

City of Philadelphia



(Bill No. 070447)

AN ORDINANCE

Authorizing the Commissioner of Public Property, on behalf of the City of Philadelphia (the "City") to enter into a Sublease Agreement (the "Sublease") by and between the City and the Philadelphia Authority for Industrial Development ("PAID") providing for the leasing by PAID to the City of a certain building known as the Tower Building; covenanting to make appropriations in each of the City's fiscal years to provide for rental payments due under the Sublease; authorizing the Director of Finance and other officials of the City to take all actions necessary to accomplish the intent and purpose of this Ordinance and the Sublease and other agreements; and authorizing approval of all of the terms of the agreements and other documents and amendments thereto by the Director of Finance and/or the City Solicitor.

WHEREAS, Episcopal Hospital ("EH") and the City have determined that it is necessary and appropriate to provide for the renovation of the Tower Building ("EH Project") by providing for the costs of the EH Project consisting of the renovation of the current Tower Building (as defined herein); and

WHEREAS, Philadelphia Authority for Industrial Development ("PAID") will authorize the lease of the building and the improvements located at 100 East Lehigh Avenue, Philadelphia, Pennsylvania 19125 ("Tower Building"); and

WHEREAS, EH may request that PAID assist in financing a portion of the costs of the EH Project as a public facility and issuing bonds on behalf of EH to finance such portion of the costs; and

WHEREAS, PAID is willing to undertake the EH Project as a public facility pursuant to its statutory powers; and

WHEREAS, the City is willing to enter into the Sublease with PAID for a specified term under terms and conditions requiring the City, *inter alia*, to make rental and other payments sufficient to pay: (A) the amount expressed as the Rental Rate plus Occupancy Costs specified on the Term Sheet attached hereto as Exhibit "A", or (B) (i) principal of or maturity value, premium, if any, and interest on any bonds, notes or other form of indebtedness issued from time to time by PAID for the purpose of financing or refinancing the costs of renovations, improvements and infrastructure in connection therewith and any and all other costs incurred in connection with the EH Project; (ii) obligations of PAID, if any, incurred in connection with obtaining any credit or liquidity facility, other enhancement or any swap, relating to such financing or refinancing; (iii) the establishment of reserves, if any, in connection therewith; (iv) the fees, costs and all

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other liabilities of PAID incurred in connection with such financing or refinancing, the leasing of the Tower Building, the administration of documents executed in connection with the EH Project, and any other transactions required in connection with the EH Project, all as to be provided in the Sublease and certain other agreements; and (v) Base Rent plus Occupancy Costs (as defined in Exhibit "A" attached hereto and made a part hereof); and

WHEREAS, PAID may be required to assign certain of its rights under the Sublease to a trustee under an indenture (the "Indenture") and the City may be required to make some or all of its rental payments under the Sublease directly to such trustee; now therefore:

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property, on behalf of the City is hereby authorized to enter into a Sublease (the "Sublease") between PAID and the City providing for the subleasing of the Tower Building from PAID to the City and the payment by the City of lease payments and certain other costs, if any, for the EH Project (the Sublease, together with certain other agreements, the "EH Agreements"). The terms of the Sublease shall be substantially in accordance with the Term Sheet attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 2. The City agrees to be bound by each and every provision, covenant and agreement to be set forth in the Sublease.

SECTION 3. The Sublease herein approved and authorized shall be made in connection with the issuance at any time or from time to time, by PAID, of bonds, notes or other forms of indebtedness for the purpose of financing or refinancing a portion, of the costs of the renovations of the building ("EH Project") located at 100 East Lehigh Avenue, Philadelphia, Pennsylvania 19125 ("Tower Building"), or the financing thereof by other lenders (the "Obligations") in an aggregate principal amount not to exceed Twelve Million Eight Hundred Five Thousand Dollars (\$12,805,000) net of original issue discount, plus amounts necessary for any reserves, capitalized interest, costs of issuance, and amounts necessary to effect any refunding, at any one time outstanding, plus Base Rent (to be defined in the Sublease).

SECTION 4. The City covenants to make appropriations in each of its fiscal years during the term of the Sublease in such amounts as shall be required in order to timely make all rental payments due and payable thereunder, and to timely pay all other obligations of the City under the Sublease.

SECTION 5. The City covenants unconditionally to timely pay all of its rental payments due under the Sublease, most of which may be assigned to a trustee, all as provided in the EH Agreements, some or all of which will be part of the security for payment of the Obligations and as security for any obligations under a credit facility

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and/or liquidity facility securing the Obligations, if any, or swap agreement, if any, and to pay all other obligations of PAID as required under the EH Agreements, if any, and to make additional rental payments to PAID for any and all other costs, if any, for the EH Project, all of which payments (other than the Base Rent and Occupancy Costs as defined in Exhibit "A") shall not be suspended, abated, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever and regardless of any rights of setoff, recoupment or counterclaim that the City may have against PAID or the Trustee or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstances or occurrence that may arise after the effective date of the Sublease. That is, the City covenants to make rental and other payments sufficient to pay but not to exceed the greater of (A) the amount expressed as the Rental Rate plus Occupancy Costs specified on the Term Sheet attached hereto as Exhibit "A", or (B) (i) principal of or maturity value, premium, if any, and interest on any Obligations issued from time to time by PAID for the purpose of financing or refinancing the costs of renovations, improvements and infrastructure in connection therewith and any and all other costs incurred in connection with the EH Project; (ii) obligations of PAID, if any, incurred in connection with obtaining any credit or liquidity facility, other enhancement or any swap, relating to such financing or refinancing; (iii) the establishment of reserves, if any, in connection therewith; (iv) the fees, costs and all other liabilities of PAID incurred in connection with such financing or refinancing, the leasing of the Tower Building, the administration of documents executed in connection with the EH Project, and any other transactions required in connection with the EH Project, all as to be provided in the Sublease and certain other agreements; and (v) Base Rent plus Occupancy Costs (as defined in Exhibit "A" attached hereto and made a part hereof).

SECTION 6. The Director of Finance and all other proper officials of the City are hereby authorized to execute all documents and to take all actions, including the execution of the EH Agreements, and the execution of a continuing disclosure agreement, as may be necessary, in order to accomplish the intent and purpose of this Ordinance and of the EH Agreements and are further authorized to amend the EH Agreements and any other documents in any manner consistent with the terms of this Ordinance. The City Solicitor is hereby authorized to include in the EH Agreements such other terms and provisions as he shall deem necessary or appropriate in connection with the EH Project and to make any other changes consistent with the terms of this Ordinance.

SECTION 7. All terms of the Obligations, the Indenture or similar agreement, any credit facility and/or liquidity facility and/or reimbursement agreement and swap agreement, if any, shall be subject to the approval of the Director of Finance.

SECTION 8. The Director of Finance and City Solicitor are hereby authorized to consent to the execution and delivery by PAID of such documents as are necessary to effectuate the transaction described herein. The City Solicitor is hereby authorized to consent to such terms and provisions as he shall deem necessary or appropriate in

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connection with the transactions contemplated thereby and to make any other changes consistent with the terms of this Ordinance.

SECTION 9. The City Solicitor shall file copies of the executed lease agreement and Sublease and all amendments thereto with the Clerk of City Council.

SECTION 10. The Clerk of City Council shall keep on file for public inspection all Exhibits referred to in this Ordinance.

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EXHIBIT "A"

TERM SHEET

- Building:** Tower Building - Episcopal Hospital Campus - 100 East Lehigh Ave., Philadelphia Pa. 19125
- Sublease Structure:** Episcopal Hospital or their designee or assign will lease the Tower Building to the Philadelphia Authority for Industrial Development ("PAID"). PAID will sublease to the City of Philadelphia ("City").
- Current Lease:** The City as subtenant to the Philadelphia Municipal Authority ("PMA") currently leases floors one through four of the Tower Building containing approximately 20,684 square feet. The space is occupied by the Special Victims Unit. The PMA sublease will terminate upon substantial completion of the Tower Building renovations.
- Building Size:** The Tower Building has 9 stories plus a basement and contains a tenant gross rentable area of 44,568 square feet.
- Space Requirement:** The City will sublease and occupy the entire Tower Building.
- Occupancy Date:** Estimated to be January 1, 2009 upon substantial completion of the Tower Building renovations.
- Rent Commencement:** Upon substantial completion of the Tower Building renovations.
- Term and Renewal(s):** Base Term not to exceed twenty-five (25) years with renewal(s) in aggregate with the Base Term not to exceed 29 years and 11 months.
- Base Rent:** \$1/square foot per year.
- Rental Rate:** Not to exceed \$25/square foot (which amount includes Base Rent). Said Rental Rate includes all costs associated with the Obligations other than Occupancy Costs (defined below).
- Occupancy Costs:** The City will pay (i) 11.28 % of the Common Area Maintenance ("CAM") charges for the Episcopal Hospital Campus (including maintenance, custodial, security, insurance, utilities (excluding electricity) and other customary charges, and (ii) direct costs in connection with the use, occupancy and maintenance of the

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Tower Building (including metered electricity).

- Tenant Improvements:** Turn-key. The renovation of the interiors, mechanical, electrical, plumbing and fire protection systems for the fit out of the Basement, 5th through 9th floors of the Tower Building at Episcopal Hospital. Additional systems upgrades are planned for the Special Victims Unit on the 1st through 4th floors, as referenced in the Granary Architects Scope of Work dated May 2, 2007.
- Access to and Use of Premises:** The City to have 24 hours per day, 7 days per week access. Uses of the space to include Special Victims Unit, DHS, Police and the Philadelphia Children's Alliance.
- Tenant Signage:** To be negotiated.
- Security:** Episcopal Hospital
- Parking:** During normal business hours the City will be given 40 parking spaces in the West parking lot and 20 parking spaces in the North Lot.

..End

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 14, 2007. The Bill was Signed by the Mayor on July 3, 2007.



Patricia Rafferty
Chief Clerk of the City Council