

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (this "Settlement Agreement") is made and entered into and effective this ____ day of _____, 2013 (the "Effective Date"), and is by and between HARRISBURG PARKING AUTHORITY ("HPA") and THE HARRISBURG UNIVERSITY OF SCIENCE AND TECHNOLOGY ("HU").

BACKGROUND/RECITALS

- A. HPA is a public body corporate and politic, exercising the public powers of the Commonwealth as an agency of the Commonwealth created and existing under the Parking Authority Law, as amended and codified at 53 Pa.C.S.A. §5501, et seq.
- B. HU is a Pennsylvania non-profit corporation.
- C. HU is the owner in fee simple of certain tracts or parcels of real property (the "Land") situate at the corner of Fourth Street and Market Street in the City of Harrisburg, Dauphin County, Pennsylvania, as evidenced by a deed dated April 27, 2005, and recorded in the Dauphin County Recorder of Deeds Office (the "Recording Office") in Record Book 5972, Page 573, and by the vacation of former Strawberry Street by Harrisburg City Council Ordinance No. 12, Session of 2006.
- D. The Land is improved with a multi-floor building and related improvements (the "Building" and together with the Land, the "Property"), and the Building, in part, contains several floors designated as parking facilities.
- E. HPA and HU entered into an Agreement of Sale and Purchase dated January ___, 2007 (the "Purchase Agreement"), wherein, inter alia, HU agreed to submit the Property to a condominium form of ownership and agreed to sell to HPA and HPA agreed to purchase from HU one (1) condominium unit (the "Parking Unit") consisting of seven (7) floors of parking facilities and including approximately three hundred ninety-two (392) parking spaces within the Property.
- F. HPA and HU entered into a Parking License and Option to Purchase dated January ___, 2007 (the "License and Option"), wherein, inter alia, HPA agreed to grant a license to HU and HU agreed to accept such license from HPA for the use of certain parking spaces within the Parking Unit for twenty nine (29) years and eleven (11) months, and HPA granted to HU five (5) options to purchase the Parking Unit from HPA, the first option commencing on the tenth (10th) anniversary of the date of the License and Option and the remaining options commencing on each succeeding five (5) year anniversary date.
- G. HPA and HU entered into a Limited Parking Lease dated February 27, 2009 (the "Original Lease"), wherein, inter alia, HU leased to HPA and HPA leased from

HU the parking facilities in the Building. The Lease was amended by an Extension of Limited Parking Lease dated February 27, 2009, an Amendment to Extension of Limited Parking Lease dated September ___, 2009, and a Second Amendment to Extension of Limited Parking Lease dated ___, 2013, but effective as of January 31, 2010 (collectively, the "Lease Amendments") and together with the Original Lease, the "Lease").

- H. By Writ of Summons issued on March 3, 2010, HPA initiated a civil action (the "Civil Action") against HU in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to Docket No. 2010-CV-02247-CV.
- I. Contemporaneously with the issuance of the Writ of Summons, HPA filed a Praecipe for Indexing Lis Pendens causing an indexing of the Civil Action as lis pendens against the Property.
- J. In HPA's Complaint filed in the Civil Action on June 3, 2010 (the "Complaint"), HPA asserted against HU (1) a claim for specific performance of the Purchase Agreement; (2) a claim for reformation of the License and Option; (3) a claim for breach of contract for nonpayment of the subsidy under the License and Option; and (4) a claim for breach of contract for nonpayment of rent under the License and Option.
- K. In HU's Answer with New Matter and Counterclaim filed in the Civil Action on July 1, 2010 (the "Answer"), HU asserted against HPA (1) a claim for breach of contract under Purchase Agreement for nonpayment of change orders; and (2) a claim for breach of contract under the License and Option for HPA failing to use its best efforts to lease unused parking spaces under the License and Option.
- L. The Property is encumbered by an Open-End Mortgage and Security Agreement dated January 1, 2007, and recorded in the Recording Office as Instrument No. 20070003575 (the "Mortgage"). The Mortgage was granted by HU to Commerce Bank, National Association to secure HU's obligations under the 2007 Bonds (as defined in the Mortgage) (the "HU Bonds"). By virtue of an Assignment of Mortgage dated October 1, 2012, and recorded in the Recording Office as Instrument No. 20120033296, the current holder of the Mortgage is UMB Bank, N.A. (the "Trustee"). As of the Effective Date, the Mortgage is in default.
- M. HPA intends to enter into or has entered into an agreement whereby HPA will lease its assets to the Pennsylvania Economic Development Financing Authority ("PEDFA") (the "PEDFA Transaction").
- N. HPA and HU desire to settle all claims asserted against each other in the Civil Action and complete the conveyance contemplated by the Purchase Agreement under the terms set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound, the parties agree as follows:

1. Closing Date. As used in this Settlement Agreement, the "Closing Date" shall be November __, 2013, and shall occur at the offices of Pepper Hamilton LLP, Suite 200, 100 Market Street, Harrisburg, PA 17108, at a time mutually agreed upon by HPA and HU.

2. Condominium Documents.

a. On the Closing Date, HU shall execute or cause to be executed the following:

(1) Declaration of Condominium of Fourth Street Condominium in the form of Exhibit A-1, attached hereto (the "Declaration");

(2) Plats and Plans of Fourth Street Condominium in the form of Exhibit A-2, attached hereto (the "Plats and Plans");

(3) Consent of the Incorporator adopting the Bylaws of Fourth Street Condominium Association and electing Fourth Street Condominium Association's initial directors in the form of Exhibit A-3, attached hereto (the "Incorporator's Consent"); and

(4) Articles of Incorporation for Fourth Street Condominium Association in the form of Exhibit A-4, attached hereto (the "Articles", and together with the Declaration, the Plats and Plans and the Incorporator's Consent, the "Condominium Documents").

b. On the Closing Date and after execution of the Declaration and Plats and Plans, HU shall deliver the Declaration and Plats and Plans to Commonwealth Land Title Insurance Company (the "Title Company") for the purpose of recording the same in the Recording Office.

c. On the Closing Date and after the execution of the Articles, HU shall file, at HU's sole cost and expense, the Articles with the Commonwealth of Pennsylvania, Department of State, Corporation Bureau.

d. On the Closing Date, HPA shall pay HU the sum of Two Hundred Thousand Dollars (\$200,000.00) as follows: (i) One Hundred Thousand Dollars (\$100,000) as consideration for HU's agreement to revise the Condominium Documents to remove HPA's liability for the roof as a common element and (ii) One Hundred Thousand Dollars (\$100,000) as consideration for HU's agreement to revise the Condominium Documents regarding voting rights.

e. On the Closing Date, HU shall pay all costs of recording and filing the Condominium Documents.

f. HU shall take all other necessary actions, including but not limited to the execution, delivery, recording or filing of additional documents, to submit the Property to condominium ownership under the Pennsylvania Uniform Condominium Act, as amended and codified at 68 Pa.C.S.A. §3101 et seq., as organized under the Condominium Documents. This obligation shall survive closing hereunder.

g. Upon approval by Harrisburg City Council of a certain lot annexation plan annexing the real property on the eastern side of the former Strawberry Street, which was vacated by Harrisburg City Council Ordinance No. 12, Session of 2006, HPA and HU shall amend the Condominium Documents as necessary to reflect that such real property is within the condominium created thereby. This obligation shall survive closing hereunder.

3. Termination of the Lease. On the Closing Date, HU and HPA shall execute a Termination of Limited Parking Lease in the form of Exhibit B, attached hereto.

4. Conveyance of the Parking Unit.

a. On the Closing Date, HU shall execute a special warranty deed in the form of Exhibit C, attached hereto (the "Deed").

b. On the Closing Date and after the execution of the Deed, HU shall deliver the Deed to the Title Company for the purpose of recording the same in the Recording Office.

c. On the Closing Date, HU and HPA shall execute or cause to be executed and deliver all other documents necessary to convey to HPA legal title to the Parking Unit, whether the execution and delivery of such documents is requested by the other party or the Title Company and including without limitation the following:

(1) Releases from liens and encumbrances affecting the Parking Unit, other than the Mortgage and security interests securing the HU Bonds;

(2) FIRPTA certificate;

(3) HPA's secretary's certificate;

(4) HU's secretary's certificate;

(5) Title insurance affidavits; and

(6) Settlement statement or reconciliation prepared by the Title Company in accordance with the Schedule of Settlement Charges and the Purchase Agreement.

d. On the Closing Date, HU shall pay all realty transfer tax in connection with the conveyance of the Parking Unit, HPA shall pay all costs of recording the Deed, and each party shall pay its other respective closing costs as provided in the Purchase Agreement.

e. At all times after the Closing Date, upon the written request of the other party or the Title Company, each party shall take all other necessary actions, including without limitation the execution, delivery, recording or filing of additional documents, to convey to HPA legal title to the Parking Unit subject only to those matters expressly permitted under Section 7 of the Purchase Agreement, and to the Mortgage and security interests securing the HU Bonds.

5. Termination of the License and Option.

a. On the Closing Date, HPA and HU shall execute and deliver a Termination of License and Option in the form of Exhibit D, attached hereto (the "Termination of License and Option").

b. On the Closing Date, HPA shall pay HU the sum of Three Hundred Sixty-One Thousand Nine Hundred Eighty-Four and 96/100 Dollars (\$361,984.96) as consideration for HU's agreement to execute and deliver the Termination of License and Option.

6. Change Orders. HU and HPA agree (which agreement shall constitute an accord) that the sum of Five Hundred Ninety-Two Thousand Two Hundred Ninety-One and 04/100 Dollars (\$592,291.04) is the liquidated amount of HPA's liability for the Change Orders, as that term is defined in Paragraph 4 of the Purchase Agreement. On the Closing Date, HPA shall pay such amount to the Title Company, for the account of HU, in full and final satisfaction of the accord.

7. Debt Adjustment.

a. HU and HPA agree (which agreement shall constitute an accord) that the sum of Five Hundred Ninety-Nine Thousand Fourteen Dollars (\$599,014.00) is the liquidated amount of Debt Adjustment, as that term is defined in Subsection 3(c) of the License and Option, for the period ending December 31, 2010.

b. HU and HPA agree (which agreement shall constitute an accord) that the sum of One Million Five Hundred Seventy-Five Thousand Dollars (\$1,575,000) is the liquidated amount of Debt Adjustment, as that term is defined in Subsection 3(c) of the License and Option, for the period commencing January 1, 2011, and ending on the Closing Date.

8. Monthly Adjustment. HU and HPA hereby agree (which agreement shall constitute an accord) that the sum of Four Hundred Twelve Thousand Four Hundred Seventy Eight and 35/100 (\$412,478.35) is the liquidated amount of HPA's liability for the Monthly Adjustment under Subsections 1(c) and 1(d) of the License and Option (the "Monthly Adjustment") for the period ending on the Closing Date.

9. Payment; Promissory Note; Settlement Statement. On the Closing Date, HU shall pay to HPA the net cash due to HPA and execute and deliver to HPA a promissory note in form attached hereto as Exhibit E-1, in the respective amounts set forth on the Settlement Statement attached hereto as Exhibit E-2.

10. Trustee's Settlement Agreement. It is a condition precedent to the effectiveness of this Settlement Agreement that HPA and the Trustee shall have executed and delivered a settlement agreement in the form attached hereto as Exhibit F on or before the Closing Date.

11. Discontinuance and Settlement of the Civil Action.

a. On the Closing Date, HPA and HU shall execute a Praeipice to Settle and Discontinue (the "Praeipice to Settle") in the form of Exhibit G-1, attached hereto. On the Closing Date and after the Praeipice to Settle has been executed, the same shall be filed in the docket of the Civil Action.

b. On the Closing Date, HPA shall execute a Praeipice to Withdraw Lis Pendens (the "Praeipice to Withdraw") in the form of Exhibit G-2, attached hereto. On the Closing Date and after the Praeipice to Withdraw has been executed, the same shall be filed in the docket of the Civil Action.

12. Mutual Release. On the Closing Date, HPA and HU shall execute and deliver a mutual release in the form of Exhibit H, attached hereto.

13. No Admission of Liability. By executing this Settlement Agreement, neither HPA nor HU admits to any liability or wrongdoing, and this Settlement Agreement shall not be construed as an admission of liability or wrongdoing by either HPA or HU.

14. Time of Essence. The times and dates set forth within this Settlement Agreement are of the essence.

15. Counterparts. This Settlement Agreement may be executed in counterparts.

16. Choice of Law and Venue. This Settlement Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania. The parties agree that venue shall exclusively reside in the Court of Common Pleas of Dauphin County, Pennsylvania, for resolution of any disputes arising out of or in any way relating to this Settlement Agreement, and said court shall retain jurisdiction over this Settlement Agreement for the enforcement hereof and the resolution of any disputes hereunder. For purposes of any such disputes, each party hereto also irrevocably consents to be amenable to and subject to the venue and jurisdiction of the Court of Common Pleas of Dauphin County, Pennsylvania.

17. Interpretation. HU and HPA represent that they have had a full opportunity to participate in the negotiation and drafting of this Settlement Agreement. In interpreting this Settlement Agreement, it shall not be deemed that either party drafted the Settlement Agreement and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be applicable.

18. Successors and Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the parties' successors and assigns.

19. Entire Agreement. This Settlement Agreement contains the entire agreement between the parties on the subject matters herein. This Settlement Agreement shall not be amended unless such amendment is in writing and signed by all parties hereto.

REMAINDER OF PAGE BLANK. SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement
as of the date first above written.

Witness/Attest:

HARRISBURG PARKING AUTHORITY

By: _____

Name: _____

Title: _____

Witness/Attest:

THE HARRISBURG UNIVERSITY OF
SCIENCE AND TECHNOLOGY

By: _____

Name: _____

Title: _____

Signature Page to Settlement Agreement and Release