

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”).

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

BROWN UNIVERSITY

By: _____
Angel Taveras, Mayor

By: _____
Ruth J. Simmons, President

By: Providence City Council

Approved as to form and correctness:

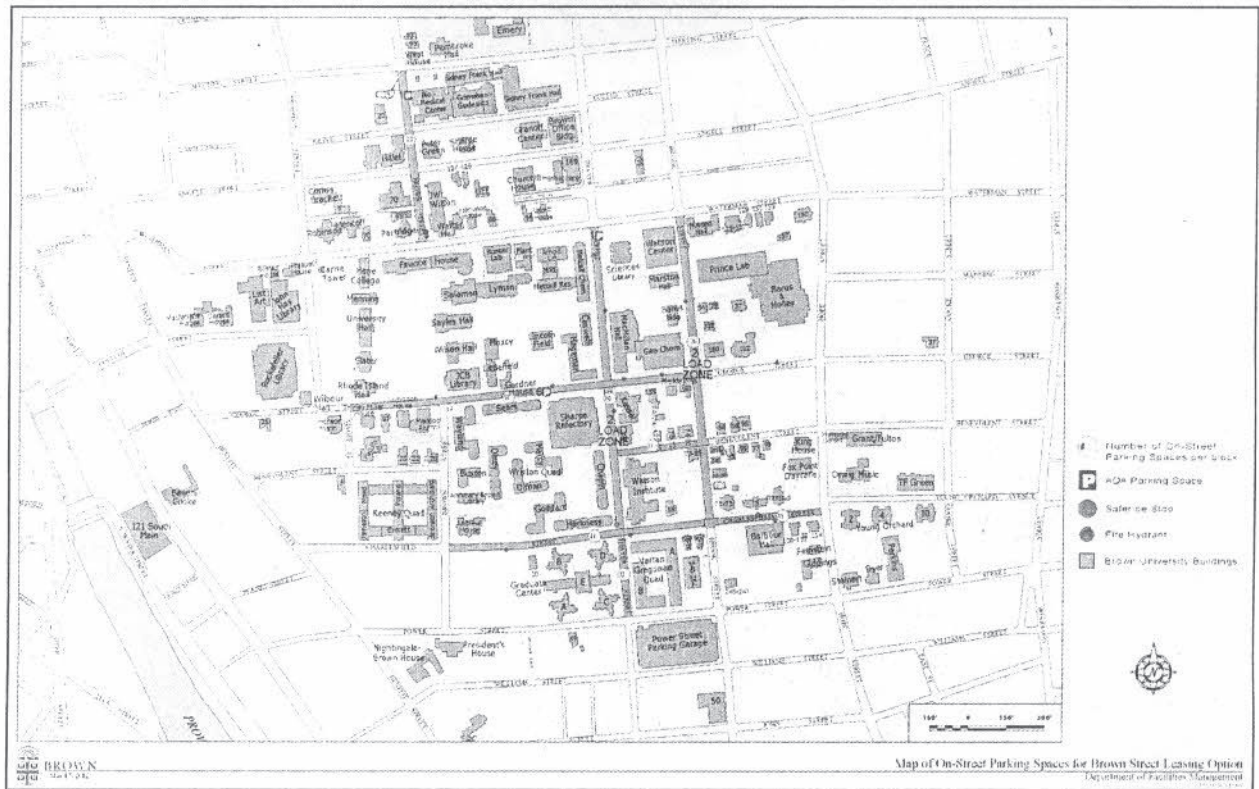
By: _____
Michael A. Solomon, Council President

By: _____
Beverly E. Ledbetter, General Counsel

Approved as to form and correctness:

Jeffrey M. Padwa, City Solicitor

Exhibit "A"
Licensor's Parcel and Parking Spaces



Brown St from Meeting St to Waterman St 22 spaces

Thayer St from Waterman St to Power St. 72 spaces

Brook St from Waterman St. to Charlesfield St 36 spaces

George St from Magee St to Brook St 50 spaces

Benevolent St from Thayer to Brook St 11 spaces

Charlesfield St from Brown St to Hope St. 59 spaces

Exhibit A

Proposed Closed Streets

- 1) Olive Street: Between Brown and Thayer Streets
Total Approx. Area: 25,092 sq. ft.
Overall Approx. Dimensions: 39' Wide x 643'-4" Long
- 2) Benevolent Street: Between Magee and Brown Streets
Total Approx. Area: 12,573 sq. ft.
Overall Approx. Dimensions: 39' Wide x 322'-4" Long
- 3) Brown Street: Between George and Charlesfield Streets
Total Approx. Area: 26,765 sq. ft.
Overall Approx. Dimensions: 50'-6" Wide x 530' Long

- Streets for Abandonment
- Brown University Buildings

