

## LEASE AGREEMENT

THIS LEASE AGREEMENT entered into this \_\_\_\_ day of January, 2007, between **Fourth & Fourth Associates, Inc., a Florida corporation**, (LESSOR), whose mailing address is 365 5<sup>th</sup> Avenue South – Suite 201, Naples, FL 34102, and the **City of Naples, A Florida Municipal Corporation**, (LESSEE) whose mailing address is 735 8<sup>th</sup> Street South, Naples, Florida 34102, WITNESS:

In consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the parties agree as follows:

### ARTICLE I. Lease/Demised Premises

LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR the non-exclusive use of LESSOR'S property located at the southeast corner of 4<sup>th</sup> Avenue South and 4<sup>th</sup> Street South and comprising tax parcels 14026920008, 14026880009, and 14026840007 (the PREMISES) for municipal parking purposes as provided below.

### ARTICLE 2. Term of Lease

The Lease shall be for a term from 12:01 a.m. on January 18, 2007 through 11:59 p.m. May 31, 2007 (the "Lease Term"). LESSEE'S right of use of the PREMISES during the Lease Term shall be limited to the following days and hours:

A. Mondays through Fridays, inclusive, LESSEE shall be entitled to non-exclusive use of the PREMISES from 5:00 P.M. through 2:00 AM; provided, however, that LESSOR'S tenants within the commercial buildings located at 365 and 405, Fifth Avenue South, Naples, Florida, and their respective employees, guests, agents, and invitees, shall also have the right to use the PREMISES for parking purposes during such times; and

B Saturdays and Sundays, LESSEE shall be entitled to non-exclusive use of the PREMISES from 6:00 AM through 2:00 AM; provided, however, that LESSOR'S tenants within the commercial buildings located at 365 and 405, Fifth Avenue South, Naples, Florida, and their respective employees, guests, agents, and invitees, shall also have the right to use the PREMISES for parking purposes during such times.

### ARTICLE 3. Rent

LESSEE hereby agrees to pay as rent for the PREMISES, payable in advance in monthly installments, \$3,333.33, with the first installment due and payable upon the complete execution of this Lease by the parties, in the prorated January amount of \$1505.37, and each subsequent installment due and payable on or before the Fifth (5<sup>th</sup>) day of each month thereafter during the Lease Term.

### ARTICLE 4. Default

Failure of LESSEE to comply with any provision of this Lease shall constitute a default, and LESSOR may, at its option, terminate this Lease after written notice to LESSEE and 30 day opportunity to cure such default, unless the default is cured within the notice period.

Failure of LESSOR to comply with any provision or covenant of this Lease shall constitute a default, and LESSEE may, at its option, terminate this Lease after written notice to LESSOR and 30 day opportunity to cure such default, unless the default is cured within the notice period.

### ARTICLE 5. Insurance/Control of Premises

LESSEE shall provide a Certificate of Insurance evidencing commercial general liability insurance. Said insurance may be in the form of a purchased policy of insurance or self insurance or combination thereof. The insurance must be maintained during the course of this Agreement and for the periods of LESSEE'S possession of the PREMISES as set forth in Article 2, above. Liability is subject to the limitations of Florida Statutes 768.28. Lessee shall also maintain Worker's Compensation coverage as required by law.

LESSEE shall be deemed to be in exclusive care, custody and control of the PREMISES during the periods of LESSEE'S possession thereof as set forth in Article 2, above, and shall be solely liable for loss, including any applicable expenses and attorney's fees arising out of the use or occupation of the PREMISES during such periods except as may be attributable to negligence or wrongdoing of LESSOR.

### ARTICLE 6. LESSOR Right to Terminate

In the event parking requirements under the Naples Code of Ordinances for LESSOR's Colony Court and Regency Row commercial and retail buildings located at 365 and 405, respectively, Fifth Avenue South are asserted not to be met by virtue of the existence of this Lease, LESSOR shall be entitled to immediately terminate this Lease.

## ARTICLE 7. Subleases and Assignments; Improvements; Employees

This Lease shall not be assigned in whole or in part by LESSEE, nor shall the PREMISES nor any part thereof be sublet, nor shall any rights or privileges granted to LESSEE hereunder be sold, transferred, or assigned, without the prior written consent of LESSOR, and any such sale, transfer, or assignment shall be void and terminate this Lease at the option of LESSOR. Nor shall LESSEE construct any improvements upon the PREMISES without the prior written consent of LESSOR. LESSEE shall have no authority to employ any person, entity, or agent for or on behalf of LESSOR with respect to any activities carried out on the PREMISES by LESSEE under this Lease, and in no event shall any person or entity performing any duties or engaging in any work at the request or direction of LESSEE upon the PREMISES be deemed to be an employee or agent of LESSOR.

## ARTICLE 8. Notices

Any notice which LESSOR or LESSEE may be required to give to the other party shall be in writing to the other party at the addresses listed above. The notice to LESSEE shall be to the attention of the City Manager.

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FOLLOW

IN WITNESS WHEREOF, the parties have hereunder set forth their hands and seals as of the date first written above.

**WITNESSES:**

**AS TO LESSOR:**

**Fourth & Fourth Associates, LLC, a  
Florida limited liability company**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
WITNESS

Title: \_\_\_\_\_

**WITNESSES:**

**AS TO LESSEE:**

**City of Naples, A Florida Municipal  
Corporation**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_

Dr. Robert E. Lee, City Manager

\_\_\_\_\_  
WITNESS

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Robert D. Pritt, Naples City Attorney