

AG 15-333

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

THIS MUTUAL RELEASE AND SETTLEMENT AGREEMENT (“Agreement”) is entered into on this 24th day of August, 2015 by and between the CITY OF STOCKBRIDGE (the “City”), a municipal corporation of the State of Georgia, and INSTITUTE FOR RADIATION THERAPY, INC. (“IRT”), a corporation organized and existing under the laws of the State of Georgia. The City and IRT may be referred to herein individually as a “Party” or collectively as “Parties.” The Parties are executing this Agreement with respect to the following matters:

BACKGROUND

WHEREAS, questions exist as to whether legislative efforts in 2013 to establish a City of Stockbridge Downtown Development Authority (the “SDDA”) complied with the laws of the State of Georgia and the validity of certain transactions involving the SDDA (the “Dispute”).

WHEREAS, IRT was the owner of certain real property located at 170 North Park Trail, Stockbridge, Georgia 30281 (identified as Tax Parcel Identification Number 032-01032000 in the records of the Henry County, Georgia Tax Assessor)(the “Property”) that it purportedly sold to the SDDA in a transaction that occurred on or about December 27, 2013 (the “Transaction”). Attached hereto as Exhibit A is the full legal description of the Property.

WHEREAS, seeking guidance on the legal status of the SDDA and the validity of any transactions involving that entity, the City filed a Petition for Declaratory Judgment and Injunctive Relief against the individuals purporting to be SDDA directors, IRT and other individuals/entities who were parties to transactions with the SDDA. (City of Stockbridge v. Thomas Williams, Jr., et al.; Superior Court of Henry County, Civil Action Case Number 2014-CV-0716-WC, filed February 28, 2014) (the “Action”).

WHEREAS, based upon the terms and conditions set forth in this Agreement, the Parties desire to fully and finally settle, in their entirety, any and all disputes or claims between them arising out of the Transaction and/or the Action.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the City and IRT hereby agree as follows:

TERMS

1. **Conveyance of Interest in the Property.** Within ten (10) business days of the execution by both Parties of this Agreement, the IRT shall deliver to the City a fully executed quitclaim deed by which the IRT conveys to the City all of its rights, title, and interest, if any, in the Property.

2. **Dismissal of Claims.** Within five (5) business days of the execution by both Parties of this Agreement or within five (5) business days of the City's receipt of the aforementioned fully executed quitclaim deed, whichever occurs later, the City shall execute, file, and serve a motion to dismiss with prejudice its claims in the Action against IRT and to drop IRT as a party to the Action.

3 **Attorney's Fees, Costs, and Expenses.** The Parties shall bear their own costs, attorney's fees, and any other expenses incurred in connection with the Dispute, the Transaction, the Action, and/or this Agreement, and each Party waives the right to make a claim against the other for any costs, attorney's fees, or any other expenses associated with the Dispute, the Transaction, the Action, and/or this Agreement.

4. **Mutual Release.** In consideration of the mutual benefits conferred herein, the Parties, on behalf of themselves, their successors, their predecessors, and their past, present, and future officials, officers, partners, shareholders, interest holders, members, managers, representatives, employees, agents, assigns, family members, and attorneys fully, finally, and forever mutually release the other Party, its successors, its predecessors, and its past, present, and future officials, officers, partners, shareholders, interest holders, members, managers, representatives, employees, agents, assigns, family members, and attorneys from any and all past, present and future, known or unknown, charges, claims, complaints, causes of action, obligations, or demands arising under federal, state, or local law, rule or regulation related to or arising from the Dispute, the Transaction, and/or the Action. This release specifically includes, but is not limited to, any and all claims for punitive damages and any and all claims for attorneys' fees and/or legal expenses that are or may be contemplated by federal or state statutory or common law. The Parties understand and acknowledge that this release constitutes an enforceable contract based upon valid acceptance and consideration. Neither party has transferred or assigned any of the claims being released herein.

5. **No Other Claims.** Each Party represents and warrants that, with the exception of enforcing its rights under the terms of this Agreement, it will not hereinafter institute, pursue, or permit to be filed by any other person or entity on their behalf, any claim or action before any federal, state, local administrative, legislative, or judicial body against the other Party arising out of any matter related to the Dispute, the Transaction, and/or the Action.

6. **Knowing and Voluntary Waiver.** The Parties understand and acknowledge the significance and consequence of their specific intention to release any and all claims. The Parties further agree that they have accepted the terms and conditions specified herein as a complete compromise of matters involving disputed issues of law and fact, and they assume the risk that the facts or law may be otherwise than they believe. The Parties understand and agree that this Agreement represents a compromise of a disputed claim and is not to be construed as an admission of either Party of liability or wrongdoing, which is expressly denied.



7. **Complete Defense.** Each Party understands that this Agreement, and the release and waiver that it contains, may be pled as a complete defense to any claim or entitlement which it may hereafter assert against the other Party in any suit or claim for or on account of any matter or thing related to the Dispute, the Transaction, and/or the Action.

8. **Governing Law.** This Agreement shall be interpreted, enforced, and governed under the laws of the State of Georgia.

9. **Severability.** The provisions of this Agreement are severable. If any part of the Agreement is found to be unenforceable, the remainder of the Agreement will continue to be valid and effective.

10. **Remedies for Breach.** Each Party understands that the terms of this Agreement are contractual in nature and any breach hereof entitles the non-breaching Party to all remedies at law or equity, including, but not limited to damages, specific performance, injunction, and attorneys' fees.

11. **Entire Agreement.** This Agreement sets forth the entire agreement by and among the Parties, with respect to the Dispute, the Transaction, and/or the Action, and fully supersedes any and all prior statements or understandings by and among the Parties pertaining to the subject matter of this Agreement. The Parties affirm that the only consideration for signing this Agreement is stated herein, that no other promise, representation, or agreement of any kind has been made to or with them by any person or entity to cause them to execute this document.

12. **Professional Advice and Authority.** The Parties represent and warrant that they have carefully read and fully understand the language, meaning, and intent of this Agreement, that they have had an opportunity to consult with their attorneys before executing it, and that they execute it voluntarily and knowingly. Each individual executing this Agreement on behalf of an entity represents and warrants that he is duly authorized to execute and deliver this Agreement on behalf of said entity and that this Agreement is binding on said entity in accordance with its terms.

ACCEPTED AND AGREED TO:

CITY OF STOCKBRIDGE, GEORGIA

**INSTITUTE FOR RADIATION
THERAPY, INC.**



Tim L. Thompson, Mayor



John Warner Ray, President

Date: 9/2/2015

Date: 8-24-2015

Date: 9/2/2015

ATTESTED BY: Vanessa Holiday
VANESSA HOLIDAY, CITY CLERK

APPROVED AS TO FORM:

MW
MICHAEL WILLIAMS, CITY ATTORNEY



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Exhibit A
Legal Description

All that tract or parcel of land lying and being in Land Lot 13 of the 6th District, Henry County, Georgia, being Lot 3A, Northpark Business Center, as per a plat recorded in Plat Book 45, Page 18, Henry County records, which plat is incorporated herein and made a part hereof by this reference. Said parcel containing 2.56 acres, more or less.