

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made as of October __, 2017, by and between the CITY OF LAWRENCE, KANSAS, a municipal corporation ("City"), and RIVERFRONT, L.L.C., a Kansas limited liability company ("Riverfront"), wherein the parties agree as follows:

RECITALS

- A.** The City and Riverfront entered into an Amended and Restated Ground Lease, dated August 11, 2000, ("Ground Lease") governing among other provisions, Riverfront's payments to City for the ground lease and parking on that real property commonly known as 1 Riverfront Plaza, Lawrence, Douglas County, Kansas.
- B.** On or about June 22, 2010, the City and Riverfront entered into a First Amendment to the Amended and Restated Ground Lease ("First Amendment") amending some of the payments made to the City related to parking maintenance and retaining all other provisions of the Ground Lease not in conflict with it (hereinafter, the Ground Lease as amended by the First Amendment shall be referred to as the "Ground Lease, as amended.").
- C.** On or about May 7, 2013, the City, Riverfront and others entered into an Assignment, Assumption, and Modification of Ground Lease amending provisions of the Ground Lease, as amended, concerning payments made to the City, among other things.
- D.** To date, Riverfront has paid all amounts billed by the City under the Ground Lease, as amended.
- E.** On April 10, 2017, on its own initiative, Riverfront emailed the City a request for the review of the agreements and billings concerning the Ground Lease, as amended, and on April 11, 2017, in response to receiving information from the City, Riverfront questioned the sufficiency of the First Amendment and the City's historical lack of billing thereafter. As a result of Riverfront's inquiry, the City investigated and concluded that it had not billed Riverfront for amounts that it believed were due and owing under the various agreements.
- F.** Thereafter, the City requested that Riverfront pay all amounts to the City that the City had calculated were due, some of which were outside the applicable statute of limitations.

- G. Despite disagreeing as to the amounts due and as to the collectability of those amounts, Riverfront has agreed to make payment as requested by the City.
- H. The City is appreciative of Riverfront's positive role in identifying the City's billing errors and in foregoing the opportunity to take advantage of them.
- I. Accordingly, the City and Riverfront desire to settle their dispute and to resolve the City's claims concerning the Ground Lease, as amended, and wish to memorialize their understandings in this Agreement.

NOW, THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

TERMS

1. **Recitals Incorporated.** The above-stated Recitals are by reference incorporated herein and made a part hereof.
2. **Payment.** Riverfront shall pay to the City the sum of \$256,096.00 as follows: the City shall immediately credit the \$20,000.00 paid to the City by Riverfront in June 2017 against that sum; Riverfront shall deliver \$180,000.00 to the City within seven days of the full execution of this Agreement; and, the remaining balance of \$56,096.00, which is outside the statute of limitations, shall be paid in equal installments of \$2,337.33 per month, commencing January 2018 with the final installment payment due in December 2019. The City hereby affirms that, through this Agreement, Riverfront is not in breach of the Ground Lease, as amended, regarding the payment of rent and parking maintenance, that the Ground Lease, as amended, is current regarding the payment of rent and parking maintenance, that Riverfront is in good standing with the City, and that the City is not aware of any other breach or noncompliance (real or alleged) by Riverfront of the terms and conditions of the Ground Lease, as amended, through September 30, 2017.
3. **Ongoing Ground Lease.** The provisions of the Ground Lease, as amended, that do not conflict with the provisions of this Agreement remain in effect and the parties further affirm the enforceability of the Ground Lease, as amended. Going forward, the City and Riverfront agree to would work together, as they have in the past and as required by the Ground Lease, as amended, to perform the rent calculations.

4. **Settlement.** The parties acknowledge that this Agreement is entered into as a compromise of a dispute and the parties acknowledge and agree that the terms and conditions set forth in this Agreement should not be construed as an admission of liability by either of them, or by any of their related persons or entities.
5. **Authorization.** The persons executing this Agreement, in behalf of their respective parties, represent and warrant that they have the authority to bind the party in behalf of whom they have executed this Agreement, and that all acts requisite to the authorization to enter into and to execute this Agreement have been taken and completed.
6. **Severability.** If any section, sentence, clause, or phrase of this Agreement is found to be invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining provision of this Agreement.

IN WITNESS WHEREOF, the parties herein have duly executed this Agreement as of the date above provided.

CITY OF LAWRENCE, KANSAS,
a municipal corporation

RIVERFRONT, L.L.C.,
a Kansas limited Liability Company

Leslie Soden, Mayor

Dan C. Simons, Manager

ATTEST:

Sherri Riedemann, City Clerk