

# Appendix F

## Memorandum of Agreement

Providence College

February 27, 2013

THE CITY OF PROVIDENCE  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## RESOLUTION OF THE CITY COUNCIL

No. 91

Approved February 27, 2013

RESOLVED, That His Honor, the Mayor, is hereby authorized to execute a Memorandum of Agreement with Providence College contemplating the abandonment of approximately 80,850 square feet of City-owned streets adjacent to the Providence College campus that are bounded on both sides by Providence College properties, specifically: Huxley Avenue from Lot # 229 to Lot # 8; Cumberland Street from Lot # 189 to Lot # 195; and Wardlaw Avenue from Lot # 186 to Lot #189, in exchange for the payment of \$3,842,607.00.

IN CITY COUNCIL

FEB 21 2013

READ AND PASSED

  
PRES.

  
ACTING CLERK

I HEREBY APPROVE

  
Mayor

Date: 2/27/13

**MEMORANDUM OF AGREEMENT**  
by and between the  
**CITY OF PROVIDENCE**  
and  
**PROVIDENCE COLLEGE**

This Memorandum of Agreement ("Agreement") is entered into by Providence College, a Roman Catholic, religious, independent, private, non-profit, tax-exempt, Rhode Island institution of higher education established in 1917 pursuant to the laws of the State of Rhode Island, having a mailing address of One Cunningham Square, Providence, Rhode Island 02918 ("Providence College" or the "College"), and the City of Providence, a municipal corporation located in the State of Rhode Island, having a mailing address of City Hall, 25 Dorrance Street, Providence, Rhode Island 02903 (the "City").

**I. Introduction**

Providence College and the City of Providence (the "Parties") recognize that Providence College provides substantial educational, economic, and non-economic benefits to the City and the community. Further, Providence College is willing to work with the City to advance the growth of Providence College while simultaneously assisting the City.

In recognition of the parties' mutual interests, Providence College and the City have therefore entered into this Agreement as follows.

**II. Payment to the City**

Upon the issuance of an order and decree by the Providence City Council, which shall occur no later than February 28, 2013, authorizing the abandonment of approximately 80,850 square feet of City-owned streets adjacent to the Providence College campus ("Street Abandonment/Conveyance") of the real estate described in Section III hereof, Providence College shall make an initial payment ("Initial Payment") to the City of Providence as shown below. Provided that the "Conditions to Payment" (hereafter defined and described in Section III hereof) have been satisfied and at all times during the term of this Agreement remain satisfied, Providence College shall thereafter continue to make payments (in readily available funds) as follows:

<b>Total Price:</b>	<b>\$</b>	<b>3,842,607.00</b>	<b>Outstanding Balance</b>
<b>Initial Payment:</b>	<b>\$</b>	<b>1,000,000.00</b>	<b>\$ 2,842,607.00</b>
1-Jul-2013	\$	315,845.22	\$ 2,526,761.78
1-Jul-2014	\$	315,845.22	\$ 2,210,916.56
1-Jul-2015	\$	315,845.22	\$ 1,895,071.33
1-Jul-2016	\$	315,845.22	\$ 1,579,226.11
1-Jul-2017	\$	315,845.22	\$ 1,263,380.89
1-Jul-2018	\$	315,845.22	\$ 947,535.67
1-Jul-2019	\$	315,845.22	\$ 631,690.44
1-Jul-2020	\$	315,845.22	\$ 315,845.22
1-Jul-2021	\$	315,845.22	\$ -



Upon the mutual agreement of the City and the College, the College may accelerate the payment of the remaining balance. The payment will be the present value of the total remaining balance discounted by the LIBOR Rate at a mutually agreeable date plus 2 percent.

### **III. Conditions to Payment**

The "Conditions to Payment" shall mean that:

1. Good Marketable Title to certain real property shall be conveyed, no later than February 28, 2013, by the City to Providence College as described herein:

On a date to be determined by the Parties, but not later than February 28, 2013, the City shall abandon/convey to Providence College good, clear, recorded, and marketable title to approximately 80,850 square feet of City-owned streets adjacent to the Providence College campus that are bounded on both sides by Providence College properties, specifically: Huxley Avenue from Lot # 229 to Lot # 8, and Cumberland Street from Lot # 189 to Lot # 195, and Wardlaw Avenue from Lot # 186 to Lot # 189, as depicted on the Street Conveyance Maps, which are identified as Exhibit A and Exhibit B, which are attached hereto and incorporated by reference; and,

2. Legal Compliance as provided in Section IV hereof.

### **IV. Legal Compliance**

"Legal Compliance" shall mean that the City shall have caused to occur all legislative and administrative actions necessary under applicable law in order for the Street Abandonment and Conveyance to be effective, the foregoing shall not have been made the subject of any appeal or legal challenge (or if the same shall have occurred, the same shall be vigorously prosecuted by the City and shall have been favorably and finally disposed of), nor shall there be any further administrative or legislative actions to amend, modify, rescind, regulate, or restrict the Street Abandonment/Conveyance, or Providence College's rights thereunder.

### **V. Existing Memorandum Unaffected**

The June 5, 2003 Memorandum of Understanding (the "MOU") by and amongst the City, Providence College, and three other educational institutions (a copy of which is attached hereto as Exhibit C) remains in full force and effect and is not modified by this Agreement in any way.

### **VI. Non Performance, Default, and Remedies**

The parties agree that each shall act in good faith in implementing the terms of the Agreement.

If at any time a Condition to Payment is not satisfied, Providence College shall have no obligation to make any further payment hereunder. Additionally, if any payments have previously been made and a Condition to Payment becomes unsatisfied, and such failure



continues for at least sixty (60) days after notice from Providence College, the City shall return any payments previously made to the City, EXCEPT that in no event shall any portion of the Initial Payment, which is the payment made at the time of completion of all actions as described in Sections II and III herein, be returned to Providence College, nor shall any offset or credit be associated therewith at any time.

In the event that either party shall fail to perform fully the obligations contained in this Agreement, the other party shall be entitled to fully enforce the outstanding obligations.

In the event that the Conditions to Payment have been satisfied and Providence College fails to make any payment to the City in accordance with the time frame specified for such payment, the City shall, be entitled to seek damages and any other relief available in a court of law.

In the event that the City breaches any of its material obligations under this Agreement and the City fails to cure any such breach within sixty (60) days from receiving written notice of the same, Providence College shall be permitted to terminate this Agreement and no further payments required under the terms of this Agreement shall be due. Upon the City effectuating a cure, the notice of default shall be deemed null and void and this Agreement shall continue in full force and effect.

In the event that the City does not return the advanced monies in accordance with the provision of this paragraph, Providence College shall be entitled to offset such amount, as a credit, to any and all fees and taxes or other monetary obligations (including payments due by Providence College under the 2003 Memorandum of Understanding between the City and Providence College) of any kind due to the City of Providence until such time as the full amount due and payable to Providence College under this provision shall have been satisfied.

#### **VII. Miscellaneous**

The parties agree that this Agreement represents an effort on the part of Providence College and the City to address mutual needs and the effect of the same is not intended to, nor shall it, affect, alter, diminish or modify the legal status, force, and effect of Providence College's tax exempt status in any way. Nothing in this Agreement shall prohibit or restrict Providence College with respect to its right to challenge any attempt to affect, alter, diminish, or modify the legal status, force, and effect of Providence College's tax exempt status in any way.

General captions and section titles are for convenience of reference only, and shall not be used to construe this Agreement. References to a Section include subsections thereof.

The term "including" shall be interpreted to mean "including, without limitation," unless the context otherwise expressly specifies.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall be deemed to constitute one instrument. Photocopies, facsimile and electronic versions (such as pdf, jpeg, and tif) of this Agreement shall be deemed originals and treated as binding.

This Agreement, including all Exhibits attached hereto, constitutes the entire understanding and agreement of the parties hereto with respect to the matters hereof and supersedes all prior understandings and agreements in their entirety, if any, there being no other oral or written

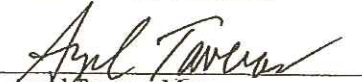
promises, conditions, representations, understandings, agreements, or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either Party. Any subsequent conditions, representations, warranties, agreements, or amendments to or modifications of this Agreement shall not be valid and binding upon the Parties unless the same shall be embodied in a subsequent writing signed by both of the Parties hereto.

Any notice or demand which must or may be given under this Agreement or by law shall be in writing and shall be deemed to have been given when delivered by personal delivery; one (1) business day after being deposited with a nationally recognized overnight courier; or two (2) business days after being deposited in the United States mail, certified, return receipt requested, full postage prepaid, addressed to the respective parties at the addresses set forth in this Agreement. All notices or demands sent to the City shall be sent to the attention of the Mayor's Office, with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the City Solicitor. All notices or demands sent to Providence College shall be sent to the attention of the President with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the General Counsel.

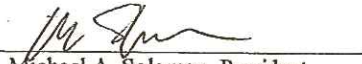
IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its respective duly authorized officers as of the day and year first written above.

**THE CITY OF PROVIDENCE**

BY:

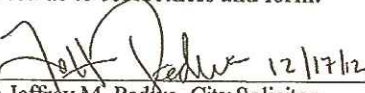
  
Angel Taveras, Mayor

BY:

  
Michael A. Solomon, President  
Providence City Council

Approved as to correctness and form:

BY:

 12/17/12  
Jeffrey M. Padwa, City Solicitor  
City of Providence

**PROVIDENCE COLLEGE**

BY:

  
Brian J. Shanley, O.P., President

Approved as to correctness and form:

BY:

Marifrances McGinn, General Counsel  
Providence College



# EXHIBIT A





# Providence College

## Cumberland Street

CAPUTO AND WICK LTD.  
1150 Pawtucket Avenue  
Rumford, Rhode Island 02916  
(401) 434-8880





# EXHIBIT B



This Memorandum of Understanding ("Memorandum") between the four Institutions and the City sets forth the understandings of the parties with respect to financial assistance to be provided to the City by the Institutions.

By entering into this Memorandum, the Institutions acknowledge the importance of the relationship between the Institutions and the City and, therefore, agree to make additional voluntary contributions to the City. The parties recognize that the Institutions, like other non-profit, religious, and charitable organizations, provide substantial economic and non-economic benefits to the City and the community.

#### THE UNDERSTANDING OF THE PARTIES:

While this Memorandum is in effect, each of the Institutions will make voluntary contributions to the City as described in this Memorandum.

##### 1.0 Voluntary Payments.

1.1 Voluntary Payments. Each of the Institutions will volunteer payments to the City which will be comprised of the "Voluntary Payment" described in Section 1.1.1, the "Augmented Voluntary Payment" described in Section 1.1.2, and the "Transition Payments" described in Section 2.2.

1.1.1 Voluntary Payment. The Voluntary Payment will be paid in equal semiannual payments on December 1 and May 1 beginning on December 1, 2003 and the Voluntary Payment will cease and will be zero after May 1, 2023. The amount of the "Voluntary Payment" for each of the Institutions for each of the twenty applicable fiscal years of the City is listed in the schedule in Exhibit A.

1.1.2 Augmented Voluntary Payment. The Augmented Voluntary Payment also will be paid in equal semiannual payments on December 1 and the following May 1 beginning on December 1, 2003. The Augmented Voluntary Payment will cease and will be zero after May 1, 2007. The amount of the "Augmented Voluntary Payment," for each of the Institutions for each of the four applicable fiscal years, is listed in the schedule in Exhibit B.

1.1.3 New Properties. The Institutions have recently acquired, or are in the process of acquiring, the properties listed in the schedule in Exhibit B (the "New Properties") and have volunteered the Augmented Voluntary Payments in lieu of any Transition Payments relating to the New Properties. If, while this Memorandum is in effect, a full or partial payment of real estate taxes is paid to the City with respect to a New Property (other than with respect to taxes being paid by J&W for the New Properties owned by J&W, which tax payments are not covered by this Memorandum), the Institution shall be entitled to use such payment as an offset to reduce the amount of the Augmented Voluntary Payment. In addition, if an Institution should for any reason fail to complete the acquisition transaction for a New Property in whole or in part, then no Augmented Voluntary Payment will be made with respect to such New Property.

(or the Augmented Voluntary Payment will be reduced pro rata if only a portion of such New Property is acquired) and any previously paid Augmented Voluntary Payments relating to such New Property (or portion thereof not acquired) will be credited toward other voluntary payments to be made by that Institution hereunder.

## 2.0 Transition Arrangements for Future Acquisitions.

2.1 Acquisition Parcels. If, at any time while this Memorandum is in effect, any Institution acquires a parcel of real estate in the City (other than a New Property) that is subject to real estate taxes, but will as a result of such acquisition become tax-exempt, then each such parcel shall be deemed to be a "Transition Parcel". Each Institution agrees to notify the City of its future acquisition of any parcel of real estate in the City to the same extent that other non-profit tax-exempt entities are required to provide notice of acquisition of property to the City pursuant to Rhode Island law or pursuant to any City ordinance that is uniformly applied to all non-profit, tax-exempt entities.

2.2 Transition Payments. After a Transition Parcel becomes exempt from real estate taxes, the Institution will contribute "Transition Payments" according to the Transition Payment Schedule listed below while this Memorandum is in effect. These payments are referred to as "Transition Payments" because they are intended to reduce the impact upon the City caused by the acquisition of the Transition Parcel by the Institution. One-half of the Transition Payment for a Transition Parcel will be paid on May 1 and one-half will be paid on December 1 of the applicable Calendar Years following the assessment date as of when the Transition Parcel becomes a tax-exempt parcel.

### Transition Payment Schedule for a Transition Parcel (or portion thereof)

<u>Calendar Year</u>	<u>Amount of Transition Payment</u>
1. Initial Year	100% of Initial Transition Payment
2. Second Year	100% of Initial Transition Payment
3. Third Year	100% of Initial Transition Payment
4. Fourth Year	100% of Initial Transition Payment
5. Fifth Year	100% of Initial Transition Payment
6. Sixth Year	66.7% of Initial Transition Payment
7. Seventh Year	66.7% of Initial Transition Payment
8. Eighth Year	66.7% of Initial Transition Payment
9. Ninth Year	66.7% of Initial Transition Payment
10. Tenth Year	66.7% of Initial Transition Payment
11. Eleventh Year	33.3% of Initial Transition Payment
12. Twelfth Year	33.3% of Initial Transition Payment
13. Thirteenth Year	33.3% of Initial Transition Payment
14. Fourteenth Year	33.3% of Initial Transition Payment
15. Fifteenth Year	33.3% of Initial Transition Payment



2.3 Amount of Initial Transition Payment. The amount of the "Initial Transition Payment" for an exempted Transition Parcel shall be equal to the real estate taxes that were payable (after applicable abatements or any appeals that were pending when the Transition Parcel was acquired by the Institution or as otherwise legally permitted) with respect to such exempted Transition Parcel with respect to the Tax Year in which the Institution acquired the Transition Parcel. If such Transition Parcel should thereafter cease for any reason to be tax-exempt, then Transition Payments with respect to that Transition Parcel will be suspended, so long as the Transition Parcel remains taxable. If such Transition Parcel returns to tax-exempt status while this Memorandum is in effect, the Transition Payments will resume at the same point in the schedule that they were suspended. *For clarity, in no event will a Transition Payment and a real estate tax payment be made with respect to the same Transition Parcel for any one calendar year. For example, if the 6<sup>th</sup> Transition Payment is made, and the Transition Parcel becomes taxable for seven years, then when it becomes tax-exempt in the next year, the 7<sup>th</sup> Transition Payment would be made in the amount equal to 66.7% of the Initial Transition Payment.*

### 3.0 Miscellaneous.

3.1 Voluntary Undertakings. All parties agree that this Memorandum is a voluntary undertaking by the Institutions that was entered into even though the properties utilized by the Institutions are exempt from taxation and that the parties expect that such tax exemption will continue into the future. In the event, however, that Other Payments or Taxes (as defined in Section 3.5 of this Memorandum) are imposed upon any of the Institutions or their properties in the future that were not imposed upon the Institutions or their properties as of the date of the execution of this Memorandum, all parties agree that this Memorandum will terminate as to all of the Institutions thirty (30) days after the imposition of such taxes or fees, however any Institution may elect, in writing and at its sole option, within such thirty (30) day period, to continue this Memorandum in effect with regard to that Institution. For the purpose of interpreting this Section 3.1 only, the parties agree that the City may challenge the tax-exempt eligibility of any particular parcel based upon the use of such property utilizing any challenge that is legally available to the City as of the date of the execution of this Memorandum and for the purpose of interpreting this Section 3.1 only, the term Other Taxes or Payments shall exclude any property taxes that could be lawfully assessed or imposed as of the date of this Memorandum upon any Institution, or upon any property of any Institution, based upon the use of such property.

3.2 Exemption of MOU Properties. The term "MOU Properties" refers to the New Properties and any Transition Parcels that are covered from time to time by this Memorandum.

3.3 Tax-Exemption. The parties agree that nothing in this Memorandum affects, alters, diminishes or increases the legal status, force, or effect of the Institutions' tax exemption. Each Institution represents to the City that it is a charitable corporation and is exempt from Federal income taxes under § 501(c)(3) of the Internal Revenue Code, as amended.



3.4 Change in Laws. The City agrees that, if at any time after the date of this Memorandum, there is a change in state laws resulting in the imposition of a tax whether in the nature of a user fee or otherwise (or there is an obligation in the nature of a real estate tax, regardless of the basis upon which the tax is calculated, or there is an obligation that has the effect of such a tax), with the result in any such event that directly or indirectly any Institution is required to make payments directly or indirectly to the City with respect to all or any portion of the MOU Properties then, while this Memorandum remains in effect, such payment(s) will be credited against and shall reduce the Transition Payment and any other payments that each Institution has volunteered to make under this Memorandum.

3.5 Other Payments or Taxes. If, while this Memorandum is in effect, the City assesses or imposes any taxes, fees, charges, or payments that are not in effect as of the date this Memorandum is executed ("Other Payments or Taxes") in respect to any Institution's tax-exempt properties or that have the effect of a tax on any Institution or on any Institution's currently tax-exempt property or currently tax-exempt operations, then in addition to any other right that such Institution may have, the Institution may contest the making of such Other Payments or Taxes and/or may offset (i.e., deduct) such Other Payments or Taxes from the Transition Payments or other payments volunteered to be made under this Memorandum and pay the Other Payments or Taxes under protest reserving the Institution's rights. The term "Other Payments or Taxes" shall exclude water and sewer use charges and the like, and other fees charged to property, but only if they are uniformly applicable to similar property (regardless of ownership or use) in the City. In no event shall a decision by an Institution to continue this Memorandum in effect despite the imposition of Other Payments or Taxes constitute or be construed as an admission that such Other Payments or Taxes may lawfully be imposed. An Institution reserves the right to challenge the imposition of Other Payments or Taxes regardless of whether it chooses to continue this Memorandum in effect.

3.6 Notice of Intent Not to Pay. Each Institution's voluntary undertaking to make the Voluntary Payments described in this Memorandum has been memorialized in this document to permit the City to take into account such payments when it prepares budgets for the City. With regard to any payments referred to in this Memorandum, it will be each Institution's decision on a yearly basis whether to make such payments due during a fiscal year, and each Institution will give notice to the City of such decision at least fourteen months before the fiscal year in which such payments will not be made.

3.7 General. Captions and section titles are for convenience of reference only, and shall not be used to construe this Memorandum. References to a Section include subsections thereof. The term "including" shall be interpreted to mean "including without limitation," unless the context otherwise expressly specifies. Footnotes and italicized explicative provisions are material parts of this Memorandum as fully as if set forth in the body of this Memorandum in regular typeface. This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall be deemed to constitute one instrument. This Memorandum constitutes the entire understanding between the parties and supersedes all

previous discussions, negotiations, and agreements between the City and the Institutions with respect to the understandings herein.

3.8 Duration of this Memorandum. This Memorandum shall continue in effect until June 30, 2023, unless sooner terminated as provided herein.

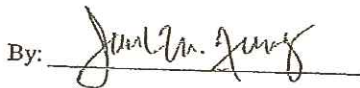
3.9 Sales Terminate Undertaking. The Institution's voluntary undertaking to make the Transition Payments described in this Memorandum will terminate as to a specific MOU Property upon the sale or other disposition of such MOU Property to a corporation, partnership, limited partnership, trust, or other legal entity, that is not owned or controlled by an Institution.

IN WITNESS WHEREOF, each of the parties has caused this Memorandum to be executed by their respective duly authorized officers as of the day and year first written above.

THE CITY OF PROVIDENCE

By: 

Approved as to form and correctness

By: 

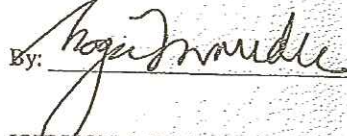
BROWN UNIVERSITY

By: 

PROVIDENCE COLLEGE

By: 

RHODE ISLAND SCHOOL OF  
DESIGN

By: 

JOHNSON & WALES  
UNIVERSITY

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



previous discussions, negotiations, and agreements between the City and the Institutions with respect to the understandings herein.

3.8 Duration of this Memorandum. This Memorandum shall continue in effect until June 30, 2023, unless sooner terminated as provided herein.

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IN WITNESS WHEREOF, each of the parties has caused this Memorandum to be executed by their respective duly authorized officers as of the day and year first written above.

THE CITY OF PROVIDENCE

By: [Signature]

Approved as to form and correctness

By: [Signature]

BROWN UNIVERSITY

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

PROVIDENCE COLLEGE

By: Philip A. Smith, Jr.

RHODE ISLAND SCHOOL OF  
DESIGN

By: [Signature]

JOHNSON & WALES  
UNIVERSITY

By: [Signature]



Exhibit A

Fiscal Year Ending	Brown	J&W	PC	RISD	Total
30-Jun-04	\$1,065,161	\$274,205	\$234,588	\$156,046	\$1,730,000
30-Jun-05	\$1,081,138	\$278,318	\$238,107	\$158,387	\$1,755,950
30-Jun-06	\$1,097,355	\$282,493	\$241,678	\$160,763	\$1,782,289
30-Jun-07	\$1,113,816	\$286,730	\$245,304	\$163,174	\$1,809,024
30-Jun-08	\$1,130,523	\$291,031	\$248,983	\$165,622	\$1,836,159
30-Jun-09	\$1,147,481	\$295,396	\$252,718	\$168,106	\$1,863,701
30-Jun-10	\$1,164,693	\$299,828	\$256,509	\$170,627	\$1,891,657
30-Jun-11	\$1,182,164	\$304,325	\$260,356	\$173,187	\$1,920,032
30-Jun-12	\$1,199,896	\$308,890	\$264,262	\$175,784	\$1,948,832
30-Jun-13	\$1,217,894	\$313,523	\$268,226	\$178,422	\$1,978,065
30-Jun-14	\$1,236,163	\$318,226	\$272,249	\$181,098	\$2,007,736
30-Jun-15	\$1,254,705	\$323,000	\$276,333	\$183,814	\$2,037,852
30-Jun-16	\$1,273,526	\$327,844	\$280,478	\$186,571	\$2,068,419
30-Jun-17	\$1,292,629	\$332,762	\$284,685	\$189,370	\$2,099,446
30-Jun-18	\$1,312,018	\$337,753	\$288,955	\$192,211	\$2,130,937
30-Jun-19	\$1,331,698	\$342,820	\$293,289	\$195,094	\$2,162,901
30-Jun-20	\$1,351,674	\$347,962	\$297,689	\$198,020	\$2,195,345
30-Jun-21	\$1,371,949	\$353,182	\$302,154	\$200,990	\$2,228,275
30-Jun-22	\$1,392,529	\$358,479	\$306,686	\$204,005	\$2,261,699
30-Jun-23	\$1,413,416	\$363,857	\$311,287	\$207,065	\$2,295,625
				Total:	\$40,003,944

Exhibit B

Fiscal Year ending	Brown	J&W	PC	RISD	Total Annual Augmented Voluntary Payment
30-Jun-04	\$326,000	\$114,000	\$76,000	\$1,602,000	\$2,118,000
30-Jun-05	\$326,000	\$114,000	\$76,000	\$1,602,000	\$2,118,000
30-Jun-06	\$326,000	\$114,000	\$76,000	\$1,602,000	\$2,118,000
30-Jun-07	\$326,000	\$114,000	\$76,000	\$1,602,000	\$2,118,000
Total					\$8,472,000

New Properties

0 Harborside Boulevard (Plat 56, Lots 74, 308, 315)  
250 Shipyard Street (Plat 56, Lot 330)  
310 Shipyard Street (Plat 56, Lot 292)  
25 Fields Point (Plat 56, Lot 257)  
541 Smith Street (Plat 69, Lot 13)  
539 Smith Street (Plat 69, Lot 14)  
90 Ruggles Street (Plat 69, Lot 22)  
25 Dickens Street (Plat 69, Lot 37)  
21 Dickens Street (Plat 69, Lot 352)  
10 Park Lane (Plat 50, Lot 721)  
70 Ship Street (Plat 21, Lot 105)  
15 Westminster Street (Plat 20, Lots 1, 2)



# EXHIBIT C

MEMORANDUM OF UNDERSTANDING  
with respect to  
VOLUNTARY PAYMENTS  
to be paid to the  
CITY OF PROVIDENCE, RHODE ISLAND  
by  
BROWN UNIVERSITY  
and  
RHODE ISLAND SCHOOL OF DESIGN  
and  
PROVIDENCE COLLEGE  
and  
JOHNSON & WALES UNIVERSITY  
Dated as of June 5, 2003

**PARTIES:**

**The City:** The City of Providence, Rhode Island is a municipal corporation, located in The State of Rhode Island, having a mailing address of Department of Administration, City Hall, 25 Dorrance Street, Providence, Rhode Island 02903.

**Brown:** Brown University is an independent, private, non-profit, tax-exempt, Rhode Island institution of higher education established in 1764 by colonial charter and existing pursuant to the law of the State of Rhode Island, having a mailing address of University Hall, One Prospect Street, Providence, Rhode Island 02912.

**RISD:** Rhode Island School of Design is an independent, private, non-profit, tax-exempt, Rhode Island institution of higher education established by charter and existing pursuant to the law of the State of Rhode Island, having a mailing address of Two College Street, Providence, Rhode Island 02903.

**PC:** Providence College is an independent, private, non-profit, tax-exempt, Rhode Island, Roman Catholic religious institution of higher education, established by charter and existing pursuant to the law of the State of Rhode Island, having a mailing address of 549 River Avenue, Providence, Rhode Island 02918.

**J&W:** Johnson & Wales University is an independent, private, non-profit, tax-exempt, Rhode Island institution of higher education, established by charter and existing pursuant to the law of the State of Rhode Island, having a mailing address of 8 Abbott Park Place, Providence, Rhode Island 02903.

**The Institutions:** Collectively, Brown, RISD, PC, and J&W.

**INTRODUCTION:**



# Appendix G

Memorandum of Agreement

Rhode Island School of Design

November 21, 2012

THE CITY OF PROVIDENCE  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## RESOLUTION OF THE CITY COUNCIL

No. 646

Approved November 21, 2012

RESOLVED, That the Members of the Providence City Council  
hereby Authorize Approval of the Memorandum of Agreement by and between the  
City of Providence and Rhode Island School of Design.

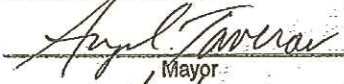
IN CITY COUNCIL

NOV 19 2012

READ AND PASSED

  
PRES.  
  
CLERK

I HEREBY APPROVE.

  
Mayor  
Date: 11/21/12



## MEMORANDUM OF AGREEMENT

by and between

the

City of Providence

and

Rhode Island School of Design

The City of Providence, Rhode Island (the "City"), a Rhode Island municipal corporation having a mailing address of City Hall, 25 Dorrance Street, Providence, RI 02903, and Rhode Island School of Design ("RISD"), an independent, private, non-profit, tax-exempt, Rhode Island institution of higher education having a mailing address of Two College Street, Providence, RI 02903, agree as follows, effective as of June 29, 2012:

### I. Introduction

The City recognizes that RISD provides substantial economic, educational, cultural, and other benefits to the City and the community. RISD recognizes that the City provides essential services and infrastructure that enable RISD to pursue and fulfill its mission. By entering into this Agreement, the parties acknowledge the importance of their relationship to each other and their willingness to continue to work cooperatively together for their mutual benefit and growth.

### II. Payments to the City by RISD

Provided that the obligations of the City set forth in Section III of this Agreement have been satisfied and at all times during the term of this Agreement remain satisfied, RISD will pay the City the amount of \$253,900 each fiscal year from 2012 through 2022. RISD will make such annual payments by no later than June 30 of each such fiscal year, or by such other business day on which the parties may otherwise mutually agree in writing.

### III. Grant of Parking Rights to RISD by the City

As a condition precedent of receiving the payments set forth in Section II of this Agreement, the City must have entered into a mutually agreeable parking agreement with RISD, no later than October 30, 2012, pursuant to which the City will provide to RISD 70 parking spaces on public streets near the RISD campus, for use primarily by RISD faculty and staff. The parking agreement will be consistent with the terms contained on Exhibit A, and mapped on the attached Exhibit B, and will be for the period January 1, 2013 through December 30, 2023.

At its option, and upon notice to the City at least 90 days before the expiration of the then-current term, RISD may extend the term for two additional periods of ten years each at reasonable market-based rates to be mutually determined by the parties.

The City will take all administrative, legislative, and other actions necessary to implement this grant of parking rights and to keep it in full force and effect throughout the term.

IV. Preservation of Existing Memorandum of Understanding

The June 5, 2003 Memorandum of Understanding ("MOU") by and among the City, RISD, and three other educational institutions remains in full force and effect and is not modified by this Agreement in any way. By way of clarification and not of amendment, the payments by RISD under this Agreement will not constitute "Other Payments and Taxes" under the June 5, 2003 MOU, but RISD reserves any rights it may have under said MOU with respect to any other attempts by the City to assess such "Other Payments and Taxes" as defined by the MOU (including, without limitation, efforts to inventory or assess RISD's tangible personal property or to assess master fire alarm or similar user fees on any basis other than a uniform assessment of the city's actual costs).

V. Acknowledgment of RISD's Continuing Tax-Exempt Status

The parties agree that this Agreement represents an effort on the part of the City and RISD to address mutual needs and that it is not intended to nor will it affect, alter, diminish, or modify the legal status, force, and effect of RISD's tax-exempt status in any way. Nothing in this Agreement will prohibit or restrict RISD's rights to challenge any attempt to affect, alter, diminish, or modify the legal status, force, and effect of RISD's tax-exempt status in any way.

VI. Non-Performance, Default, and Remedies

Each party will act in good faith in implementing the terms of this Agreement.

If at any time the City ceases to fulfill its material obligations under Section III of this Agreement and the terms of the parking agreement to be entered into by the parties referenced in that Section, RISD will have no obligation to make any further payment hereunder until the City has resumed fulfilling those obligations. In addition, RISD will be entitled to a pro rata refund of prior payments applicable to the time period of any such failure of the City to fulfill those material obligations and/or to a credit in such amount toward future such payments. In addition, if the City fails to cure any such failure to fulfill those material obligations within 60 days of receiving notice of such failure from RISD, RISD may, at its option and in its sole discretion, terminate this Agreement and will thereafter have no further payment or other obligations to the City under this Agreement, other than any such obligations that existed prior to the time of RISD's notice to the City of any such failure.

In the event that the City has fulfilled its obligations under Section III of this Agreement and RISD fails to make any payment to the City in accordance with the time frame specified for such payment, the City will be entitled to seek damages and any other such relief afforded by law. In the event that either of the parties files a voluntary bankruptcy petition, or is adjudicated bankrupt or insolvent, or files any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future Federal Bankruptcy Act, or any present or future applicable federal, state, or other statute or law, or seeks or consents to the



appointment of any receiver or liquidator, the other party may terminate this Agreement upon notice, subject to the laws governing federal or state insolvency.

VII. Miscellaneous

This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which will be deemed to constitute one instrument. Photocopies, facsimiles, and electronic versions of this Agreement will be deemed originals and treated as binding.

This Agreement, including all attached exhibits, constitutes the entire understanding and agreement of the parties hereto with respect to the subject matters hereof and supersedes all prior understandings and agreements in their entirety, if any, there being no other oral or written promises, conditions, representations, understandings, agreements, or terms of any kind as conditions or inducements to the execution hereof, and none have been relied upon by either party. No subsequent conditions, representations, warranties, agreements, or amendments to or modifications of this Agreement will be valid and binding upon the parties unless they are embodied in a subsequent writing signed by both of the parties.


This Agreement will be governed by, and interpreted and construed in accordance with, the laws of the State of Rhode Island. Any dispute arising hereunder must be filed in a court of competent jurisdiction located in Providence, Rhode Island.

Any notice or demand that must or may be given under this Agreement or by law must be in writing and will be deemed to have been given when delivered by personal delivery; one business day after being deposited with a nationally recognized overnight courier; or two business days after being deposited in the United States mail, certified, return receipt requested, full postage prepaid, addressed to the respective parties at the addresses set forth in this Agreement. All notices or demands sent to the City must be sent to the attention of the Mayor's Office, with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the City Solicitor. All notices or demands sent to RISD must be sent to the attention of the President with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the General Counsel.

This Agreement is contingent upon the approval of both the City's City Council and RISD's Board of Trustees.


IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its respective duly authorized officer effective as of June 29, 2012.

THE CITY OF PROVIDENCE

  
Angel Taveras,  
Mayor

6/29/12  
Date

RHODE ISLAND SCHOOL OF DESIGN

  
John Maeda,  
President

6/29/12  
Date

\_\_\_\_\_  
Michael A. Solomon,  
President, City Council

\_\_\_\_\_  
Date

Approved as to form and correctness:

  
\_\_\_\_\_  
Jeffrey M. Hadwa,  
City Solicitor

6/29/12  
\_\_\_\_\_  
Date



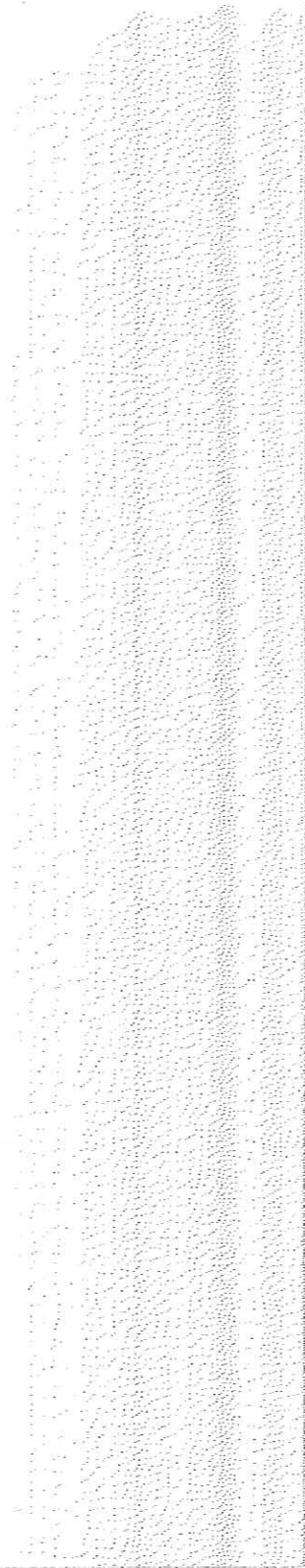
EXHIBIT A

LIST OF DESIGNATED PARKING SPACES

Street	Spaces	RISD Exclusive Use	RISD Non-Exclusive Use
Benefit Street	11	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
Fulton Street	6	8 a.m. to 6 p.m., Monday to Friday	N/A
Meeting Street	4	8 a.m. to 6 p.m., Monday to Friday	N/A
Middle Street	4	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
South Water Street (east side)	16	8 a.m. to 10 a.m., Monday to Friday	10 a.m. to 6 p.m., Monday to Friday
South Water Street (west side)	20	N/A	8 a.m. to 6 p.m., Monday to Friday
Washington Place	5	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
Westminster Street	3	8 a.m. to 6 p.m., Monday to Friday	N/A
Westminster Street	1	24/7/365	N/A

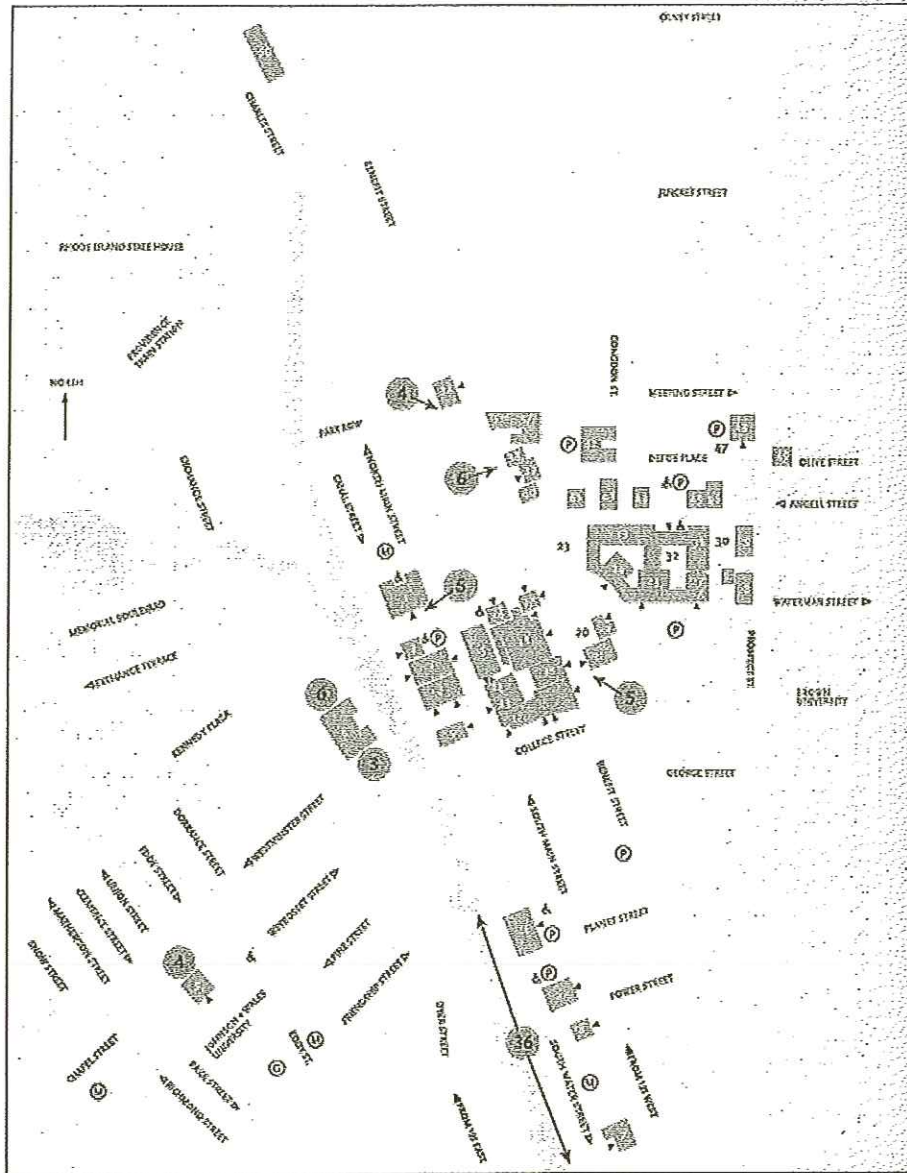
EXHIBIT B

MAP OF DESIGNATED PARKING SPACES





## MAP OF DESIGNATED PARKING SPACES



## PARKING LICENSE AGREEMENT

This Parking License Agreement (this "License Agreement") is made as of \_\_\_\_\_, 2012, by and between the City of Providence, Rhode Island, a municipal corporation located in the State of Rhode Island having a mailing address of City Hall, 25 Dorrance Street, Providence, Rhode Island 02903 ("Licensor") and Rhode Island School of Design, a Rhode Island non-profit corporation having a mailing address of Two College Street, Providence, Rhode Island 02903 ("Licensee") (collectively referred to as the "Parties," and singularly as a "Party").

### RECITALS

A. WHEREAS, Licensor is the owner of certain real property designated and accepted as public streets, as such streets are identified on Exhibit "A" attached hereto and incorporated herein by reference (the "Public Streets").

B. WHEREAS, Licensee's university campus (the "Campus") is in close proximity to the Public Streets and the Licensee owns and utilizes a substantial portion of the real properties immediately adjacent to the Public Streets referenced herein.

C. WHEREAS, as required by that certain Memorandum of Agreement, dated June 29, 2012 by and between the Parties ("the MOA"), Licensor desires to convey to Licensee an irrevocable license for parking, on both an exclusive and a non-exclusive basis, in 70 parking spaces upon the Public Streets, all as further described below.

NOW, THEREFORE, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee agree as follows:

1. Parking License.

a. Licensor hereby grants Licensee a license (the "Parking License") for vehicular parking by Licensee's authorized faculty and staff on the 70 parking spaces identified on Exhibit "A" (the "Parking License Area") on an exclusive and/or non-exclusive basis at the times specified on Exhibit "B." The Licensor further agrees that during the non-exclusive license periods, parking in the designated portions of the Parking License Area by anyone other than a Permit holder of the Licensee will be limited to two hours of parking. Licensee agrees that holders of overnight parking permits may park within the Parking License Area (other than the one 24-hour exclusive parking space) between the hours of 6:00 p.m. and 7:45 a.m. Occupancy of the Parking License Area by an overnight parking permit holder after 7:45 a.m. will subject such overnight permit holder to ticketing.

b. The License Agreement is effective for an "Initial Parking License Term" of



eleven years beginning on January 1, 2013 and ending on December 31, 2023. Upon completion of the Initial Parking License Term on December 31, 2023, the Parking License will expire without the necessity of any further documentation thereof, unless the Parking License is extended as hereafter provided. Licensee shall have the right to extend the Initial Parking License term for two consecutive extension periods of ten years each (each an "Extension Period" and collectively the "Extension Periods"). Licensee shall exercise each such Extension Period by delivering written notice to the Licensor no later than three months prior to the expiration of the then-current term, nor sooner than 12 months prior to the expiration of the then-current term. Should Licensee fail to deliver written notice within such time period, then Licensee shall be deemed to have waived its right to exercise the Extension Period, and this License Agreement shall expire and be of no further force or effect at the end of the then-current term.

c. In consideration of the payments by Licensee to Licensor provided for in the MOA, Licensee shall not be required to pay a license fee during the Initial Parking License Term. During the Extension Periods, Licensee shall pay an annual license fee at reasonable, market-based rates to be mutually determined by the parties.

d. Licensor shall, at its expense, stripe a total of 70 parking spaces in the Parking License Area. Should such striping of the Parking License Area result in an undercount of spaces (fewer than 70), the Licensor shall provide additional striped parking spaces at a mutually agreeable location equally convenient to the Campus. Licensor agrees that any additional spaces designated for this purpose will be added to the Parking License Area.

2. Parking Permit System. Licensee, at its sole cost and expense, shall institute a parking permit system for the Parking License Area (the "Permit System") so that the Licensor can accurately and readily identify the parking License participants. As part of the Permit System, Licensee shall provide stickers, hang tags, or such other means of identification as determined by Licensee (the "Parking ID") to its authorized faculty and staff entitled to utilize the Parking License Area. The Permit holders shall display such Parking IDs in or on their vehicles in accordance with standards determined by Licensee. Licensee shall determine the number of Parking IDs that are provided to authorized faculty and staff. Further, Licensee shall provide Licensor with the license plate numbers/letters for each vehicle belonging to its authorized faculty and staff entitled to utilize the Parking License Area. Licensor shall enforce the Permit System, by reference to such license plate numbers/letters, as more particularly provided in Section 4. All income and other fees derived from or generated by the Permit System shall be kept exclusively by Licensee, and all income and other fees derived from or generated by enforcement of the Parking System by the Licensor shall be kept exclusively by the Licensor.

3. Parking Meters. To the extent that any of the parking spaces in the Parking License Area are not currently metered, no meters shall be installed at such parking spaces during the term of this License Agreement.

4. Signs and Other Enforcement Obligations of Licensor. In consultation with Licensee, Licensor shall provide standard parking signs in the Parking License Area, in such quantity and in such places as Licensor shall determine in its good faith and reasonable discretion, which



signs shall state "Monday through Friday, [hours], Parking by RISD Permit Only, Tow Zone" or words to that effect, and will further state "Monday through Friday, [hours], Two Hour Parking Except by RISD Permit, Tow Zone" or words to that effect. Any person parking in the Parking License Area without a RISD permit during the exclusive period, or in excess of two hours during the non-exclusive period without a RISD permit, will be deemed by Licensor to be in violation of the Licensor's parking ordinances and the Licensor will enforce the exclusivity of the license by ticketing, towing, booting, or other enforcement mechanisms as utilized by the City in its regular enforcement of parking violations. Without derogating from the Licensor's enforcement obligations, Licensor hereby delegates to Licensee, through Licensee's Department of Public Safety and/or Licensee's parking enforcement department, the authority to place tickets provided to Licensee by Licensor on any vehicle violating Parking License Area restrictions, provided that any revenue generated by such enforcement action by Licensee shall be payable exclusively to Licensor.

5. Maintenance. Licensor agrees to maintain the parking areas located in the Parking License Area in good repair and operable condition, consistent with Licensor's normal municipal obligations regarding on-street parking, including snow removal, striping, maintenance, repair and resurfacing.

6. Indemnification. Licensee shall indemnify, defend and hold Licensor harmless from and against any claims, expenses, liabilities, loss, damage and costs, including reasonable attorney's fees, in any actions or proceedings in connection therewith, incurred in connection with, related to, arising from, or due to or as a result of the death of any person or any accident, injury, loss or damage, however caused, to any person or property, or any other type of claim or loss, arising from Licensee's exercise of, or use of, the License set forth herein ("Losses"), except Losses resulting from Licensor's failure to comply with its obligations under this License Agreement and/or the negligence or willful misconduct of Licensor, or any of the agents, servants or employees of Licensor.

7. Remedies and Enforcement. In the event of a breach or threatened breach by a Party of the provisions hereof, the other party shall be entitled to full and adequate relief by injunction and other available legal and equitable remedies.

8. No Right to Charge the General Public; No Assignment or Sub-Licensing. In no event may Licensee charge the general public for parking in the Parking License Area. Any income generated by the general public using the Parking License Area (pursuant to the public's non-exclusive rights to use such area) shall be kept exclusively by Licensor. Except for issuing parking stickers or hang tags to its faculty and staff, Licensee shall have no right to assign or sub-license this License Agreement without the prior written consent of Licensor, which consent may be granted or withheld in the Licensor's sole discretion.

9. Successors and Assigns. This License Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No third party shall be entitled to enforce any term, covenant or condition of this License Agreement, or have any rights hereunder.



10. Amendment. This License Agreement may only be amended by a document executed by the Parties to this License Agreement or their successors or permitted assigns.

11. Waiver. No waiver of, acquiescence in, or consent to any breach of any term, covenant or condition of this License Agreement shall be construed as a waiver of or acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant or condition.

12. Severability. If any term or provisions of this License Agreement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this License Agreement shall not be affected thereby, and each such remaining terms and provisions shall be valid and enforced to the extent permitted by law.

13. Applicable Law. The License Agreement shall be construed, governed and enforced in accordance with the laws of the State of Rhode Island.

14. No Partnership or Joint Venture. Nothing in this License Agreement shall be construed to make the Parties hereto partners or joint venturers or render either of said Parties liable for the debts or obligations of the other.

15. Section Headings. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

16. Entire Agreement. This License Agreement sets forth the entire agreement between the Parties regarding the subject matter hereof. There are no statements, promises, representations or understandings, oral or written, not herein expressed.

17. Notice. Any notice to be given hereunder shall be directed as follows:

If to Licensor:           City of Providence  
                                  City Hall  
                                  25 Dorrance Street  
                                  Providence, Rhode Island 02903  
                                  Attn: Mayor's Office

With a copy to:       City Solicitor

If to Licensee:       Rhode Island School of Design  
                                  Two College Street  
                                  Providence, Rhode Island 02903  
                                  Attn: Director of Public Safety

With a copy to:       General Counsel

18. No Recordation. This License Agreement shall not be recorded by either Party.

19. Counterparts/Facsimile. To facilitate execution, this License Agreement may be executed by facsimile or electronic mail in .pdf format and in as many counterparts as may be deemed appropriate by the parties, all of which when taken together shall be deemed an original and shall comprise one agreement.

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

**LICENSOR:**

City of Providence

By: Angel Taveras 8/21/12  
Angel Taveras  
Mayor

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Michael Solomon, President  
Providence City Council

Approved as to form and correctness:

Jeffrey M. Padwa 8/20/12  
Jeffrey M. Padwa, City Solicitor

**LICENSEE:**

Rhode Island School of Design

By: John Maeda 8/20/12  
John Maeda  
President

John Maeda  
Witness



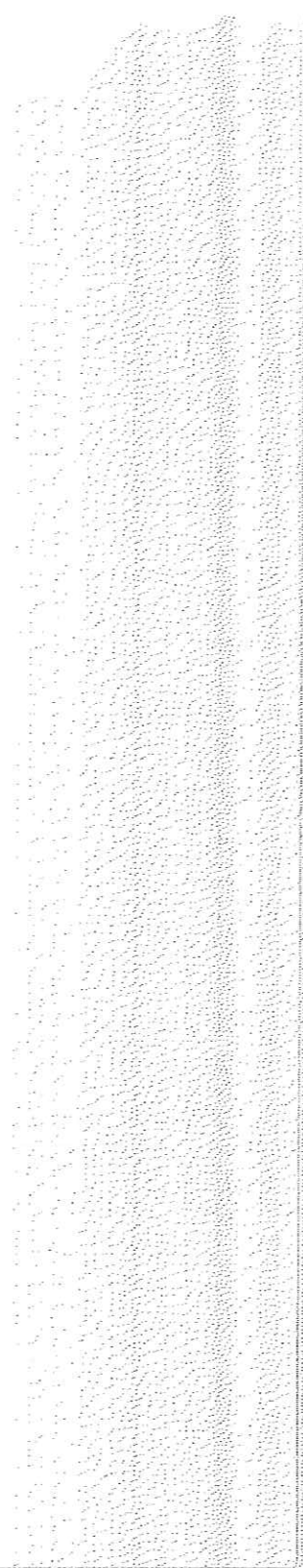
EXHIBIT A

LIST OF DESIGNATED PARKING SPACES

Street	Spaces	RISD Exclusive Use	RISD Non-Exclusive Use
Benefit Street	11	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
Fulton Street	6	8 a.m. to 6 p.m., Monday to Friday	N/A
Meeting Street	4	8 a.m. to 6 p.m., Monday to Friday	N/A
Middle Street	4	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
South Water Street (east side)	16	8 a.m. to 10 a.m., Monday to Friday	10 a.m. to 6 p.m., Monday to Friday
South Water Street (west side)	20	N/A	8 a.m. to 6 p.m., Monday to Friday
Washington Place	5	8 a.m. to noon, Monday to Friday	Noon to 6 p.m., Monday to Friday
Westminster Street	3	8 a.m. to 6 p.m., Monday to Friday	N/A
Westminster Street	1	24/7/365	N/A

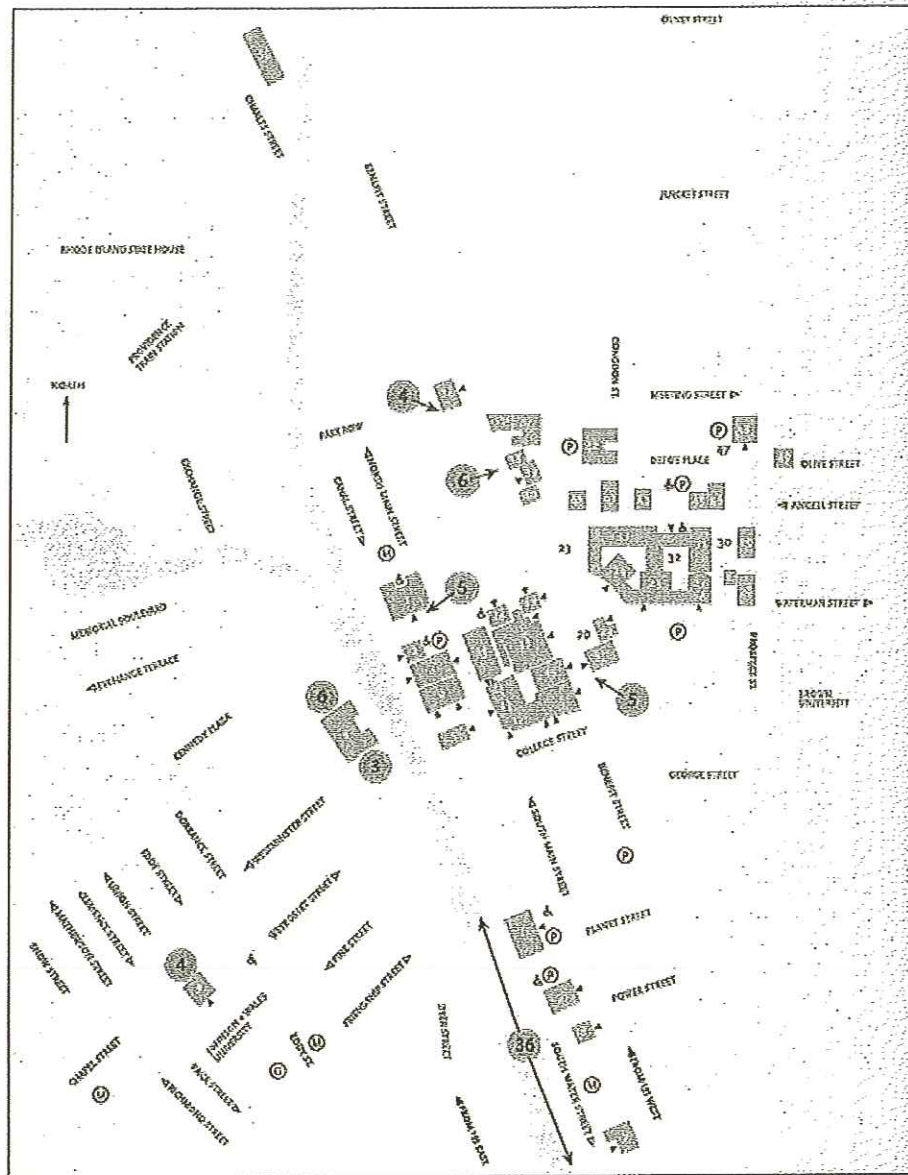
EXHIBIT B

MAP OF DESIGNATED PARKING SPACES





# MAP OF DESIGNATED PARKING SPACES



**MEMORANDUM OF AGREEMENT**  
by and between  
the  
**CITY OF PROVIDENCE**  
and  
**BROWN UNIVERSITY**

This Memorandum of Agreement (this "Agreement") is entered into by Brown University, an independent, private, non-profit, tax-exempt, Rhode Island institution of higher education established in 1764 by colonial charter and existing pursuant to the laws of the State of Rhode Island, having a mailing address of University Hall, One Prospect Street, Providence, Rhode Island 02912 ("Brown"), and the City of Providence, Rhode Island a municipal corporation located in the State of Rhode Island, having a mailing address of City Hall, 25 Dorrance Street, Providence, Rhode Island 02903 (the "City").

**I. Introduction**

The parties recognize that Brown provides substantial economic, educational and non-economic benefits to the City and the community. Further, Brown is amenable to working with the City to advance the growth of Brown while simultaneously assisting the City.

In recognition of the parties' mutual interests, Brown and the City have therefore entered into this Agreement as follows.

**II. Payments to the City**

Provided that the "Conditions to Payment" (hereafter defined) have been satisfied and at all times during the term of this Agreement remain satisfied, Brown shall make the payments (in readily available funds) as follows:

June 1, 2012 - Three Million Nine Hundred Thousand Dollars	(\$3,900,000) (the "initial payment")
June 1, 2013 - Three Million Nine Hundred Thousand Dollars	(\$3,900,000)
June 1, 2014 - Three Million Nine Hundred Thousand Dollars	(\$3,900,000)
June 1, 2015 - Three Million Nine Hundred Thousand Dollars	(\$3,900,000)
June 1, 2016 - Three Million Nine Hundred Thousand Dollars	(\$3,900,000)
June 1, 2017 - Two Million Dollars	(\$2,000,000)
June 1, 2018 - Two Million Dollars	(\$2,000,000)
June 1, 2019 - Two Million Dollars	(\$2,000,000)
June 1, 2020 - Two Million Dollars	(\$2,000,000)
June 1, 2021 - Two Million Dollars	(\$2,000,000)
June 1, 2022 - Two Million Dollars	(\$2,000,000)

**III. Conditions to Payment**

The "Conditions to Payment" shall mean that:

1. Title to certain real property shall be conveyed by the City to Brown as described in Section IV below (the "Street Conveyance Condition").

IN CITY COUNCIL  
JUN 21 2012

READ  
WHEREUPON IT IS ORDERED THAT  
THE SAME BE RECEIVED.  
*[Signature]*  
CLERK



2.A License of certain property and parking rights shall be entered into between the City and Brown as described in Section V below (the "Parking License Condition").

3.The "Legal Compliance Conditions" described in Section IV and VI below shall have been satisfied and shall remain satisfied.

#### **IV. Street Conveyance Condition**

The "Street Conveyance Condition" shall mean that no later than December 31, 2012, the City shall have conveyed to Brown good, clear, record and marketable title to approximately 65,000 s.f. of City owned streets adjacent to the Brown campus that are bounded on both sides by Brown properties, specifically: one block of Olive Street between Thayer and Brown Streets, two blocks of Brown Street between George and Charlesfield Streets, and one block of Benevolent Street between Brown and Magee Streets (the "Street Conveyance"). The property to be conveyed by the Street Conveyance is depicted on Exhibit A attached hereto.

#### **V. Parking License Condition**

The "Parking License Condition" shall mean that no later than June 30, 2012, the City shall have entered into an agreement with Brown pursuant to which the City will license to Brown on a non-exclusive basis, for an initial term of 20 years beginning no later than July 1, 2013, 250 parking spaces on public streets near the Brown campus as identified by Brown in the attached Exhibit B. The parking spaces shall be used primarily for Brown University faculty and staff parking.

The Parking License shall provide for two (2) additional ten-year option terms. The Parking License shall provide that no rental payments shall be due during the initial License Term (the payments required hereunder being the required consideration to consummate such License Agreement), provided; however, Brown will pay the City market rental rates during the option terms pursuant to a mutually agreeable mechanism to establish market rental rates to be included in the Parking License.

Brown, at its sole cost and expense, shall institute a parking permit system approved by the City so that the City can accurately and readily identify such Parking License participants. The Parking License shall provide that all income and other fees derived from or generated by the parking program instituted by Brown under the Parking License permit system shall be kept exclusively by Brown, and that all income and other fees derived from or generated by enforcement and compliance activities shall be kept exclusively by the City. In no event shall the Parking License be used to permit Brown to charge the general public for parking in the subject parking areas. Any income generated by the general public using the subject parking spaces shall be kept exclusively by the City. To the extent that any of the subject properties are not currently metered, they shall not be metered during the term of this license. The City will enforce the agreement by ticketing those who park for more than the allotted time without a Brown permit and those who park during the time that is designated as no parking without a Brown permit.

#### **VI. Legal Compliance Condition**



The "Legal Compliance Condition" shall mean that the City shall have caused to occur all legislative and administrative actions necessary under applicable law in order for the Street Conveyance to occur, the Parking License to be entered into, and none of the foregoing shall have been made the subject of any appeal or legal challenge (or if the same shall have occurred, the same shall have been favorably and finally disposed of), or found to be invalid in any legal proceeding, nor shall there be any further administrative or legislative actions to amend, modify, rescind, regulate or restrict the Street Conveyance, the Parking License or Brown's rights there under.

#### **VII. Existing Memorandum Unaffected**

The June 5, 2003 Memorandum of Understanding (the "MOU") by and amongst the City, Brown, and three other educational institutions (a copy of which is attached hereto as Exhibit C) remains in full force and effect and is not modified by this Agreement in any way.

#### **VIII. Non Performance, Default, and Remedies**

The parties agree that each shall act in good faith in implementing the terms of the agreement.

If at any time a Condition to Payment is not satisfied, Brown shall have no obligation to make any further payment hereunder. In addition, if any payments have previously been made and a Condition to Payment becomes unsatisfied, and such failure continues for at least 60 days after notice from Brown, the City shall return any payments previously made to the City, EXCEPT that in no event shall any portion of the "initial payment" be returned to Brown, nor shall any offset or credit be associated therewith at any time.

In the event that either party shall fail to perform fully the obligations contained in this agreement, the other party shall be entitled to fully enforce the outstanding obligations.

In the event that the Conditions to Payment have been satisfied and Brown fails to make any payment to the City in accordance with the time frame specified for such payment, the City shall, as its exclusive remedy, be entitled to seek damages in a court of law. There shall be no notice and cure opportunities for Brown with respect to monetary defaults.

In the event that the City breaches any of its material obligations under this Agreement or the Parking License and the City fails to cure any such breach within sixty (60) days from receiving written notice of the same, Brown shall be permitted to terminate this Agreement and no further payments required under the terms of this Agreement shall be due. Upon the City effectuating a cure, the notice of default shall be deemed null and void and this Agreement shall continue in full force and effect.

In the event that the City does not return the advanced monies in accordance with the provision of this paragraph, Brown shall be entitled to offset such amount, as a credit, to any and all fees and taxes or other monetary obligations (including payments due under the 2003 Memorandum of Understanding between the City from Brown) of any kind due to the City of Providence until such time as the full amount due and payable to Brown under this provision shall have been satisfied.

#### **IX. Miscellaneous**

The parties agree that this Agreement represents an effort on the part of Brown and the City to address mutual needs and the effect of the same is not intended to nor shall it affect, alter, diminish or modify the legal status, force, and effect of Brown's tax exempt status in any way. Nothing in this Agreement shall prohibit or restrict Brown in its right to challenge any attempt to affect, alter, diminish or modify the legal status, force, and effect of Brown's tax exempt status in any way.



General captions and section titles are for convenience of reference only, and shall not be used to construe this Agreement. References to a Section include subsections thereof.

The term "including" shall be interpreted to mean "including, without limitation," unless the context otherwise expressly specifies.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall be deemed to constitute one instrument. Photocopies, facsimile and electronic versions (such as pdf, jpeg, and tif) of this Agreement shall be deemed originals and treated as binding.

This Agreement, including all exhibits attached hereto, constitutes the entire understanding and agreement of the parties hereto with respect to the matters hereof and supersedes all prior understandings and agreements in their entirety, if any, there being no other oral or written promises, conditions, representations, understandings, agreements or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either party. Any subsequent conditions, representations, warranties, agreements or amendments to or modifications of this Agreement shall not be valid and binding upon the parties unless the same shall be embodied in a subsequent writing signed by both of the parties hereto.

Any notice or demand which must or may be given under this Agreement or by law shall be in writing and shall be deemed to have been given when delivered by personal delivery; one (1) business day after being deposited with a nationally recognized overnight courier; or two (2) business days after being deposited in the United States mail, certified, return receipt requested, full postage prepaid, addressed to the respective parties at the addresses set forth in the in this Agreement. All notices or demands sent to the City shall be sent to the attention of the Mayor's Office, with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the City Solicitor. All notices or demands sent to Brown shall be sent to the attention of the President with a copy sent simultaneously (in accordance with the methods herein provided) to the attention of the General Counsel.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its respective duly authorized officers as of the day and year first written above.

THE CITY OF PROVIDENCE

By: Angel Taveras 4-30-12  
Angel Taveras, Mayor

By: Providence City Council

By: Michael A. Solomon 4-30-12  
Michael A. Solomon, Council President

Approved as to form and correctness:

Jeffrey M. Padwa 4/30/12  
Jeffrey M. Padwa, City Solicitor

BROWN UNIVERSITY

By: Ruth J. Simmons 4/30/12  
Ruth J. Simmons, President

Approved as to form and correctness:

By: Beverly E. Ledbetter 4/30/12  
Beverly E. Ledbetter, General Counsel







