

City of Philadelphia



(Bill No. 140450)

AN ORDINANCE

Authorizing the Commissioner of Parks and Recreation and the Commissioner of Public Property, on behalf of the City of Philadelphia, to enter into an agreement to lease to Temple University an interior portion of the East Park Canoe House, located on Kelly Drive, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Parks and Recreation and the Commissioner of Public Property, on behalf of the City of Philadelphia, are hereby authorized to enter into agreements under which Temple University would lease or sublease an interior portion of the East Park Canoe House, located on Kelly Drive, pursuant to the terms set forth in the Term Sheet attached as Exhibit A hereto.

SECTION 2. The City Solicitor is hereby authorized to review and to approve all instruments and documents necessary to effectuate this Ordinance, and to include in those instruments and documents terms and provisions the City Solicitor deem necessary or appropriate to protect the interests of the City and to carry out the purposes of this Ordinance.

EXHIBIT A

East Park Canoe House

Space Lease Term Sheet Between

City of Philadelphia and Temple University – Of The Commonwealth System of Higher Education

This Term Sheet identifies the Premises that Temple University – Of The Commonwealth System of Higher Education, on behalf of its Department of Intercollegiate Athletics (“**Subtenant**”) proposes to lease from the City of Philadelphia, through the City’s Department of Parks and Recreation (“**Master Landlord**”). The parties wish to enter into a definitive written lease agreement under which the Tenant would use the Premises to operate its collegiate rowing programs.

This Term Sheet is not a legally binding document. It does not create a lease, an option to lease, or an agreement to lease. Rather, this Term Sheet identifies proposed terms which are intended to be included in agreements the City and Subtenant will negotiate and, if they each ultimately agree, that they would enter into regarding the Premises. A final, negotiated lease may address additional issues, and may include provisions that establish conditions, limitations, or requirements regarding terms set forth in this Term Sheet. This Term Sheet does not create any legally binding obligations on the parties identified as Master Landlord or Subtenant in this Term Sheet unless and until they have entered into a mutually acceptable, written, definitive agreements.

In this Term Sheet, the phrase “**Building**” means the East Park Canoe House located on Kelly Drive just south of the Strawberry Mansion Bridge. The Building will include restrooms for public use (the “**Public Restrooms**”); but the Public Restrooms will not be part of the Premises.

1. Deal Structure: City of Philadelphia Master Lease to Philadelphia Authority for Industrial Development (“**PAID**”); Sublease to Subtenant. PAID is to act solely as a “pass through.” The Master Lease and the Sublease, and all documents entered into by the parties in connection with Master Lease and the Sublease, are referred to collectively as the “**Lease Documents**.” Subtenant shall pay PAID’s fees in connection with negotiating and executing the Lease Documents.
2. Master Landlord: City of Philadelphia, through the Department of Parks and Recreation
3. Subtenant: Temple University – Of The Commonwealth System of Higher Education, on behalf of its Department of Intercollegiate Athletics
4. Premises: Interior space in the Building, approximately as shown on **Exhibit A**.

- 5. Occupancy/Possession Date: Promptly following City’s completion of fit out of Premises and related renovations of the Building and issuance of a certificate of occupancy by the Department of Licenses and Inspections.
- 6. Effective Date: Upon execution and delivery of Lease Documents.
- 7. Term Commencement Date: Upon City’s delivery of Premises to PAID, for delivery to Subtenant, as confirmed by a “Commencement Date Letter.”
- 8. Term & Renewal: 20 years.

Subtenant may renew the term for up to two 10-year renewal periods (each, a “Renewal Term”) subject strictly to the following conditions precedent:

On the date of Subtenant’s notice of renewal and on the date of the start of the Renewal Term, Subtenant (1) must not have committed an uncured default of the Sublease, or allowed a condition to exist under the Sublease, that with notice and passage of time would become Event of Default, and (2) Subtenant must not have committed any Event of Default within prior 24 months that remains uncured.

To exercise its right to renew, Subtenant must provide a written renewal notice to the City at least one year before the end of the Term or then-current Renewal Term, but not sooner than 18 months before the end of the Term or then-current Renewal Term.

- 9. Uses: Permitted, Required, and Prohibited:

9.1 Subtenant shall occupy and use the Premises for the following purposes:

- 1. To operate Subtenant’s collegiate rowing programs.
- 2. To facilitate the program set forth in Exhibit B.
- 3. To host events in celebration and support of Subtenant’s collegiate rowing programs.

9.2 Subtenant shall cause the Public Restrooms to be unlocked for public use during days and hours as reasonably directed by the Parks & Recreation Commissioner. Subtenant shall promptly keep the Public Restrooms adequately supplied with all paper goods, soap, and other supplies necessary to serve public users. Subtenant shall close and lock the Public Restrooms at the end of their scheduled open time.

- 10. Costs; Subtenant's Contribution:
 - 10.1. The City shall renovate the Building, including its capital elements, walls, roofs, floors, windows, building systems, fixtures, and finishes, and fit out of the Premises for Subtenant (collectively, the "**Renovations**").
 - 10.2. The City shall perform the Renovations up to the extent of (1) \$2.5 million of City appropriations (the "**City Funding**") and (2) the Subtenant's Payment (as defined below) (the City Funding together with Subtenant's Payment is the "**Total Renovation Funding**"). The City is not liable to Subtenant if the Total Renovation Funding is insufficient to complete the Renovations as the City initially bids the work. If initial bids by responsive and responsible bidders are greater than the Total Renovation Funding, or if in the course of the Renovations it becomes clear to the City that the Total Renovation Funding will be insufficient to complete the Renovations, then City and Subtenant shall consult about changing the scope or nature of the Renovations or both, to assure that the Renovations do not exceed the Total Renovation Funding.
 - 10.3. Subtenant shall pay, reimburse, or otherwise contribute, \$3.0 million (the "**Subtenant's Payment**") to help pay the City's Renovations costs. Subtenant shall make the Subtenant's Payment available to the City in percentage payments and in a manner that facilitates the City's timely payment of the costs of Renovations as work progresses.
- 11. Rent:
 - \$1.00. Without limiting the application of Section 25, Subtenant may not impose any charge for any sub-sublease, license, or other use of the Premises without the approval of City.
- 12. Alterations/Improvements:
 - 12.1. The City shall perform the Renovations, subject to Section 10.2.
 - 12.2. The City shall install necessary wiring for a swipe-card entry system; but at its own cost Subtenant shall purchase and install all necessary fixtures for the system.
 - 12.3. Subtenant shall not make any Alteration to the Premises without the prior, written approval of the Parks & Recreation Commissioner and other applicable City agencies, boards, and commissions.
- 13. Ownership & Control:
 - The City owns the Premises. The Subtenant has exclusive use, care, custody, and control of the Premises, subject only to City's obligations as to the Building and its rights of entry as set forth in this Term Sheet.

14. Signs:

The Building is designated historic by the Philadelphia Historical Commission and is subject to the Historical Commission's jurisdiction and the Philadelphia Art Commission's jurisdiction. Subtenant shall not post, hang, attach, nail, screw, tack, or otherwise affix any sign, plaque, banner, or other item on the Building's exterior. Subtenant may post a naming sign in the landscaped area near the Building, subject to the prior approval of the Parks and Recreation Commissioner, the City of Philadelphia Art Commission, and the City of Philadelphia Historical Commission.

15. Maintenance:

15.1. At its own cost, Subtenant shall maintain and repair the Premises in good condition. Subtenant's maintenance and repair obligations extend only to nonstructural and noncapital work in interior spaces of the Premises, and portions of interior systems within the Premises devoted to the exclusive use of Subtenant. Despite the previous sentence and Section 15.2, at its own cost Subtenant shall (1) repair all damage to the Premises and the Building caused by Subtenant, its officials, employees, athletes, guests, and invitees, including damage caused by Subtenant's failure to properly maintain and repair the Premises, and (2) maintain and repair all utility service lines that exclusively serve the Premises and those portions of utility lines that extend from a Building utility line to serve the Premises.

15.2. The City shall maintain and repair all structural elements, capital items, and systems of the Building (excluding portions of interior systems within the Premises exclusively devoted to Subtenant) and the exterior of the Building, including the exterior wall surfaces, the roof, the Building foundation and walls. Subtenant is not obligated to maintain or repair internal areas of the Building that are not part of the Premises; except as provided in Section 15.3 regarding the Public Restrooms.

15.3. Subtenant shall maintain and repair normal wear and tear on the Public Restrooms and shall keep them in reasonably clean, sanitary, and working condition.

16. Insurance:

At its own cost, Subtenant shall procure and maintain insurance in types and limits that the City's Risk Management Office requires in its reasonable discretion, including coverage for (1) Subtenant's personal property, (2) the Premises, (3) Subtenant's operation of the programs as set forth in Exhibit B, (4) all of Subtenant's maintenance and repair obligations, (5) Subtenant's

indemnification obligations under the Sublease, and (6) Subtenant's other activities under or related to the Sublease. Subtenant is not obligated to insure the Public Restrooms.

17. Indemnification: Subtenant shall indemnify and defend the City under a broad form indemnification agreed to by the City Solicitor and Director of Risk Management.
18. Condition of Premises: Subtenant accepts the Premises and the Building, each in its "As-Is" condition after the City completes the Renovations, including but not limited to all latent and patent defects, environmental conditions, and all encumbrances, liens, encroachments, and existing uses of or affecting the Premises and the Building, or either of them. The City makes no representation or warranty to Subtenant regarding the condition of the Building or its suitability for Subtenant's use under the Sublease.
19. Utilities: Subtenant shall arrange to be billed directly by all utility providers to the Premises. Subtenant shall pay all its utility bills in the ordinary course of business. Subtenant is liable for all late fees and penalties imposed by any utility provider due to Subtenant's failure to timely pay any of its utility bills.
20. Parking Lot: Subtenant may use the parking lots adjacent to the Building in common with the public. Subtenant does not have exclusive use of any portion of the parking lots. Subtenant shall not use any means to set off any area of the parking lots for Subtenant's exclusive use, including by signs, safety cones, placement of trailers, or other means.
- The parking lots adjacent to the Building may be fully occupied by third parties' vehicles, trailers, tents, and other items from time to time in connection with regattas and other special events in East Fairmount Park or along Kelly Drive. During those events, there may not be space in the parking lots for Subtenant's parking needs.
21. Dock (including Ramp): Subtenant may use the Building dock in common with the public. Subtenant also may use the Boy Scout Dock (defined below) in common with the public. Subtenant does not have exclusive use of any portion of either dock. Subtenant shall not use any means to set off any portion of either dock, including any ramp, for Subtenant's exclusive use. The "**Boy Scout Dock**" is the dock that lies north of the Building and that was constructed years ago by a Boy Scout troop.

Subtenant shall not moor any motorized launch at the Building dock.

The City makes no representation or warranty regarding the condition of the Building dock, the Boy Scout dock, or the ramp. The City is not obligated to Subtenant to maintain or repair the Building dock, the Boy Scout Dock, or the ramp. The City is not obligated to Subtenant to maintain or repair the river wall along the Building and in proximity to the Building.

22. Premises Security and Access:

As a part of Premises Fit Out, City shall install an entry alarm system for the Premises and shall install in the Premises all smoke, fire, and carbon monoxide detectors and alarms required by Applicable Laws.

Subtenant shall install, maintain, and operate a “swipe card” system for its coaches and rowers to gain access to the Premises.

Subtenant shall provide to the Parks & Recreation Commissioner all keys, access codes, and swipe cards necessary to enter the Premises.

23. City’s Entry Into Premises:

The City may enter the Premises at all reasonable times to inspect the Premises, ensure Subtenant’s compliance with the Sublease, and to access other portions of the Building for purposes of maintenance and repair.

The City may enter the Premises at any time if the City determines it is necessary or prudent in connection with an emergency. The City shall notify Subtenant as promptly as possible of the entry and emergency. Nothing in the Lease Documents limits the City’s performance of its municipal functions in an emergency.

The City may enter the Premises upon prior notice to the Subtenant to perform any maintenance and repair of the Premises that Subtenant has failed to perform.

24. Subtenant Events:

The “back” of the Building is the side of the Building that faces the Schuylkill River. Subtenant may submit requests to the Parks & Recreation Commissioner (or the Commissioner’s designee) to use the portion of the Parking Lot north of the Building, or to use the back of the Building, or to use both, for Subtenant’s special events. Subtenant may hold up to six special events each year (whether in the parking lot, the back of the building, or both). To be considered complete, Subtenant’s request must include a detailed description of the event, including the specific location of the event, the type of event,

number of people likely to attend, duration of the event, whether Subtenant will erect a tent for the event, and any time needed to set up before the event and to clear and clean up the area after the event. The Commissioner (and the Commissioner's designee) shall not unreasonably withhold or delay approval of Subtenant's request. Subtenant shall not hold any event in the parking lot or the back of the Building unless Subtenant has obtained written approval for the event from the Commissioner or the Commissioner's designee.

Subtenant may erect a tent temporarily for use during each of its approved special events held in the portion of the parking lot north of the Building or the back of the building.

25. Assignment: Subtenant shall not assign its rights or delegate its obligations under the Sublease, and any purported assignment or delegation is void. Subtenant shall not enter into or permit any sub-sublease, license, or otherwise permit other users of the Premises, except with approval of City or to the extent necessary to comply with Exhibit B.

26. Economic Opportunity Plan: Subtenant shall comply with an Economic Opportunity Plan for the hiring of disadvantaged business enterprises and employment of socially and economically disadvantaged individual Philadelphia residents in the maintenance and repair of the Premises.

27. Non-Discrimination: Tenant shall comply with all the requirements and prohibitions regarding non-discrimination under the City of Philadelphia Home Rule Charter, the Philadelphia Code, and Mayoral Executive Orders.

Kindly countersign this Term Sheet in the space provided to indicate your agreement to the provisions of this Term Sheet.

CITY OF PHILADELPHIA, by and through its DEPARTMENT OF PARKS AND RECREATION

By: _____
Name: Michael DiBerardinis
Title: Deputy Mayor and
Commissioner, Parks and Recreation

Agreed to on behalf of the

TEMPLE UNIVERSITY – OF THE
COMMONWEALTH SYSTEM OF HIGHER EDUCATION

By: _____
Name: _____
Title: _____
Date: _____, 2014

[This term sheet is not "Approved as to Form" by a City of Philadelphia Law Department attorney because it is not a binding contract and it does not impose any legal obligation on the City.]

Exhibit A to East Park Canoe House Space Lease Term SheetIntroduction

Temple University has been an integral part of the fabric of Philadelphia for 130 years. One Sunday evening in 1884, a young printer brought six of his friends for tutoring by Russell Conwell, a Baptist minister, in his study. The number soon grew to forty students. Today, Temple University is the 27th largest university in the United States with 37,000 students and nine campuses in Pennsylvania, Europe and Asia. However, Temple remains “Philadelphia’s public university” and continues to educate and employ Philadelphia’s residents. The renovation of the East Park Canoe House is another example of Temple’s willingness to partner with the City of Philadelphia and offer access to excellence to the youth of Philadelphia. The community outreach focus on training, opportunity and education to expose underrepresented youth to the sport of rowing and the importance of a college education.

Training

Temple University will host and operate camps and clinics at the East Park Canoe House. There will be two week-long summer rowing camps for 50 middle school students each week. The camps will be operated by our coaches and student athletes and will cover an introduction to rowing as well as nutritional and fitness issues. These camps will serve as a feeder to the Philadelphia Parks and Recreation camps which are targeted for an older age. The Temple camps will allow youth to become exposed to the sport of rowing at an earlier age. In addition to the summer camps, there will be a fall and spring clinic so the youth can see how the teams prepare for a race and compete.

Education and Opportunity

The 100 campers each year will be invited to join the new North Philadelphia community outreach initiative, *Experience Temple*. Experience Temple will bring middle school students to Temple University’s Main Campus for a series of approximately ten programs throughout the school year. Through Experience Temple, students will have the opportunity to tour University facilities (labs and studios) and learn about different facets of the University like Admissions, Financial Aid, etc...The goal is to expose students and their parents at an early age so they can make good decisions throughout high school.

Temple University will partner with Philadelphia City Rowing to support their mission of training student-athletes and providing educational support. We will provide tutoring support, computers and office furniture and access to rowing equipment. Our College of Education will work on tutoring programs and the Sports Industry Research Center in the School of Tourism and Hospitality Management will provide assessments.

Conclusion

Temple University will provide a minimum of 100 middle school students per year the experience of rowing at an earlier age than they would otherwise be able to learn from Philadelphia Parks and Recreation. These students will also benefit from a year-long program that will motivate them to attend college. Many other students will benefit academically from the material and human resources through our partnership with Philadelphia City Youth Rowing.

City of Philadelphia

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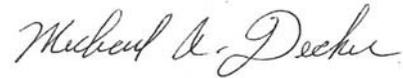
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City of Philadelphia

BILL NO. 140450 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 19, 2014. The Bill was Signed by the Mayor on July 15, 2014.



Michael A. Decker
Chief Clerk of the City Council