

**LEASE AGREEMENT**  
**BETWEEN**  
**SILVERSTONE ENTERPRISES, LLC**  
**AND**  
**THE CITY OF HARRISBURG**

**THIS AGREEMENT**, upon approval of the parties and appropriate officials is made and entered into with an effective date of September 1, 2023, by and between **SILVERSTONE ENTERPRISES, LLC**, a Pennsylvania limited liability company with an address of 121 South Street, Harrisburg, Pennsylvania 17101-1213 ("**SILVERSTONE**" or "**LESSOR**"),

AND

The **CITY OF HARRISBURG**, a third class city of the Commonwealth of Pennsylvania, authorized by the Third Class City Code, 11 Pa.C.S. §§10101 *et seq.* and operating under the Optional Third Class City Charter Law, 53 P.S. §41101, *et seq.*, with its principal office located at the Rev. Dr. Martin Luther King, Jr., City Government Center, 10 North Second Street, Harrisburg, Pennsylvania 17101 (the "**CITY**" or "**LESSEE**"),

The parties, intending to be legally bound and warranting to each other that each has the authority and capacity to do so, agree as follows:

**1.0**     **PREMISES.**

1.1     Description of the Premises. SILVERSTONE is the owner of certain generally unimproved land situated at 300 Verbeke Street, Harrisburg, Dauphin County, Pennsylvania, which includes the real property bounded by Verbeke Street to the south, North 3<sup>rd</sup> Street to the west, Sayford Street to the north, and James Street to the east, made up of the seven (7) tracts of land more fully described in the Deed of April 27, 2017, and which, thereafter, has been collectively identified as Tax Parcel No. 06-030-019-000-0000 (the "**LEASED PREMISES**").

1.2     Condition of the Premises. The land presently is a grassy area that has been vacant and unimproved for many years, with sporadic greenery. The CITY accepts the premises in "as is" condition in order to make long-term temporary use of the same.

**2.0**     **USE OF PREMISES.**

2.1     **CONSTRUCTION.** The CITY will use the premises solely to establish a temporary alternative location for sales and services provided in the historic Red Brick Building of the Broad Street Market. A temporary structure will house vendors and be open to the General Public who patronize market shops. The CITY will cause a temporary, removable structure to be erected on the LEASED PREMISES at their sole expense to house vendors

("Vendors") year-round, until the damaged Market structure can be restored and made safe for occupancy.

- 2.2 DESIGN APPROVAL. The CITY shall furnish SILVERSTONE with the written plans and specifications for the temporary LEASED PREMISES improvements ("Improvements") for approval, which shall not be unreasonably withheld.
- 2.3 Nothing herein shall be deemed a waiver of the LESSOR's right to demand the CITY cease and desist continued construction to prepare the temporary LEASED PREMISES for use, preclude occupancy by Vendors and/or remove any improvements thereon made by the CITY in the event the parties cannot agree upon lease terms.

**3.0 OPERATION OF PREMISES.** The CITY is the owner of the Broad Street Market and, since 2017, a party to a Lease and Management Agreement with the BROAD STREET MARKET ALLIANCE (the "BSMA"), a not-for profit organization authorized to continuously operate the Broad Street Market as an urban-based farmer's market. BSMA is authorized to use the existing MARKET premises for purposes reasonably related to the main use, and shall be authorized to do the same with the LEASED PREMISES. An addendum to Lease and Management Agreement will be separately executed by the CITY and the BSMA.

- 3.1 Substance Limitations. The LEASED PREMISES will not be used for the storage or disposal of any toxic or hazardous substance, other than such substances that are used in the normal course of operation of the Market activities to service the public, if any.
- 3.2 Real Estate Not To Be Pledged. The CITY may not, at any time, pledge the LEASED PREMISES, including the land or any temporary structure that may be erected thereon in accordance with this Lease or pledge any interest in this LEASE AGREEMENT for any other purpose without the express written approval of SILVERSTONE.

**4.0 TERM.**

- 4.1 Initial Term. Regardless of the date full execution, the initial term of this Agreement shall be deemed to begin on **January 1<sup>st</sup>, 2024**, and will end on December 31, 2025 or 30 days following the issuance of a Certificate of Occupancy for the entirety of the Red Brick Market Building, whichever is sooner ("Term"). The parties acknowledge that during the restoration process of the Red Brick Market Building, it is possible for partial occupancy of the existing facility may occur prior to the full facility being available for occupancy. In that event, this Lease will remain in effect but not beyond December 31<sup>st</sup>, 2025 lease termination date, unless otherwise agreed to by the parties in writing.
- 4.2 Hold Over. If the CITY, directly or through BSMA, remains in possession of the LEASED PREMISES after the expiration of the term of this Agreement, the continuing tenancy will be from month-to-month and the rent will be \$5,000 monthly starting January 1, 2026, and \$6,500 monthly starting January 1, 2027.

## 5.0 PAYMENTS.

- 5.1 Rent. During the Initial Term, The CITY will pay an annual rent in the amount equal to the combined real estate taxes for the land levied by CITY, the HARRISBURG SCHOOL DISTRICT and DAUPHIN COUNTY. The CITY shall make the payment directly to SILVERSTONE 30 days prior to the expiration of the applicable discount period, who shall remain responsible for the timely payment of those taxes. The CITY shall pay a prorated portion of the annual taxes for 2023 calendar year real estate taxes on the land issued by the CITY and DAUPHIN COUNTY, prorated to July 1, 2023. The CITY shall pay the annual fiscal year HARRISBURG SCHOOL DISTRICT real estate taxes on the land, effective July 1, 2023.
- 5.2 Security Deposit. No security deposit shall be required.

## 6.0 DUTIES AND RESPONSIBILITIES.

- 6.1 Routine Maintenance and Repair. All costs and expenses of maintaining the LEASED PREMISES in a manner consistent with current best practices of public market operations and all repairs reasonably necessary to maintain the LEASED PREMISES in good repair and operational condition shall be the responsibility of the CITY, which responsibility will be deemed assigned or otherwise inure to BSMA, under their LEASE and MANAGEMENT Agreement with the CITY, including any amendments thereto.
- 6.2 Structural Maintenance. All costs and expenses of maintaining the temporary LEASED PREMISES and Improvements in a manner consistent with public market operations and all repairs reasonably necessary to maintain the LEASED PREMISES and Improvements in good repair and operational condition shall be the responsibility of the CITY, which responsibility will be deemed assigned or otherwise inure to BSMA, under any related assignment or amendment to the original their LEASE and MANAGEMENT Agreement between the CITY and the BSMA.
- 6.3 Upkeep. All structural and mechanical costs and expenses of upkeep and maintenance of the temporary LEASED PREMISES and Improvements, in a manner consistent with keeping a public market operation in good repair and operational condition shall be the responsibility of the CITY, in a manner consistent with any amendment(s) to LEASE and MANAGEMENT Agreement between the CITY and the BSMA.
- 6.4 Utilities and Services. The CITY, through BSMA, shall arrange to provide necessary utility and other services for the temporary Lease Premises including but not limited to water, electricity, gas, sewer, telephone, cell phone, internet, WIFI, security, trash disposal, janitorial, and pest control. BSMA shall make such contracts as may be necessary to secure such utilities and services. Such utilities and services shall be deemed Operating Expenses under the Lease and Management Agreement. Further, CITY shall reimburse Silverstone for documented utility expenses incurred during the construction period for the Improvements.
- 6.5 Expenses. Within ~~30~~ 45 days after execution of this Lease, The CITY shall reimburse Silverstone for expenses incurred in connection with the Lease in the amount of \$2,200

for lost deposits on events that had to be cancelled, legal, engineering and consulting services. The CITY shall also reimburse Silverstone for payments made to PPL Electric totaling \$319.33.

6.6 Subleases and Rentals. In connection with the rental of space in, and on the grounds of, the temporary Leases Premises, the CITY, through BSMA, shall assure that:

6.6.1 Use and manage the temporary Leased Premises as a MARKET shall be done in a manner consistent with generally accepted best practices of public market operations, with any sublease the temporary stalls, stands, and booths to operators who will operate in the same manner;

6.6.2 Accept existing, or prepare and execute all subleases related to space to be rented in the temporary Leased Premises;

6.6.3 Maintain a current list of prospective sublease tenants;

6.6.4 Enforce compliance by each tenant with the terms of its sublease;

6.6.5 Lawfully terminate any sublease tenancy when appropriate, including but limited to non-payment of rent under the terms of the tenant's sublease; and

6.6.6 No sublease shall remain in effect beyond the expiration of the Term

## 7 INSURANCE.

7.1 Requirements. CITY shall be responsible for maintaining such property/casualty insurance, including, specifically, fire insurance, on the temporary Leased Premises as the CITY and Silverstone deem appropriate. The CITY, through BSMA, under the Lease and Management Agreement, as amended, shall maintain, as an operating expense, insurance coverage listing the CITY and SILVERSTONE as additional insureds for the temporary Leased Premises, in the following minimum amounts:

- Workers Compensation (statutory amount);
- Comprehensive General Liability (\$500,000 bodily injury per person/\$500,000 per occurrence/\$1,000,000 aggregate coverage);
- Business Automotive Liability (\$1,000,000 combined single limit); and
- Umbrella - \$5,000,000/\$5,000,000.

7.2 Compliance. BSMA must obtain CITY's and SILVERSTONE's written consent to waive any of the above insurance requirements, which consent shall not be unreasonably withheld. Higher amounts may be required if the work to be performed so demands. BSMA shall secure and maintain Certificates of Insurance which show that each such party is so insured. A failure to have such insurance in place at any time during the term of this Agreement shall be considered a material breach. Throughout the term of this Agreement, on a yearly basis, no later than thirty days after the annual anniversary of the execution of Agreement, BSMA shall provide the CITY and SILVERSTONE with Certificates

of Insurance evidencing that it has secured and maintains the insurance coverage for the temporary LEASED PREMISES as set forth above.

8 **COMPLIANCE WITH GOVERNMENTAL ORDERS.** The CITY shall promptly advise SILVERSTONE of all governmental orders or other requirements affecting the temporary Leased Premises, whether imposed at the Federal, State, or local level. The CITY, through BSMA, shall maintain all permits or licenses necessary to the operation of the MARKET at the temporary Leased Premises and shall require sublessees to do the same.

9 **DAMAGE, DISPUTES, AND/OR DEFAULT.**

9.1 **Damage to Premises.** If the premises are damaged through fire or other cause not the fault of the CITY or BSMA, that prevents the use of the temporary Leased Premises for more than sixty (60) days because of such damage, the CITY may terminate this lease by delivering written notice of termination to SILVERSTONE, in which event the provisions of Section ~~10.13~~ 10.18 below shall be applicable.

9.2 **Disputes.** If a dispute arises, the parties will try in good faith to settle it through mediation by way of a mediator to be mutually selected and agreed to. The parties will share the cost of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach mutually satisfactory compromise to the dispute. If the dispute is not resolved within thirty (30) days after it is referred to the mediator, either party may take the matter to court.

9.3 **Default.** An event of default by shall occur if either party fails in any material respect to comply promptly and diligently with any provision of this Agreement and such failure remains uncorrected for forty-five (45) days after receipt of written notice.

9.4 **Failure to Cure.** Should the defaulting party fail to timely cure the default, the party not in default shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party, specifying the effective date of termination.

9.5 **Excused Performance.** Neither party shall be liable for failure to deliver or perform or for delay in delivery or performance due to causes beyond its reasonable control including, but not limited to acts of nature, government actions, fire, civil disturbances, interruptions of power or communications, or natural disaster.

10 **GENERAL CONDITIONS.**

10.1 **Entry.** SILVERSTONE shall be permitted to enter and inspect the temporary Leased Premises upon reasonable notice and at reasonable times.

10.2 **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter, notwithstanding any and all prior and/or contemporaneous understanding, oral or written agreements, proposals, or any other communications regarding the substance of this Agreement.

- 10.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one and the same instrument.
- 10.4 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
- 10.5 Headings. The section headings in this Agreement are for convenience only and are not intended to and shall not be construed to limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provision.
- 10.6 Governing Law. This Agreement shall be governed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.
- 10.7 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be declared invalid, illegal, or unenforceable by a court of competent jurisdiction, such event shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.
- 10.8 Time of the Essence. The parties agree that time is of the essence for the performance of all obligations.
- 10.9 Assignment of this Agreement. This Agreement and all or part of the duties and responsibilities of the BSMA may be assigned, sublet, or contracted out by the CITY only with the written consent of SILVERSTONE, which consent shall not unreasonably be withheld.
- 10.10 Authorization. The execution, delivery, and performance of this Agreement have been duly authorized and approved by all requisite individuals and bodies politic of the parties hereto, and this Agreement constitutes a valid and binding Agreement in accordance with its terms.
- 10.11 Amendments. This Agreement may not be amended except in writing. Such amendments shall make specific reference to this Agreement, be executed in writing, and signed by duly authorized representatives of both parties.
- 10.12 Waiver. No waiver by either party of any default by the other party shall operate as a waiver of any other default or of the same default on a future occasion. No delay, course of dealing or omission on the part of either party in exercising any right or remedy shall operate as a waiver, and no single or partial exercise by either party of any right or remedy shall preclude any other or future exercise or the exercise of other right or remedy.
- 10.13 Return of Property. The CITY is obligated to return the leased property at the end of the term of this Agreement in the same or similar state that said property was received at prior to construction of the Improvements Silverstone at its option may require that (i) the Improvements be removed and the LEASED PREMISES be restored to its condition prior to erection of the Improvements at CITY's sole cost and expense, or (ii) the Improvements shall remain and the Leased Premises shall be delivered to Silverstone in broom clean condition. Silverstone shall give written notice to CITY within 15 days after termination of the Lease

(“Improvement Disposition Notice”) of its decision to keep the Improvements or cause all Improvements to be removed. CITY shall be responsible for all real estate taxes applicable to the Improvements, even after termination of the Lease until such time as the Improvements have been removed and the Leased Premises has been reassessed to exclude the Improvements, or in the event Silverstone elects to keep the Improvements, until such time as Silverstone has delivered the Improvements Disposition Notice. The City has the right to remove and dispose of any improvements to the property unless the SILVERSTONE timely exercises its option in accordance with this paragraph.

11 **NOTICE.**

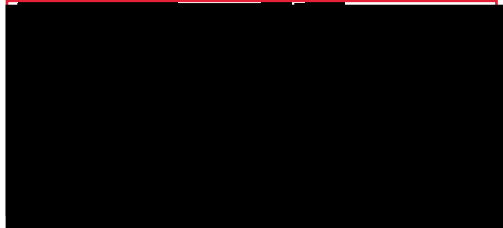
11.1 All notices, requests, demands, directions, and other communications issued pursuant to the provisions of this Agreement shall be in writing unless otherwise expressly permitted hereunder, and the same shall be sent either by certified mail, return receipt requested, or by hand, accompanied by a receipt of delivery. Any such properly given notice shall be considered effective when received or when such delivery is refused. All such notices shall be addressed to the Party designated to receive same at the address given below or at such other address as may hereafter be designated by notice in writing. A copy of the same shall be furnished to the CITY’s Solicitor and to SILVERSTONE’s attorney, as shall be designated from time to time in writing by CITY and SILVERSTONE.

11.2 CITY Designee. CITY shall designate one (1) individual as its primary contact with whom Silverstone shall communicate regarding all matters arising under this Agreement:

Business Administrator  
City of Harrisburg  
The Rev. Dr. Martin L. King, Jr.  
City Government Center  
10 North Second Street  
Harrisburg, PA 17101

11.3 SILVERSTONE Designee. SILVERSTONE shall designate one (1) individual as its primary contact with whom CITY shall communicate regarding all matters arising under this Agreement:

Joshua Kessler



{SIGNATURE PAGE FOLLOWS}





IN WITNESS WHEREOF, the parties, intending to be legally bound, have set their hands and seals.

**CITY OF HARRISBURG:**

Wanda R. D. Williams 3/22/24  
Wanda R.D. Williams, Mayor Date

Charles DeBrunner 3/25/24  
Charles DeBrunner, Controller Date

Neil A. Grover 3-21-24  
Neil A. Grover, Solicitor Date

**SILVERSTONE ENTERPRISES, LLC:**

[Signature] 3/19/24  
Board Chairperson Date

ATTEST:

[Signature] 3/19/24  
Secretary Date