

MEMORANDUM OF UNDERSTANDING
by
TOWN OF HAMMONTON
and
THE RICHARD STOCKTON COLLEGE OF NEW JERSEY
and
STOCKTON AFFILIATED SERVICES INC.

**FOR THE ACQUISITION, RENOVATION AND SALE OF A FORMER FACTORY AND ULTIMATE
UTILIZATION OF THE PREMISES FOR EDUCATIONAL USE**

This Memorandum of Understanding is made and entered into this _____ day of _____, 2010, by and among **Town of Hammonton**, 100 Central Ave., Hammonton, NJ 08037; **The Richard Stockton College of New Jersey**, PO Box 483, Pomona, NJ 08240, and **Stockton Affiliated Services Inc.**, 10 West Jimmie Leeds Rd. Pomona, NJ 08240.

I. BACKGROUND.

- A.** The Richard Stockton College of New Jersey ("Stockton") is a public institution of Higher Education located in Pomona, New Jersey, organized and existing under the laws of the State of New Jersey, specifically N.J.S.A. 18A:64-53(j). Stockton offers baccalaureate and graduate level programs in the arts, sciences and professional studies that serve the citizens of the State, and communities of southern New Jersey.
- B.** Stockton Affiliated Services, Inc. (SASI), an auxiliary corporation under N.J.S.A 18A:64-26 et seq. is organized exclusively for non-profit and educational purposes and is an exempt organization under Section 501 (c) (3) of the Internal Revenue Code of 1954. SASI was formed to support Stockton's teaching and learning mission. Its function as stated in its Certificate of Formation and Bylaws includes, among other things, to raise and manage private resources supporting the mission and priorities of the College as determined by the President and the Board of Trustees; and to develop revenue streams to provide opportunities for students and a margin of institutional excellence unavailable with state funds.
- C.** The Town of Hammonton is a municipal corporation in the state of New Jersey. Hammonton has obtained a grant from the federal government in the amount of \$250,000.00 for use in the acquisition, renovation and adaptive re-use of blighted former industrial sites that exist within its downtown area.
- D.** In furtherance of its mission, SASI, by and through Stockton, shall provide the funding source (up to THREE MILLION DOLLARS (\$3,000,000.00)) for the necessary renovations to the property in question.
- E.** In 2009, Stockton and Hammonton collaborated on a project proposal whereby Hammonton applied for and received federal grant funds to acquire blighted industrial properties in its downtown district in need of renovation and adaptive re-use. The property identified for the collaborative project is known as 24-30 Front Street, identified as Lots 5 and 6 in Block 2526 on the official municipal tax map of the Town of Hammonton (the "Front Street Property"). Pursuant to a Memorandum of Understanding dated June 8, 2010, Hammonton intended to renovate the Front Street Property for use by Stockton and/or SASI under a long term lease as an educational facility for undergraduate and graduate academic programs and continuing education, with the ability to sublease the first floor to commercial retailers. (The "Collaborative Project Proposal".)

- F. The Front Street Property is under a certain Contract for Sale of Real Estate dated January 12, 2006, between Wallace Realty, Inc ("Seller") and AN Construction LLC ("Buyer") for a purchase price of \$295,000.00 (the "Purchase Contract"). Stockton requested that SASI use its private resources to fund the purchase of the Assignment of Contract by Hammonton and negotiate and enter into a long term lease with Hammonton for use of the building by Stockton to support the educational growth of the college as part of its mission.
- G. On June 8, 2010, the Buyer assigned its right title and interest in the Purchase Contract to Hammonton in consideration of a payment of \$135,000.00 (the "Assignment of Contract") advanced by SASI.
- H. Under the terms of the original MOU, Hammonton had agreed to credit the funds advanced by SASI, to obtain the Assignment of Contract, against the rent to be paid under the terms of its long term lease of the Property. The parties hereto desire to modify that previous plan based on the action of Hammonton's Town Council dated October 25, 2010 wherein it was approved that title would be transferred to SASI and or Stockton upon completion of the renovations which will be completed without utilization of any local tax dollars. Such transfer shall take place as specified herein and subject to all other terms and conditions hereof.

NOW THEREFORE, in consideration of the mutual covenants, representations and agreements contained herein and for other and good and valuable consideration, the parties agree as follows:

II. PURPOSE.

The purpose of this Agreement: To memorialize the parties' agreement regarding the future purchase, acquisition, renovation and development of the Front Street Property and future operations.

III. THE STRUCTURE.

HAMMONTON OBLIGATIONS

- A. Hammonton shall purchase the Front Street Property from Wallace Realty, Inc. for a purchase price of \$295,000, plus costs associated with closing, less credits for deposits previously paid and subject to the contingencies identified in paragraph (c) below.
- B. Within the next 30 days Hammonton shall complete its "due diligence" to satisfy Hammonton, SASI and Stockton of the condition of the Property with regard to the following: (i) marketability of title; (ii) environmental condition, which shall include Hammonton's review of all environment remediation reports, notices and inspections in possession of Buyer and/ or Seller related to the Property in order to assess the cost of any and all investigation and/or remediation associated therewith in order to obtain any and all necessary and appropriate environmental clearances including any "ISRA Approval Letter" and/or "No Further Action letter" from the New Jersey Department of Environmental Protection; (iii) structural and major mechanical systems inspections to determine viability of building; (iv) market value appraisal and renovation cost estimates; and (v) any other inspections necessary to satisfy the parties of "the health of building" for its intended adaptive re-use as an education center.
- C. Hammonton represents that all liens and taxes affecting the Property have been resolved or will be resolved prior to transfer of ownership, and that the Town will receive good and marketable title to the Property at Closing of Title, as a condition precedent to the advance of funds by SASI in the amount of \$315,000 to Hammonton to conclude the purchase of this Property.

- D. Following Closing of Title, Hammonton shall develop a preliminary budget, with the assistance of SASI and Stockton, for its renovation and adaptive re-use of the Front Street Property building into first class office/retail space suitable for use as an educational facility. The Renovation shall meet all ADA requirements, and the specific needs of Stockton, including without limitation, classroom sizes, information technology infrastructure, acoustics, lighting, and signage as determined in meetings with Stockton and SASI during the design phase of the building renovation project. The first floor space shall be designed as a “vanilla box” for fit out by commercial retailers. If the Noyes Museum moves its gallery to the first floor, Hammonton shall provide finished space; provided that Noyes plans for the space are ready at time of construction (the improvements are collectively called the “Renovation”).
- E. Hammonton shall undertake the procurement of all building materials and labor, at prevailing wage rates, to complete the Renovation with SASI funding, as set forth below, based on the Budget and approved Plans and Specifications developed in the Design Phase. Hammonton shall be solely responsible to obtain all approvals and permits necessary for the construction of the Renovation, enter into all contracts for the execution of the Work, abatement of any environmental hazardous condition discovered, and issuance of a Certificate of Occupancy for a “turn key” educational center for Stockton’s use. **Hammonton will establish a separate account to receive the Construction Fund draws from SASI, based on its Final Construction Cost Estimate, and will process all requisitions of contractors and materialmen for goods and services related to the construction of the Renovation..** Hammonton shall purchase and maintain an All Risk property insurance policy for the Front Street Property effective on date of ownership (including a builder’s risk provision to commence at the time of Hammonton’s receipt of a building permit)
- F. Hammonton shall permit a signage package for the exterior of the building provided by SASI or Stockton for its approval which will not be unreasonably denied, it being agreed that the signage shall be designed to maximize visibility of the name “The Richard Stockton College of New Jersey” for marketing purposes. The approved signage shall be installed as part of the Renovation at Stockton/ SASI expense.
- G. Hammonton shall reimburse SASI \$250,000 of the amount it advanced for the Town’s purchase of the Front Street Property immediately upon receipt of the \$250,000 grant awarded by the federal government for use in the acquisition, renovation and adaptive re-use of blighted former industrial sites that exist within its downtown area together with any other grants it may obtain for the acquisition or renovation of the Property. (See Paragraph VI.)
- H. At completion of the Renovation, in accordance with the approved Plans and Specifications, Hammonton shall transfer ownership of the Front Street Property to SASI for \$1.00 by delivery of a Bargain and Sale Deed with Covenants Against Grantor’s Acts with clear title and the NFA/ISRA certificates within five (5) business days of issuance of a Certificate of Occupancy by the municipal Code official.
- I. In the event Hammonton does not purchase the Front Street Property, Hammonton shall return the funds advanced by SASI by lump sum payment within 5 business days following the next monthly council meeting. If Hammonton determines after Closing and prior to construction that the estimated cost to construct exceeds the funds available from SASI, the total amount advanced by SASI, after application of any grant proceeds, shall be returned within 5 business days following the next council meeting. If the Project is abandoned after commencement (but prior to completion) of construction, SASI shall have the right to elect one the following options, in its sole discretion:

- (i) Hammonton shall transfer the Front Street Property to SASI or the College for \$1.00 by delivery of a Bargain and Sale Deed with Covenants Against Grantor's Acts within 5 business days, together with an Assignment of all Contracts, and delivery of purchased and/or stored materials for the Renovation; or
- (ii) The investment by the College through SASI up to the date of abandonment shall be converted to a mortgage loan, secured by the Property, and paid back by Hammonton within one year from date of termination.

SASI OBLIGATIONS.

- A. SASI shall advance the sum of \$315,000 available to Hammonton **at closing of title for the Front Street Property, subject to approval of this MOU and any and all other necessary approvals by the Town Council, the Stockton Board and SASI Board for the sole purpose of providing funds for the** Town's purchase of the Front Street Property, subject to Hammonton's representation set forth in Paragraph III (C) above.
- B. Following its acquisition, SASI, in conjunction with Hammonton and Stockton representatives, shall establish a preliminary budget (not to exceed THREE MILLION DOLLARS (\$3,000,000.00) for the Renovation to be performed by Hammonton, for "turn key" use and occupancy by Stockton as a center/campus for day and evening utilization for academic programs, continuing education, career counseling and professional development and leases to commercial tenants for retail operations that support the building's primary use as an educational center. The first floor uses may include, for example, a retail bookstore, art gallery and coffee shop. SASI shall enter into a lease or management agreement with Stockton for Stockton's use and occupancy of the building, SASI shall collaborate with Hammonton and Stockton for the design and build-out of the interior space of the Front Street Property to meet the needs of end users, including, without limitation, educational programming needs of its faculty, of students, and retail users, and satisfies all ADA requirements for occupancy.
- C. SASI shall set up an account to provide all funds necessary to complete the Renovation up to the maximum amount of THREE MILLION DOLLARS (\$3,000,000.00) (the "Construction Fund"). SASI shall establish a payment schedule for draws by Hammonton against the Construction Fund, based on Hammonton's Final Cost Estimate to complete the Renovation and its execution of a construction contract for the Project. SASI may, in its sole determination and at its sole expense, engage an architect or construction manager to monitor performance and certify withdrawals from the Construction Fund based on progress and/or work in place.

STOCKTON OBLIGATIONS.

- A. **Stockton will transfer, upon the approval of its Board of Trustees by Resolution passed at a public meeting, the sum of \$3 million to SASI for the renovation of the Front Street Property. It is intended that Hammonton will be paid through SASI for the renovation services as they are provided.**
- A. Stockton shall establish a center and/or campus that will expand higher education to the region and develop educational programs, including continuing education classes to be held at the Front Street Property.
- B. Stockton shall collaborate with Hammonton for the design and build-out of the interior space of the Front Street Property to meet the needs of end users, including, without limitation, educational programming needs of its faculty, of students, and retail users, and satisfies all ADA requirements for occupancy. Stockton shall submit a signage package for the exterior of the building for Hammonton's approval, it being agreed that the signage

shall be designed to maximize visibility of the name "The Richard Stockton College of New Jersey" for marketing purposes.

IV. ADMINISTRATION.

The delegated representative of Hammonton for purposes contained in this agreement shall be the Mayor of the Town. The delegated representative of SASI for purposes contained in this Agreement shall be the President of SASI. The delegated representative of Stockton for purposes contained in this Agreement shall be the President of Stockton.. The parties shall be responsible for allocation of all necessary resources, financial, professional, labor and otherwise, to carry out all aspects of the Collaborative Project Proposal, as delineated in the Agreement.

V. TERM OF AGREEMENT.

This MOU shall commence on the date first written above, and shall be in effect until all of the requirements of this Memorandum are satisfied or the parties terminate the agreement.

VI. GRANT FUND CONTRIBUTIONS.

The parties acknowledge that the Town of Hammonton has recently retained a grant acquisition entity to assist in obtaining funding for the project in question. The Town shall contribute all grant funding for the project in question it obtains to offset project costs in the following order of priority of application: (i) cost over-runs, (ii) furnishings and equipment to support and enhance the educational center to be established by Stockton on the site; (iii) acquisition and/or renovation of adjacent properties/land for parking or site enhancement, including hardscape, landscape, lighting and street parking

VII. TAX EXEMPT STATUS.

Hammonton acknowledges that the adaptive re-use of the Front Street Property for educational purposes is exempt from real estate taxes. SASI may enter into leases with commercial tenants for retail operations, subject to reasonable approval by Stockton and Hammonton of the intended business use consistent with the educational purposes of the project. SASI acknowledges that any commercial for profit uses of first floor space in the building is subject to real estate tax assessment by the Town.

VIII. GENERAL PROVISIONS.

- A.** This agreement represents the entire agreement among, Hammonton, Stockton and SASI. It is understood and agreed that the parties to this Agreement may revise or modify this Agreement by written amendment when both parties agree to such amendment.
- B.** This Agreement shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey in the courts of the State of New Jersey. The parties further agree that Atlantic County, in which the parties are located, shall be the venue for any disputes between the parties.
- C.** All notices and reports required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

To Stockton

The Richard Stockton College of New Jersey
P.O. Box 195
Pomona, New Jersey 08240
Attention: President Herman J. Saatkamp, Jr.

To SASI

Stockton Affiliated Services, Inc.
P.O. Box 483
10 West Jimmie Leeds Rd.
Pomona, NJ 08240
Attention: Matt Altier, President

To Hammonton

Town of Hammonton
100 Central Ave.
Hammonton NJ 08037
Attention: Mayor Steve DiDonato

IN WITNESS WHEREOF, THE PARTIES DULY HERETO AUTHORIZED ACCEPT THE FULL TERMS OF THIS AGREEMENT.

**THE RICHARD STOCKTON COLLEGE
OF NEW JERSEY**

TOWN OF HAMMONTON

Name: _____
Dr. Herman J. Saatkamp, Jr.
Title: President

Name: _____
Steve DiDonato
Title: Mayor

STOCKTON AFFILIATED SERVICES INC.

Name: _____
Matthew Altier
Title: President