

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2811

AN ORDINANCE TO AUTHORIZE A LEASE AGREEMENT BETWEEN THE CITY OF COLUMBIA, ILLINOIS AND JOHN E. WHITE DDS & STEPHEN J. RANEY DMD, PC, AN ILLINOIS CORPORATION, FOR THE LEASE OF IMPROVED REAL PROPERTY LOCATED AT 130 SOUTH RAPP AVENUE IN THE CITY OF COLUMBIA, ILLINOIS

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 18th day of October, 2010**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 18th day
of October, 2010**

OCT 18 2010


City Clerk

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WHEREAS, the City of Columbia, Illinois (“City”) is a municipal corporation and body both corporate and politic created and existing in and by virtue of the laws of the State of Illinois located in Monroe and St. Clair counties, Illinois, and John E. White DDS & Stephen J. Raney DMD, PC, is an Illinois corporation created and existing under and pursuant to the laws of the State of Illinois (“White & Raney”);

WHEREAS, City is the owner of improved real estate having the assigned address of 130 South Rapp Avenue in the City (“Leased Premises”), which real estate is being leased to White & Raney since it is not currently needed for governmental purposes;

WHEREAS, City has expressed an interest in continuing its lease of Leased Premises to White & Raney for an extended period of time since Leased Premises are not currently needed for governmental purposes, and White & Raney are agreeable to continuing their lease of Leased Premises for such extended period of time; and

WHEREAS, City believes and hereby declares that it is in the best interests of the City to continue to lease the Leased Premises to White & Raney as described in the preceding paragraph.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City Council of the City of Columbia, Illinois, does hereby authorize and direct the Mayor to execute and deliver the Lease Agreement, in the form attached hereto, which Lease Agreement is hereby approved as to form, in as many counterparts as the Mayor shall determine, and the City Clerk is hereby authorized and directed to attest the same and affix thereto the corporate seal of the City.

Section 3. This ordinance shall be in full force and effect following its passage and publication in pamphlet form, as provided by law.

Alderman Oberkfell moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Roessler, and the roll call vote was as follows:

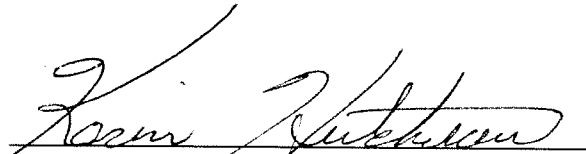
YEAS: Aldermen Ebersohl, Agne, Niemietz, Row, Hejna, Oberkfell, Stumpf,
Roessler and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

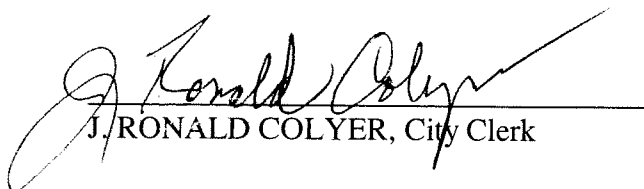
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 18th day of October, 2010.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

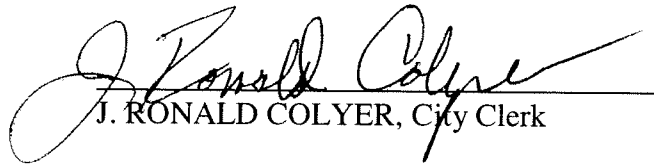
I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2811, entitled:

“AN ORDINANCE TO AUTHORIZE A LEASE AGREEMENT BETWEEN THE CITY OF COLUMBIA, ILLINOIS AND JOHN E. WHITE DDS & STEPHEN J. RANEY DMD, PC, AN ILLINOIS CORPORATION, FOR THE LEASE OF IMPROVED REAL PROPERTY LOCATED AT 130 SOUTH RAPP AVENUE IN THE CITY OF COLUMBIA, ILLINOIS”

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois, City Council held on the 18th day of October, 2010.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 18th day of October, 2010.


J. RONALD COLYER, City Clerk

(SEAL)

Oak Street Community Building Lease Agreement – White & Raney – 2010

LEASE AGREEMENT

This Commercial Lease Agreement ("Lease") is made this 20th day of October, 2010 to take effect November 1, 2010, by and between the City of Columbia, Illinois, a municipal corporation, ("Landlord") and John E. White DDS & Stephen J. Raney DMD, PC, an Illinois Corporation, ("Tenant"), WITNESSETH:

WHEREAS, the Landlord is the owner of the Leased Premises hereinafter described in this lease agreement; and,

WHEREAS, the Landlord desires to lease the Leased Premises to Tenant and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

NOW THEREFORE, in consideration of the payment of rental and the mutual promises and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereto agree as follows:

1. Leased Premises.

The Landlord is the owner of improved real estate having the assigned address of 130 S Rapp Ave, Columbia, Illinois, which is more particularly described as follows:

Lots No. Two (2) and Three (3) in Block No. One (1) of Gardner and Williams Addition to the Town, now City of Columbia, Monroe County, Illinois.

Excepting fifteen feet fronting South Second Street from Lot 2 heretofore conveyed to the Town of Columbia for street purposes.

on which property there is located an Office Building and other improvements, and the leasehold premises that are the subject of this lease agreement comprise the 2813 square feet of the space available in said Office Building which is depicted as Area "2" on the drawing attached hereto as an Exhibit "1" as well as the use of the parking lot for said building and the sidewalks, hallways and walkways required for free and unrestricted access thereto (along with others), which Exhibit is by reference made part hereof ("Leased Premises").

2. Term.

Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for a term beginning November 1, 2010 and ending October 31, 2015.

3. Rental.

A. Tenant shall pay to Landlord during the Initial Term rental of \$19,692 per year, payable in equal monthly installment payments of One Thousand Six Hundred and Forty-One Dollars (\$1,641) each, being due and payable in advance on the first day of each calendar month during the lease term to Landlord at 208 S. Rapp Ave., Columbia, Illinois 62236, or at such other place as shall be designated by written notice from Landlord to

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Tenant. The Initial Term shall run until December 31, 2010 after which time rent shall increase as detailed in paragraph “B” below.

B. Rent will increase as of January 1st each year through the term, as follows:

- a. 2011 – rate of \$1,690 monthly or \$20,283 annually
- b. 2012 – rate of \$1,741 monthly or \$20,891 annually
- c. 2013 – rate of \$1,793 monthly or \$21,518 annually
- d. 2014 – rate of \$1,847 monthly or \$22,164 annually
- e. 2015 – rate of \$1,902 monthly or \$22,828 annually

C. Landlord hereby offers the Tenant the option to renew this Agreement for a second five (5) years upon such terms as may be agreed to by both parties at that time.

D. Landlord waives the requirement for a "Security Deposit" from Tenant.

4. Use and Purpose.

The purpose of this lease and the use the Tenant shall make of the Leased Premises is to provide professional dental services. Notwithstanding the forgoing, Tenant shall not use the Leased Premises for any illegal purpose or use or for storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device.

5. Sublease and Assignment.

Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part, without Landlord's prior written consent, such consent not to be unreasonably withheld or delayed.

6. Repairs.

During the Lease term, Tenant shall keep the Leased Premises in good order and repair (but shall not be responsible for normal wear and tear caused by use and occupancy of the Leased Premises for their intended leasehold use and purpose) and shall make, at Tenant's expense, all necessary repairs to the Leased Premises required for other than normal wear and tear due to occupancy and use of the Leased Premises for their intended purpose. Repairs shall include such items as repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged through other than normal use and occupancy of the Leased Premises for their intended leasehold use and purpose, but shall not include repairs of major mechanical systems or the roof, subject to the obligations of the parties otherwise set forth in this Lease.

7. Alterations and Improvements.

Tenant, at Tenant's expense, shall have the right following Landlord's written consent to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease

Oak Street Community Building Lease Agreement – White & Raney – 2010

term or placed or installed on the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim thereto by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Tenant in good and workmanlike manner and at Tenant's expense.

Landlord has agreed to complete several building improvements listed in Exhibit "2" as part of this Agreement.

8. Property Taxes.

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease term on the Leased Premises, and all personal property taxes, if any, with respect to Landlord's personal property on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises, if any.

9. Insurance.

A. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

B. Tenant and Landlord shall, each at their own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon to be fully paid on or before the due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy or policies of comprehensive general liability insurance, and Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire or be terminated at least thirty (30) days prior to such expiration or termination. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the building in which the Leased Premises are located.

10. Utilities.

Landlord shall pay all charges for property taxes and trash removal. Trash removal shall be limited to the capacity of one shared dumpster located at 130 S. Rapp Ave. Tenant agrees to pay all other charges for other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord. Tenant acknowledges that the Leased Premises are designed to provide standard office use electrical facilities and standard office lighting. Tenant shall not use any equipment or devices that utilize excessive electrical energy or which may, in Landlord's reasonable opinion, overload the wiring or interfere with electrical services to other tenants.

Oak Street Community Building Lease Agreement – White & Raney – 2010

11. Signs.

With Landlord's consent, Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable City ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenants. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct said signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of any sign(s) installed by Tenant.

12. Entry.

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's use and occupancy of the Leased Premises for their intended leasehold purposes.

13. Parking.

During the term of this Lease, Tenant shall have the non-exclusive use in common with Landlord, other tenants of the Building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord agrees to provide and assign such handicapped spots as are required by law for operation of services under this Agreement. Snow removal shall be the responsibility of Landlord, as needed for the use of the Leased Premises.

14. Damage and Destruction.

Subject to Section 9A hereof, if the Leased Premises or any part thereof or any appurtenance appertaining thereto, or the building the Leased Premises are located in is so damaged by fire, casualty or structural defects rendering the Leased Premises unusable for Tenant's intended leasehold use and purpose, then Tenant shall have the right within ninety (90) days following the damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises or the building the Leased Premises are located in, and if such damage does not render the Leased Premises unusable for Tenant's intended leasehold use and purpose, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy or use, in whole or in part, for Tenant's intended leasehold use and purpose not owing to the fault or neglect of the Tenant or its guests or invitees. Rentals and other charges paid in advance for any such periods shall be credited to the payment of the next ensuing payments of rental due, if any; but if no further payments are required to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and

Oak Street Community Building Lease Agreement – White & Raney – 2010

which renders the Leased Premises, or any appurtenance appertaining thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default.

If default shall at any time be made by Tenant in the payment of rent when due to Landlord as herein provided, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by Landlord, or if default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare this Lease ended and terminated by giving Tenant written notice of such lease termination. If possession of the Leased Premises is not surrendered on such lease termination, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

16. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

17. Condemnation.

If any legally constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Subordination.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises or the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may reasonably request. In the event that Tenant should fail to execute any instrument of subordination herein reasonably required to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest. Tenant agrees that they will from time to time upon request by Landlord execute

Oak Street Community Building Lease Agreement – White & Raney – 2010

and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

19. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord to: City of Columbia
 Columbia City Hall
 208 S. Rapp Ave.
 Columbia, IL 62236

If to Tenant to: John E. White DDS & Stephen J. Raney DMD, PC
 130 S Rapp Ave.
 Columbia, IL 62236

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

20. Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

21. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

22. Memorandum of Lease.

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either party, Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

23. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

Oak Street Community Building Lease Agreement – White & Raney – 2010

24. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, grantees, successors and assigns.

25. Consent.

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

26. Performance.

If there is a default with respect to any of Landlord's covenants, warranties or representations under this Lease, and if the default continues more than fifteen (15) days after notice in writing from Tenant to Landlord specifying the default, Tenant may, at their option and without affecting any other remedy hereunder, cure such default and deduct the cost thereof from the next accruing installment or installments of rent payable hereunder until Tenant shall have been fully reimbursed for such expenditures, together with interest thereon at a rate equal to the lesser of twelve percent (12%) per annum or the then highest lawful rate. If this Lease terminates prior to Tenant's receiving full reimbursement, Landlord shall pay the unreimbursed balance plus accrued interest to Tenant on demand.

27. Compliance with Law.

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

28. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by all parties.

Oak Street Community Building Lease Agreement – White & Raney – 2010

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

JOHN E. WHITE DDS & STEPHEN J. RANEY DMD, PC
Tenant

By: _____
John E. White, President

ATTEST:

Stephen J. Raney, Vice President

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that JOHN E. WHITE and STEPHEN J. RANEY, personally known to me and known to me to be the principals of John E. White DDS & Stephen J. Raney DMD, PC, an Illinois Professional Corporation, appeared before me this date in person and acknowledged that they signed and delivered the above and foregoing document for and on behalf of said corporation, John E. White DDS & Stephen J. Raney DMD, PC, as their free and voluntary act and deed and as the free and voluntary act and deed of said corporation, John E. White DDS & Stephen J. Raney DMD, PC, for the uses and purposes set forth above.

Given under my hand and Notary Seal this ____ day of _____, 2010.

Notary Public

Oak Street Community Building Lease Agreement – White & Raney – 2010

CITY OF COLUMBIA, ILLINOIS
Landlord

By: _____
KEVIN B. HUTCHINSON, Mayor

ATTEST:

J. RONALD COLYER, City Clerk

(SEAL)

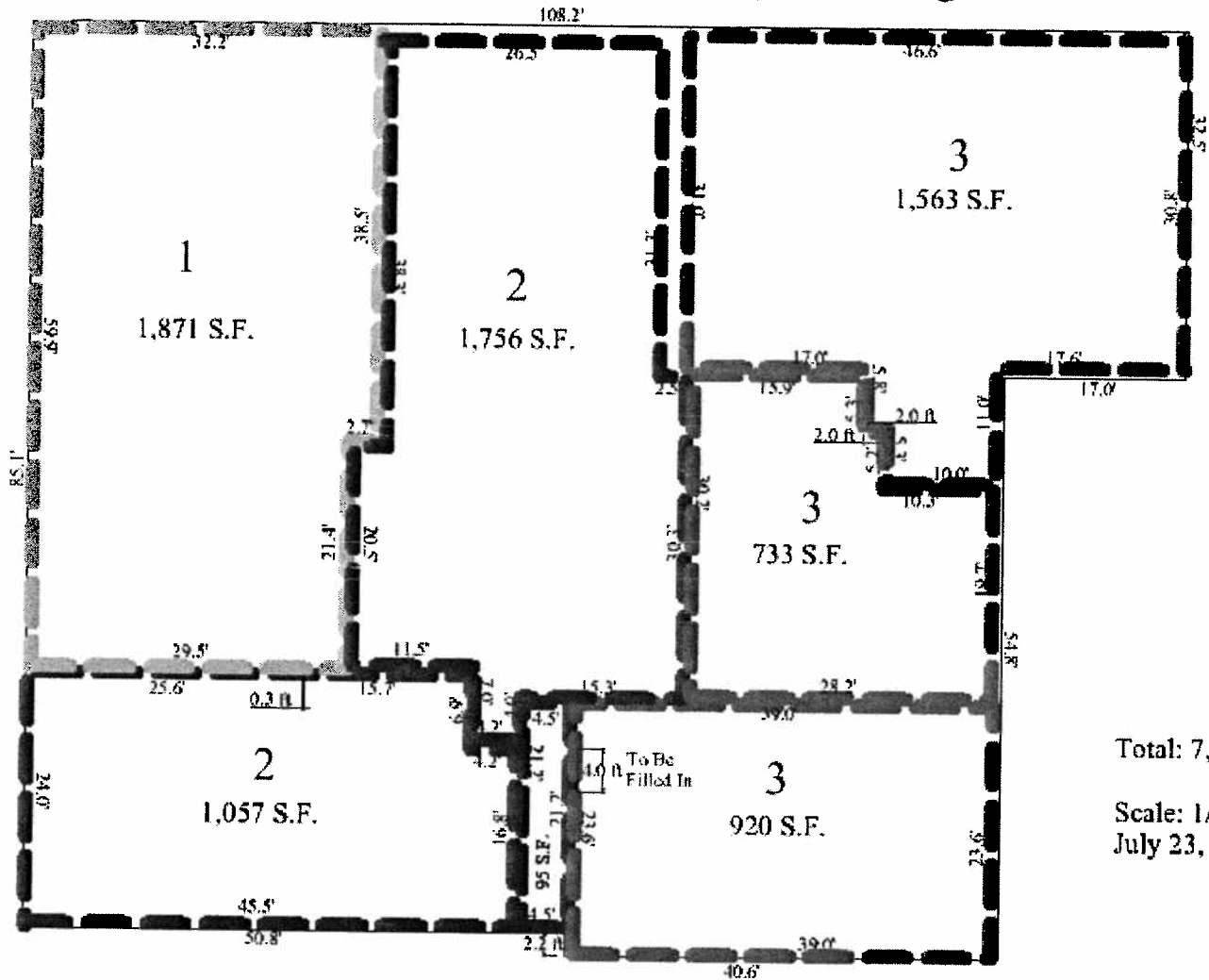
STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that KEVIN B. HUTCHINSON and J. RONALD COLYER, personally known to me and known to me to be the Mayor and City Clerk, respectively, of the City of Columbia, Illinois, a municipal corporation and body both corporate and politic located in the Counties of Monroe and St. Clair in the State of Illinois, appeared before me in person this date and acknowledged that they signed and delivered the above and foregoing document for and on behalf of said City of Columbia, Illinois, pursuant to an enabling ordinance being first enacted by the City Council of said City, as their free and voluntary act and deed and as the free and voluntary act and deed of said City of Columbia, Illinois, for the uses and purposes set forth above.

Given under my hand and Notary Seal this ____ day of _____, 2010.

Notary Public

"Oak Street Community Building"



Oak Street

Total: 7,995 S.F.
Scale: 1/16" = 1'
July 23, 2010

EXHIBIT '2'

Regarding Improvements to the Oak Street Building

The City of Columbia agrees to undertake the following improvements to the Oak Street Building:

1. Build a new wall as indicated on Exhibit '1' and remove threshold, door, frame and header to continue main hallway within Area 2;
2. Reroute the suction machine and move the water heater currently in Area 3 into Area 2;
3. Install insulated double wall between Areas 2 and 3 to reduce noise;
4. Repair and resurface parking lots.

The City is pursuing means to retrofit the building for greater energy efficiency and will make improvements as funds become available.