

BOARD OF EQUALIZATION
SARPY COUNTY, NEBRASKA

RESOLUTION AUTHORIZING SETTLEMENT OF TAX DISPUTE

WHEREAS, it is the duty of County Officials to collect taxes that have been duly assessed against real and personal property; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2012), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-112 (Reissue 2012) the County Board has the power to settle by compromise for less than the full amount of the claim for all claims in favor of the County on which no payment has been made or recovered; and,

WHEREAS; Clarkson Regional Health Services, Inc., a Nebraska nonprofit corporation, also acting on behalf of the Nebraska Medical Center, (“Clarkson”); instituted an action found in the records of the District Court of Sarpy County, Nebraska, at Case No. CI13-535, said case having been subsequently appealed to the Nebraska Court of Appeals at Case No. A-13-752, as well as in an appeal before the Nebraska Tax Equalization and Review Commission at Case Nos.12C-785 to 12C-791 which among other things, alleged that Sarpy levied a tax for tax year 2012 on certain real property owned by Clarkson when said property was entitled inter alia to be exempt from taxation under Nebraska; and,

WHEREAS, Clarkson contends that Sarpy failed to give the notice required by law in order to levy a tax on certain real property owned by Clarkson, making the levy for tax year 2013 invalid under Nebraska law; and,

WHEREAS, after weighing the prospective evidence in the matters described herein, and understanding the expense and risks of litigation, the parties wish to settle said matters and settlement agreement has been proposed to the end.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that the Settlement Agreement with Clark Regional Health Services, Inc. a

copy of which is attached hereto, is hereby approved and the Chair and Clerk are hereby authorized to execute said Settlement Agreement on behalf of Sarpy County.

BE IT FURTHER RESOLVED that the Chair and County Attorney are authorized to take such actions as may be necessary to fully perform said Agreement.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this ____ day of December, 2012.

Chairman, Sarpy County Board

Sarpy County Clerk

SETTLEMENT AGREEMENT

This Settlement Agreement made and entered into this ____ day of December, 2013 by and among Clarkson Regional Health Services, Inc. and The Nebraska Medical Center, both Nebraska nonprofit corporations, (collectively "Clarkson"); and the County of Sarpy, Nebraska and the Sarpy County Board of Equalization, acting by and through the Sarpy County Board of Commissioners (collectively "Sarpy").

WHEREAS, Clarkson instituted an action found in the records of the District Court of Sarpy County, Nebraska, at Case No. CI13-535, said case having been subsequently appealed to the Nebraska Court of Appeals at Case No. A-13-752, as well as in an appeal before the Nebraska Tax Equalization and Review Commission at Case Nos. 12C-785 to 12C-791 which among other things, alleged that Sarpy levied a tax for tax year 2012 on certain real property owned by Clarkson when said property was entitled inter alia to be exempt from taxation under Nebraska law; and,

WHEREAS, Clarkson has filed appeals with the Nebraska Tax Equalization and Review Commission with respect to tax year 2013, with respect to the real property shown on Exhibit A hereto. The appeals for both 2012 and 2013 for Clarkson are referred to herein collectively as "Case"; and,

WHEREAS, Clarkson contends that Sarpy failed to give the notice required by law in order to levy a tax on certain real property owned by Clarkson, making the levy for tax year 2013 invalid under Nebraska law; and,

WHEREAS, Clarkson further contends that in any event, the assessed value of the real property at issue for both tax years 2012 and 2013 exceeds the market value of said property and is in violation of Nebraska law; and,

WHEREAS, after weighing the prospective evidence in the matters described herein, and understanding the expense and risks of litigation, the parties wish to settle said matters.

THEREFORE in consideration of the mutual terms and covenants contained herein, IT IS HEREBY AGREED as follows:

1. The parties hereby agree that the total assessed value of the real property that is the subject of the Case is \$38,500,000 for both tax years 2012 and 2013. Said value shall be allocated among the parcels in the same proportion that the current assessed value of each parcel bears to the total assessed valuation of said parcels.
2. For tax years 2012 and 2013, Sarpy shall prepare a Confession of Judgment ("Confession") for each Case using the values described in paragraph 1 above and present to Clarkson for approval. Said Confession of

Judgment will require that Clarkson concede that the subject property is not entitled to be exempt from taxation for tax years 2012 and 2013. The Confession shall be in substantially the form attached hereto as Exhibit B, which exhibit is incorporated herein by reference.

3. Upon approval by the Tax Equalization and Review Commission of the Confessions of Judgment for tax years 2012 and 2013, Clarkson agrees to dismiss at Clarkson's cost of Case No. A-13-752 before the Nebraska Court of Appeals.
4. Sarpy further yet agrees that in the event the purpose of this agreement is frustrated for either tax year 2012 or 2013 (i.e. if any Confessions of Judgment referenced herein are not accepted or rejected by the Tax Equalization and Review Commission), Clarkson may continue to pursue any remedies available to it in the Tax Equalization and Review Committee or otherwise.
5. Sarpy further agrees and covenants that it will make no efforts to make any tax collection efforts related to the real property that is the subject of the Case that is in any way inconsistent with the values of the real property as set out in paragraph 1 herein for either tax year 2012 or 2013. This paragraph shall not apply in the event the purpose of this agreement is frustrated for either tax year 2012 or 2013 (i.e. if any Confessions of Judgment referenced herein are not accepted or rejected by the Tax Equalization and Review Commission).
6. It is the intention of the parties hereto that the parties hereto that this Agreement, after full performance herein, will completely resolve all claims, disputes, and causes of action regarding the assessment of real property tax for the parcels that are the subject of the Cases.

Executed in duplicate this _____ day of _____, 2013.

SARPY:
County of Sarpy, Nebraska,
a body politic and corporate

SEAL

By: _____
Its Chairman

Attest:

4828-0510-9527.7

Clerk

APPROVED AS TO FORM:

County Attorney/Deputy

CLARKSON:
Clarkson Regional Health Services, Inc.
A Nebraska Non-Profit Corporation

By: _____
Its: _____

The Nebraska Medical Center,
A Nebraska Non-Profit Corporation

By: _____
Its: _____

EXHIBIT A

TAX LEGAL DESCRIPTIONS

Part of Lot 1, Clarkson Medical Campus Subdivision Replat One, 011592207
Part of Lot 1, Clarkson Medical Campus Subdivision Replat One, 011592208
Part of Lot 2, Clarkson Medical Campus Subdivision Replat One, 011592209
Part of Lot 2, Clarkson Medical Campus Subdivision Replat One, 011592210
Lot 4, Clarkson Medical Campus Subdivision Replat One, 011592212
Lot 5, Clarkson Medical Campus Subdivision Replat One, 011592213

All located in Sarpy County, Nebraska.

**EXHIBIT B
BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

)	Case No. _____
)	
a Nebraska nonprofit corporation,))	
Appellant,))	
)	CONFESSION OF
)	JUDGMENT
v.))	
)	
SARPY COUNTY BOARD))	
OF EQUALIZATION))	
Appellee.))	

Comes now the Sarpy County Board of Equalization, Appellee herein through the undersigned Deputy County Attorney, and hereby offers to Confess Judgment in the above captioned matter. The Appellee would consent to a judgment which would value the subject property as follows:

- 1. Land \$ _____
- 2. Improvements \$ _____
- 3. Total \$ _____

Michael A. Smith, #18403
Deputy County Attorney
1210 Golden Gate Drive
Papillion, Nebraska 68046
(402) 593-2230
Attorney for Appellee

I hereby accept the foregoing offer of Confessed Judgment in the amount stated.

Kutak Rock LLP
1650 Farnam Street
Omaha, Nebraska 68102
(402) 346-6000
Attorney for Appellant

By: _____
Howard Fredrick Hahn, #11655