

RESOLUTION NO. 48 - 2019

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
EXECUTE A SETTLEMENT AGREEMENT AND MUTUAL RELEASE,
DUMPSTER LICENSE AGREEMENT, AND PERMITTED
OBSTRUCTIONS LICENSE AGREEMENT**

WHEREAS, the Parking Authority of the Town of Morristown (the “**MPA**”) is the fee owner of the alley/right-of-way adjacent to the Dehart Parking Facility and shown on the Official Tax Maps of the City of Morristown as Block 6004, Lot 8 (the “**ROW**”); and

WHEREAS, a lawsuit captioned *5-7 South Street Holdings, LLC et al. v. Parking Authority of the Town of Morristown, et al.*, Docket No. MOR-C-152-16 (the “**Litigation**”) was filed by plaintiffs 5-7 South Street Holdings, LLC, 9 South Street Holdings, LLC and 11 South Street Holdings, LLC (the “**Plaintiffs**”) against defendants MPA, Epsteins C Lofts, LLC, Epsteins B Rentals, LLC, Epsteins B 40 Park Rosewood Unit, LLC, and 40 Park Condominium Association, Inc. (the “**Defendants**”) asserting various claims concerning use of the ROW; and

WHEREAS, the MPA filed an answer and counterclaims against the Plaintiffs and third-party complaints against third-party defendants Iron Bar, LLC d/b/a Iron Bar and the Revolution Social House, Elfloradel Realty Company, LLC, and BSD Enterprises, LLC (the “**Third-Party Defendants**”, together with Plaintiffs and Defendants, the “**Parties**”) asserting various claims concerning Plaintiffs’ use of the ROW; and

WHEREAS, the Parties have negotiated a Settlement Agreement and Release which obligates the MPA to (i) adopt amendments to the Rules and Regulations concerning use of the ROW, (ii) execute that certain Dumpster License Agreement permitting plaintiff 5-7 South Street Holdings and third-party defendant Iron Bar, LLC (the “**Iron Bar Defendants**”), to keep trash dumpsters on the ROW subject to the terms set forth in the Dumpster License Agreement, a copy

of which is on file with the MPA, and (iii) execute that certain Permitted Obstructions License Agreement permitting the Iron Bar Defendants continued use of the ROW for certain improvements/obstructions made in the ROW subject to the terms set forth in the Permitted Obstructions License Agreement, a copy of which is on file with the MPA; and

WHEREAS, the Commissioners have reviewed the terms of the proposed Settlement Agreement and Release, amendments to its Rules and Regulations, Dumpster License Agreement, and Permitted Obstructions License Agreement, and have had the opportunity to ask questions of counsel in closed session; and

WHEREAS, in order to avoid the necessity, expense, and inconvenience of further litigation and to resolve and settle all claims and disputes among the Parties arising out of or in any way related to the Litigation, the Commissioners have determined that it is in the best interests of the MPA to authorize the execution of the Settlement Agreement, Dumpster License Agreement and Permitted Obstructions License Agreement, and by separate Resolution, to adopt the proposed amendments to its Rules and Regulations.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the MPA that the Executive Director is hereby authorized and directed to execute the Settlement Agreement and Release, the Dumpster License Agreement, and the Permitted Obstructions.

I hereby certify that the foregoing is a true copy of a Resolution introduced and adopted by the Parking Authority of the Town of Morristown at a meeting held on August 20, 2019.

Dated: August 20, 2019

Anthony Lucia, Secretary