

City of Philadelphia



(Bill No. 170559-A)

AN ORDINANCE

Authorizing the Commissioner of Public Property, on behalf of the City, to enter into a sublease agreement with the Philadelphia Authority for Industrial Development for use by the City of premises located at 400 N. Broad Street and 1501 Callowhill Street, and to exercise an option for the City to purchase the same, all under certain terms and conditions.

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 agreement (the “Sublease”), as subtenant, with the Philadelphia Authority for Industrial Development (the “Authority”), as tenant and sublandlord, for use by the City of premises located at 400 N. Broad Street and 1501 Callowhill Street, and to exercise an option for the City to purchase the same, pursuant to terms substantially similar to those set forth in the document attached hereto as Exhibit “A.”

SECTION 2. The improvements to the premises located at 400 N. Broad Street and 1501 Callowhill Street shall be constructed in compliance with the terms and conditions of an Economic Opportunity Plan, attached hereto as Exhibit “B”.

SECTION 3. The City Solicitor is hereby authorized to review and approve the Sublease, the related lease and other documents necessary to effectuate this Ordinance, which Sublease, related lease and documents shall contain such terms and conditions as the City Solicitor shall deem necessary and proper to protect the interests of the City of Philadelphia and to carry out the purpose of this Ordinance.

SECTION 4. The City covenants to budget and make appropriations beginning in Fiscal Year 2018 and in each and every fiscal year thereafter in such amounts as shall be required in order to make timely all payments due and payable under the Sublease (“Sublease Payments”).

SECTION 5. The City covenants unconditionally to make all Sublease Payments to the Authority, to any entity to which the Sublease has been assigned or to any entity as the Authority shall direct, only out of current revenues of the City, which Sublease Payments 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 set-off, recoupment or counterclaim that the City may have against the Authority

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BILL NO. 170559-A continued

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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 date thereof.

Exhibit "A"

1. **Tenant:** The City of Philadelphia, acting through its Department of Public Property ("Subtenant" or the "City"), through a sublease (the "Sublease") with the Philadelphia Authority for Industrial Development ("Prime Tenant"). Prime Tenant will lease the Premises (defined below) pursuant to a master lease (the "Master Lease") with the Landlord (as defined below). This term sheet describes the terms of the Master Lease, which terms are anticipated to be incorporated into the obligations of the Subtenant under the Sublease, as appropriate; the term "Tenant" as used herein shall refer to both Prime Tenant and Subtenant.
2. **Landlord:** 400 North Broad Partners, L.P. ("Landlord") or such other affiliated entity as may be designated as Landlord.
3. **Premises:** The entirety of the real property and improvements thereon known as and by the street addresses of 400 N. Broad Street and 1501 Callowhill Street, Philadelphia, PA, as more particularly described on "Exhibit A-1", attached hereto and made a part hereof (collectively, the "Premises"). The agreed rentable square footage of the 400 N. Broad Street portion of the Premises is approximately 468,234 RSF; and 1501 Callowhill Street is currently striped for 590 standard automobile parking stalls. The Landlord will provide a survey confirming the Premises.
4. **Use:** To include, but not be limited to, uses of the Philadelphia Police Department with various operational, administrative and accessory offices; City Morgue; Toxicology lab; and Fire Department Offices with Fire Command Center. The Landlord will advise and confirm with Tenant that its contemplated uses will comply with those permitted under the new CMX-5 zoning. Tenant shall have the right to change any uses at the Premises, and Tenant will not be restricted by Landlord for any uses, subject, in each case, to certain restrictions set forth in the Master Lease. Should any change in Tenant's use(s) require a zoning change, the Tenant will be responsible for rezoning.
5. **Lease Term:** The initial Lease Term will be nine (9) Years and zero (0) months (the "Initial Term") commencing on the Commencement Date (as defined below).

The "**Commencement Date**" shall be the date upon which Landlord closes on the financing (the "**Financing**") required to complete the Required Improvements (as defined in Section 11 below) and all necessary documents, including, but not limited to, the Master Lease and Sublease, are fully executed.

6. **Renewal Option:** If the Purchase Option (as described below) has not been consummated, then the Master Lease shall automatically renew upon the end of the Initial Term, without the need for any further act or instrument by Landlord or Tenant for an additional period of ten (10) years (the "**Renewal Term**"). During the Renewal Term, the Base Rent shall be equal to the Landlord's cost of monthly debt service on its refinancing of the Financing, not to exceed an aggregate of \$37,000,000 in any fiscal year of Subtenant.

7. **Purchase Option:** Beginning as of the fifth (5th) anniversary of the occupancy of the Premises and continuing through the date that is one hundred eighty (180) days prior to the scheduled expiration date of the Initial Term (the “**Option Exercise Period**”), Tenant shall have an option (the “**Purchase Option**”), exercisable by written notice to Landlord during the Option Exercise Period, to acquire the fee interest in the Premises from the Landlord at a fair market value purchase price based upon factors and a formula to be set forth in the Master Lease but not less than the then-outstanding amount of the Financing (plus accrued interest, if any); closing on such acquisition of the Premises to occur following the end of the Option Exercise Period but prior to the scheduled expiration date of the Initial Term.

8. **Rental Rate:** The Base Rent for the Initial Term will be established at the Commencement Date. It will be equal to the Landlord’s cost of monthly debt service on the Financing, not to exceed an aggregate of \$15,600,000 in any fiscal year of Subtenant. The Master Lease will contain appropriate provisions for application by the Tenant of any proceeds of the Financing not needed for completion of the Required Improvements.

9. **Operating Expenses:** Upon occupancy, Tenant is solely responsible for paying any and all operating expenses related to the Premises, interior and exterior and its legal compliance. Operating expenses shall include, but not be limited to all costs (whether or not same constitute capital expenditures) for, taxes, insurance, utilities, landscaping, snow removal, trash removal, site security, janitorial services, operating, maintaining, securing, repairing and replacing the Premises and/or any improvements or installations therein (whether standard office or warehouse, or specialized or non-standard), and any property management costs in connection with the Premises. It being agreed that the Master Lease is intended to and shall be a triple-net lease.

10. **Repair, Maintenance and Replacement:** Upon occupancy, subject to Subsection 11(c), during the Initial Lease Term or the Renewal Term, Tenant shall, with respect to the Premises, (i) perform or cause to be performed, at its own cost and expense, all repair, maintenance and replacement (whether or not same constitute capital expenditures), (ii) keep and maintain in good order and condition, and replace as necessary (A) the building foundation, exterior walls, structure, windows, doors and utility service lines, roof, roof membrane, and (B) all common and exterior areas of the Premises, including the parking lots, loading docks, parking lot lighting, landscaping and fencing. Tenant will make the decision to replace items (vs. repairing the item) using good faith and commercially reasonable judgment; provided that all base building systems shall be in good working order at the end of the Lease Term.

Tenant shall repair, keep and maintain the exterior and interior of the Premises, including the plumbing, flooring, lighting, electrical, elevator, if any, and sprinkler and HVAC systems in good working order and in compliance with all applicable laws, including ADA and environmental laws.

11. Required Improvements:

(a) *Financing of Required Improvements by Landlord:* The Landlord will use all commercially reasonable efforts to secure the Financing at the best competitive rates available to both the Landlord and the Tenant under documents having commercially reasonable terms. The Landlord may mortgage the Premises and assign the Master Lease and Sublease as security for the Financing. The total amount of the Financing will be finalized at the Commencement Date and will be approved in advance by both the Landlord and the City's Director of Finance. The Landlord will cooperate with the Tenant to obtain an independent "fair market" certificate from a financial advisor designated by Tenant for the pricing of the Financing. Additionally, the City's Director of Finance will review and approve all terms and conditions of the Financing, including any reserves and financial covenants, if required. The Landlord will credit the purchase price upon exercise of the Purchase Option with the balance of any reserve funds required by the lender or any other funds being held for payment of debt service on the Financing.

(b) *Construction of Required Improvements:* The Landlord will deliver possession of the Premises to Tenant with the agreed required Tenant improvements ("Required Improvements") substantially completed under the terms of a Guaranteed Maximum Price Contract with a general contractor in accordance with a landlord work letter approved by tenant. Such landlord work letter will reflect the goal of achieving a LEED Silver classification for the improved Premises. The general contractor will charge market rate general conditions and fees (i.e. general contract overhead and profit are not to exceed 12% in the aggregate) and will comply with the Economic Opportunity Plan and the Project Labor Agreement described in "Exhibit A-2" (described below).

(c) *Assignment of Warranties:* Landlord agrees that Tenant shall have the benefit as a third party beneficiary of any warranties or other rights to which Landlord is entitled from any third party, including, but not limited to the general contractor, with respect to the Premises and the Required Improvements. Prior to the occupancy of the Premises by the Tenant, Landlord will assign such benefits to Tenant to the extent the same may be assignable by the terms of the agreements with such third party and as permitted under law. To the extent such warranties are not assignable, Landlord shall take any and all reasonable steps to ensure that the Tenant receives the benefit of such warranties.

12. Utilities Serving the Premises: Upon occupancy, Tenant will be billed directly and will be solely responsible for the cost of any utilities serving the Premises, including meters.

13. Building Signage: Tenant shall have the right to select and install building signage at the Premises.

14. Miscellaneous: The Master Lease shall contain other appropriate provisions including, but not limited to, provisions relating to insurance of the Premises, limits on assignment and subletting by Tenant, construction of Required Improvements, change orders, certain indemnifications by Tenant, and alterations of the Premises by Tenant.

15. City Standard Provisions. In its performance of the Master Lease, the Landlord agrees to comply with the City Standard Provisions, attached hereto and made a part hereof as "Exhibit A-2".

Exhibit A-1

Description of the Premises

Parcel 1:

ALL THAT CERTAIN tract or parcel of land with the building and improvements thereon erected.

SITUATE in the 8th Ward of the City of Philadelphia, bounded and described as follows:

BEGINNING at the northwest corner of Broad and Callowhill Street and extending Westward along the North side of the said Callowhill Street 395 feet 8 inches to the East side of 15th Street; thence Northward along the East side of said 15th Street, 192 feet to the South line of Pennsylvania Avenue; thence extending Eastward along the said Pennsylvania Avenue 213 feet 8 inches to a point; thence Southward at right angles to the said Pennsylvania Avenue 16 feet 6 inches to a point; thence Eastward parallel with the said Pennsylvania Avenue 182 feet to the West side of the said Broad Street; thence Southward along the West side of the said Broad Street 175 feet 6 inches to the place of beginning, (said Pennsylvania Avenue having been vacated and stricken from City Plan by ordinance dated June 27, 1945).

BEING No. 400 North Broad Street.

Parcel 2:

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected SITUATE in the Eighth Ward of the City of Philadelphia, Commonwealth of Pennsylvania and described in accordance with a Plan of Proposed Lot Configuration, prepared by Langan Engineering & Environmental Services, Inc., dated October 19, 2000 and last revised October 25, 2000 and being more particularly described as follows, to wit:

BEGINNING at a point of intersection formed by the Northerly line of Callowhill Street (70 feet wide) and the Westerly line of Fifteenth Street (50 feet wide); thence extending from said point along the said Northerly line of Callowhill Street North 78 degrees 59 minutes 00 seconds West, a distance of 224.29 feet to a point on the Easterly line of Premises B; thence leaving the Northerly line of Callowhill Street and extending along the Easterly line of Premises B the 9 (nine) following courses and distances; (1) North 11 degrees 21 minutes 00 seconds East, a distance of 148.38 feet to a point; thence (2) South 78 degrees 59 minutes 00 seconds East, a distance of 1.48 feet to a point; thence (3) North 11 degrees 21 minutes 00 seconds East, a distance of 27.37 feet to a point; thence (4) North 53 degrees 01 minutes West, a distance of 7.23 feet to a point; thence (5) North 11 degrees 21 minutes 00 seconds East, a distance of 13.08 feet to a point on the Southerly line of the former Pennsylvania Avenue (stricken from City Plan and vacated by Ordinance dated 6/27/1945); thence (6) extending through the former bed of the aforementioned Pennsylvania Avenue North 78 degrees 59 minutes 00 seconds West, a distance of 35.50 feet to a point; thence (7) North 11 degrees 21 minutes 00 seconds East, a distance of 23.00 feet to a point; thence (8) South 78 degrees 59 minutes 00 seconds East, a distance of 56.67 feet to a point; thence (9) North 11 degrees 21 minutes 00 seconds East, a distance of 17.00 feet to a point on the center line of the former Pennsylvania Avenue; thence extending along the center line of the former Pennsylvania Avenue South 78 degrees 59 minutes 00 seconds East, a distance of 208.17 feet to a point on the Westerly side of the aforementioned Fifteenth Street; thence extending along the Westerly side of Fifteenth Street and leaving the former bed of the aforementioned Pennsylvania Avenue South 11 degrees 21 minutes 00 seconds West, a distance of 232.00 feet to the first mentioned point and place of beginning.

BEING NO. 1501-1525 Callowhill Street.

Exhibit A-2

City Standard Provisions

(a) **Sovereign Immunity.** Notwithstanding other provisions of this Master Lease, this Master Lease does not waive any of the Tenant's or the City's (as Subtenant under the Sublease contemplated by this Master Lease) rights, remedies, and defenses under the Pennsylvania Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §§ 8501 et seq. The City and the Tenant agree, however, that neither will assert any immunity it may have as a governmental entity against lawsuits with respect to the enforcement of this Master Lease or the Sublease.

(b) **Prohibition Against Reimbursement of Employee Expenses Associated with the Use of Exclusionary Private Organizations.** In accordance with Chapter 17-400 of the Philadelphia Code, Landlord agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes a substantial breach of this Master Lease entitling the Tenant to all rights and remedies provided in the Master Lease or otherwise available at law or in equity. Landlord agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Landlord's failure to so cooperate shall constitute a substantial breach of this Master Lease entitling Tenant or the City as Subtenant under the Sublease to all rights and remedies provided in the Master Lease or otherwise available at law or in equity.

(c) **Non-Discrimination; Fair Practices.** The Master Lease is entered into under the terms of the Philadelphia Home Rule Charter, the Fair Practices Ordinance (Chapter 9-1100 of the Code) and the Mayor's Executive Order No. 04-86 (the "Executive Order"), as they may be amended from time to time, which together articulate policies against discrimination which have been adopted by Tenant and the City, acting as Subtenant under the Sublease contemplated by this Master Lease, including in their respective contractual relationships with third parties. Therefore, in performing the Master Lease, Landlord agrees that it shall not discriminate or permit discrimination against any individual because of race, color, religion, ancestry or national origin, sex, gender identity, sexual orientation, age or disability. Nor shall Landlord discriminate or permit discrimination against individuals in employment, housing and real property practices, and/or public accommodation practices whether by direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information or domestic or sexual violence victim status, Human Immunodeficiency Virus (HIV) infection, or engage in any other act or practice made unlawful under the Charter, Chapter 9-1100, the Executive Order, or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania. Landlord's breach of this Subsection will constitute a default by Landlord and entitle the Tenant or the City

as Subtenant under the Sublease, to all rights and remedies provided in this Master Lease or otherwise available at law or in equity.

(d) **Non-Indebtedness to City.** By executing this Master Lease, Landlord represents and warrants to Tenant and the City, acting as Subtenant under the Sublease contemplated by this Master Lease, that Landlord and Landlord’s parent company(ies), subsidiary(ies) or affiliate(s), if any, are not currently indebted to the City, and will not during the Term or Renewal Term, if any, of this Master Lease be 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 payment plan satisfactory to the City has been established. Prior to commencing the Required Improvements, Landlord agrees to provide to the City a list of the contractors and subcontractors, including without limitation its architects, it will utilize to perform the Required Improvements at the Premises so that the City can insure that such contractors, subcontractors and architects are not indebted to the City, or if indebted to the City, they have entered, or will enter into a payment plan satisfactory to the City. In addition to any other rights or remedies available to Tenant under the Master Lease or at law and in equity, Landlord acknowledges that any breach or failure to conform to this representation and warranty, at the option and direction of Tenant, or the City, acting as Subtenant, may result in the withholding of Rent or other payments otherwise due to Landlord in connection with the Master Lease, and, if such breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments otherwise due to Landlord and/or the termination of the Master Lease for default, in which case Landlord will be liable for all excess costs and other damages incurred by the City as Subtenant resulting from the termination. Landlord’s breach of this Subsection will constitute a default by Landlord and entitle the Tenant or the City as Subtenant under the Sublease, to all rights and remedies provided in the Master Lease or otherwise available at law or in equity.

(e) **No Gifts to City Officials/Employees.**

(i) Pursuant to Executive Order No. 10-16, issued by the Mayor of Philadelphia, no City official or employee in the Executive and Administrative branch of City government shall solicit or accept, directly or indirectly, a “Gift” (as defined below) from a person who, at the time, or within twelve (12) months preceding the time a Gift is received:

- (1) is seeking, or has sought, official action from that officer or employee;
- (2) has operations or activities regulated by the officer’s or employee’s department, agency, office, board or commission, or, in the case of members of the Mayor’s Cabinet, has operations or activities that are regulated by any department, agency, office, board or commission within the Executive and Administrative branch;
- (3) has a financial or other substantial interest in acts or omissions taken by that officer or employee, which the officer or employee is able to affect through official action; or
- (4) is a “Registered Lobbyist” (as defined below).

(ii) Landlord understands and agrees that if it offers anything of value to any City official or employee under circumstances the receipt of which would violate Executive Order No. 10-16, Landlord shall be subject to sanctions with respect to future City contracts. Such sanctions may range from disqualification from participation in a particular contract to debarment or loss of financial assistance, depending on the nature of the violation. In addition, Landlord's breach of this Subsection will constitute a default by Landlord and entitle the Tenant or the City as Subtenant under the Sublease, to all rights and remedies provided in the Master Lease or otherwise available at law or in equity.

(iii) As used in this Subsection, "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services entertainment, invitation, food, drink, travel or lodging or anything of value given to, or for the benefit of, a City officer or employee, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reportable as required by law, a commercially reasonable loan made in the ordinary course of business, such as a home mortgage loan, or a gift received from a family member of the officer or employee.

(iv) As use in this Subsection, "Registered Lobbyist" means any person that engages in lobbying on behalf of a principal for economic consideration, and is registered as such, pursuant to the requirements of Section 20-1202 of The Philadelphia Code, including an attorney at law while engaged in lobbying.

(f) **Project Labor Agreement:** Prior to the commencement of the Required Improvements, the Landlord will enter into a Project Labor Agreement with the Philadelphia Metropolitan Building Trades Council in substantially the form attached hereto as **Appendix I**.

(g) **Economic Opportunity Plan:** The Required Improvements shall be constructed by Landlord in compliance with the Economic Opportunity Plan approved by City Council.

(h) **Percent for Public Art Program:** It is contemplated that the Required Improvements will comply with the City's Percent for Public Art Program. Landlord will work with the City's Office of Arts, Culture and the Creative Economy and the Philadelphia Art Commission on a program.

Appendix I

To Exhibit A-2

Project Labor Agreement

Police Headquarters Renovation Project

POLICE HEADQUARTERS RENOVATION PROJECT LABOR AGREEMENT

THIS CITY OF PHILADELPHIA PUBLIC PROJECT LABOR AGREEMENT (hereinafter the "Agreement") is entered into by and between:

Keating Inquirer Builders LLC (hereinafter the "Signatory Contractor(s)"), their successors or assigns, and the Affiliates of the Philadelphia Building and Construction Trades Council (hereinafter the "Unions(s)")

WHEREAS the Parties to this Agreement acknowledge that the timely construction of the Project is critical.

WHEREAS the Parties desire, to provide for the efficient, safe, quality and timely completion of projects in a manner designed to afford the lowest reasonable cost.

WHEREAS this Agreement will foster the achievement of those goals by, among other things, avoiding the costly delays of disruption or interference with work and promote labor harmony and peace; and

WHEREAS this Agreement will further the policy objectives of Keating Builders LLC, contractors and the Union(s) to include employment opportunities for minorities, women, Philadelphia residents and the economically disadvantaged in the construction industry; and

WHEREAS the Union(s) have demonstrated a commitment to the expansion of such employment opportunities; and

WHEREAS the Union(s) desire the stability, security and work opportunities made possible by this Agreement; and

NOW, THEREFORE, the Parties enter into this Agreement.

The term "Contractor" shall include the Signatory Contractors, all contractors and subcontractors of whatever tier engaged in on-site construction work within the scope of this Agreement.

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The term "craft" as applied to employees and workers shall mean those skills, crafts and trades of workers represented by the Union(s) as defined herein.

The Union(s) and the Contractors, their assigns, subcontractors and transferees agree to abide by the terms and conditions contained in this Agreement with respect to the performance of the construction by the Contractors of the Project covered by this Agreement. This Agreement represents the complete understanding of the Parties, and it is further understood that no Contractor is required to sign any other agreement as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not explicitly set forth in this Agreement and the Schedules hereto shall be binding on any other party.

ARTICLE I - PURPOSE

Keating Inquirer Builders, LLC and its contractors have a compelling interest in carrying out the Project at the lowest reasonable cost, highest level of efficiency, and the highest degree of quality.

Further, it is recognized that this Project can best be carried out through the use of a Project Labor Agreement which ensures that labor disputes are resolved without disruptions resulting from strikes, lockouts or slowdowns and which provide for enforceable guarantees that the Project will be carried out in an orderly and timely manner without strikes, lockouts or slowdowns and with provisions protecting the wages, hours, working conditions and safety of those workers whose skills are required to complete such projects. Project Labor Agreements can provide cost savings and efficiencies through project-specific adjustments to collective bargaining agreements that allow for project-specific appropriate hours of work, length of workday and workweek, overtime, starting times, breaks, shift work, crew apprentice ratios, holidays, dispute resolution and management rights, as have been mutually determined and agreed to by the Keating Inquirer Builders, LLC, its contractors, and the Union(s).

Police Headquarters Renovation Project

Further, the Project recognizes that it can best accomplish these associated goals by requiring that for this Project, a precondition regarding the award of a contract will be a requirement that the Contractors enter into a Project Labor Agreement with the Union(s) requiring such Contractors as well as all subcontractors, assignees or transferees to abide by an agreement setting forth the wages, hours and working conditions of the workers employed on such Project projects.

Accordingly, the Parties to this Agreement recognize that it is essential that the construction work on this Project covered by this Agreement be done in an efficient and economical manner in order to secure optimum productivity and to eliminate any delays in the work. In recognition of the needs of the Project covered by this Agreement, and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the Parties agree to establish effective methods for the settlement of all misunderstandings, disputes or grievances which may arise under this Agreement.

ARTICLE II - SCOPE OF THE AGREEMENT

Section 1. Scope of Agreement. This Agreement shall apply and is limited to all construction work under the direction of the Keating Inquirer Builders, LLC, its' contractors and performed by those Contractors of whatever tier which have contracts awarded for such work on and after the effective date of this Agreement.

Section 2. Award of Project Contracts.

- (a) Keating Inquirer Builders, LLC has the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement provided, however, only that such

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bidder is ready, willing and able to execute and comply with this Agreement, which it shall do should it be designated the successful bidder.

(b) It is agreed that all direct subcontractors of Contractors, of whatever tier, who have been awarded contracts for work covered by this Agreement on or after the effective date of this Agreement shall be required to accept and be bound by the terms and conditions of this Project Labor Agreement.

Section 3. Contract Administration.

(a) This Agreement is intended to provide close cooperation between management and labor. The Project Relations Committee (as further described in Section 4 (c)), shall monitor compliance with this Agreement by all Contractors which, through their execution of this Agreement, together with their subcontractors or transferees, have become bound hereto. The Project Relations Committee shall monitor compliance with this Agreement by all Union(s) which, through their execution of this Agreement have become bound hereto.

(b) The provisions of this Agreement, including Collective Bargaining Agreements which are listed on and collectively designated as Schedule A, shall apply to the construction of the Project covered by this Agreement, notwithstanding the provisions of Local or International Agreements which may conflict or differ from the terms of this Agreement. Where a subject covered by the provisions of this Project Labor Agreement, is also covered by any of the Collective Bargaining Agreements on Schedule A, the provisions of this Agreement shall prevail.

(c) The Signatory Contractors to this Agreement shall agree to establish a Project Relations Committee. The Philadelphia Area Labor Management Committee shall appoint one representative who will act as facilitator and staff to the Committee. The Project Relations Committee shall operate under the Philadelphia Area Labor-Management Built-Rite process.

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(d) The Project Relations Committee shall meet as required, but not less than once each quarter to review performance and the operation of this Agreement.

(e) The purpose of this Project Relations Committee is as follows:

(1) To improve communications between representatives of labor and management and engender cooperative and harmonious relations between labor and management performing work under this Agreement.

(2) Provide workers and Contractors with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness. (Example: Joint process to reduce worksite injuries.)

(3) Provide a forum for open and honest discussion of problems confronting labor and management, and of eliminating potential problems.

(4) Study and explore ways of increasing productivity of both labor and management, and of eliminating potential problems.

(5) Enhance the involvement of workers in making decisions that affect their working lives, and to improve the quality of work life for the employees.

(6) Expand and improve working relationships between workers and managers.

(7) Identify conflicts between labor and management before they arise as disputes, and promptly assist in fairly resolving disputes when they do arise.

(8) Seek to maintain a productive dialogue.

(9) Pursue, achieve and document the implementation initiatives to increase employment opportunities for women and minorities.

(10) Support the Contractors in meeting general obligations and specific project goals for local hiring and for worker diversity as may be part of the Economic Opportunity Plan for the Project and as further described in Schedule E.

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Section 5. Binding Effect. This Agreement and Schedules, shall only be binding on the signatory Parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

Section 6. Limitations. This Agreement shall be limited to work historically recognized as construction work, including, specifically, the site preparation and related demolition work necessary to prepare the site for construction, and such rehabilitation of existing facilities. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work or function which may occur in or around the Project site or be associated with the development of the Project, or with the ongoing operations of the City.

Section 7. Exclusions. Items specifically excluded from the scope of this Agreement include, but are not limited to, the following:

- (a) Work of non-manual employees, including but not limited to, superintendents, supervisors, staff engineers, surveyors (except where expressly covered by a Collective Bargaining Agreement in Schedule A), inspectors, quality control personnel, quality assurance personnel, timekeepers, mail carriers, clerks and office workers, including messengers, guards, emergency medical and first aid technicians and other professional, engineering, administrative, supervisory and management employees.
- (b) Equipment and machinery owned or controlled and operated by the City.
- (c) All off-site handling of materials, equipment or machinery and all deliveries to and from the Project site except where expressly covered by a Collective Bargaining Agreement in Schedule A.
- (d) All employees of the City.

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(e) Any work performed on or near, or leading to or into, the Project by state, county, city or other governmental bodies, or their Contractors; or by public utilities or their Contractors and/or by the City, or its contractors, for work which is expressly not part of the Project covered by this Agreement.

(f) Off-site maintenance on leased equipment and on-site supervision of such work except where expressly covered by a Collective Bargaining Agreement in Schedule A.

(g) Off-site warranty functions and warranty work and on-site supervision of such work except where expressly covered by a Collective Bargaining Agreement in Schedule A.

(h) Exploratory geophysical testing, except where expressly covered by a Collective Bargaining Agreement in Schedule A.

(i) Laboratory or specialty testing or inspections or monitoring activities not ordinarily done by the crafts.

(j) Other work which may occur from time to time.

Section 8. Applicability of Agreement. Nothing contained herein shall be construed to prohibit or restrict the City or its employees from performing work not covered by this Agreement on a Project site. As areas and systems of a Project are inspected, construction tested and accepted, the Agreement shall not have further force or effect on such items or areas, except when the Contractors are directed to engage in repairs, modifications, check-out, and/or warranty functions required by their contract(s) with the City.

Section 9. Termination, Delay or Suspension of the Project It is understood that Keating Inquirer Builders, LLC, at its sole option, may terminate, delay and or suspend any or all portions of the Project at any time.

Section 10. Contractor and Union(s) Liability. It is understood and agreed that the liability of any Contractor and the liability of separate Union(s) under this Agreement shall be several and not joint.

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The Union(s) agree that this Agreement does not have the effect of creating any joint employment status between or among Keating Inquirer Builders LLC and any Contractor.

ARTICLE III - UNION RECOGNITION AND EMPLOYMENT

Section 1. Union Recognition. The Contractor recognizes the Union(s) as the sole and exclusive bargaining representatives of all craft employees working on the Project within the scope of this Agreement.

Section 2. Referrals. The Union(s) are recognized as the source of employment referrals. The appropriate Union(s) will be contacted and shall refer all applicants for employment to this Project according to the standards or criteria uniformly applied to any construction project in the area. In the event that any Union is unable to fill any requisition for employees within a forty eight (48) hour period after such requisition is made by the Contractor (Saturdays, Sundays and Holidays excepted), the Contractor may solicit and employ applicants from any other available source. The Contractor shall notify the Union(s) of employees hired by any source other than referral by the Union(s).

Section 3. Referral Systems. Subject to the Contractor's right to call for a specific skill or ability, the job referral systems provided in the Collective Bargaining Agreements of the Union(s) set forth in Schedule A hereto, or, in the absence of such language, the referral practices in place at the Union(s), will be in effect for the purpose of initial employment only. Such job referral system, whether by contract or practice, must be operated in a non-discriminatory manner and in full compliance with Federal, state and local laws and regulations which require equal employment opportunities and non-discrimination, and referrals shall not be affected in any way by the rules, regulations, by-laws, constitutional provisions or any other aspect or obligations of Union membership

Section 4. Competency. The Contractor shall have the right to determine the competence of all employees, the right to determine the number of employees required and have the sole responsibility for selecting the employees to be laid-off consistent with this Agreement regardless of membership or

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non-membership in the Union(s). The Contractor shall also have the right to reject any applicant referred by the Union(s).

Section 5. Union Security. It shall be a condition of employment that all employees of Contractor covered by this Agreement who are members of the Union(s) in good standing on the effective date of this Agreement or on the date of execution of this Agreement, whichever is later, shall remain members in good standing and those who are not members on the effective date shall, on the eighth (8th) day following employment, become and remain members in good standing in the Union(s) for the term of this Agreement.

Section 6. Skilled Craftsmen. The Union(s) will exert their utmost efforts to recruit sufficient numbers of skilled craftsmen to fulfill the manpower requirements of the Contractor.

Section 7. Selection of Foremen. The selection of craft foremen and/or general foremen and the number of foremen required shall be entirely the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen by the Contractor, except when the Contractor determines that it is not possible for a particular foreman to be working foreman.

Section 8. Seniority. Individual seniority shall not be recognized or applied to employees working on the Project

ARTICLE IV - UNION REPRESENTATION

Section 1. Access to Project Site. Authorized and designated representatives of the Union(s) shall have access to the Project, consistent with rules, regulations and policies as have been established for site security and safety and through established Contractor procedures, for the purpose of transacting business in connection with the job. Such representatives shall be subject to security clearances and may require authorized escorts to enter secure areas of the Project. Such representatives shall not interfere with the work of employees or cause unnecessary loss of time by the employees.

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Section 2. Stewards. Stewards shall be appointed consistent with the appropriate Collective Bargaining Agreement as included in Schedule A.

Section 3. Non-interference. On work where City personnel or personnel of other contractors not signatory to this Agreement may be working in close proximity of the construction activities, the Union(s) agree that the Union's representatives, stewards and individual workers will not interfere with the City's personnel or the personnel of other contractors not signatory to this Agreement or with the work which is being performed by the City's personnel or personnel of other contractors not signatory to this Agreement. There shall be no interference by employees covered under this Agreement with on-site concessionaires.

ARTICLE V - MANAGEMENT RIGHTS

Section 1. Management Rights. The Contractor retains full and exclusive authority for the management of its operation consistent with this Project Labor Agreement and the collective bargaining agreements included in Schedule A. The Contractors retain the right to (i) plan, direct and control the workforce and the operation of all of his work, including the hiring, promotion, demotion, transfer, layoff, suspension, discipline or discharge for just cause of its employees; (ii) select foremen, determine the size and make-up of each crew; (iii) assign and schedule work; (iv) promulgate work rules; (v) regulate the use of all equipment and other property of the Contractors, decide the amount of equipment to be used, the number of employees needed; and (vi) regulate overtime work, the determination of when it shall be worked, and the number and identity of employees engaged for such work. No rules, customs or practices which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Contractors may utilize any methods or techniques of construction.

Section 2. Choice of Materials. There shall be no limitation or restriction upon the Contractors' choice of materials or design, nor, subject to the principle of legitimate work preservation set forth in the following sentence, upon the full use and installation of equipment, machinery, package units,

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pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices unless otherwise specified in Schedule A. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation consistent with Schedule A, including, but not limited to check-off or testing of specialized or unusual equipment or facilities.

Section 3. New Technology and Devices. It is recognized that the use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work will be initiated by the Contractor from time to time during the Project. The Union(s) agree that they will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractors and the Union(s) concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractors, and the Union(s) shall have the right to grieve and/or arbitrate the dispute as set forth in Article XIII of this Agreement.

ARTICLE VI - HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 1. Hours of Work, Overtime, Shifts and Holidays shall be governed by the Collective Bargaining Agreements included in Schedule A, except as mutually determined and agreed to by the Union(s) and the Keating Inquirer Builders LLC.

Section 2. Where modifications to the Collective Bargaining Agreements are in the best interest of a project, such departure may be requested by the Contractors, Union(s) and Keating Inquirer Builders LLC. Such departures shall be requested utilizing the Project Relations Committee and shall be approved by mutual consent.

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ARTICLE VII - WORKING CONDITIONS

Section 1. Job Site Conditions. All job site working conditions, including rest periods, coffee breaks and work practices, shall be as determined by the Contractors.

Section 2. Project Rules. The Contractors shall establish such other reasonable Project rules as each Contractor deems appropriate. All rules and regulations shall be observed by Union employees who, by virtue of their Union membership and coverage under an appropriate Collective Bargaining Agreement, are made subject to such rules.

ARTICLE VIII - APPRENTICES

Section 1. Apprentices. Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry, the Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities which is customarily performed by the craft in which they are indentured. Apprentices shall be employed in a manner consistent with the provisions of this Agreement. The Contractors may also utilize apprentices as appropriate and consistent with the Schedule A Collective Bargaining Agreements.

ARTICLE IX – EMPLOYMENT OPPORTUNITIES FOR PHILADELPHIA RESIDENTS, MINORITIES AND WOMEN

Section 1. Employment Opportunities For Philadelphia Residents. The Parties recognize that the size and scope of the Project covered by this Agreement, the number of craftsmen and others expected to be employed in order to complete the work in a timely fashion, and the extended period of time during which the construction will be underway should provide significant employment opportunities for qualified residents of the City of includes specific local hiring goals for the Contractors.

Section 2. Opportunities for Women and Minorities. The Parties also agree that increasing participation by women and minorities employees on the Project is a desirable goal. Accordingly, the

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Parties shall undertake the activities to support the Keating Inquirer Builders LLC., Union and Contractor objectives of increased opportunities for participation in the Union(s) and for actual work performed.

ARTICLE X - SAFETY, PROTECTION OF PERSON AND PROPERTY

Section 1. Safe Working Conditions. In accordance with the requirements of the Occupational Safety and Health Act, it shall be the exclusive responsibility of each Contractor on the job site to ensure safe working conditions for its employees and their compliance with any safety rules contained herein or established by the Contractors, provided however, it is understood that the employees have an obligation as set forth in Section 2 below.

Section 2. Safe Performance of Work. Employees must use diligent care to perform their work in a safe manner and to protect themselves, other persons and the property of the Contractors or the City. Failure to do so will be grounds for discipline, including discharge.

Section 3. Safety, Security and Visitor Rules. Employees covered by the terms of this Agreement shall at all times while in the employ of the Contractors be bound by the safety, security and visitor rules as established by the City and/or the Contractors in accordance with applicable State and Federal safety and health statutes and regulations. These rules will be published and posted in conspicuous places through the Project.

ARTICLE XI - NO DISCRIMINATION

Section 1. No Discrimination. The Contractors and Union(s) agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or age in any manner prohibited by law or regulation. It is recognized that special procedures may be established by joint agreement of the Parties to this Agreement and governmental agencies for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The Parties to this Agreement will make all

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good faith efforts to assist in the proper implementation of such orders, regulations or agreements for the benefit of the population within the jurisdiction of the City of Philadelphia.

Section 2. Complaints. Any complaints regarding application of the provisions of Section 1 should be brought to the immediate attention of the involved Contractors for consideration and resolution.

Section 3. Masculine or Feminine Gender. The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE XII - WORK STOPPAGES AND LOCKOUTS

Section 1. There shall be no strike, picketing, work stoppages, slowdowns, sickouts or other disruptive activity for any reason by the Union(s) or employees against any Contractor covered under this Agreement, and there shall be no lockouts by the Contractors. Failure of any of the Union(s) or any employee to cross any picket line established by any Union, signatory or non-signatory, or any other organization, at or in proximity to the Project site is a violation of this Article.

Section 2. The Contractors may discharge any employee violating Section 1 above, and any such employee will not be eligible for referral under this Agreement for a period of ninety (90) working days from the date of his discharge. The Contractors and the Union(s) shall take all steps necessary to obtain compliance with this Article and neither shall be held liable for conduct for which it is not responsible.

ARTICLE XIII - DISPUTES AND GRIEVANCES

Section 1. Agreement Interpretation. It is specifically agreed that in the event any disputes arise out of the interpretation or application of this Agreement the same shall be settled by the Project Relations Committee. All disputes arising out of Contractor-employee issues shall be governed by Section 2 of this Article. No such grievance shall be recognized unless called to the attention of the Contractor within seven (7) calendar days after the alleged violation was committed.

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Section 2. It is specifically agreed that in the event any disputes arise between the Contractors and Union employees that do not involve the interpretation or application of this Agreement, and/or questions of jurisdiction of work, the same shall be settled by means of the grievance procedures currently set forth in the local Collective Bargaining Agreements set forth in Schedule A.

ARTICLE XIV - JURISDICTIONAL DISPUTES

Section 1. There will be no strikes, no work stoppages or slowdowns, or other interferences with the work because of jurisdictional disputes. Pending the resolution of the dispute, the work shall continue uninterrupted as assigned by the Contractors.

Section 2. This Agreement shall generally recognize the traditional craft jurisdiction of the Union(s) and shall require Contractors to abide by said traditional craft jurisdiction. Contractors will utilize the Collective Bargaining Agreements in Schedule A as references to establish the Unions' basic jurisdictions. If there is any dispute concerning this section, the issue may be submitted by any concerned party for final and binding resolution to the American Arbitration Association.

ARTICLE XV - SAVINGS AND REPARABILITY

Section 1. It is not the intention of either the Contractors or the Union Parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractors and Union(s) agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by Court of competent jurisdiction, the Parties will

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promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the Parties hereto.

Section 2. This Article shall not be construed to waive the prohibitions of Article XII, and if the Parties are unable to resolve their differences, the matter shall be referred to arbitration for resolution as provided for in the grievance-arbitration procedure of Article XIII.

ARTICLE XVI - DURATION OF THE AGREEMENT

This Agreement shall be effective upon execution by the Parties and shall continue in effect for the duration of the Project construction work described in Article II hereof. Construction of any phase, portion, section or segment of Project shall be deemed complete when such phase, portion, section or segment has been turned over to the City of Philadelphia and has received the final acceptance from Keating Inquirer Builders, LLC.

Each Collective Bargaining Agreement contained in Schedule A hereof attached to this Agreement shall continue in full force and effect until the Contractor(s) or Union(s) who are Parties to such Agreement notify Keating Inquirer Builders LLC of the mutually agreed upon changes in those provisions of such Agreements which are applicable to this Project and the effective date thereof, which shall then become the effective date under this Agreement. Unless otherwise provided in this Agreement, increases to wages and benefit payments from the effective date each new or amended Collective Bargaining Agreement shall be due and owing upon notification to the Contractors and Keating Inquirer Builders LLC of such increases. The Parties agree that any provisions negotiated into any Collective Bargaining Agreement contained in Schedule A hereof will not apply to work on Project if such provisions are less favorable to the Contractors than those uniformly required of Contractors for construction work normally covered by such an agreement; nor shall any provision be recognized or

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In the renegotiation of any of the Collective Bargaining Agreements contained in Schedule A hereof, the Union(s) party to this Agreement agree that there will be no strikes, work stoppages, sympathy strikes, picketing, slowdowns or other disruptive activity affecting the Project covered by this Agreement because of or related to the renegotiation of any such Collective Bargaining Agreement contained in Schedule A hereof, nor shall there be any lockout on this Project affecting the Union(s) party to this Agreement during the course of such negotiations.

Any disagreement between the Parties over the incorporation into any Collective Bargaining Agreement contained in Schedule A hereof of such provisions agreed upon in the renegotiation of any such Collective Bargaining Agreement as is contained in Schedule A shall be referred to Article XIII hereof for resolution.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of the day and year above written.

FOR THE UNION(S):

[Signature]
Date 5/17/17

FOR THE CONTRACTOR(S):

[Signature] 5/23/17
Contractor Date

Contractor Date

Contractor Date

Contractor Date

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SCHEDULE A

COLLECTIVE BARGAINING AGREEMENTS

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SCHEDULE B

RESERVED

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SCHEDULE C

**INCREASING OPPORTUNITIES FOR WOMEN AND MINORITIES
IN THE BUILDING TRADES UNION(S) AND THE PROJECT PROJECTS**

Consistent with the Mayor's Advisory on Construction Industry Diversity Report and Recommendations, the City of Philadelphia, the Union(s) and Contractors shall undertake the following activities:

Section 1. City Activities:

(a) The City shall collect, tabulate and analyze data, including certified payrolls, related to the participation of male minorities, women and Philadelphia residents in City and City-funded construction projects.

(b) The City shall establish goals for employment of Philadelphia residents in City and City-funded construction projects. For City residents, employment in the Project Project shall be at least:
Philadelphia Residents: Fifty (50) percent of all construction employment hours.

(c) The City shall establish goals for workforce diversity in City and City-funded construction projects. The current goals are based on the March 2009 Report of the Mayor's Advisory Commission on Construction Industry Diversity. For male minority and women employment in the Project Project shall be at least:

Male Minority: Thirty two (32) percent of all construction employment hours

Women: Seven (7) percent of all construction employment hours

(e) The City shall assist the Union(s) in undertaking activities which would benefit from City participation and support.

(f) The City shall establish and support a standing Advisory Commission on Construction Industry Diversity. The City shall invite union leaders, large and small contractors, contractor associations project owners and community leaders to participate.

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(g) The City shall designate a City agency for the receipt and redress of complaints from the public about the opportunities for employment on City-funded construction projects.

Section 2. Union Activities.

(a) The Union(s) shall collect demographic data on participation in the Project Project. The Union(s) shall provide that information to the City on monthly basis while the Project Labor Agreement is in effect.

(b) The Union(s) shall set participation goals that will significantly increase participation of minority males and women. Such goals shall be consistent with the Commission Report and such Commission updates as may be issued.

(c) The Union(s) shall establish goals for participation of in apprenticeship programs for minority males and women. Such goals shall be consistent with the Commission Report and such Commission updates as may be issued.

(d) The Union(s) shall actively recruit minority males and women for apprenticeship positions. Outreach efforts must be appropriate for reaching minority males and women and consistent with the goals the Union(s) have established for membership of the Union(s).

(e) The Union(s) shall evaluate alternatives to apprenticeship recruitment for adding minority males and women to membership.

(f) The Union(s) shall each identify a representative who shall be responsible for reporting on each Union's progress in improving opportunities for minority males and women.

Section 3. Contractor Activities.

(a) The Contractors shall support the City and Union efforts to increase the participation of minority males and women in the Project through apprenticeship programs and other initiatives.

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(b) The Contractors shall use their best efforts to add minority males and women to their permanent or steady workforces. The Contractors shall provide workforce demographic information to the City in advance of project commencement.

(c) The Contractors shall ensure a work environment that is free from discrimination and supportive of greater participation of minority males and women in the Project Project.

(d) The Contractors shall use their best efforts to meet or exceed the goals established for minority males and women participation in Section 1 of this Schedule C.

(e) The Contractors shall provide monthly updates to the City, including but not limited to payroll reports, for the requirements of this Section 3.

Section 4. Third Party Monitoring

(a) In the event that the City determines that the Agreement and the goals for participation in the Project Project by Philadelphia residents, male minorities and women would benefit from monitoring by a qualified third party ("Monitor"), the monitoring shall be performed by a Monitor selected by the Parties. The Contractors and Unions shall provide information and access to the Monitor consistent with the requirements of this Schedule C and the Agreement.

(b) The costs of monitoring by the Monitor shall be shared equally by the Parties.

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SCHEDULE D

PROJECT SPECIFIC CONDITIONS

Project specific conditions agreed upon by the Union(s) and the City supersede the provisions established in Schedule A Collective Bargaining Agreements only as to the Project Project.

- 1. All Contractors and subcontractors shall be required to comply with (Bill 050749) Noise and Excessive Vibrations Regulations.**
- 2. The Services of Philadelphia Area Labor Management Committee (PALM) as identified in Section 4 shall be coordinated through Keating Inquirer Builders LLC. Invoices from PALM for services to the Project shall be submitted to Keating Inquirer Builders LLC.**

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1. SCHEDULE E

ECONOMIC OPPORTUNITY PLAN

Exhibit "B"
Economic Opportunity Plan

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**City of Philadelphia
Economic Opportunity Plan
For the Lease and Development of
400 N. Broad Street and 1501 Callowhill Street
Philadelphia, Pennsylvania**

I Introduction, Definitions, Goals and Diversity Practices

- A. The City of Philadelphia (City) and Philadelphia Authority for Industrial Development (PAID), parties to a Master Lease with 400 North Broad Partners, LP (Landlord), strongly encourage the use of certified Minority (MBE), Women (WBE), Disabled (DSBE) and Disadvantaged¹ (DBEs) Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers by Landlord and its participants, in all aspects of the Master Lease and "Required Improvements" (as such improvements are defined in the Master Lease) to real estate located at 400 N. Broad Street and 1501 Callowhill Streets in Philadelphia, Pennsylvania (Premises), which may include financial investment, design, engineering and construction (Project). In support of this objective, City and PAID, collectively referred to as "Tenant" will require that Landlord or such other affiliated entity as may be designated as Landlord (including any assignee of Landlord), under the Master Lease, commit to this Economic Opportunity Plan ("EOP" or "Plan") as required by Section 17-1602 of The Philadelphia Code, as amended. Landlord further commits that if the Master Lease is renewed for an additional term, Landlord will enter into a successive EOP with similar objectives for the renewal period.
- B. This Plan, which will remain in effect for the duration of the first term of the Master Lease (anticipated to be nine years), contains ranges of Projected M/W/DSBE utilization and goals and apprentice programming for the employment of minority and female workers in connection with the Project. Landlord shall cause this Plan to be made part of and incorporated into all bids, proposals and solicitations and any resulting agreement(s) entered into between Landlord and any participant, including without limitation any general contractor performing work in connection with the Project. By submission of this Plan, Landlord makes a legally binding commitment to Tenant to abide by the provisions of this Plan which include its commitment to exercise its Best and Good Faith Efforts throughout the Project and its commitment to cause its participants to use their Best and Good Faith Efforts to provide subcontracting opportunities for M/W/DSBEs in all phases of the Project and to employ a diverse workforce. This Plan expressly applies to all contracts awarded in connection with the Project.
- C. Neither Landlord nor any participant shall discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, ancestry, age, or handicap in the award and performance of contracts pertaining to this Plan. Landlord has summarized its current and past practices relating to Landlord's diversity practices ("Diversity Practices Statement"). This statement, included as Attachment "A" to this Plan, identifies and describes Landlord's policies and processes used to develop diversity at all levels of Landlord's organization including, but not limited to, board and managerial positions. This Diversity Practices Statement summarizes Landlord's strategic business plans specific to its current or past practices of M/W/DSBE utilization on its government and non-government Projects and procurement activities. Landlord

¹Disadvantaged Business Enterprises ("DBEs") are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 26.

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further agrees to identify any "Equity Ownership" held in connection with this Project which shall mean the percentage of beneficial ownership in the Landlord's organization or development team that is held by minority persons, women and disabled persons. In the event Equity Ownership is identified, Landlord agrees to abide by the reporting requirements enumerated in Section 17-1603 (1)(g)(.3) of The Philadelphia Code.

- D. Landlord hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and is notified that the submission of false information is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities and 18 Pa.C.S. Section 4107.2 (a)(4) relating to fraud in connection with minority business enterprises or women's business enterprises.
- E. For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by OEO. Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency² will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an affidavit to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oeo/directory.
- F. For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of OEO, means: efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce and to achieve the objectives herein stated. Best and Good Faith Efforts are rebuttably presumed met, when commitments are made within the M/W/DSBE Participation Ranges established for this development and a commitment is made to employ a diverse workforce and implement apprentice programming as enumerated herein.

II. Goals

A. M/W/DSBE Participation Ranges

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in the Project, the following two tables of participation ranges have been established for Professional Services in connection with the project (e.g., design, engineering, financing, legal) and Construction (i.e., all recognized building trades work). These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable through the exercise of Best and Good Faith Efforts. These percentages relate to the good faith estimated cost of the entire Project which is anticipated to be \$191,625,000. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. These ranges are based upon an analysis of factors such as the size and scope of the Project, the City's Annual Goal of 35% as informed by the Fiscal 2016 Annual Disparity Study and the availability of MBEs, WBEs, DSBEs and DBEs to participate in this Project:

²A list of "OEO approved certifying agencies" can be found at www.phila.gov/oeo

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Professional Services	
MBE	WBE
25%-30%	15% - 20%

Construction	
MBE	WBE
30%-35%	15% -20%

B. Employment Goals and Apprentice Programming for a Diverse Workforce (Diverse Workforce Strategy)

1. As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for diverse workers in the Project, the following hourly goals have been established for the employment of minority persons and females in the Project workforce of apprentices and journeymen at the following levels³:
 - 2 African American Journeypersons - 22% of all journey hours worked across all trades
 - Asian Journeypersons -3% of all journey hours worked across all trades
 - Hispanic Journeypersons - 15% of all journey hours worked across all trades
 - Female Journeypersons - 5% of all journey hours worked across all trades
- 3 Minority Apprentices - 50% of all hours worked by all apprentices
Female Apprentices - 5% of all hours worked by all apprentices
4. In furtherance of Tenant's objective to maintain a diverse workforce, Landlord also agrees to require its general contractor to refer, sponsor, train and employ (for the duration of the Project or apprenticeship) five (5) diverse apprentices in trades unions to which general contractor has a collective bargaining agreement, e.g., referral and sponsorship to the Carpenters Joint Apprentice Program. Ideal candidates are diverse Philadelphia residents including graduates of the Philadelphia Public School District, honorably discharged military (e.g., Helmets to Hardhats), and ex-offenders who demonstrate the requisite skill and motivation to successfully complete an apprenticeship program.

111.Responsiveness

- A Landlord shall, and shall cause its participants to identify all M/W/DSBE commitments and describe its Diverse Workforce Strategy on the form entitled, "M/W/DSBE Participation and Workforce Commitments." The commitments on this form constitute a representation that the identified M/W/DSBE is capable of providing commercially useful

³These goals have been informed by the City of Philadelphia Fiscal Year 2015 Annual Disparity Study, Economic Opportunity Plan Employment Composition Analysis.

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goods or services relevant to the commitments and that the Landlord and its participants have entered into legally binding agreements with the listed M/W/DSBEs for the work or supply effort described and the dollar/percentage amount(s) set forth on the form. In calculating the percentage of M/W/DSBE participation, the standard mathematical rules apply in rounding off numbers. In the event of inconsistency between the dollar and percentage amounts listed on the form, the percentage will govern. The Landlord and its participants agree to maintain these M/W/DSBE percentage commitments and implement the Diverse Workforce Strategy throughout the duration of the Project.

- B. M/W/DSBE commitments are to be memorialized in a written subcontract agreement. Letters of intent, quotations, contracts, subcontracts and any other documents evidencing commitments with M/W/DSBEs, including the M/W/DSBE Participation and Workforce Commitments Form, become part of and an exhibit to this Plan.
- C. OEO will review the M/W/DSBE Participation and Workforce Commitments Form for the purpose of determining whether Best and Good Faith Efforts have been made. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction and development of the Project and until five (5) years from the date the master Lease terminates.
- D. If Landlord or its participants make any changes in its subcontracts that have been approved by OEO under the Plan, Landlord and its participants are obligated to inform OEO of any changes to the approved Plan and shall use Best and Good Faith efforts to use M/W/DSBEs for any new contracts. In no event may Landlord or its participants terminate a subcontract with an M/W/DSBE for discriminatory reasons.

IV. Compliance and Monitoring of Best and Good Faith Efforts

- A. A hard copy of this Plan, as certified below by OEO, shall be filed with the Chief Clerk of City Council within fifteen (15) days of Closing. The Plan shall be filed with:

Michael Decker, Chief Clerk of City Council
Room 402 City Hall
Philadelphia, Pennsylvania 19107

- B. Landlord and its participants agree to cooperate with OEO in its compliance monitoring efforts, and to submit, upon the request of OEO, documentation relative to their implementation of the Plan, including the items described below.
 - Copies of signed contracts and purchase orders with M/W/DSBE subcontractors;
 - Evidence of payments (cancelled checks, invoices, etc.) to subcontractors and suppliers to verify participation; and
 - Telephone logs and correspondence relating to M/W/DSBE commitments.
 - To the extent required by law, the Landlord and its participants shall ensure that all its on-site contractors maintain certified payroll records which include a breakout of hours worked by minority and female apprentices and journeypersons; these documents are subject to inspection by the City of Philadelphia's Labor Standards Unit for compliance with any applicable

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prevailing wage requirements and for compliance with the Diverse Workforce Strategy described above.

C. Prompt Payment of M/W/DSBEs

The Landlord and its participants agree and shall cause all its contractors to ensure that all M/W/DSBEs participating in the Project receive payment for their work or supply effort within five (5) business days after receipt of a proper invoice following satisfactory performance.

D. Oversight Committee

For this Project, in the sole discretion of City, an oversight committee will be established consisting of representatives from PAID, Landlord and General Contractor, representatives of the building trades, the construction manager, the City which may include the Project site's District Councilperson, OEO, and Labor Standards Unit ("Committee"). The Committee will meet regularly, and no less than quarterly, to provide advice for the purpose of facilitating compliance with the Plan.

V. Remedies and Penalties for Non-Compliance

A The Landlord acknowledges and agrees that its compliance with the requirements of this Plan is a material inducement for the Ordinance of City Council, Bill Number ___ ___ and Landlord's failure to substantially comply with the Plan may result in enforcement actions and the imposition of penalties as authorized by Sections 17-1605 and 17-1606 of The Philadelphia Code. Notwithstanding the foregoing, no privity of contract exists between PAID, the City and any M/W/DSBE identified in any contract resulting from implementation of the Plan. Neither PAID nor the City intends to give or confer upon any such M/W/DSBE any legal rights or remedies in connection with subcontracted services under any law or policy or by any reason of any contract resulting from implementation of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.

Bart Blatstein, President 400 North Broad Associates, LP

PRINT NAME OF LANDLORD

DATE

DocuSigned by:

Bart Blatstein
SIGNATURE OF LANDLORD

6/15/17
DATE

OLA HARPER, EXECUTIVE DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY⁴

6/15/17
DATE

[See Forms on following pages; these Forms, must be submitted by Landlord]

⁴ Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600.

STATEMENT OF DIVERSITY PRACTICES, POLICIES AND PAST ACHIEVEMENTS

In compliance with Chapter 17-1600 of the Philadelphia Code, Section 17-1603 entitled "Equal Opportunity Plan: Contents," the Plan shall contain a statement from the contractor, developer and/or recipient of financial assistance summarizing past practices by identifying and describing examples of policies and processes used to develop diversity at any/all levels of its organization including, but not limited to, Board and managerial positions. This statement shall also summarize strategic business plans specific to current or past practices of MIWIDSBE utilization on government and non-government Projects and procurement. Where appropriate, such a statement should contain:

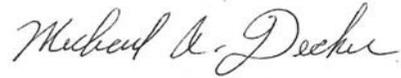
1. Describe employment and recruitment policies used to achieve diversity in your workforce.
2. Provide the race, gender, and residential (local) status of your
 - a) Board of Directors
 - b) Management
 - c) General Workforce
3. Identify your organization's methods of solicitation and utilization of Minority, Woman and Disabled Businesses (M/W/DSBEs). Please be specific in describing outreach and any procurement policies that are focused on creating or sustaining business relationships with M/W/DSBEs.
4. What percentage of your company's total spend with vendors and suppliers is attributable to M/W/DSBEs? Please include a list of the largest M/W/DSBEs used by your organization in the last 12 months.
 - a) Identify the type of goods or services purchased
 - b) Amount of the contract.
 - c) Indicate if any of these M/W/DSBEs are listed in the City of Philadelphia's Office of Economic Opportunity Registry.
 - d) Are these companies certified as M/W/DSBEs? Do you rely on any particular certifying agency?
 - e) If there is no previous M/W/DSBE utilization, the Plan shall contain a statement that explains the reason for the lack of M/W/DSBE participation in past contract(s) or Project(s).
5. Describe any initiatives made by your organization to increase investment and promote equity ownership by minorities and women.

City of Philadelphia

BILL NO. 170559-A continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 22, 2017. The Bill was Signed by the Mayor on June 27, 2017.



Michael A. Decker
Chief Clerk of the City Council