

**RESOLUTION NO. R-18-11**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A COMMERCIAL LEASE AGREEMENT BETWEEN THE CITY OF GLADSTONE, MISSOURI, AS SUB-LESSOR, AND BARNES HEALTHCARE AS SUB-LESSEE, TO OPERATE AN OFFICE FOR A PHYSICIANS' MEDICAL DIRECTOR GROUP AT 7001 NORTH CHERRY, SUITE #202, GLADSTONE, MISSOURI, 64118.**

**WHEREAS**, Pollina Enterprises, LLC, a Missouri limited liability company ("Pollina") constructed a two story (with additional basement space) office building ("Building") with the common address of 7001 North Cherry, Gladstone, Missouri, 64118; and

**WHEREAS**, On August 7, 2012, Pollina Enterprises, LLC, leased the entire Building to Dentistry for Children, V. Rodman, Jr., M.S., L. Pollina, D.D.S., P.C., a Missouri professional corporation ("Dentistry"); and

**WHEREAS**, On August 9, 2012, Dentistry leased to Sub-Lessor certain portions of the Building, including the second floor of the Building consisting of approximately 6,426 square feet; and

**WHEREAS**, the lease entered into by Dentistry and Sub-Lessor grants Sub-Lessor the ability to sublease all or substantially all of the premises subject to that lease; and

**WHEREAS**, as of the effective date, Sub-Lessee shall lease from Sub-Lessor those portions of the second floor, consisting of approximately 745 square feet; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**THAT**, the City Manager of the City of Gladstone, Missouri, is hereby authorized to enter into the proposed lease agreement with Barnes Healthcare, on the terms and conditions described herein and as more particularly set forth in the lease document and to take any other such measures as may be required to ensure the opening of an office for a Physicians' Medical Director Group.

**INTRODUCED, READ, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22ND DAY OF JANUARY, 2018.**

  
R.D. Mallams, Mayor

ATTEST:

  
Ruth Bocchino, City Clerk



## *Request for Council Action*

RES  # R-18-11

BILL  # City Clerk Only

ORD # City Clerk Only

Date: 1/17/2018

Department: General Administration

Meeting Date Requested: 1/22/2018

Public Hearing: Yes  Date: [Click here to enter a date.](#)

Subject: Lease approval with Barnes Healthcare

Background: Since Oakhill Day School vacated the office space located on the top floor of the Dentistry for Children (Pollina) Building, the City of Gladstone has been soliciting proposals from prospective tenants to sublease the available space. C.E.K. Insurance has accepted the terms of a proposed lease agreement and is currently occupying approximately 2,684 square feet of that space; Barnes Healthcare has agreed to the terms of a two (2) year lease for the remaining available 745 square feet. Attached is a proposed Resolution, which authorizes the City Manager to enter into a lease agreement with Barnes Healthcare, a Physician's Medical Director Group, for the aforementioned office space located at 7001 North Cherry, Suite #202, Gladstone, MO. 64118.

Budget Discussion: Funds are budgeted in the amount of \$ 0 from the GENERAL fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$0

Public/Board/Staff Input: N/A

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Bob Baer  
Department Director

City Attorney

City Manager

R-18-11

**OFFICE, SUBLEASE AGREEMENT**

**THIS SUBLEASE** (the "Sublease") is made and entered into this 6<sup>th</sup> day of February, 2018, (the "Effective Date") between the City of Gladstone, Missouri, a municipal corporation (the "Sub-Lessor") and Barnes Healthcare Management, (the "Sub-Lessee").

**RECITALS**

1. Pollina Enterprises, LLC, a Missouri limited liability company ("Pollina") constructed a two story (with additional basement space) office building (the "Building") with the common address of 7001 N. Cherry, Gladstone, Missouri, 64118.
2. On August 7, 2012, Pollina Enterprises, LLC, leased the entire Building to Dentistry for Children, V. Rodman, Jr., M.S., L. Pollina, D.D.S., P.C., a Missouri professional corporation ("Dentistry").
3. On August 9, 2012, Dentistry leased to Sub-Lessor certain portions of the Building, including portions of the second floor of the Building consisting of approximately 6,426 square feet as shown on the attached Exhibit 1.
4. The lease entered into by Dentistry and Sub-Lessor grants Sub-Lessor the ability to sublease all or substantially all of the premises subject to that lease.
5. As of the Effective Date, Sub-Lessee shall lease from Sub-Lessor those portions of the second floor shown on Exhibit 1 attached hereto and incorporated herein by reference.

**I. PREMISES**

**Leased Space.**

Sub-Lessor agrees to lease to Sub-Lessee 745 Square feet of space on the second floor of the Building depicted on Exhibit 1 attached hereto (the "Premises"). The parties agree that the Conference Room, as defined in the Shared Conference Room Agreement attached hereto as Exhibit 2 and incorporated herein by reference, located in the Premises shall also be used by Sub-Lessor subject to the terms of the Shared Conference Room Agreement.

**II. TERM, RENT, AND NONAPPROPRIATION**

**Term.**

The initial term of this Sublease shall be for a term of two (2) years (the "Initial Term"), commencing on the same date the Sub-Lessor receives the Certificate of Occupancy for the

Building from the Sub-Lessor (the "Commencement Date"). By letter Sub-Lessor shall immediately notify Sub-Lessee of receipt of the Certificate and the date upon which the first monthly payment and subsequent rent payments are due and the date upon which Sub-Lessor will take possession.

The Sub-Lessee shall the right to extend the term of the Sublease for an additional two (2) year term, followed by an additional one (1) year term (the "Renewal Term(s)) upon the terms, covenants and conditions herein. The Sublease will be deemed to have been extended unless one of the parties notifies the other in writing to the contrary, on or before One-Hundred Eighty (180) days before the expiration of the Initial Term or the first Renewal Term.

### **Rent.**

The annual base rent for the first two (2) years of the Initial Term shall be \$11,175.00 payable in monthly increments of \$931.25 beginning on the Commencement Date. If the Sublease is extended for the first Renewal Term base rent will increase by \$1.00 sq./ft. for a total of \$11,920 annually and \$993.33 monthly. If the Sublease is extended for the second Renewal Term then base rent will again increase by \$1.00 per sq./ft. for a total of \$12,665 annually and \$1,055.42 monthly.

### **Penalty.**

If Sub-Lessee terminates the Sublease within the Initial Term then it will pay to Sub-Lessor the sum of the remaining rent due for the Initial Term or Renewal Term, whichever is in effect, within One-Hundred Twenty (120) days after the notice to terminate is given.

### **Nonappropriation.**

Sub-Lessor is renting the Premises described herein from Dentistry on the condition that Sub-Lessor's yearly rent obligation to Dentistry is subject to annual appropriation by the governing body of the Sub-Lessor. Sub-Lessor is not legally obligated to budget or appropriate monies for any fiscal year beyond the current fiscal year or any subsequent fiscal year in which its sublease is in effect with Dentistry and there can be no assurance that the Sub-Lessor will appropriate funds to make its sublease payments to Dentistry. Any automatic renewal periods are also subject to annual appropriation.

Notwithstanding anything to the contrary herein, in the event Sub-Lessor fails to appropriate funds to pay its rent obligation to Dentistry, Sub-Lessor shall promptly notify Sub-Lessee of the same in writing, and the parties shall promptly thereafter proceed to execution of a termination agreement, terminating this Sublease, which termination shall be effective as of the last day of the available funding.

If Sub-Lessor fails to appropriate funding for its annual rent obligation to Dentistry, thereby nullifying this lease, then Sub-Lessee shall no longer be obligated to make the payments to Sub-Lessor described herein.

### **III. MAINTENANCE, REPAIR, UTILITIES, & FIXTURES**

Sub-Lessor shall maintain the Premises generally clean and free from dirt, grease, refuse matter, rodents, and will regularly exterminate to control insects and pests. Sub-Lessor shall keep and maintain every part or portion of the Premises in good order and repair.

Sub-Lessor's interest in the Premises arises from a lease between Dentistry for Children ("Dentistry") and the Sub-Lessor. In that lease Dentistry is responsible for maintaining HVAC systems, electrical and plumbing systems, doors, windows, and Building-mounted exterior light fixtures. Pursuant to the terms of that lease Dentistry is also responsible for maintaining the exterior of the Building, including, the roof, exterior walls, structural membranes, foundation, support beams, windows, doors, and lighting. Sub-Lessor and Sub-Lessee herein acknowledge and agree that the primary responsibility for maintenance of the listed items is with Dentistry. In the event Dentistry refuses or neglects to maintain the premises as agreed and said refusal threatens Sub-Lessee's occupancy under this lease, then Sub-Lessor shall take all necessary steps to repair or replace the affected equipment or thing to preserve Sub-Lessee's use of the premises.

Sub-Lessor agrees to share all plans for interior finish to Sub-Lessee and obtain Sub-Lessee's written approval of said plans before commencing any construction. Pollina and Dentistry must also approve design and construction plans. Failure to approve or object to plans within seven (7) days shall constitute the Sub-Lessee's approval. Sub-Lessee shall be provided access to the building immediately upon Sub-Lessor's receipt of the Temporary Certificate of Occupancy.

Sub-Lessee shall be responsible for all other maintenance cost not specifically set forth herein.

#### **Utilities.**

Sub-Lessor shall cause the Premises to be separately metered. Sub-Lessee shall be responsible to make application and connections for necessary utility services for use in the Premises that are leased. Sub-Lessee shall be solely liable for utility charges for utilities serving the leased Premises as they become due, including, without limitation, those for electricity, cable services, and telephone services. Sub-Lessor shall provide and pay for trash hauling services.

#### **Fixtures.**

Except for Sub-Lessee's personal property and trade fixtures, all buildings, repairs, alterations, additions, improvements, installations and other non-trade fixtures installed or erected on the Premises, whether by or at the expense of Sub-Lessor or Sub-Lessee, shall belong to the Sub-Lessor and shall remain on and be surrendered with the Premises at the expiration or terminations of this Sublease. However, at Sub-Lessor's option, Sub-Lessee shall remove Sub-

Lessee's alterations or improvements prior to the expiration of this Sublease and return the Premises to its original conditions.

#### **IV. TAXES**

To the extent, if any, Sub-Lessee is legally responsible / liable for payment of personal property taxes for any property located in the Premises or ad valorem real property taxes for that property described in the attached Exhibit 2, then said taxes shall be paid on or before the last day on which payment may be made without penalty or interest.

#### **V. INSURANCE**

##### **Commercial General Liability.**

Throughout the Initial Term and any Renewal Terms, Sub-Lessee, at its sole cost and expense, shall keep or cause to be kept for the mutual benefit of Sub-Lessor and Sub-Lessee, a policy of commercial general liability insurance (current ISO Form or its equivalent) with a combined single limit, each Occurrence and General Aggregate-per location, of at least \$2,000,000.00, which policy shall insure against liability of Sub-Lessee, arising out of and in connection with Sub-Lessee's use of the Premises, and which shall insure the indemnity provisions contained in this Sublease. Sub-Lessor shall be named as an Additional Insured on any and all liability insurance policies required under this Lease. Such policy shall include contractual liability coverage covering Sub-Lessee's indemnification obligations under this Sublease with respect to covered claims. Sub-Lessee shall deliver to Sub-Lessor certificates of insurance, which shall declare that the respective insurer may not cancel the same in whole or in part without giving Sub-Lessor written notice of its intention to do so at least 10 (10) days in advance.

Sub-Lessor will maintain a policy of commercial general liability insurance (current ISO Form or its equivalent) with a combined single limit, each Occurrence and General Aggregate-per location, of at least \$2,000,000.00 which policy shall insure against claims for bodily injury, death or property damage occurring upon, in or about the Building, such insurance to afford protection to Sub-Lessor, its lenders and agents.

##### **Property Insurance.**

Effective at the time Sub-Lessee takes possession of the Premises, Sub-Lessee, at its own cost and expense, shall carry the equivalent of ISO special Form Property Insurance on Sub-Lessee's property with coinsurance waived. For purposes of this provision, Sub-Lessee's property shall mean Sub-lessee's personal property and fixtures, and any Tenant Improvements to the Premises.

## **Workers Compensation.**

Sub-Lessor and Sub-Lessee shall each maintain workers compensation insurance as required by laws and which shall include employer's liability insurance for all employees of such party, in accordance with the statutory limits required by law.

## **VI. OPERATING EXPENSES**

Sub-Lessor and Sub-Lessee acknowledge that this Sublease is a triple net lease agreement.

## **VII. INDEMNITY**

Sub-Lessee shall indemnify and hold Sub-Lessor harmless from and against any claim or liability arising from the Sub-Lessee's operations or activities on or about the Premises, including any act, omission, negligence, or misconduct of Sub-Lessee or Sub-Lessee's guests, employees, agents, students, parents or board members.

## **VIII. ASSIGNMENT & SUBLEASE**

Sub-Lessee shall not assign, transfer, or encumber this Sublease and shall not sublease the Premises or any part thereof or allow any other person, corporation, or firm to be in possession thereof without the written consent of Sub-Lessor, in each and every instance.

## **IX. CASUALTY DAMAGE & DESTRUCTION**

If the Premises are damaged or destroyed by fire or other cause, Sub-Lessor shall give Sub-Lessee prompt notice of such event and shall repair such damage and restore the Premises to the condition existing prior to such damage or destruction and to a standard and quality no less than the construction of the original improvements; provided, however, that Sub-Lessor shall not be responsible for repairing any damage or destruction to the Tenant Improvements. Rent shall abate if Sub-Lessee is dispossessed of the Premises for any period longer than 30 days. Rent shall not resume until such time as the local permitting authority certifies the Premises may be occupied. If such certification does not occur on the first day of the month then rent payments shall be prorated for the number of days of the particular month Sub-Lessee is in actual possession.

## **X. DEFAULT & REMEDIES**

### **Default.**

Sub-Lessor may give Sub-Lessee notice of termination of this Sublease if one or more of the following events occur:

1. Sub-Lessee fails to pay Rent when the same is due and payable under the terms of this Sublease and such failure continues for a period of ten (10) days after written notice thereof is given to Sub-Lessee; or
2. Sub-Lessee, whether by action or inaction, fails to timely perform or observe any of the other terms, covenants or conditions of this Sublease and such default is not remedied within twenty (20) days after written notice thereof is given to the Sub-Lessee, provided that if such default cannot, with reasonable diligence, be fully remedied within such 20-day period, Sub-Lessee shall have as long as is reasonably necessary to cure such default, but in no event longer than three (3) months after the date such default notice is given to Sub-Lessee; provided Sub-Lessee commences compliance within such 20-day period and thereafter pursues compliance to completion with reasonable diligence; or
3. Sub-Lessee deserts or abandons the Premises or any portion thereof for 30 or more consecutive days; or
4. In the event this lease is terminated based upon the above described acts of default during the Initial Term then Sub-Lessee shall make payment to Sub-Lessor equal to the remaining balance of the lease agreement as provided in **Section II Penalty** of this Sublease within One-Hundred Twenty (120) days of the event of default.

#### **Remedies.**

If this Sublease is terminated pursuant to the above-described causes, then Sub-Lessee shall immediately vacate the Premises and surrender the Premises to Sub-Lessor in good order, condition and repair, excepting reasonable wear and tear and damage that is not Sub-Lessee's obligation to repair. Sub-Lessor may relet the Premises, or any portion of the Premises, from time to time, in the name of the Sub-Lessor, Sub-Lessee or otherwise, as determined by Sub-Lessor, to any person and on any terms, but Sub-Lessor shall have no obligation to relet the Premises.

Sub-Lessee shall pay Sub-Lessor all Rent payable to the date on which this Sublease is terminated or Sub-Lessor reenters or obtains possession of the Premises; and any due termination penalties; and any costs and expenses incurred by Sub-Lessor in connection with the termination, reentry or obtaining of possession, and the reletting of the Premises, including all repossession costs, reasonable attorneys' fees and expenses of repairing damage that is Sub-Lessee's obligation to repair.



## XI. MISCELLANEOUS

### **Parking lot use.**

The parking lot adjacent to the Building shall be considered public parking. Although it is envisioned that the Sub-Lessee will have primary use of the parking lot during business hours, the lot will remain available to the public.

### **Event Coordination.**

Sub-Lessor agrees to provide a schedule of activities planned on the adjoining public space on, at minimum, an annual basis. The parties may agree to meet more frequently if additional coordination is necessary. Both parties agree to work cooperatively and in good faith to minimize public parking conflicts. Issues related to operation and conflict with activities shall be directed to the Director of Parks and Recreation. If a satisfactory resolution is not achieved, the Sub-Lessee may provide concerns in writing to the City Manager.

### **Notices.**

All notices by either party to the other shall be made by depositing such notice in the certified mail of the United States of America, postage prepaid, return receipt requested, and such notice shall be deemed to have been served on the date of such depositing in the certified mail unless otherwise provided. All notices to Sub-Lessor shall be made at Sub-Lessor's address as set out in the introductory paragraph hereof, or at such other address as Sub-Lessor may from time to time designate in writing to Sub-Lessee, and all notices to Sub-Lessee shall be at the following, or at such other address as Sub-Lessee may from time to time designate in writing to Sub-Lessor:

#### Legal Notices:

Company Name: City of Gladstone  
Contact Name: City Manager  
Address: 7010 N. Holmes, Gladstone, MO 64118-2646  
Phone Number: 816-436-2200 Fax Number: 816-436-2228  
E-Mail: scottw@gladstone.mo.us

#### Sub-Lessee Billings:

Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

**Amendments.**

Oral agreements in conflict with any of the terms of this Sublease shall be without force and effect, all amendments to be in writing executed by the parties or their respective successors in interest.

**Holding Over.**

Any holding over after the expiration of the Initial Term or any Renewal Terms with the consent of Sub-Lessor shall be construed to be a tenancy from month to month and Sub-Lessee shall be charged the current rental rate plus 3% during such holding over period.

**Attorney Fees.**

If either part named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, trial or appeal thereon shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the court in the same or separate suit, and whether or not such action is pursued to decision or judgment.

**Partial Invalidity.**

If any term or condition of this Sublease or the application thereof to any person or event shall to any extent be invalid or unenforceable, the remainder of the Sublease in the application of such term, covenant or condition to persons or events other than those to which it is held invalid or unenforceable shall not be affected and each term, covenant and condition of this Sublease shall be valid and enforced to the fullest extent permitted by law.

**Successors.**

Except as herein otherwise provided, this Sublease shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**Signatures.**

This Sublease may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Sublease, a document signed and transmitted by facsimile machine or a scanned image, such as a PDF, via E-mail is to be treated as an original document.

**Recording.**

A Memorandum of Sublease Agreement of a like document shall be jointly drafted and subsequently recorded in the land records maintained by the Clay County Recorder of Deeds.

**Law.**


This Sublease shall be construed according to the laws of the State of Missouri.

[Signature page to follow]


IN WITNESS WHEREOF, the parties hereto have executed this Sublease the day and year first above written and are duly authorized to execute the same.

**EXECUTED IN DUPLICATE.**

SUB-LESSOR: CITY OF GLADSTONE


By:   
Name: Scott Wingersom  
Title: City Manager

SUB-LESSEE: Barnes Healthcare Management

By:   
Name: Eric Barnes  
Title: President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

  
Ruth E. Bocchino  
City Clerk, City of Gladstone, MO

**EXHIBIT 1**

(Floor Plan)

**EXHIBIT 2**

**SHARED CONFERENCE ROOM AGREEMENT**

**THIS SHARED CONFERENCE ROOM AGREEMENT** (the "Agreement") is made and entered into this 6<sup>th</sup> day of ~~January~~<sup>February</sup>, 2018, (the "Effective Date") between the Sub-Lessor of Gladstone, Missouri, a municipal corporation (the "Sub-Lessor") and Burns Healthcare (the "Sub-Lessee").

**WITNESSETH:**

**WHEREAS**, the Sub-Lessor is the sub-lessee of the entire second floor of the building located at 7001 N. Cherry in Gladstone, Missouri; and

**WHEREAS**, the Sub-Lessor and the Sub-Lessee have entered into an Office, Sublease Agreement (the "Sublease") dated February 6<sup>th</sup>, 2018 and concurrent to the Sublease the Sub-Lessee desires to utilize the conference room controlled by the Sub-Lessor; and

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

**ARTICLE I. TERM OF AGREEMENT**

1.1 Term of Agreement. The initial term of this Agreement shall run concurrently with the Sublease to which this Agreement is attached as Exhibit 2. For purposes of this Agreement, all references to the "term" of this Agreement shall mean the Initial Term together with any Renewal Term under the Sublease, unless the context clearly indicates otherwise.

**ARTICLE II. SHARED CONFERENCE ROOM**

2.1 Conference room. Subject to the terms of this Agreement, Sub-Lessee and the Sub-Lessor shall share use of the conference room located on the third floor and further described on the attached Exhibit A-1 (the "Conference Room").

2.2 Use Periods. In general, Sub-Lessee shall have the use of the Conference Room 8:00 a.m. until 5:00 p.m. Monday through Friday ("Regular Sub-Lessee Hours") and the Sub-Lessor shall have the use of the Conference Room at all other times ("Sub-Lessor Hours").

2.3 Notice. The Sub-Lessor shall give Sub-Lessee reasonable notice of any need to use the Conference Room during Regular Sub-Lessee Hours, and Sub-Lessee shall give the Sub-Lessor reasonable notice of any need to use any Conference Room during Sub-Lessor Hours.

2.4 Purposes. The Conference Room shall be used by Sub-Lessee primarily for small group educational purposes or other business related needs.

2.5 Clean-Up. The Sub-Lessor and Sub-Lessee shall clean the Conference Room after each activity for which such Conference Room has been used, no later than the time that the Sub-

Lessor's use or Sub-Lessee's use of such Conference room expires pursuant to this Agreement.

2.6 Temporary Interruptions. Notwithstanding any language to the contrary herein, a party's right to use any Conference Room may be temporarily interrupted, to the extent reasonably necessary, in the event of an emergency situation, repairs and maintenance, permitted additions, modifications and improvements, fire or other casualty, or other causes beyond the reasonable control of a party.

### **ARTICLE III. PAYMENTS**

3.1 Payments. No consideration other than that provided in the Sublease to which this Agreement is attached as Exhibit 2, shall be payable from Sub-Lessee to the Sub-Lessor or from the Sub-Lessor to Sub-Lessee for use of the Conference Room pursuant to this Agreement. If the Sub-Lease between Sub-Lessor and Sub-Lessee is terminated then this Agreement shall automatically terminate.

### **ARTICLE IV. MAINTENANCE, TAXES, UTILITIES AND ALTERATIONS**

4.1 Use of Conference rooms; Maintenance and Repair. During the term of this Agreement, Sub-Lessee shall use, or cause to be used by any party authorized by Sub-Lessee to use the Conference Room (collectively with Sub-Lessee, the "Sub-Lessee Users"), the Conference Room in a careful and proper manner, in compliance with all applicable laws and regulations. During the term of this Agreement, the Sub-Lessor shall use, or cause to be used by any party authorized by Sub-Lessor to use the Conference Room in a careful and proper manner, in compliance with all applicable laws and regulations.

### **ARTICLE V. INSURANCE AND INDEMNITY**

5.1 Liability Insurance. During the term of this Agreement, each party shall self insure or maintain in full force and effect commercial general liability insurance in accordance with the Sub-Lease between the Sub-Lessor and Sub-Lessee.

5.2 Casualty. During the term of this Agreement, Sub-Lessee shall be entitled to all proceeds of property insurance maintained by Sub-Lessee with respect to the Conference Room.

5.3 Limited Liability. Notwithstanding any language to the contrary herein, in no event shall either party be liable to the other for any consequential damages in connection with or arising out of this Agreement.

### **ARTICLE VI. EVENTS OF DEFAULT**

6.1 Events of Default. It shall be an "Event of Default" under this Agreement if a party hereto fails to observe and perform any covenant, condition or agreement required of it under the Sub-Lease between the parties.

6.2 Remedies. Whenever any Event of Default shall have happened and be continuing, the non-defaulting party may take one or any combination of the steps set forth in the Sub-Lease between the parties.

**ARTICLE VII. REPRESENTATIONS AND WARRANTIES**

The Sub-Lessor and Sub-Lessee each represent and warrant for the other's benefit as follows:

7.1 Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, results or will result in a breach of the terms, conditions and provisions of any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default under any of the foregoing.

7.2 Neither the execution nor delivery of this Agreement by such party, nor compliance by such party with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

**ARTICLE VIII MISCELLANEOUS**

8.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given if delivered by hand or by United States mail in certified form, postage prepaid, return receipt requested, and shall be deemed to have been received on the date hand delivered to the following address or five (5) business days after deposit in the United States mail, as aforesaid, and addressed to the following address:

(a) If intended for the Sub-Lessor, addressed to it at the following address:

City Manager  
City of Gladstone  
7010 N. Holmes  
Gladstone, Missouri 64118]

If intended for Sub-Lessee, addressed to it at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Should either party change the person or address to which notices, certificates or other communications should be sent, notice of such changes shall be given using the same method indicated.

8.2 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Sub-Lessee, the Sub-Lessor, and their respective successors and permitted assigns, if any.



8.3 Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8.4 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

8.5 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

8.6 Amendment. This Agreement may not be amended without the mutual written consent of both parties.

8.7 Further Assurances; Corrective Instruments. Sub-Lessee and the Sub-Lessor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention hereof.


[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Sublease Agreement the day and year first above written and are duly authorized to execute the same.

**EXECUTED IN DUPLICATE.**


SUB-LESSOR:

CITY OF GLADSTONE

By:   
Name: Scott Wingerson  
Title: City Manager

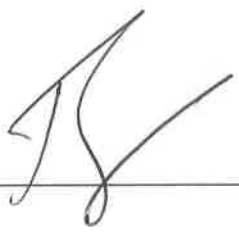
STATE OF MISSOURI )

COUNTY OF CLAY )

§ ATTEST:  
  
Ruth E. Bocchino  
City Clerk, City of Gladstone, MO

SUB-LESSEE:

Barnes Healthcare

By:   
Name: Eric Barnes  
Title: President