

MASTER GROUND LEASE

[Philadelphia Zoo Parking Garage at 3404L W. Girard Avenue]

THIS MASTER GROUND LEASE (the “Lease”), is made _____, 2012, between the City of Philadelphia, through its Department of Parks and Recreation (the “City”) and the Philadelphia Authority for Industrial Development, a Pennsylvania political and corporate body (“Tenant”).

BACKGROUND

A. By contract dated September 24, 1973 (the “Master Agreement”), the Fairmount Park Commission gave the Zoological Society of Philadelphia a license to use the zoological gardens at 34th Street and Girard Avenue (the “Zoo”). The initial term of the Master Agreement was 25 years and was scheduled to expire on September 23, 1998. The Master Agreement term renewed for an additional 25-year period which expires September 23, 2023.

B. The Zoological Society of Philadelphia desires to construct a multistory parking garage (the “Garage”) to create additional parking spaces for Zoo patrons and relieve parking congestion near the Zoo and in West Fairmount Park.

C. The Zoological Society of Philadelphia’s construction of the Garage is part of a proposed “Intermodal Transportation Project,” which includes planned improvements to the other parking facilities that serve the Zoo and to public rights-of-way that will make patron access to the Zoo easier and safer. The Intermodal Transportation Project is described in Exhibit B to the Sublease (defined below).

D. The City of Philadelphia Department of Parks and Recreation (the “Department”) has approved the Zoological Society of Philadelphia’s final design plans for the Garage Facilities (the “Final Designs”). The City’s written approval of the Final Designs and a list of the Final Designs is attached as Exhibit C to the Sublease.

E. By an ordinance numbered as Bill No. _____, approved _____, 2012 (and signed by the Mayor on _____, 2012), Philadelphia City Council authorized the Commissioner of Parks and Recreation to execute a Master Ground Lease on behalf of the City with Tenant. A copy of Bill No. _____, is attached as Exhibit D to the Sublease.

F. By resolution number _____, Tenant’s Board of Directors authorized the President of Tenant to execute this Lease. A copy of Tenant’s resolution number _____ is attached as Exhibit E to the Sublease.

G. This Lease provides for the City's lease to Tenant of land that the Zoological Society of Philadelphia wishes to use to construct, maintain, and operate the Garage, and requires the Tenant to execute the Sublease with the Zoological Society of Philadelphia as subtenant ("**Subtenant**").

ACCORDINGLY, the City and Tenant, intending to be legally bound, agree as follows:

DEFINITIONS AND EXHIBITS

In this Lease, words and phrases defined in the preamble and background have their assigned meanings, words and phrases listed below are defined as set forth below, and capitalized words and phrases not defined in this Lease have the meanings assigned to them in the Sublease:

"Applicable Laws" includes all present and future federal, state, and municipal laws, ordinances, codes, notices, orders, rules, regulations, and requirements, relating to the Premises, this Lease, Tenant, and Tenant's activities under this Lease. Applicable Laws include but are not limited to (1) all laws that govern or regulate the use, presence, treatment, and disposal of hazardous substances and environmental contamination, (2) the Philadelphia Home Rule Charter and the Philadelphia Code, (3) the regulations of the Philadelphia Department of Parks and Recreation, (4) zoning approvals, and (5) Art Commission approval.

"City" has the meaning assigned to it in the Preamble and includes all the City's departments, boards, commissions, agencies, offices, officials, officers, employees, representatives, successors and assigns.

"Claims" has the meaning given to it in Section 8.2.1.

"Indemnified Party" and **"Indemnified Parties"** have the meaning given them in Section 8.2.1.

"Lease" has the meaning given it in the preamble and includes all duly executed amendments to the Lease.

"Lease Commencement Date" means the date of this Lease.

"Lease Ending Date" means the date the Lease Term or this Lease expires, is terminated, or otherwise ends.

"Lease Party" means either the City or PAID.

“**Lease Term**” has the meaning given it in Section 2.1.

“**Losses**” has the meaning assigned to it in Section 8.2.1.

“**Master Agreement**” has the meaning given it in Background paragraph A.

“**PAID**” means the Tenant.

“**PIDC**” means the Philadelphia Industrial Development Corporation.

“**Premises**” is described in **Exhibit A**. The Premises does not include any public utility lines or public conduits that cross under or over the Premises.

“**Subtenant**” has the meaning given it in Background paragraph G.

“**Zoo**” has the meaning given it in Background paragraph A.

Exhibit A – Premises (Definition)

Exhibit B – Certification of Non-Indebtedness (Section 13.5.2)

SECTION 1.

LEASE; CONDITION OF PREMISES; NO FINANCIAL OBLIGATION ON CITY

1.1. Lease. Subject to the other provisions of this Lease, starting on the Commencement Date, the City leases to Tenant, and Tenant leases from the City, the Premises for the Term.

1.2. Condition of Premises. Under a license given by the Fairmount Park Commission, Subtenant has used the Premises as a surface parking lot for several decades. The City expressly disclaims all representations and warranties about the Premises and the condition of the Premises. Tenant has no recourse to the City as to the condition of the Premises. The Tenant has entered into this Lease based solely upon its investigation of the Premises and without reliance upon any information provided by the City. Tenant accepts the Premises in its “AS IS” condition, including

- 1.2.1. all patent and latent defects and hazards,
- 1.2.2. all surface and subsurface conditions of the Premises,
- 1.2.3. the environmental condition of the Premises,
- 1.2.4. encumbrances, liens, encroachments on or affecting the Premises,
- 1.2.5. existing uses of or affecting the Premises,

- 1.2.6. agreements and restrictions of record affecting the Premises,
- 1.2.7. the nature or usability of the Premises, or the use or uses to which the Premises or any part of the Premises may be put,
- 1.2.8. the potential impact on the Premises of nearby railroad tracks and the structures, poles, towers, conduits, lines, and other improvements, fixtures, and equipment ancillary to the railroad tracks,
- 1.2.9. all violations of Applicable Laws in or on the Premises,
- 1.2.10. the zoning applicable to the Premises,
- 1.2.11. all public rights-of-way over and through the Premises; and
- 1.2.12. the City's title to the Premises and any defects in the City's title.

1.3. Sublease Subject to Lease; Premises Owned By City. Despite any other provision of this Lease, the Sublease is subject to this Lease. Despite any other provision of this Lease, this Lease does not create, grant, or give to Tenant any legal title, easement or other interest in the Premises other than a leasehold.

1.4. No Financial Obligation on City. **DESPITE ANY OTHER PROVISION OF THIS LEASE, THIS LEASE DOES NOT IMPOSE ANY OBLIGATION ON THE CITY TO APPROPRIATE OR SPEND MONEY AT ANY TIME OR FOR ANY REASON, EXCEPT ONLY AS PROVIDED IN SECTION 7.**

SECTION 2.

TERM; DEADLINE TO START CONSTRUCTION

2.1. Term. The term of this Lease (the "Lease Term") starts on the Lease Commencement Date and ends on the date which is 29 years six calendar months and one day after the Lease Commencement date, except as the Lease Term may be reduced under the provisions of Section 2.5.

2.2. Condition to Full Term. The full duration of the Lease Term under Section 2.1 is subject to the following condition precedent: the Subtenant must have in good faith started construction of the Garage Facilities before the Deadline to Start Construction under the Sublease, as the deadline may be extended according to the provisions of the Sublease.

2.5. Reduction of Term. If Subtenant does not satisfy the condition precedent set forth in Section 2.2 of the Sublease regarding the Deadline to Start Construction and the Term of the Sublease is reduced in accordance with Section 2.5 of the Sublease, the Lease Term of this Lease expires one day after expiration of the reduced Term of the Sublease.

SECTION 3.

USE OF PREMISES; PARKING FEES; NAMING OF GARAGE; SIGNS; USES PROHIBITED

3.1. Use. Tenant shall execute and deliver the Sublease with the Subtenant either contemporaneously with Tenant's execution of this Lease or promptly following its execution of the Lease. Except only for its execution of the Sublease with Subtenant, Tenant shall not execute any sublease, license, or other use agreement regarding the Premises.

3.4. Parking Fees. The City may enforce the Subtenant's obligation under Section 3.4 of the Sublease to promptly pay to the City a portion of the Subtenant's revenue from operation of the Garage.

3.6. Naming of Garage.

3.6.1. Under the Sublease, the Subtenant may name the Garage, or any individual elements of the Garage Facilities, in the Subtenant's sole discretion, as provided in the Sublease.

3.6.2. After the Sublease Ending Date, the City may name the Garage Facilities in the City's sole discretion, except as provided in the next sentence. If the Sublease Ending Date occurs before expiration of the full Term of 29 years and six calendar months, any name that the Subtenant has designated for the Garage or any individual elements of the Garage Facilities in accordance with the Sublease before the Sublease Ending Date remains in effect through the earlier of (A) the term of the Subtenant's applicable agreement establishing the naming rights for the Garage or any individual elements of the Garage Facilities, as the case may be, or (B) the balance of what would have been the full Term of the Sublease. If the Sublease Ending Date occurs before what would be expiration of the full Term of the Sublease, this Section 3.6.2 survives the Sublease Ending Date through the end of what would have been the full Term of the Sublease.

3.6.3. Under the Sublease, Subtenant may retain all proceeds paid to it for naming rights of the Garage and the individual elements of the Garage Facilities.

3.7. Signs. Whenever the Subtenant submits a proposed sign for the City's review and requests the City's approval of the sign, the City shall not withhold its approval unreasonably.

3.10. Uses Prohibited. Tenant shall not use the Premises for any purpose not expressly permitted by this Lease.

SECTION 4.
CONSTRUCTION COSTS; CITY INSPECTION; CITY COOPERATION

4.1. No Cost To City. The City is not obligated to design, construct, maintain, repair, replace, and improve the Premises or any improvements on the Premises. The City is not obligated to appropriate or spend money at any time for the design, construction, maintenance, repair, replacement, or improvement of the Premises or any improvements on the Premises.

4.2. Right to Apply For Grant. Under Sublease Section 4.2, Subtenant may in its sole discretion apply to the City for one or more grants to support construction of the Garage Facilities. The City is not obligated to consider or approve any application by the Subtenant for one or more grants to support construction of the Garage Facilities.

4.3. Subtenant's Design of Garage Facilities. Whenever the Subtenant submits to the City a proposed change to the Final Designs pursuant to the Sublease, the City may not withhold its approval unreasonably.

4.4. Subtenant's Plans and Specifications. Whenever the Subtenant submits its Plans and Specifications to the City pursuant to the Sublease, the City may not withhold its approval unreasonably.

4.9. Inspection of Construction. Following the City's reasonable advance notice to the Subtenant, the City may enter the Premises to inspect any construction occurring on the Premises.

4.10. City Cooperation. If the Subtenant asks the City to cooperate with it in pursuit of approvals required under Applicable Laws related to construction on the Premises, then, subject to Article 12 (Approvals By City Under This Lease), the City shall, in its discretion, cooperate with the Subtenant. The City is not obligated to incur any expense in connection with the Subtenant's pursuit of approvals required by Applicable Laws, and is not obligated to testify before any City department, board, or commission.

4.11. Alterations. Whenever the Subtenant submits proposed Alterations to the City pursuant to the Sublease, the City may not withhold its approval unreasonably.

SECTION 5.
[RESERVED]

SECTION 6.
OWNERSHIP OF IMPROVEMENTS DURING LEASE TERM

6.1. Ownership: Garage Facilities During Term. Throughout the Lease Term, the City does not own any improvements constructed on the Premises by Tenant or the Subtenant, and has no care, custody, and control of any improvements constructed on the Premises by Tenant or the Subtenant. Throughout the Term, Tenant has no care, custody, and control of any improvements constructed on the Premises by the Subtenant.

6.2. Ownership: Garage Facilities After Term. Upon the Lease Ending Date, title to the improvements on the Premises automatically vests in the City, without the need for the execution, filing, or recording of any document, and without any obligation on the City to pay or otherwise compensate Tenant or the Subtenant; except only as provided in Section 7.1.

SECTION 7.
**EXPIRATION OF MASTER SUBLEASE AND
COMPENSATION TO SUBTENANT FOR GARAGE FACILITIES**

7.1. Master Agreement Non-Renewal.

1. If the City does not renew the Master Agreement, and

2. if following the City's non-renewal of the Master Agreement the Subtenant terminates the Sublease under Section 7.1 of the Sublease,

then ownership of the Garage Facilities automatically vests in the City as provided in Section 6.2 of the Sublease, and

A. the City shall pay the actual value of the Garage Facilities to Subtenant,

B. but the City is not obligated in any event to pay to the Subtenant any consequential or indirect damages.

SECTION 8.
TORT CLAIMS ACT, INDEMNIFICATION, RELEASE

8.1. Tort Claims Act. Nothing in this Lease or the Sublease waives or amends any immunity, defense, or right that the Landlord or Tenant, and their respective officials, officers,

directors, members, employees, agents, or representatives, have under the Pennsylvania Political Subdivisions Tort Claims Act (codified at Title 42, Chapter 85, of the Pennsylvania Consolidated Statutes Annotated, as applicable) or under other Applicable Laws.

8.2. Indemnity.

8.2.1. To the extent

A. Subtenant fails to provide reasonable and timely indemnification against Claims or Losses (as defined below) pursuant to the Sublease, and

B. those Claims or Losses are not covered by an insurance policy maintained by a third party (other than PIDC) for the benefit of Tenant pursuant to the terms of the Sublease,

the City shall, to the extent permitted by Applicable Laws and subject to Section 8.1 (Tort Claims Act), indemnify, defend and hold harmless Tenant, PIDC, and their respective directors, members, officials, officers, employees, agents and representatives (each an **“Indemnified Party”**, and collectively, the **“Indemnified Parties”**), from and against all suits, claims or causes of action (collectively, **“Claims”**), and all liabilities, losses, obligations, damages, penalties, costs, charges, expense, judgments and amounts paid in settlement (including, without limitation, reasonable attorneys’ fees) of every kind (collectively, **“Losses”**), which may be imposed upon, incurred by or asserted against an Indemnified Party arising out of or relating to or arising in connection with Tenant’s entering into this Lease or the Sublease, Tenant’s performance of its obligations under this Lease or under the Sublease, or any acts or omissions relating to Tenant’s involvement under this Lease or under the Sublease; except in each case to the extent that the Claims and Losses are attributable to the willful misconduct, fraud or gross negligence of any Indemnified Party.

8.2.2. In consideration of City’s undertaking to indemnify Tenant as provided in Section 8.2.1., Tenant shall cooperate with the City to enforce the rights of Tenant under any insurance policy maintained by any third party (other than PIDC) under which Tenant is an additional or named insured, and to enforce any indemnification rights to which Tenant may be entitled under the Sublease (including any rights against Subtenant or any third party), and the City and Tenant shall pursue all those third party insurance policies and indemnitors diligently with respect to all Claims or Losses which may be properly asserted in good faith against them. The City shall be subrogated to the rights of Tenant under those insurance policies and indemnification rights; provided, however, the City does not have, and expressly waives, any right of subrogation under any insurance policies maintained by Tenant.

8.2.3. To the extent

A. Subtenant fails to provide reasonable and timely indemnification against Claims or Losses pursuant to the Sublease, and

B. that Claims or Losses are not covered by an insurance policy maintained by a third party (other than PIDC) for the benefit of the City pursuant to the terms of the Sublease,

Tenant shall, to the extent permitted by Applicable Laws and subject to Section 8.1 (Tort Claims Act), indemnify, defend and hold harmless the City, and its officials, officers, employees, agents and representatives, from and against all Claims and Losses which may be imposed upon, incurred by or asserted against the City and its officials, officers, employees, agents and representatives arising out of or relating to or arising in connection with (1) the performance or breach of the obligations or representations of Tenant under this Lease or the Sublease, or (2) any other acts or omissions of Tenant or any of its directors, members, officers officials, employees, agents and attorneys providing services relating to the Sublease or this Lease, in each case insofar as those Claims or Losses arise directly or indirectly from the willful misconduct, fraud or gross negligence of Tenant or any Indemnified Party. The liability of Tenant, PIDC and any other Indemnified Party under this Section 8.2.3 is limited solely to Tenant's interest under this Lease, and the lien of any judgment is restricted to that amount.

8.2.4. The obligations of City and Tenant under Section 8.2.1, Section 8.2.2, and Section 8.2.3, survive the Lease Expiration Date.

SECTION 9.

DAMAGE TO GARAGE FACILITIES

9.1. Damage. If the Garage Facilities suffer a casualty and the Subtenant decides under Sublease Section 9.2.2 to remove the remaining Garage Facilities and restore the Premises to open landscaped park land, the First Deputy may not unreasonably withhold its satisfaction with Subtenant's restoration.

9.3. Casualty At End Of Term. If a casualty to the Garage Facilities occurs during the last five years of the Term, and if the Subtenant elects not to replace the Garage Facilities, then the City may, in its sole discretion, elect to replace the Garage Facilities.

SECTION 10.
CONDEMNATION

10.1. Partial Taking. If a Partial Taking of the Garage Facilities occurs and the Subtenant elects under Sublease Section 10.2.2 to remove the remaining Garage Facilities and restore the Premises to open, landscaped park land, the First Deputy may not unreasonably withhold its satisfaction with Subtenant's restoration.

10.3. Total Taking. If all of the Premises is taken by eminent domain, then this Lease automatically terminates on the effective date of the taking.

10.4. Condemnation Awards. If some or all of the Premises is taken by eminent domain

10.4.1. City may claim compensation from the condemning authority for the value of its interest in the Premises and Garage Facilities and any other items and interests to which the City is entitled under Applicable Law;

10.4.2. Tenant and Subtenant may claim compensation from the condemning authority for the value of their respective interest in the Premises and Garage Facilities and any other items and interests to which the Tenant and Subtenant are respectively entitled under Applicable Law. In no event, however, may Tenant's or Subtenant's claim or award reduce the City's claim and award arising out of the condemnation; and

10.4.3. City, Tenant, and Subtenant may each appear in and defend against the condemnation as they deem proper in accordance with their own interests. To the extent possible, Tenant shall cooperate with the City to maximize the condemnation proceeds payable by reason of the condemnation. To avoid multiplicity of actions and to minimize their respective expenses, to the extent permissible under Applicable Laws (including but not limited to procedural rules), Tenant shall join all issues between it and the City that are required to be resolved pursuant to this Section in any condemnation proceeding.

10.5. Temporary Taking. If the temporary use of some or all of the Premises or Garage Facilities are taken by eminent domain, this Lease remains in effect. Subtenant is entitled to receive all awards, damages, compensation and proceeds payable by the condemnor by reason of the condemnation for periods prior to the Sublease Ending Date. The City is entitled to all those awards, damages, compensation and proceeds for periods after the Sublease Ending Date.

SECTION 11.

[RESERVED]

SECTION 12.
APPROVALS BY CITY UNDER THIS LEASE;
CITY IS THIRD PARTY BENEFICIARY OF SUBLEASE

12.1. City Approvals Not Approval Under Applicable Laws. The City's approval of Subtenant's designs, plans, and specifications for the Garage Facilities, including the Final Design Plans and the Plans and Specifications, and the City's approval of any report, information, or request that Subtenant provides to City under this Lease or the Sublease, or that is related to this Lease or the Sublease, is not approval by any City department, board, or commission otherwise required under Applicable Laws. The City's help for Subtenant to obtain any approval required under Applicable Laws is not itself the approval required under Applicable Laws.

12.2. City Approval Not A Representation or Warranty. The City's approval of Subtenant's designs, plans, and specifications for the Garage Facilities, or its approval of any report, information, or request that Subtenant provides to City under this Lease or the Sublease, is not a representation or warranty by the City regarding the accuracy or suitability, or any other quality, of the designs, plans, specifications, report, information, or request. The City's help for Subtenant to obtain any approval required under Applicable Laws is not a representation or warranty by the City regarding the accuracy, suitability, or any other quality of the matter for which the Subtenant seeks approval.

12.3. Effectiveness Of City Approvals.

12.3.1. Wherever this Lease or the Sublease requires Tenant or Subtenant, as the case may be, or another person, to obtain the City's review, consent, approval, or determination (apart from any review, consent, approval, or determination under Applicable Laws), the review, consent, approval, or determination will be effective only if obtained from or made by the First Deputy and in the manner this Lease or the Sublease requires, as the case may be.

12.3.2. Wherever this Lease or the Sublease requires Tenant or the Subtenant, as the case may be, or another person, to obtain the review, consent, approval, or determination of a City official, department or agency other than the First Deputy (apart from any review, consent, approval, or determination under Applicable Laws), the review, consent, approval, or determination will be effective only if obtained from or made by the specified official, department, or agency and in the manner this Lease or the Sublease requires, as the case may be.

12.4. Approvals by City Bind PAID. Except where the provisions of the Sublease expressly require separate approvals by both the City and PAID (as landlord under the Sublease), any approval given by the City in connection with any obligation of Subtenant under the Sublease is deemed approval by PAID (as landlord under the Sublease). Wherever the Sublease requires the approval of both the City and PAID (as landlord under the Sublease), the Subtenant may submit the matter requiring the approval simultaneously to the City and PAID. Any approval, consent, or permission given, and any review conducted, by the First Deputy is deemed to be an approval, consent, permission or review, as the case may be, by PAID as landlord under the Sublease and is binding on PAID as landlord under the Sublease.

12.5. Society is Third Party Beneficiary of Provisions of Lease.

12.5.1. The Subtenant is a third party beneficiary of the following provisions of this Lease:

- Section 1.1 (Lease)
- Section 2.1 (Term)
- Section 2.3 (Extension of Deadline to Start Construction)
- Section 3.1 (Use)
- Section 3.6 (Naming of Garage)
- Section 3.7 (Signs)
- Section 4.3 (Subtenant's Design of Garage Facilities)
- Section 4.4 (Subtenant's Plans and Specifications)
- Section 4.10 (City Cooperation)
- Section 4.11 (Alterations)
- Section 7.1 (Master Agreement Non-Renewal)
- Section 9.1 (Damage)
- Section 10 (Condemnation)
- Section 12.4 (Approvals By City Bind PAID)
- Section 12.5.2 (Subtenant's Enforcement)
- Section 15 (Notice)
- Section 16.6 (No Amendment)

12.5.2. Subtenant's Enforcement. The Subtenant may exercise and enforce directly against the City all of Tenant's rights and remedies under the provisions of this Lease listed in Section 12.5.1.

SECTION 13.

APPLICABLE LAWS; CITY HOME RULE CHARTER AND PHILADELPHIA CODE REQUIREMENTS

13.1. Applicable Laws. In exercising all its rights and fulfilling all its obligations under this Lease, the Tenant shall at all times comply with Applicable Laws.

13.2. Non-Discrimination. In the Tenant's use of the Premises under this Lease, the Tenant shall not discriminate or permit discrimination against any person because of age, race, color, religion, national origin, ancestry, physical disability, sex, sexual orientation, or gender identity.

13.3. Non-Indebtedness. By executing this Lease, Tenant represents and warrants that the Tenant is not currently indebted to the City for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan reasonably satisfactory to the City has been established. Tenant shall not be indebted to the City at any time during the Term for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts.

13.4. No Gifts to City Officials.

13.4.1. In accordance with Executive Order No. 3-11, issued by the Mayor of Philadelphia on January 25, 2011, Tenant shall not offer, make or render, any "Gift" to any official or employee where the receipt of the Gift would be prohibited under Section 2 of that Executive Order.

13.4.2. Any person who offers or gives anything of value to any City official or employee the receipt of which would violate Executive Order No. 001-11 may be subject to sanctions with respect to future City contracts to the extent expressly stated in that Executive Order.

13.4.3. As used in this Section 13.4, "Gift" means any conveyance of anything of value, including a gift, gratuity, favor, entertainment, invitation, food, drink, or loan, unless consideration of equal or greater value is conveyed in return. "Gift" does not include a political contribution otherwise reported as required by law, or a commercially reasonable loan made in the ordinary course of business.

13.5. Only Legally Qualified Contractors. Throughout the Term, with respect to its activities on the Premises,

13.5.1. the Tenant shall hire only Contractors that

A. are not delinquent to the City of Philadelphia for taxes; and

B. have made all disclosures regarding political contributions that would be required if those contractors bid for, or were awarded, contracts directly by the City, and

C. are not otherwise disqualified from receiving any contract from the City.

13.5.2. Tenant shall include the “Certification of Non-Indebtedness” set forth in **Exhibit H** in all its contracts for its activities on the Premises, with appropriate adjustment to identify the parties;

13.5.3. Tenant shall cooperate with the City and share all information reasonably desired by City officials in order to ensure that the Tenant complies with this Section 13.5.

SECTION 14.
[RESERVED]

SECTION 15.
NOTICE

15.1. Notice. To be effective, each notice, request, approval or consent by either party to the other under this Lease must be made in writing, addressed as provided in Section 15.2, and given by one or more of the following methods:

15.1.1. hand delivery by courier service, with delivery receipt obtained;

15.1.2. overnight delivery by a recognized national overnight delivery service, with delivery receipt obtained; or

15.1.3. registered or certified United States mail, with return receipt requested.

15.2. Addresses. All notices under this Lease must be addressed as provided below:

15.2.1. If to City:

First Deputy Commissioner, Parks and Facilities
City of Philadelphia Department of Parks and Recreation
One Benjamin Franklin Parkway – 10th Floor
1515 Arch Street
Philadelphia, PA 19102

and to:

City Solicitor
City of Philadelphia Law Department
One Benjamin Franklin Parkway – 17th Floor
1515 Arch Street
Philadelphia, PA 19102

15.2.2. If to PAID:

President
Philadelphia Authority for Industrial Development
2600 Centre Square West
1500 Market Street
Philadelphia, PA 19102

with a copy to:

Ilene Burak, Esquire
Philadelphia Authority for Industrial Development
2600 Centre Square West
1500 Market Street
Philadelphia, PA 19102

with a copy to the Subtenant as follows:

President
Philadelphia Zoo
34th Street and Girard Avenue
Philadelphia, PA 19131

and a copy to:

David I. Haas, Esquire and David E. Loder, Esquire

Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103-4196

15.3. Delivery. Notice given in any of the manners provided in Section 15.1 is effective upon delivery or upon the recipient's refusal to accept delivery.

15.4. Change of Address. The City and Tenant each may change the officials to receive notice on its behalf, or change the address to which to send notice, or both, by providing notice to the other in accordance with Sections 15.1 and 15.2.

SECTION 16. **GENERAL PROVISIONS**

16.1. Sections and Captions; Non-Sequential Numbering. Unless otherwise stated, all references in this Lease to sections, exhibits, attachments, and schedules, are to the sections, exhibits, attachments, and schedules of this Lease. The captions used in this Lease are for convenience only and do not limit or extend the meaning of any part of this Lease. Sections of this Lease are intentionally numbered to correspond to provisions of the Sublease. The non-sequential numbering of sections in this Lease does not reflect any omission or any mistake by either Lease Party.

16.2. Severability. If any provision of this Lease is invalid or illegal, the remainder of this Lease will remain in effect and the invalid or illegal provision will be enforceable if and to the extent reformed by court order.

16.3. No Assignment. Tenant may not assign this Lease or any of its rights under this Lease, and shall not delegate any of its obligations under this Lease. Assignments and delegations prohibited by this Section 16.3 include assignments by merger or by operation of law. Any purported assignment or delegation by Tenant in violation of this Section 16.3 is void.

16.4. Successors and Assigns. Subject to Section 16.3 (No Assignment), this Lease binds and benefits the City and Tenant and their respective permitted successors and assigns.

16.5. No Joint Venture; No Third Party Beneficiaries.

1. This Lease does not create a partnership, joint venture, association, or other relationship between the City and Tenant other than that of landlord and tenant.

2. No person or entity is a third party beneficiary of this Lease; except

A. for the Subtenant as provided in Section 12.5 (Subtenant is Third Party Beneficiary), and

B. that any person or entity for whom Subtenant has designated a name for the Garage or any individual elements of the Garage Facilities is a third party beneficiary of the provisions of Section 3.6 (Naming of Garage).

3. All Contractors and other persons are notified by this Section 16.5 that they may not look to the City for payment or other compensation arising under or related to this Lease or any sublease. The City is not liable to any Contractors or other persons for payment or compensation arising under or related to this Lease.

16.6. No Amendments. This Lease may not be amended by oral agreement, custom, or course of conduct. This Lease may not be amended without the prior, written approval of Subtenant, subject to Section 16.6 of the Sublease. This Lease may only be amended by a written agreement executed for the City by the person holding the same title as the official who has executed this Lease for the City and for the Tenant by duly authorized officers of the Tenant.

16.7. No Implied Consent. City's failure to respond orally or in writing to any request or offer from the Tenant to modify or waive any of the Tenant's obligations under this Lease is not the City's consent to the Tenant's request or offer. The Tenant shall comply with its obligations under this Lease unless and until a request or offer to waive any provision of this Lease is expressly accepted in writing by the City or any request or offer to modify a provision of this Lease is agreed to in a written amendment made in accordance with Section 16.6 (No Amendments).

16.8. Time Of The Essence. Time is of the essence for the Tenant's performance of its obligations under this Lease and observance of all restrictions, limitations, and conditions applicable to the Tenant under this Lease.

16.9. Force Majeure Event.

16.9.1. In this Lease, a "**Force Majeure Event**" means:

A. an earthquake, volcanic eruption, hurricane, tornado, extreme weather, or similar act of God, or fire, casualty, strikes, lockouts, other labor stoppages (but not including strikes, lockouts, or other labor stoppages involving Tenant or its own employees or contractors);

B. failure of other parties to provide (or general shortage of) labor, equipment, facilities, materials or supplies, for which Tenant cannot mitigate the effect of the failure or shortage by reasonable commercial means;

C. failure of transportation or of power;

D. riots, insurrection, war; or

E. any other event or circumstance similar to those listed in A—D above;

where the event or circumstance is beyond the control of a Lease Party and either prevents or delays that Lease Party from fulfilling its obligation under this Lease or from satisfying a condition under this Lease, despite that Lease Party exercising reasonable efforts to initiate alternative means to fulfill the obligation or satisfy the condition.

16.9.2. Subject to the conditions of Sections 16.9.3 and 16.9.4 below, if a Force Majeure Event occurs, then for the duration of the Force Majeure Event:

A. the Lease Party affected by the Force Majeure Event is relieved of any obligation under this Lease that the Force Majeure Event prevents or delays the Lease Party from fulfilling, and

B. any deadline for the affected Lease Party to satisfy a condition under this Lease that the Force Majeure Event prevents or delays the Lease Party from satisfying is delayed.

16.9.3. A Force Majeure Event relieves the Tenant of an obligation under this Lease, or delays a deadline for the Tenant to satisfy a condition under this Lease, only if the Tenant promptly gives the City written notice of the occurrence of the Force Majeure Event, describing the nature of the event, the obligation or condition that the event prevents the Tenant from fulfilling or satisfying, and giving an estimate of the total delay the event will cause.

16.9.4. Despite the provisions of Sections 16.9.2 and 16.9.3 above, in no event does a Force Majeure Event relieve the Tenant of an obligation or delay a deadline to satisfy a condition for more than one year from the start of the Force Majeure Event.

16.10. Integration Clause. This Lease is the final, complete, and exclusive expression of the City and Tenant's agreements regarding the matters contemplated by this Lease. All prior negotiations and agreements between the City and Tenant regarding the matters contemplated by this Lease are merged into this Lease.

16.11. [Reserved.]

16.12. Interpretation.

16.12.1. The City and Tenant each participated in the negotiation and writing of this Lease. Therefore, the rule of interpretation that any ambiguity in this Lease must be construed against the drafter of the agreement does not apply to this Lease.

16.12.2. Unless expressly stated otherwise, wherever used in this Lease, the words “include,” “includes,” and “including,” mean “including but not limited to.”

16.13. Counterparts. This Lease may be executed in one or more counterparts, each of which is an original and all of which together are one agreement.

16.14. Recording. The Tenant may, at its sole cost and expense, record a memorandum of Lease with respect to this Lease in the Recorder of Deeds Office for Philadelphia. The Tenant must, however, obtain the City’s approval of the form of memorandum of Lease prior to filing it, which the City may not unreasonably withhold, condition, or delay. If the Tenant does file a memorandum of Lease, then the Tenant shall promptly provide a copy of the memorandum as filed and recorded to the City and shall cooperate with the City to terminate the filing and recording promptly upon the Lease Ending Date. The Tenant’s obligations under this Section 16.14 survive the Lease Ending Date.

16.16. Choice of Law, Venue. The laws of the Commonwealth of Pennsylvania govern all matters arising under or related to this Lease. The City and Tenant each shall file all claims under this Lease in the Common Pleas Court for Philadelphia County.

16.17. Waiver of Jury Trial. **THE CITY AND TENANT EACH KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY ACTION ARISING UNDER OR RELATED TO THIS LEASE.**

AS EVIDENCE OF THEIR CONSENT TO THE PROVISIONS OF THIS LEASE, the City and Tenant have each caused this Lease to be executed and delivered by their duly authorized officers effective on the date set forth in the preamble.

APPROVED AS TO FORM
Shelley R. Smith, City Solicitor

**LANDLORD:
PHILADELPHIA AUTHORITY FOR
INDUSTRIAL DEVELOPMENT**

Per: _____
Lawrence K. Copeland
Senior Attorney
City of Philadelphia Law Dept.

By: _____
Michael DiBerardinis,
Deputy Mayor & Commissioner

**TENANT:
PHILADELPHIA AUTHORITY FOR
INDUSTRIAL DEVELOPMENT**

By: _____
Thomas A. K. Queenan, Chairman

EXHIBIT A

to
Ground Lease
Between
The City of Philadelphia
And
Philadelphia Authority for Industrial Development

DESCRIPTION OF PREMISES

Zebra Lot

Legal Description

BEGINNING at a point in the existing southeasterly right-of-way line of Girard Avenue (100 feet wide) a distance of 594.73 feet from the easterly right-of-way line of 38th Street (60 feet wide) in the 24th Ward of the City of Philadelphia, thence extending:

1. South 9° 49' 37" East along a railroad's westerly right-of-way line a distance of 170.28 feet to a point; thence extending,
2. South 42° 43' 22" West along a railroad's northwesterly right-of-way line a distance of 200 feet to a point; thence extending,
3. South 48° 03' 23" West along a railroad's northwesterly right-of-way line a distance of 278.59 feet to a point; thence extending,
4. North 9° 49' 37" West along a railroad's easterly right-of-way line a distance of 440 feet to a point in the aforementioned line of Girard Avenue; thence extending,
5. North 80° 10' 23" East along the aforementioned line of Girard Avenue a distance of 394.73 feet to the point and place of beginning.

Containing 123,037 square feet or 2.825 acres more or less.

Exhibit B

to
Ground Lease
Between
The City of Philadelphia
And
Philadelphia Authority for Industrial Development

CERTIFICATION OF NON-INDEBTEDNESS

[To Follow]