (the "*Permitted Use*") and for no other purposes without Lessor's consent in its sole discretion. The Permitted Use shall not include any parking made available to the general public.

**Section VI
Possession**

So long as Lessee complies with all of its obligations under this Lease, Lessee shall have quiet and exclusive possession the Leased Premises, except that Lessor shall have the right to enter thereon for the inspection of the Leased Premises or for making whatever repairs to the Leased Premises or for whatever reason Lessor deems appropriate.

**Section VII
Prohibition Against Waste, Nuisance, Damage, or Unlawful Use**

Lessee and its Invitees shall not commit, or allow to be committed, any waste on the Leased Spaces, create or allow any nuisance to exist on the Leased Spaces, impede or interfere with Lessor's title, possession, or operation of the Leased Spaces or use or allow the Leased Spaces to be used for any unlawful purpose.

Lessee and its Invitees shall not damage the Leased Spaces and shall not allow the Leased Spaces to be damaged. If Lessee or its Invitees damage or allow the Leased Spaces to be damaged, Lessee shall be responsible and liable to the Lessor for the same.

Should Lessee fail to comply with operating provisions in this Lease, including the foregoing, and Lessor incurs costs, expense or charges in respect of same, Lessee agrees to be responsible for same.

This Section VI shall survive the termination or revocation of this Lease.

Section VIII
Operating Covenants of Lessee

- A. Lessee shall immediately notify Lessor of any damage caused to the Leased Spaces and provide Lessor any information in its possession indicating whether the damage was caused by Lessee, its Invitees or any other known or unknown party.
- B. Lessee shall be responsible for handling all matters pertaining to any Invitee, including questions, complaints, queries regarding status of the Leased Spaces, available parking, and the like.
- C. Lessee shall ensure that its Invitees abide by the laws of the City of Richmond, the Commonwealth of Virginia and the United States Government in its use of the Leased Space including, but not limited to, traffic laws and laws governing the use and parking of vehicles including buses and any, rules or regulations promulgated by the Virginia Department of Transportation and/or the Federal Department of Transportation.
- D. Should Lessee become aware or be notified that Invitees are parking illegally or otherwise utilizing parking on Lessor's property outside of the Leased Spaces, it shall contact the Lessor or its designated agent to remedy same. Upon the reasonable request of the Lessor, Lessee shall take all such reasonable steps within its control to control to prevent any such illegal parking.
- E. Upon request of Lessor, Lessee shall deliver to the requesting party any information in its possession related to the use of the Leased Spaces and any information related this Lease, including but not limited to any information related to its Invitees and any information related to payments of the Rent.

Section IX
Delivery, Acceptance, and Surrender of Leased Spaces

The Leased Spaces are hereby made available to and accepted by the Lessee in "AS IS" condition. Lessee agrees to surrender the Leased Space to Lessor at the end of the Lease term, if the Lease is not renewed, or upon revocation, in the same condition as when Lessee took possession at its sole cost and expense, allowing for reasonable use and wear, and damage by acts of God, including fire and storms. Lessee agrees to remove all signs or symbols placed on the Leased Space by Lessee at its sole cost and expense before redelivery of the Leased Space to Lessor, and to restore the portion of the Leased Space on which they were placed in the same condition as before their placement including the repair of any damages caused by said removal

at its sole cost and expense. This Section IX shall survive the termination or revocation of this Lease.

**Section X
Posting of Signs, Awnings, or Marquees by Lessee**

Lessee agrees that Lessee shall not construct or place, or permit to be constructed or placed, signs, symbols, displays, advertisements, decorations, awnings, marquees, or structures on the Leased Space unless approved by Lessor in its sole discretion. Any signs, symbols, displays, advertisements, decorations, awnings, marquees, or structures placed on the Leased Space shall comply with all federal, state and City laws rules and regulations governing the same, including but not limited to City zoning laws. Lessee agrees to remove all signs, symbols, displays, advertisements, decorations, awnings, marquees, or structures placed on the Leased Space by Lessee before redelivery of the Leased Space to Lessor whether as a result of revocation or termination, and to restore the portion of the Leased Space on which they were placed in the same condition as before their placement including the repair of any damages caused by said removal at its sole cost and expense. This Section IX shall survive the termination or revocation of this Lease.

Notwithstanding the above, Lessee is required by its variance from the Board of Zoning Appeals (2003) to display signs prominently on each space announcing "Exclusive Use by 312 East Broad Street", or reasonably equivalent wording. Lessor authorizes Lessee to display the required signs.

**Section XI
Insurance**

A. General Insurance Requirements

Lessee shall procure and maintain, at its own cost and expense, during the entire Term and for any other period it benefits under this Lease, the following types of insurance.

- (1) Commercial/Comprehensive General Liability -- Lessee shall provide a valid Certificate of Insurance listing the insurance coverage maintained. The liability insurance maintained by the Lessee shall include, at a minimum, the following coverage;

- Premises - Operations
- Contractual – This contract
- Broad Form Property Damage / Fire Legal Liability
- Personal Injury
- Independent Contractors

The minimum Limit of Liability shall be:

Bodily Injury (per person / occurrence)	\$2,000,000
Property Damage (per occurrence)	\$2,000,000

Or

Combined Single Limit per Occurrence	\$5,000,000
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If the insurance contract has a Limit of Liability Aggregate, the minimum Aggregate level shall be \$5,000,000 per policy year.

Lessee shall name the following as Additional Insureds:

Lessor and Standard Parking Corporation shall be included as an additional insured with respect to all activities under this Lease and shall provide a valid certificate of insurance to Lessor.

Lessee shall name the following as Additional Insureds:

Lessor and Standard Parking Corporation shall be included as additional insured with respect to all activities under this Lease and shall provide a valid certificate of insurance to Lessor.

B. Special Provisions of Insurance Furnished by Lessee

- (1) Lessee shall forward to Lessor for approval a certificate, or certificates, issued by the insurer(s), of the insurance required under the foregoing provisions, including special endorsements. Such certificate(s) shall be in a form satisfactory to Lessor and shall list the various coverage's and limits. Insurance companies providing the coverage must be acceptable to Lessor; rated by A.M. Best and carry at least an "A" rating. In addition to any provisions herein before required, a provision of such insurance policies shall be that the policies shall not be changed or canceled, and they will be automatically renewed upon expiration and continued in full force and effect during the term of this Lease, unless Lessor is given thirty (30) days written notice before any change or cancellation is made effective. Lessee shall promptly furnish Lessor with a certified copy of each insurance policy upon request.
- (2) All insurance shall be procured from insurance or indemnity companies acceptable to Lessor and Leased and authorized to do business in Commonwealth of Virginia. Lessor approval or failure to disapprove insurance furnished by the Lessee shall not release the Lessee of full responsibility for liability for damage and accidents.

- (3) If at any time the above required insurance policies should be canceled, terminated or modified so that the insurance is not in full-force and effect as required herein, Lessor may terminate this Lease for Default or obtain insurance coverage equal to that required herein, the full cost of which shall be charged to the Lessee and shall be reimbursed by Lessee to Lessor within thirty (30) days after written demand therefore.
- (4) Any contract of insurance or indemnification naming Lessor or any of their departments, agencies, administrators or authorities, as an insured, shall be endorsed to provide that the insurer will not contend in the event of any occurrence, accident, or claim that Lessor is not liable in tort by virtue of the fact of being governmental instrumentalities or public or quasi-public bodies.
- (5) Cancellation of insurance will automatically place the Lessee in default of this Lease. Lessee shall keep proper insurance in full force and effect at all times during the life of the contract. Certificates of Insurance shall be provided to Lessor within fourteen (14) days after Lease execution.

Section XII Indemnification

A. Indemnification

Lessee agrees to and shall indemnify, defend and hold harmless Lessor, its governing body members, directors, agents and employees from and against any and all claims, losses, damages, causes of action, suits, liens and liability of every kind, (including all expenses of litigation, expert witness fees, court costs and attorney's fees) by or to any person or entity (collectively the "*Liabilities*") arising out of, caused by, or resulting from acts or omissions of Lessee, its Invitees, its sub-lessees, their respective agents or anyone directly or indirectly employed by any of them in performing work or providing parking or other services under this Lease, and provided such claim is attributable to bodily injury, sickness, disease or death of any person, or injury to or destruction of property, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder, so long as such Liabilities are not caused by the gross negligence or willful misconduct of a party indemnified hereunder. Notwithstanding the foregoing, no party shall be entitled to indemnity to the extent of its own gross negligence. Such obligation shall not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

In claims against any person or entity indemnified under this section, by an employee or Lessee, sub-lessee or anyone directly or indirectly employed by any of them, the indemnification

obligation shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Lessee, sub-lessee under worker's compensation acts, disability benefit acts or other employee benefit acts. If any action at law or suit in equity is instituted by any third party against Lessee arising out of or resulting from the acts of Lessee in performing work or providing services or providing parking under this Lease, Lessee shall promptly notify Lessor of such suit.

If any action at law or suit in equity is instituted by any third party against Lessor arising out of or resulting from the acts of Lessee, a sub-lessee or their respective agents or anyone directly or indirectly employed by any of them in performing work or providing services or providing parking under this Lease, and if Lessee has failed to provide insurance coverage to Lessor against such action as required herein or otherwise refuses to defend such action, Lessor shall have the right to conduct and control, through counsel of its choosing, the defense of any third party claim, action or suit, and may compromise or settle the same, provided that Lessor shall give the Lessee advance notice of any proposed compromise or settlement. Lessor shall permit Lessee to participate in the defense of any such action or suit through counsel chosen by the Lessee, provided that the fees and expenses of such counsel shall be borne by Lessee. If Lessor permits Lessee to undertake, conduct and control the conduct and settlement of such action or suit, Lessee shall not consent to any settlement that does not include as an unconditional term thereof the giving of a complete release from liability with respect to such action or suit to Lessor. Lessee shall promptly reimburse Lessor for the full amount of any damages, including fees and expenses of counsel for Lessor, incurred in connection with any such action.

This Section XII shall survive the termination or revocation of this Lease.

B. Lessee's Liability, Release

Lessee shall be liable for all damages to persons, including its Invitees, or property of any type, arising out of any parking provided, work done or services rendered under this Lease, as a result of any negligent action or omission by Lessee, its sub-lessees, their respective agents or anyone directly employed by any of them or anyone for whose acts any of them may be liable and Lessee hereby releases Lessor from the same.

C. Subrogation

Lessee, its agents and its sub-lessees hereby waive and relinquish any right of subrogation or claim against Lessor, its governing body members, directors and employees arising out of the use of Lessor's premises (including any equipment) by any party in performance of this Lease.

Section XIII
Assignment or Sub-lease

Lessee agrees not to assign or sub-lease the Leased Spaces or any part thereof, or any right or privilege connected with it, or allow any other person, except Lessee's Invitees to occupy the Leased Spaces or any part of the Leased Spaces, without first obtaining Lessor's prior written consent, which may be withheld in its sole discretion. Any consent by Lessor shall not be consent to a subsequent assignment, sub-lease, or occupation by other persons. Lessee's unauthorized assignment, sub-lease, or lease to occupy shall be void, and shall terminate this Lease at Lessor's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of Lessee's interest, without Lessor's written consent.

Notwithstanding the above, Lessor agrees that Lessee may sublease its spaces to tenants in the building Lessee owns at 312 East Broad Street for their direct use, or for use by their customers.

Section XIV

Effect of Lessor's Waiver of Covenants

Lessor's waiver of breach of one covenant or condition of this Lease is not a waiver of breach of others, or of subsequent breach of the one waived.

Section XV

Lessor's Remedies on Default

If Lessee defaults in the payment of the Rent or amount payable hereunder, or defaults in the performance of any of the other covenants or conditions of this Lease, Lessor may terminate and revoke this Lease upon written notice given by Lessor. This shall in no way limit Lessor's right to terminate and revoke this Lease at will as set out in Section III.

Section XVI

Special Lessor Provisions

A. Agreement in Entirety

This Lease represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Lease may be amended only by written instrument signed by all parties.

B. Breach of Contract

If the Lessee shall fail, refuse or neglect to comply with the terms of this Lease, such failure shall be deemed a total breach of contract and the Lessee shall, in addition to all the Lessor's

rights set out herein, be subject to legal recourse by Lessor, plus costs resulting from failure to comply.

The duties and obligations imposed by this Lease and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Lessor shall constitute a waiver of any right or duty afforded under this Lease, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

C. Governing Law

This Lease shall be deemed to have been made in, and be construed in accordance with, the laws of the Commonwealth of Virginia. Any action of law, suit in equity, or other judicial proceeding to enforce or construe this Lease, respecting its alleged breach, shall be instituted only in the Circuit Court of Richmond, Virginia or the United States District Court for the Eastern District of Virginia, as applicable.

D. Non-Discrimination

- (1) Civil Rights. Lessee agrees to comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; 49 U.S.C. § 5332; and 49 C.F.R. Part 21, and any other implementing requirements which the United States Department of Transportation (USDOT) and/or the FTA have issued or may issue. These federal laws provide in part that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity included in or resulting from this Lease.
- (2) Americans With Disabilities Act (ADA). Lessee agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990(ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any other implementing requirements which the USDOT and/or the FTA have issued or may issue. These federal laws provide in part that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Lease.

E. Environmental and Hazardous Materials

Lessee shall not cause or permit the escape, disposal or release of any chemical, biologically active or other hazardous substances or materials. Lessee shall not allow the

storage or use of such substances or materials in any manner not sanctioned by law or in compliance with the prevailing standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into or unto the Leased Space any such materials or substances except to use in the ordinary course of activities permitted hereunder. Lessee covenants and agrees that the Leased Space will at all times during its use or occupancy thereof be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all environmental, state, federal, City and other governmental and regulatory authorities, agencies and bodies applicable to the Leased Space, and to the extent permitted by law, Lessee expressly agrees to the extent permitted by law to indemnify and save harmless Lessor from any and all loss, cost or expense, including reasonable attorneys' fees, occasioned by failure of Lessee or any Lessee Party so to comply.

Lessee shall comply with the applicable procedures of the Lessor in respect of firearms or any other instrument intended for use as a weapon, or any object capable of inflicting serious bodily injury upon another person or property (including but not limited to a firearm, knife, sword, or any instrument of any kind known as blackjack, billy club, club, sandbag and metal knuckles.)

F. Severability

If any clause or provision of this Lease is declared to be invalid by any court of competent jurisdiction, then and in that event, the remaining provisions hereof shall remain in force. In lieu of each clause or provision of this Lease that is illegal, invalid, or unenforceable, there shall be added as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

G. No Recordation

Lessee acknowledges and agrees that this Lease may not be recorded in any land records of any City or County without the prior written consent of Lessor.

H. Subordination

Without the necessity of any additional document being executed by Lessee for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to all applicable easements, underlying leases and to the lien of any mortgages or deed of trust now or hereafter placed on, against or affecting the Leased Space, Lessor's interest in the Leased Space or any underlying lease or easement.

Section XVII
Notices

Notices given to pursuant to the provisions of this Lease, or necessary to carry out its provisions, shall be in writing, and delivered personally to or mailed by certified or registered mail return receipt requested, or sent by nationally recognized commercial overnight delivery service to:

City of Richmond
900 East Broad Street City Hall, Room 102
Richmond, VA 23219
Attention: Lynne Lancaster, Parking Administrator

with a copy to:

City of Richmond
c/o City Attorney
900 East Broad Street City Hall, Room 300
Richmond, VA 23219
Work phone – 804-646-7940
Fax – 804-646-5743

312 East Broad Street LP
c/o Scott Boyers, Co-Managing Partner
P.O. Box 8493
Richmond, VA 23226

Section XVIII
Authority

Lessee hereby expressly agrees, guarantees and warranties that the signatory below is lawfully authorized to enter into this agreement on behalf Lessee.

IN WITNESS WHEREOF, each of Lessor and Lessee has caused this instrument to be executed on its behalf by officials duly authorized therefore.

312 E. Broad Street LP, as Lessee

By: _____

Printed name: _____

Title: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND _____,

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____ acting in his/her capacity as _____ of 312 East Broad Street LP on behalf of the agency.

Notary Public
My Commission Expires: _____
Registration Number: _____

CITY OF RICHMOND, as Lessor

As authorized by Ord. No. _____

By: _____

Printed name: Selena Cuffee-Glenn

Title: Chief Administrative Officer

Date: _____

Approved as to form:

Matthew A. Welch
Assistant City Attorney

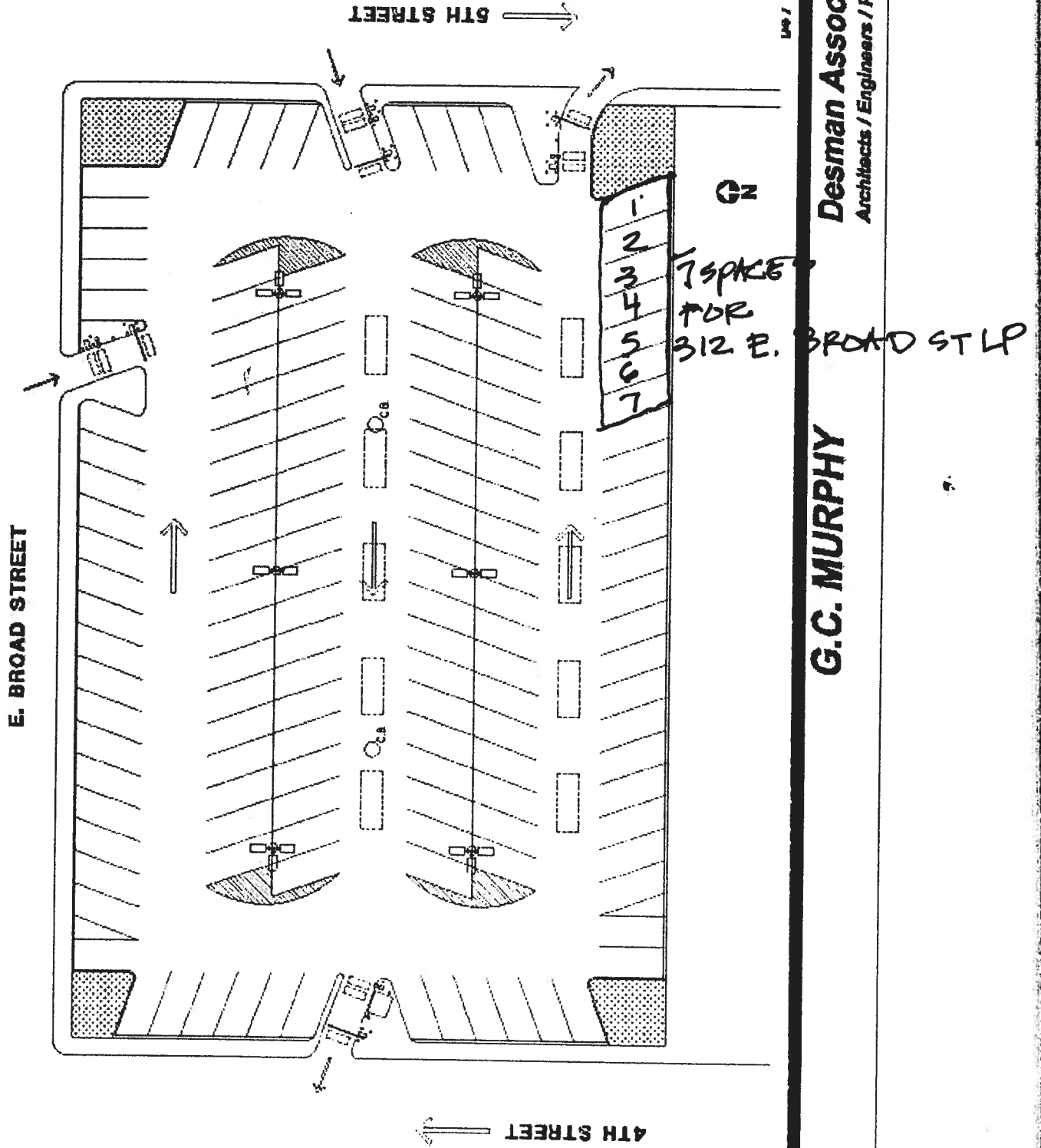
Approved as to terms:

Lynne Lancaster
Parking Administrator, Dept. of Public Works

INSERT EXHIBIT A –Leased Space

EXHIBIT A

SURFACE LOT PLAN, 5TH AND BROAD STREETS



10/19/2003

Desman Associates
Architects / Engineers / Planners

G.C. MURPHY



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

March 12, 2015

312 East Broad Street LP
P.O. Box 8493
Richmond, VA 23226

ATT: Mr. Scott Boyers

**RE: 312 East Broad Street
(Tax ID #N000-0026/020)**

Dear Mr. Boyers:

In response to your request for a Letter of Zoning Confirmation, please be advised of the following:

- **ZONING:** The above referenced property is zoned B-4 Central Business District. The B-4 district requires that the first floor of a building fronting a designated principal street must provide commercial space along the entire street front of the first floor. The subject property is located fronting such a designated principal street, East Broad Street, where a building containing dwelling units must provide a minimum of one-third of the first floor area, or 1,000 square feet, whichever is greater, with commercial space for that portion of the building located adjacent to the frontage street. Dwelling units may occupy the first floor to the rear of the required commercial space and on the upper floors of a building.

The building presently occupying the subject property meets the requirements of the Zoning Ordinance regarding the provision of commercial space on the frontage street and the location of dwelling units. The applicant proposes to increase the existing 2,455 square feet of retail space located on East Broad Street by 1,130 square feet by eliminating a dwelling unit located at the rear of the building. The proposed expansion meets the requirements of the Zoning Ordinance.

- **PARKING AND BOARD OF ZONING APPEALS (CASE #137-03, see attachment):** The subject building was reconfigured in 2003 to include 4,770 square feet of retail space on the first floor with twenty-eight (28) dwelling units occupying the remainder of the building. The B-4 district requires one (1) parking space for every four (4) dwelling uses and no parking spaces for retail uses. Thus, the project required seven (7) parking spaces to serve the twenty-eight (28) dwelling units proposed. The granting of a variance by the Board of Zoning Appeals was necessary because the applicant could not obtain a parking lease for off-street parking within a 500 foot radius of the principal entrance to the building as required by the Zoning Ordinance. On October 1, 2003, the Board of Zoning Appeals granted a variance from the district parking requirements which allowed the off-street parking to be lease at a parking facility within a 1,007 foot radius of the principal entrance to the building, (see attachment). The leased space, approved by the City Attorney's Office for the required seven (7) parking spaces, is located at 500 East Marshall Street.

- **LANDSCAPING:** No landscaping is required for this project in the B-4 district.
- **CERTIFICATE OF OCCUPANCY:** A Certificate of Occupancy was issued to the owner, 312 East Broad Street LP, on October 29, 2004, (see attachment).
- **NON-CONFORMING ISSUES:** There are no non-conforming issues affecting the subject property.
- **PENDING APPLICATIONS:** To the best of our knowledge, there are no pending applications for, or proceedings regarding any rezoning, variance, special use permit, or conditional use permit. There are no special use permits nor conditional use permits currently associated with this property. No rezoning has been applied for nor is any rezoning of the property contemplated by the City of Richmond at this time.
- **NO VIOLATIONS:** As of the date of this letter, City records do not indicate any existing violations or alleged violations of any zoning regulations applicable to the subject properties or their improvements.
- This office does not issue opinions with respect to compliance with building codes, fire code or other health and safety regulations that may pertain to this property. For building code questions, contact Ray Abbasi, Operations Manager, at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-2500.
- If you need additional information, please contact Don Embrey at 804-646-4088 or by Email at: Donald.Embrey@richmondgov.com.

Sincerely,



William C. Davidson
Zoning Administrator

XC: Lory Markham, Planner III, P&DR



CITY OF RICHMOND, VIRGINIA
 DEPARTMENT OF COMMUNITY DEVELOPMENT
 BUREAU OF PERMITS AND INSPECTION
 900 E. BROAD STREET, ROOM 110
 RICHMOND, VA 23219
 OFFICE: (804) 646-6955
 AUTOMATED INSPECTION: (804) 646-0770

INSP: JONES, ANTHONY CALL (804) 646-5484
 MAP-REF-NO N000-0026/020

TYPE		BP NUMBER	
CERTIFICATE OF OCCUPANCY		B03032402	
STRUCTURE LOCATION			
312 E BROAD ST			
FLS OCCUPIED	PERMIT FEE	DATE ISSUED	
	\$16,205.72	10/29/2004	
TYPE OF CONSTRUCTION		USE GROUP	ZONING
		R2B	B4
OWNER OF PROPERTY		APPLICANT	OCCUPANT' LO
		41600	65
312 EAST BROAD STREET LP PO BOX 8493 RICHMOND VA 23226 WK: (804) 775-0024 HM:		MIKE MILLER 1720 EAST CARY STREET RICHMOND VA 23223 PH# (757) 404-7247	
PARKING: ONSITE	OFFSITE	LEASE REQUIRED	SUP # VARIANCE #
0	7	Y	137-03

SPECIAL TERMS AND CONDITIONS

PURPOSE: ALTER. - HEAVY REMODELINGMULTI-FAMILY

- BUILDING CHANGE OF USE TO BUSINESS & APARTMENTS (28 UNITS) PER ATTACHED ARCHITECT'S PLANS, LETTER AND CODE MODIFICATION
- ZONING MIXED USE(4770SF OFFICE/RETAIL& 28 DWELLING UNITS) 7 PARKING SPACES REQUIRED, PARKING LEASE MUST BE SUBMITTED & APPROVED PRIOR TO C.O., BZA 137-03 GRANTED FOR RADIUS & IDENTIFICATION REQUIREMENTS
- WORKS L&G: BK #80, APP #576. WISP #562-03 (BARRICADE/DUMPSTER). ADMINISTRATIVE ENCROACHMENT #627.
- UTILITIES 6" & 16" WATER MAINS FRONT 4" & 28" GAS MAINS AVAILABLE FRONT LOW PRESSURE BACKFLOW PREVENTION IS REQUIRED

Re print

COMMISSIONER OF BUILDINGS
[Signature]

LSO SEE GENERAL TERMS AND CONDITIONS ON BACK

CONTRACTOR'S COPY (POST ON JOB SITE)

affirmative: Cox, Williams, Siff, Parks

negative: none

CASE NO. 137-03

APPLICANT: 312 East Broad Street LP

PREMISES: 312 EAST BROAD STREET
(Tax Parcel Number N000-0026/020)

SUBJECT: A building permit to convert a vacant building into retail (1st floor)
with twenty-eight (28) dwelling units (1st – 4th floors)

DISAPPROVED by the Zoning Administrator on August 29, 2003, based on Sections 32-300, 32-710.1(4)(c), 32-710.4(1) and 32-710.4(5) of the zoning ordinance for the reason that: In a B-4 Central Business District, the required seven (7) off-street parking spaces are not provided as the proposed off-premises spaces do not meet the minimum radius and identification requirements. Required off-premises spaces must be provided within a five hundred-foot (500') radius of a principal entrance to the building: a one thousand seven-foot (1,007') ±radius is proposed. Required off-premises parking shall be provided with identification indicating the use for which they are required; none is proposed.

APPLICATION was filed with the Board on August 29, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Scott Boyers

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 312 East Broad Street LP, has requested a variance to convert a vacant building into retail (first floor) with 28 dwelling units at 312 East Broad Street. Mr. Scott Boyers, representing 312 East Broad Street LP, testified that he had received a parking variance from the Board in August of 2002. Mr. Boyers explained that he had never received a letter from the Board's Secretary advising him that the variance was null and void after the expiration of one year. Mr. Boyers stated that his firm was renovating the former Sears Building. Mr. Boyers explained that the previous parking variance had been approved for

utilization of the parking deck at the corner of East Marshall Street and North 5th Street. Mr. Boyers advised the Board that the Broad Street Community Development Authority was in the process of developing a 126-car surface parking lot on the south side of Broad Street between 4th and 5th Streets. Mr. Boyers further explained that the anticipated date for completion of the surface lot was June 1, 2004. Mr. Boyers indicated that he could not be certain when the Broad Street lot would be completed and needed the flexibility to be able to utilize the Marshall Street deck in order to accommodate his project and be able to receive certificates of occupancy.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the potential inability of securing parking within the distance required by the ordinance; whereby strict application of the off-street requirements unreasonably restricts its use, and the granting of a variance in this case will be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a parking variance to the radius and identification requirements be granted to 312 East Broad Street LP for a building permit to convert a vacant building into retail (1st floor) with twenty-eight (28) dwelling units (1st – 4th floors) as proposed at the subject premises, subject to the condition that at the time of occupancy of the building the subject parking must be provided at the closest available location within a one thousand seven (1,007) foot radius from the principal entrance to the building.

ACTION OF THE BOARD: Granted Conditionally (4-0)

Vote to Grant Conditionally

affirmative: Cox, Williams, Siff, parks

negative: none

Upon motion made by Ms. Cox and seconded by Mr. Parks, the Board members voted (3-0) to approve the minutes of the September 3, 2003 meeting as distributed. Mr. Siff abstained for the reason that he was not in attendance at the September 3, 2003 meeting.

Upon motion made by Mr. Siff and seconded by Mr. Parks, the Board members voted (3-0) to approve the minutes of the September 10, 2003 meeting as distributed. Ms. Cox abstained for the reason that she was not in attendance at the September 10, 2003 meeting.