

## DEVELOPMENT AND TAX AND CLAIM SETTLEMENT AGREEMENT

THIS AGREEMENT is made as of the 4<sup>th</sup> day of January, 2008 (the "Effective Date") by and between The City of Philadelphia, a body corporate and politic organized and existing under the laws the Commonwealth of Pennsylvania (the "City") and Philadelphia Entertainment and Development Partners, L.P., a Pennsylvania limited partnership ("PEDP").

### BACKGROUND

A. PEDP has received approval from the Pennsylvania Gaming Control Board (the "PGCB") of its application for a Category 2 Slot Machine License for a casino in the City of Philadelphia (the "License") under the Pennsylvania Race Horse Development and Gaming Act, 4 P.A.C.S.A. § 1100, *et seq.* (as the same may be amended or supplemented from time to time, and including any successor thereto the "Act").

B. On receipt by PEDP of the License from the PGCB and all Approvals (as defined in Section 2 below), PEDP intends to develop, construct and operate a Category 2 licensed gaming facility (the "Gaming Facility"), to be known as the "Foxwoods Casino Philadelphia" on a parcel of property located on South Delaware Avenue, Philadelphia, PA, between Tasker and Reed Streets and the Delaware River, commonly known as 1499 South Columbus Boulevard, as more fully described on Schedule 1 attached hereto (the "Property").

C. Title 14 of The Philadelphia Code, entitled "Zoning and Planning," was amended by Bill No. 051028-AA and Bill No. 060631 to add Chapter 14-400 (the "CED Ordinance"), which provides for the establishment of commercial entertainment districts ("Commercial Entertainment Districts") in the City, and sets forth requirements for plans of development and procedures for approval of such plans for property within such Commercial Entertainment Districts. Licensed gaming facilities are included as a specific permitted use under Chapter 14-400.

D. Pursuant to Section 14-403 of the CED Ordinance, PEDP submitted to the Philadelphia City Planning Commission (the "Planning Commission") a plan of development for the Foxwoods Casino Philadelphia, which was fully approved by the Planning Commission on August 21, 2007 (the "Plan of Development").

E. On May 30, 2007, pursuant to the CED Ordinance, ordinances were transmitted from the Mayor of Philadelphia to the City Council of Philadelphia ("City Council") to, among other things, (i) amend the zoning for the Property to Commercial Entertainment District (the "CED Site Ordinance") and (ii) permit PEDP to construct Phase I of the Foxwoods Casino Philadelphia, consisting of 3,000 slot machines, in accordance with the Plan of Development ("Phase I").

F. On November 21, 2007, in furtherance of the commitment to construct an enlarged sewer pipe improvement along Reed or Tasker Streets, as set forth herein, and transportation plans approved by the Planning Commission, the Mayor of Philadelphia

transmitted additional ordinances to City Council (the "Streets Ordinances"; and together with the CED Site Ordinances, the "Ordinances.") The Ordinances are attached as Schedule 2 hereto.

G. PEDP has been diligently pursuing receipt of the Approvals (as defined below) required to develop, construct and operate the Foxwoods Casino Philadelphia.

H. The City and PEDP will benefit from the development of the Foxwoods Casino Philadelphia; however, the City and PEDP each dispute, among other things, the extent of the application to the Foxwoods Casino Philadelphia of certain taxes by the City and the School District of Philadelphia (the "School District"), the obligations of the parties regarding on-site and off-site infrastructure improvements, policing, traffic, and the approval process, including PEDP's appeal of calendar year 2006 and 2007 real estate taxes on its unimproved property and a bona fide dispute about the applicability of use and occupancy tax; which disputes, if not resolved to their mutual satisfaction, could delay or impede the development of Foxwoods Casino Philadelphia to their mutual detriment.

I. The City has represented to PEDP that it is authorized to enter into a final, binding settlement and compromise any claim for any moneys collectible by the Philadelphia Department of Revenue, for or on behalf of the City or the School District, including but not limited to any business, revenue, real estate, income or other taxes, water or sewer rents, license fees and other charges, and interest and penalties thereon, if any, for an amount less than the amount claimed that is or may become due by PEDP to the City or the School District arising out of or relating to the Property or the development, construction or operation of the Foxwoods Casino Philadelphia and any related activities on the Property, whether initially developed or otherwise.

J. In consideration of the agreement by the City, on behalf of the City and the School District, to the Tax and Claim Settlement (as defined in Section 12 below) and the other undertakings and agreements of the City set forth in this Agreement, PEDP has agreed to the Tax and Claim Settlement and to the undertakings and agreements made by it in this Agreement, and in consideration of the Tax and Claim Settlement and other covenants and agreements of PEDP set forth in this Agreement, the City, on behalf of the City and the School District, has agreed to the Tax and Claim Settlement and to the undertakings and agreements made by it in this Agreement, all in order to settle the tax disputes between the parties and to promote the timely and expeditious development, construction, completion and operation of the Foxwoods Casino Philadelphia for the mutual benefit of the City and PEDP.

NOW, THEREFORE, intending to be legally bound hereby, the City and PEDP in consideration of the Tax and Claim Settlement and other covenants, undertakings and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby covenant and agree as follows:

1. TERM OF THE AGREEMENT. The term of this Agreement shall commence on the Effective Date and shall terminate, without penalty, on the earliest of: (i) the election by PEDP, at any time on or after March 1, 2008, to terminate this Agreement in the event that those Approvals (including, without limitation, the adoption of the Ordinances) that are within the jurisdiction of the City or any of its departments or agencies or of the City Council shall not have

been issued on or before March 1, 2008; provided that PEDP has used good faith efforts to submit any required documentation necessary for the issuance of such Approvals; (ii) any date after which a necessary Approval is finally revoked and any appeals of such action are exhausted without relief (provided that PEDP has acted thoroughly and diligently in such appeals); (iii) any date on which the License is revoked or rescinded, or expires without having been renewed; (iv) upon the effective date of the termination of operation of Foxwoods Casino Philadelphia as a Gaming Facility, not including any temporary interruption of operation as a Gaming Facility not exceeding six (6) months as may be required by emergency conditions, casualty or by order of the PGCB or any other federal, state or local governmental agencies, entities and departments (collectively, "Governmental Entities") or other events of Force Majeure (as defined below); or (v) on the date specified in a written notice by PEDP delivered to the City in the event that PEDP at any time elects to terminate the development of the phase designated as Phase I in the Plan of Development and to forego its future right to build the Foxwoods Casino Philadelphia at the Property.

## 2. APPROVALS; STREAMLINED PROCESS; CONSTRUCTION.

(a) The City and PEDP hereby agree to work together in good faith pursuant to applicable law to promptly obtain the following:

(i) approval by the City Council of the Ordinances as contemplated by the then approved Plan of Development as the same may be amended from time to time as provided in this Agreement;

(ii) all other licenses, approvals, consents, permits or similar authorizations required from any Governmental Entity and commissions of the City to develop, construct and operate the Foxwoods Casino Philadelphia as set forth in the Plan of Development, including, without limitation, regarding the construction of all required utilities, foundations, grading, infrastructure and other improvements, whether on and off of the Property (collectively, together with the Ordinances, being referred to as the "Approvals").

(b) The City agrees to implement a streamlined development process for the Foxwoods Casino Philadelphia including, but not limited to: (a) project coordination assistance from the Managing Director's office; (b) opportunities to consult with appropriate municipal staff in a timely fashion to ensure that the Foxwoods Casino Philadelphia can be developed and constructed in the most time- and cost-efficient manner possible; (c) assisting (on a good faith basis) in PEDP's obtaining expedited appearances or hearings before the Philadelphia Zoning Board of Adjustment, the Philadelphia Board of License and Inspection Review and the City Council where required or appropriate for zoning and similar matters; and (d) timely municipal review processes, where required, with the City causing most reviews and comments to be completed within ten (10) business days.

(c) The terms of this Agreement will not constitute a waiver of the City's regulatory authority or of PEDP's applicant responsibilities not otherwise addressed by this Agreement.

(d) Within a reasonable period after receipt by PEDP of all Approvals necessary to construct and, upon completion, operate the Foxwoods Casino Philadelphia in accordance with the Plan of Development (including any mutually determined modifications or revisions by the Planning Commission and PEDP), PEDP agrees that it will commence construction of Phase I of the Foxwoods Casino Philadelphia.

(e) The City and PEDP further agree to work together in good faith pursuant to applicable law to obtain any and all Approvals, including, without limitation, adoption of any future ordinances by the City Council, as may be required to develop, construct and operate subsequent phases of the Foxwoods Casino Philadelphia, as contemplated by the then approved Plan of Development as the same may be amended from time to time as provided in this Agreement.

### 3. TRANSPORTATION NEEDS AND IMPACT.

(a) PEDP and the City will cooperate in an effort to develop a plan (including approximate costs and timelines) for any required modifications and improvements to major transportation and circulation routes and traffic control measures necessary to accommodate both visitors to and employees of the Foxwoods Casino Philadelphia and related facilities and grounds (the "Foxwoods Casino Philadelphia Complex"), as identified in the traffic study submitted in connection with PEDP's Plan of Development and the Orth-Rodgers Traffic Study presented by PEDP to the Pennsylvania Gaming Control Board, as modified with the specific consent of the Planning Commission in the Plan of Development or, hereafter, by PEDP and the Planning Commission through its executive staff.

(b) Any such plan will be subject to adjustments over time as mutually determined by PEDP and the City and shall contain terms and conditions customary for such plans, including the City's and PEDP's good faith commitments to meet timelines within a period of 180 days from the dates scheduled (subject to any delays resulting from Force Majeure) and to fund any amounts due under such plan as more fully described therein.

(c) PEDP shall use commercially reasonable efforts to ensure that all material transportation mitigation measures that PEDP has designated as being part of the plan for Phase I are completed 45 days before opening of the casino, subject to the timely issuance of all required Approvals and any required consents by necessary third parties (further provided that the Approvals and consents are timely sought). In the event such efforts are insufficient, PEDP will continue to exercise all commercially reasonable efforts until such transportation mitigation measures, or mutually acceptable alternatives, are implemented, including after opening of the casino.

(d) PEDP acknowledges that its current transportation plan does not fully support expansion of the casino within the Property beyond Phase I. Accordingly, the Planning Commission's approval of the Plan of Development is conditioned such that "PEDP may only apply for building permits beyond what is labeled as Phase I in the Plan of Development if, in addition to all other necessary approvals from relevant governmental bodies, PEDP has completed a transportation plan that, in the City's determination after receiving the advice of the City Planning Commission, adequately addresses and funds the needs of an expanded casino

complex.” In making such reasonable determination, the City and Planning Commission will take into account future traffic solutions in the area in and around the Foxwoods Casino Philadelphia Complex, including improvements from PEDP’s Phase I traffic mitigation efforts.

(e) The discussion of solutions to date has involved, among other things, a new off ramp off of Interstate 95, but that is neither the definitive nor the only solution to the transportation needs of the community in and around the Foxwoods Casino Philadelphia Complex.

(f) Such transportation solutions may benefit other current and future developments near the Foxwoods Casino Philadelphia Complex but should directly impact and benefit PEDP. Accordingly, notwithstanding any taxes or other monies paid by PEDP to the Commonwealth, along with other governmental and non-governmental sources, PEDP agrees to fund a “fair share” of the additional transportation solutions, including such new I-95 off ramp if necessary, and to work with the City, the Commonwealth of Pennsylvania, and others to identify the appropriate transportation solutions and governmental and non-governmental funding streams.

4. DIVERSITY PLAN AND ECONOMIC OPPORTUNITY PLAN.

(a) PEDP will comply with the terms and conditions of its diversity plan submitted to and approved by the PGCB, as such plan may be amended from time to time (the “Diversity Plan”).

(b) On or before March 31, 2008, PEDP will adopt an Economic Opportunity Plan (“EOP”) reasonably acceptable to the City that embodies the commitments made in the Diversity Plan and addresses the issues in a manner consistent with EOPs adopted by other large privately funded projects in Philadelphia, including, but not limited to, the Barnes Foundation, the professional football and baseball stadium projects and HSP Gaming, L.P, and which shall, among other things, include the following:

(i) PEDP’s designation, within 30 days of adoption of the EOP, of a senior executive who will report directly to the General Manager on diversity matters, will monitor, and be accountable for, compliance with the EOP and the Diversity Plan, as well as responsibility for diversity in recruitment, training, development, mentoring and promotion opportunities. Such person shall be promptly identified to the City.

(ii) A provision stating that compliance with the EOP and the Diversity Plan are factors for which executives, directors, managers and supervisors will be held accountable. The EOP will not prohibit eligibility by PEDP or others for any grants or tax credits available to PEDP for the creation of new employment positions or similar activities or efforts (collectively, “Incentive Programs”). In order to further the goals of the EOP, where appropriate, the City will cooperate with PEDP when it applies for Incentive Programs including, but not limited to, the Welcome Fund assistance program sponsored by the Philadelphia Industrial Development Corporation.

(iii) PEDP shall endeavor to provide qualified vendors, suppliers, contractors and service providers with equal access to opportunities to provide goods and

services to PEDP, with an understanding that PEDP seeks to do business with firms capable of providing the highest levels of quality, service and value to the Foxwoods Casino Philadelphia.

(iv) In accordance with the provisions of Section 4(e), PEDP will attempt to include minority-owned business enterprises (“MBEs”) and woman-owned business enterprises (“WBEs”) in contracting opportunities with Foxwoods Casino Philadelphia, with particular emphasis on persons and entities located in, or having significant operations in, the City of Philadelphia.

(v) Specifically, and in accordance with the provisions of Section 4(e), PEDP will attempt to provide contracting opportunities in its operations to businesses located in or having employees in Philadelphia, with the aspirational target of utilizing such bona fide businesses for at least 30 percent of PEDP’s on-going contracting opportunities for non-gaming-related goods, supplies and services, and awarding at least 20 percent of all contracts for non-gaming-related goods, supplies and services to MBEs and at least 5 percent of all contracts for non-gaming-related goods, supplies and services to WBEs.

(c) PEDP will establish an advisory committee, and such committee’s regular meeting schedule, for the purpose of assisting with the implementation and achievement of the Diversity Plan and the EOP. The PEDP senior executive responsible for diversity matters will serve on the advisory committee. The other members of the advisory committee may include the following: representatives from the City recommended by the Mayor and City Council, the general contractor, minority Chambers of Commerce, immediate area community representatives, and representatives of the building trades.

(d) PEDP will promptly provide the office of the Minority Business Enterprise Council of the City (“MBEC”) and the Advisory Committee with copies of all diversity reports filed by PEDP with the PGCB. Additionally, during construction (and to the extent such information is not in comparable reports filed with the PGCB and made available to the Advisory Committee), PEDP will provide higher-level “snapshot” reports to the City containing updates for certain categories of information contained in its annual report on a monthly basis during construction, and on a quarterly basis during the first year of operations. Snapshot reporting shall include, but not be limited to: (i) utilization of M/WBEs and businesses located in or having employees in Philadelphia, (ii) the hiring and employment of minorities and females, (iii) the hiring and employment of Philadelphia residents, and (iv) training programs utilized and the placement rates.

(e) PEDP will fulfill its obligations under Sections 4 and 5 of this Agreement in a good faith and non-discriminatory manner and in accordance with applicable laws, rules and regulations and shall not be in violation of the provisions of Section 4 or 5 of this Agreement for failing to meet its stated targets as long as it acts in said manner. The EOP will contain a provision listing actions that constitute good faith and non-discriminatory efforts, such provision to be consistent with the comparable standard in HSP Gaming’s EOP.

## 5. EMPLOYMENT COMMITMENTS.

### (a) Employment.

(i) PEDP will exercise commercially reasonable efforts, and in a non-discriminatory manner, to ensure that a significant percentage of its permanent and temporary employees are hired locally, and not less than 65 percent reside within the City of Philadelphia, with a preference for employees from the immediate neighboring communities, with full reporting to the City.

(ii) With respect to permanent and temporary employment, PEDP shall adopt aspirational ranges of at least 30 percent racial/ethnic minorities and 15 percent women.

(b) Construction Employment.

(i) PEDP will exercise commercially reasonable efforts, and in a non-discriminatory manner, work with its contractors to achieve aspirational participation so that not less than 75 percent of the construction workforce are hired locally by those contractors, with a preference for employees from the immediate neighboring communities, and at least 40% of the workforce are City residents.

(ii) PEDP shall adopt aspirational participation ranges of 25 percent racial/ethnic minorities and 10 percent women.

(c) PEDP will pay wages and provide benefits for all employees that are fair and competitive in the gaming industry and in the community.

(d) PEDP agrees to participate with HSP Gaming, L.P. (in an amount to be determined) to reimburse Philadelphia-based training institutions for the costs of training PEDP employees, and to provide hiring preferences for such graduates (including Philadelphia OIC, Inc. and others). PEDP will promptly meet with Philadelphia OIC and other Philadelphia based training institutions to attempt to advance the project and will report back to the City on the status of those efforts by March 31, 2008.

(e) Within 120 days of commencement of construction, PEDP will convene a course of meetings with its training partners and the larger Philadelphia workforce development community to educate the community on the qualifications it will seek for its permanent employees. The purpose of these meetings will be to ensure that the training partners and the larger workforce development community in Philadelphia can undertake necessary steps to ensure that Philadelphians are ready to successfully compete for jobs created at Foxwoods Casino Philadelphia.

(f) For the purpose of this Section 5, the following definitions apply:

(i) "hired locally" shall mean reside within 25 miles of the property.

(ii) For permanent employment participation, participation shall be measured on a basis of full-time equivalent employees.

(iii) For construction participation, participation shall be measured as a percentage of hours worked on the jobsite.

(g) PEDP shall promptly and regularly report to the City on compliance with the provisions of this Section 5.

(i) During (A) construction, (B) in the first year of operation, and (C) in the three months before and the three months after any material expansion is planned to open, such reporting shall be monthly.

(ii) Otherwise, reporting shall be on a semi-annual basis.

6. COMMUNITY REINVESTMENT; SPECIAL SERVICES ENTITY.

(a) PEDP will support the establishment of a not-for-profit Special Services District to address the impact of the Foxwoods Casino Philadelphia on the neighborhoods bordering the Foxwoods Casino Philadelphia.

(b) PEDP will fund a new Special Services District to encompass the neighboring communities in an amount of at least \$1,000,000 annually, in cash (and/or in-kind services if mutually agreed to between PEDP and the community groups in a Community Benefits Agreement), for enhanced municipal services and liaison with Foxwoods Casino Philadelphia.

(i) The commitment for annual funding for the Special Services District may be used to offset (or be offset against) other funding and benefits provided to the community for enhanced services in a community benefits or similar agreement between PEDP and bona fide community groups representing the neighborhoods in the vicinity of the Foxwoods Casino Complex.

(ii) Funding shall be paid each year in twelve (12) equal monthly installments, with the initial monthly installment due within thirty (30) days of the opening of Foxwoods Casino Philadelphia to the public.

(iii) PEDP agrees to make itself available for discussions with nearby neighbors and the City on the escalator provision for community funding and the amount of funding during construction.

(c) Upon receiving notice from bona fide community groups representing residents in the immediate vicinity of Foxwoods Casino Philadelphia that such groups are interested in negotiating the terms of a special services district, PEDP will make available up to \$50,000 to fund actual organizational and start-up expenses for the Special Service District, payments to be made by PEDP upon receipt of bona fide invoices. This funding may be restricted by PEDP such that it may not be used to support, directly or indirectly, litigation against the location or development of Foxwoods Casino Philadelphia in compliance with the Approvals.

7. PUBLIC SAFETY IMPACTS AND COST.

(a) PEDP will be responsible for all direct expenses associated with the appropriate routing of all "911" calls originating anywhere within the Foxwoods Casino

Philadelphia Complex, such expenses not to exceed the sum of Forty Thousand Dollars (\$40,000) in the aggregate during the term of this Agreement.

(b) PEDP, at its sole cost and expense, will either contract with a third party to provide ambulance services to handle any emergencies arising within the Foxwoods Casino Philadelphia Complex, or operate an ambulance and provide such services, with backup support to be provided in either event by the City on a best efforts basis in the event of a catastrophe or other similar circumstances.

(c) PEDP will provide a private security force adequate to maintain security throughout the Foxwoods Casino Philadelphia Complex in the normal course, including special events and other similar activities. The foregoing is not intended to relieve the City of its normal and customary obligations to provide on-Property and off-Property policing, it being understood, however, that the State Police may assume responsibility for all or part of such obligations. The City and PEDP will coordinate on-Property policing activity with the State Police. The City agrees to fund the City's generally necessary on-Property and off-Property policing obligations out of the Settlement Payments (as hereinafter defined) and host fees with respect to the Foxwoods Casino Philadelphia payable to the City by the Commonwealth of Pennsylvania as a "local share assessment" under the Act, subject to the transfer of all or part of such obligations to the State Police as provided above.

(d) PEDP will pay for the direct cost of any special Foxwoods Casino Philadelphia event-related police and other support provided by the City at the request of PEDP, including traffic police support. Routine neighborhood bike policing, or its functional equivalent, if requested by the Special Services District will be funded by the Special Services District if not funded by the City or other governmental source.

## 8. SITE PLAN AND DESIGN QUALITY.

(a) Except as prohibited by law, and consistent with Section 10 of this Agreement, PEDP will develop Foxwoods Casino Philadelphia in full compliance with the standards applicable under Chapter 14-400 of the Philadelphia Code and the Plan of Development as approved by the Commission, as such may subsequently be amended by City Council ordinance, including, without limitation, the following:

(i) PEDP will develop the casino to comply with all provisos issued by the Planning Commission on August 21, 2007.

(ii) The north facing blank wall in Phase I will have vegetation, lighting, or other design features to create visual interest as viewed from the public trail.

(iii) The landscaped area along Columbus Boulevard in front of the parking structure will be widened as much as technically feasible to permit more dense landscaping and screening along the sidewalk.

(A) PEDP and the City will work with the Pennsylvania Department of Transportation to consider options to widen the width of this design feature as engineering plans are finalized.

(B) PEDP will explore, in consultation with City and State authorities, options to have the paving and paving treatments of the access road adjacent to the proposed landscaped median designed to control the speed of traffic as it passes by the sidewalk.

(iv) Architectural treatment of the parking garage will be provided on the facade facing Columbus Boulevard and will include vegetation, lighting, or other design features to create visual interest when viewed from the public street. When developed, plans will be provided to Planning Commission to review.

(b) LEED Certification. PEDP will pursue certification as a LEED-certified development and will take commercially reasonable measures to achieve such certification to the extent feasible.

(i) Towards that end, PEDP will retain a professional expert to provide PEDP and its contractors with guidance in the construction of the Foxwoods Casino Philadelphia.

(ii) PEDP will provide the City with a copy of the final report its LEED expert is expected to produce for Phase I, and will provide updates for each future phase, within a reasonable period after PEDP's receipt of such report or such updates.

(iii) PEDP agrees to meet with the Planning Commission staff before PEDP makes its final determination with respect to any recommendations contained in the final report, and to provide the report to the Planning Commission staff at least 14 days in advance of any such meeting.

(c) Roofing.

(i) Approximately 10,000 square feet of the development's roof in Phase I will be a green roof and approximately another 140,000 square feet in Phase I, as set forth on Schedule 3 will be a "cool roof" as classified by LEED standards for green buildings.

(ii) PEDP anticipates that, as a result, it will incur additional costs of \$300,000 and \$700,000, respectively, for a total incremental cost of \$1 million.

(d) PEDP will fully cooperate with all procedures established by the appropriate City planning staff both prior to and upon submission of all plans.

(e) Subject to appropriate local regulatory review, PEDP will provide appropriate vending and/or refreshments for sale during seasonal months to provide activity and amenity along the Delaware River trail for the portion of the development where there are not active uses of the waterfront side of Foxwoods Casino Philadelphia.

## 9. WATERFRONT ACCESS AGREEMENT.

(a) PEDP will provide reasonable outdoor access, without charge, to its private property along the Delaware River waterfront promenade as set forth in the Plan of Development. The waterfront promenade, including public access thereto, will be constructed

during Phase I, and, once completed, public access consistent with the Plan of Development will be permitted at all times pursuant to a mutually satisfactory agreement concerning such access, subject to any restrictions necessary in order to assure public safety and security, as generally set forth below. PEDP will bear the reasonable costs associated with maintenance of waterfront access on its site, as such access is provided in the Plan of Development.

(b) Access to all or part the waterfront promenade may be restricted by PEDP for limited periods of time in connection with any of the following: (i) construction, repairs and maintenance; or (ii) any other event or condition that PEDP believes may adversely affect public safety or security, except that (other than construction and maintenance), PEDP shall not schedule events or operational activities such that it creates a safety hazard necessitating closure.

(c) Access to specified portions of the waterfront promenade may be restricted by PEDP in connection with special events, such as weddings, concerts, and other similar functions. PEDP will use good faith efforts to restrict the size of events utilizing the waterfront promenade such that public access to the waterfront promenade will not be reduced to an area that is of a width of less than ten feet (unless required by law enforcement or public safety authorities) more than once per week (each for a period not greater than six hours) during the months of April through October. The foregoing restrictions may be adjusted over time as mutually determined by PEDP and the City.

(d) As a private-owned facility, to the extent permitted by law, public access (excluding motor vehicles) will be permitted to the waterfront promenade of Foxwoods Casino Philadelphia. Such access may be restricted by the reasonable policies imposed by PEDP in order to (i) preclude the assertion of easement rights by third parties or (ii) maintain public decorum, safety and security (such as the removal of loiterers or squatters, a prohibition on solicitation and the ejection of anyone causing a disturbance or potential or actual harm to other persons or property).

(e) If requested by the Executive Director of the Planning Commission, PEDP will use its reasonable efforts to utilize signage, lighting and benches through the waterfront promenade that are consistent with those specified by the City Planning Commission and are generally applicable to other property owners along adjacent portions of the Delaware River waterfront; provided, that PEDP shall not be required to replace then existing signage, lighting and benches that are in good repair.

## 10. DEVELOPMENT PLAN.

(a) Conformance with the Plan. PEDP will develop the Foxwoods Casino Philadelphia Complex in substantial conformance with the Plan of Development, as amended from time to time. Subject to the provisions of applicable law pertaining to amendments to the Plan of Development, PEDP will be permitted to make deviations to the Plan of Development so long as such deviations do not: (i) materially delay the implementation of any interim phase or of Phase I; (ii) materially change the nature of the use of the Foxwoods Casino Philadelphia or the parking facilities, or of more than 10% of the non-parking, non-gaming space; (iii) materially diminish the overall quality of the Foxwoods Casino Philadelphia or parking facility, and (iv) reduce the size of any gaming or non-gaming area of the Foxwoods Casino Philadelphia or of the

parking facility by more than 10%. All other material modifications to the Plan of Development must be approved by the Planning Commission.

(b) Phased Development. PEDP intends to develop the Foxwoods Casino Philadelphia Complex in phases and has committed to complete Phase I, provided it receives the Approvals, with subsequent phases to be built, subject to PEDP's assessment of the then-current market conditions, and further provided that PEDP has a transportation plan approved by the City under Section 3(d) of this Agreement and the applicable proviso to the Plan of Development.

(c) Compliance with CED Ordinances. During the term of this Agreement, PEDP will comply in all respects with the CED Ordinances as in effect on the date hereof.

(d) Streets Development Issues. Notwithstanding any court order that may authorize the development of Foxwoods Casino Philadelphia Complex, PEDP and the City will negotiate in good faith to enter into a developer agreement between PEDP and the City for the transportation-related work in the public right-of-way that addresses, without limitation, plan review, insurance, bonding, and indemnification, including provisions no less favorable to the City than the provisions contained in standard contracts of a similar nature entered into by the City with developers of other large privately funded projects in Philadelphia (as noted above) and generally consistent with the terms included in the examples attached hereto as Schedule 4.

#### 11. WATER, SEWER AND NATURAL GAS AND OTHER UTILITIES.

(a) PEDP will bear the costs of all on-site infrastructure improvements. This includes the costs of relocating, updating, or remediating active utilities located within the Property, including, but not limited to: (i) electrical transmission conduits and equipment; (ii) natural gas lines and equipment; (iii) water mains and lines; (iv) storm and sanitary sewers and drainage; and (v) telephone and cable lines.

(b) Following the City's evaluation of sewer capacity solutions to the existing basement flooding that occurs during intense rain events in South Philadelphia, the City's Water Department has determined that a new, enlarged sewer water pipe to provide additional capacity for the Tasker Street and Reed Street sewer system (the "Sewer Improvements") would help address such flooding. While the City and PEDP anticipate that the Sewer Improvements will be located on Reed Street, PEDP might consider Tasker Street as a potential alternate location. The City's water and streets departments will work cooperatively with PEDP to implement the Sewer Improvements at the location reasonably chosen by PEDP. The City will provide specifications for the Sewer Improvements (the "Specifications").

(i) In consideration of the promises of the City herein, PEDP, through its contractors, will design and construct the Sewer Improvements based upon the Specifications. PEDP shall not be responsible to the City or to any third party for any allegation or claim asserting deficiencies or insufficiencies in the Specifications. The general parameters of the Sewer Improvements are:

(A) Addition of a 7 foot by 14 foot conduit in either Reed or Tasker Street from the river, across Columbus Boulevard, and terminating at the intersection of

either Water Street or Front Street and Dickinson Street. The Water Department and PEDP will work cooperatively to address the logistics issues to best accommodate the enlarged sewer pipe.

(B) An existing intercepting chamber in Reed (or Tasker) Street will need to be replaced by a new, enlarged, sewer chamber.

(C) A new outfall will need to be constructed in Reed (or Tasker) Street from the new chamber to the Delaware River.

(D) PEDP will grant the Water Department an enlarged right-of-way to accommodate the Sewer Improvements and, upon receipt of legal authority or obligation, the City will vacate the entire right-of-way in Dickinson Street on the Property between Columbus Boulevard and the Delaware River.

(ii) PEDP will apply for permits with the Pennsylvania Department of Environmental Protection ("PA DEP") and the Army Corps of Engineers ("Army Corps") for approval to construct the new outfall referred to in sub-section 11(b)(i)(C) above (the "Sewer Outfall Permit"). The City will use its good faith efforts to expedite the processing of any federal, state, and local zoning, environmental, or other approvals, licenses, and permits required to effectuate the Sewer Improvements. The City will work diligently and in good faith to ensure that the Sewer Improvements will not unreasonably delay the construction and opening of Foxwoods Casino Philadelphia.

(iii) Based upon the Specifications, PEDP will provide plans for review and approval by the Water Department.

(iv) PEDP will supervise day-to-day construction and will construct the Sewer Improvements to the Specifications and the plans approved by the Water Department.

(v) The City and PEDP, acting in good faith, will develop a budget for the Sewer Improvements. Notwithstanding any court order that may authorize the development of Foxwoods Casino Philadelphia Complex, including the Sewer Improvements, PEDP and the City will negotiate in good faith to enter into a developer agreement between PEDP and the City for the Sewer Improvements, such agreement to address issues, including but not limited to, plan review, insurance, bonding, and indemnification.

(vi) In an effort to assist the surrounding community, PEDP will fund the first \$5 million in third party costs of the Sewer Improvements (there shall be no costs for rights-of-way, overhead, legal document preparation, etc). To the extent PEDP's costs for the Sewer Improvements exceed \$5 million, PEDP shall receive credits against future Settlement Payments set forth in Section 12 in the amount of such excess.

(c) In accordance with its current construction plans, PEDP will initially use natural gas to heat the Foxwoods Casino Philadelphia Complex. PEDP will consider various options proposed by the City or other parties regarding the use of natural gas at the Foxwoods Casino Philadelphia Complex for electricity and cooling, and discuss its plans with the City and with the City's Municipal Energy Office before making a final decision in this regard.

12. TAX AND CLAIM SETTLEMENT.

(a) To resolve disputes over the application of certain taxes relating to the Foxwoods Casino Philadelphia (as described in the Recitals to this Agreement), the City and PEDP agree to the "Tax and Claim Settlement" as set forth in this Section 12.

(b) The City agrees to cooperate and support a ten-year real property tax abatement on improvements under City Council Ordinance 1130, as amended (Section 19-1303(3) of the Philadelphia Code), for Phase I (the "Phase I Property Tax Abatement") and for any future phases on the Property, such abatement commencing for Phase I and each subsequent phase upon the issuance of the certificate of occupancy for such phase, as permitted by then-applicable law.

(c) Back real estate taxes on the Property for all tax years due, owing, and outstanding through the end of tax year 2007, including outstanding penalties and interest, shall be settled for the negotiated sum of \$1,750,000.

(i) The amount of back taxes shall be paid in two equal sums of \$875,000 (less sums paid to date on account).

(ii) The first payment of \$875,000 (less sums paid to date on account) shall be due within 10 business days of execution of the Agreement.

(iii) The second payment of \$875,000 shall be due on the earlier of January 31, 2011, or 90 days after Foxwoods Casino Philadelphia opens to the public.

(iv) These payments under Section 12(c) shall be in settlement of the PEDP appeal of the assessment of the property. The appeal has been withdrawn based upon the Development Agreement Term Sheet and this Agreement.

(v) The provisions of Section 12(c) shall survive termination of this Agreement.

(d) During the 10-year period that the Phase I Property Tax Abatement applies to the Foxwoods Casino Philadelphia Complex, and notwithstanding the current or any subsequent market and assessed values assigned to the Property (both land and improvements), PEDP hereby agrees to pay and the City agrees to accept in full settlement and compromise of claims with the City and School District relating to real estate taxes:

(i) Real estate taxes on the entire land and improvements of the Property in the amount of \$1,200,000 for calendar year 2008 and, beginning in calendar year 2009, escalating at the rate of 5% per year.

(ii) Commencing as of the first day of the first full month after which Phase I of the Foxwoods Casino Philadelphia is complete (as described in the Plan of Development) and open to the public for business (the "Phase I Completion"), annual payments (each such payment a "Settlement Payment" and, collectively, the "Settlement Payments"), consisting of 0.8 percent (0.8%) of PEDP's Gross Terminal Revenues (as defined in the Act) on

the first Four Hundred Million Dollars (\$400,000,000) and 1 percent (1.0%) of all of PEDP's Gross Terminal Revenues in excess of Four Hundred Million Dollars (\$400,000,000), subject to the limitations set forth in Section 12(d)(ii)(B) below, payable as follows:

(A) Each Settlement Payment will be determined based on PEDP's Gross Terminal Revenues for a period of twelve consecutive calendar months (each such twelve-month period, a "Settlement Period");

(1) The first Settlement Period will commence on the first day of the month following the date on which Phase I is open to the public for business and will end on the first anniversary of such date (the "Phase I Opening");

(2) Each subsequent Settlement Period will consist of the twelve-month period ending on each subsequent anniversary of the Phase I Completion;

(3) The first Settlement Payment will be due on the fifteenth (15th) day following the last day of the first Settlement Period and all subsequent Settlement Payments will be due on the fifteenth (15th) day following the last day of the immediately preceding Settlement Period, with the final Settlement Payment due on the 15<sup>th</sup> day following the tenth anniversary of the Phase I Opening;

(B) Each Settlement Payment shall be in an amount of not less than Three Million Two Hundred Thousand Dollars (\$3,200,000) (the "Settlement Payment Minimum") and not more than Five Million Dollars (\$5,000,000) (the "Settlement Payment Maximum").

(1) For the Settlement Period during which the Phase I Completion occurs, and for any other Settlement Period that consists of less than twelve months (including without limitation, any Settlement Period in which the Settlement Payment is reduced as a result of a Force Majeure), the Settlement Payment Minimum and Settlement Payment Maximum for such Settlement Period shall be adjusted pro rata to reflect such lesser Settlement Period.

(2) Each Settlement Payment shall be subject to reduction, offset, allocation and designated use as set forth in Section 11(b)(vi) of this Agreement (notwithstanding the fact that the application of any such reduction, offset, allocation or designated use may cause the actual Settlement Payment to be made by PEDP in any given year to be less than the Settlement Payment Minimum).

(e) Use and Occupancy Taxes. For the first 20 years of operations at Foxwoods Casino Philadelphia, PEDP hereby agrees to pay and the City agrees to accept in full settlement and compromise of claims with the City and School District of the Use and Occupancy Taxes due on the entire land and improvements of the Property for Phase I and for any future phases (including any expansions of or additions of the Foxwoods Casino Philadelphia Complex, but only to the extent that such expansions or additions are used for gaming) the negotiated amount of:

(i) One Million One Hundred Thousand Dollars (\$1,100,000) per year for the first ten years, commencing upon the issuance of a certificate of occupancy for Phase I, and

(ii) Three Million Five Hundred Thousand Dollars (\$3,500,000) per year for years 11 through 20, adjusted annually beginning in the twelfth year by the percentage change in the Consumer Price Index for All Urban Consumers (U.S. city average, not seasonally adjusted, all items less food and energy) (the "Core CPI"), as reported by the U.S. Department of Labor, Bureau of Labor Statistics, from the Core CPI for the prior year, in each case irrespective of any current or subsequent assessment.

(iii) All areas used and occupied by bona fide third party tenants shall be excluded from the Tax and Claim Settlement for purposes of determining Use and Occupancy Taxes payable by such tenants. Such tenants shall be required to pay Use and Occupancy Taxes as required by law, such payments to be made to PEDP as landlord and collection agent for the City and remitted by PEDP directly to the City as required by law.

(f) The agreement by PEDP to make payments under this Agreement in connection with the Tax and Claim Settlement will be offset dollar for dollar by any casino-specific, PEDP-specific or gaming-related taxes (including taxes on slot machines or other gaming devices) imposed by the City, in the event that such taxes are permitted by state law, as well as, additional taxes imposed by the Commonwealth for the benefit of the City. For the avoidance of doubt, this offset does not include any taxes currently imposed by the City or Commonwealth of Pennsylvania at the levels existing as of the date of this Agreement.

(g) The City agrees from the Commencement Date and continuing during the term in which Settlement Payments are due not to actively seek or otherwise support any reduction or elimination of any property tax abatement if such reduction or elimination would primarily affect only casinos located in the City, waterfront development or, in particular, on PEDP or the Property, or are structured in a manner that makes manifest an intent to primarily target PEDP or casinos located in the City. The City will not seek additional payments nor oppose, reduce or eliminate any then applicable abatement of future phases of the development, whether on existing, riparian or additional lands.

(h) Except as specifically provided for in this Agreement, PEDP will not waive any tax exemptions, preemptions, abatements, credits or exclusions to which it would otherwise be entitled as a commercial developer in the City.

### 13. EVENTS OF DEFAULT.

(a) PEDP shall be deemed to have committed a "Monetary Event of Default" under this Agreement if PEDP shall fail to pay any sum payable by it under this Agreement and such failure continues for a period of ten (10) business days following PEDP's receipt of written notice thereof from City.

(b) PEDP shall be deemed to have committed a "Non-Monetary Event of Default" in the event that PEDP shall fail to perform any agreement or covenant under this Agreement and such failure continues for a period of thirty (30) days after PEDP's receipt of

written notice thereof from City except that in the event that such default cannot be cured within such thirty-day period, PEDP shall not be deemed to have committed a Non-Monetary Event of Default if PEDP has commenced to cure such default within such 30-day period and continues diligently to do so until such default is cured.

(c) The City shall be deemed to have committed a "Monetary Event of Default" under this Agreement if the City or School District breaches the Tax and Settlement Claim provisions of this Agreement or does not permit reductions in Settlement Payments as provided in this Agreement.

(d) The City shall be deemed to have committed a "Non-Monetary Event of Default" in the event that the City shall fail to perform any agreement or covenant under this Agreement and such failure continues for a period of thirty (30) days after the City's receipt of written notice therefrom from PEDP except that in the event that such default cannot be cured with such thirty-day period, the City shall not be deemed to have committed a Non-Monetary Event of Default if the City has commenced to cure such default within such 30-day period and continues diligently to do so until such default is cured.

#### 14. REMEDIES.

(a) In the event of a Monetary Event of Default consisting of a failure by PEDP to make any Settlement Payments or any payment of Use and Occupancy Settlement Taxes on the date when due (taking into account any applicable grace periods), the amount due shall accumulate interest from the date due to the date paid at the rate of twelve percent (12%) per annum.

(b) In the event of any Monetary Event of Default other than as set forth in Section 14(a) hereof (and such violations of Section 14(a) if payments are not made within 60 days), PEDP agrees that with respect to such Monetary Event of Default by PEDP, the City shall be entitled to exercise any and all remedies available at law against PEDP for the collection of money.

(c) PEDP agrees that with respect to a Non-Monetary Event of Default by PEDP, monetary damages would be uncertain and difficult to determine and accordingly, PEDP agrees that in lieu of monetary damages, the City shall be entitled to any and all available remedies at law or in equity.

(d) The City agrees that in the event of any Monetary Event of Default by City, in addition to such remedies as may be available to PEDP at law and in equity, PEDP shall be entitled to a dollar for dollar offset of the amount against any Settlement Payment which may become due and payable or against any other amounts payable under the Tax and Claim Settlement under this Agreement.

(e) The City agrees that with respect to a Non-Monetary Event of Default by City under this Agreement, PEDP shall be entitled to pursue an action in mandamus as well as any and all available remedies at law and equity.

15. LIMITATION OF LIABILITY. Any obligations of PEDP under or with respect to this Agreement shall be enforceable only against and payable out of the assets of PEDP (including gaming revenues) and the revenues from the Foxwoods Casino Philadelphia Complex, and no partner of PEDP, nor any member or partner of a partner of PEDP, or any of their respective shareholders, principals, partners, members, beneficiaries, advisors, trustees, directors, officers or employees, professionals, personal representatives, successors and assigns shall have any personal and individual liability of any kind whatsoever hereunder. In no event shall either party hereto be liable in any event for indirect, special or consequential damages.

16. MISCELLANEOUS.

(a) Smoking. The City and PEDP will work together in good faith to designate and obtain any approvals relating to areas of the Foxwoods Casino Philadelphia Complex that would be eligible for smoking under then-current applicable City ordinances.

(b) Single Point of Contact Model. PEDP and the City will employ a single point of contact model in order to facilitate the timely communication and resolution of problems, issues and questions during the term of this Agreement. Concurrent with execution of this Agreement, each party has designated to the other its contact person, which may be changed from time to time by written notice from either party to the other.

(c) Subsequent Orders, Rules and Regulations. In the event that any final order, rule or regulation promulgated by other Governmental Entity or judicial authority renders any provision of this Agreement illegal or impractical, in whole or in part, PEDP and the City will negotiate in good faith to amend the Agreement to comply with such order, rule or regulation in a manner consistent with the provisions and intent of the Agreement. PEDP agrees that if it is put on notice of any such order, rule or regulation, or reasonably believes such an order, rule or regulation is likely, it will promptly so inform the City and will not oppose any effort by the City to intervene or participate in any applicable proceeding (although the foregoing will not restrict PEDP from opposing the City with respect to the merits of such order, rule or regulation or any action by or on behalf of the City that is contrary to or in violation of the terms of this Agreement).

(d) Force Majeure. The term "Force Majeure" shall mean strikes or other similar labor disputes; governmental restrictions and limitations; war, acts of terrorism or other national emergency; accidents; earthquakes, tornadoes, floods or hurricanes; explosion or fire damages or other casualties; and extreme weather conditions, and any cause, similar or dissimilar to the foregoing, beyond the reasonable control of PEDP or the City, as appropriate.

(e) Successors and Assigns. The benefits and burdens of this Agreement shall inure to and be binding upon the parties hereto and their respective successors and assigns.

(f) Incorporation. Each provision of the Background to this Agreement and each Schedule attached hereto is hereby incorporated in this Agreement as an integral part hereof.

(g) Notices. All notices, demands, elections or other instruments required, permitted or desired to be served hereunder shall be in writing and shall be sent certified or

registered mail, postage prepaid, address as set forth below, or by Federal Express or similar overnight delivery services providing written proof of delivery. Any notice, demand, election or other instrument so delivered shall be deemed received when delivered or when delivery is refused. Addresses for service of notice may be changed in the same manner as delivery of notice. Notices may be given by counsel to a party.

If intended for City:

Mayor of City of Philadelphia  
Room 215 City Hall  
Philadelphia, PA 19107

and

City of Philadelphia  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102  
Attention: City Solicitor

If intended for PEDP:

Foxwoods Casino Philadelphia  
2 Penn Center Plaza, Suite 200  
1500 John F. Kennedy Boulevard  
Philadelphia, PA 19102  
Attention: James L. Dougherty, General Manager  
Attention: Nicholas F. Moles, Vice President and General Counsel

and

Foxwoods Development Corporation  
8860 Ladue Road, Suite 130  
St. Louis, MO 63124-2068  
Attention: Gary D. Armentrout, Managing Director

(h) Amendments and Waivers. This Agreement shall not be altered, amended, changed or modified except in a writing executed by each of the parties hereto. No delay on the part of either party in the exercise of any right, power or remedy will operate as a waiver thereof, nor shall any single or partial exercise by any party of any right, power, or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

(i) No Third Party Beneficiary. No third party, other than the successors or assigns of the City or PEDP shall have any right, benefit, standing or claim against PEDP or the City by reason of the provisions of this Agreement or be entitled to directly or indirectly enforce any provision of this Agreement.

(i) Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania. Any suits or actions arising out of this Agreement shall be brought exclusively in the Court of Common Pleas of the Commonwealth of Pennsylvania in Philadelphia County or the United States District Court for the Eastern District of Pennsylvania and the parties hereby subject themselves to the jurisdiction of those courts.

(j) Counterparts. This Agreement may be executed in one or more identical counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument.

(k) Captions. Section captions used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

(l) Integration. This Agreement embodies the entire agreement and understanding between the parties and supersedes all prior agreements and understandings relating to the subject matter hereof.

(m) Construction and Advice of Counsel. Each of the parties acknowledges that it has been advised by counsel, or had the opportunity to be advised by counsel, in the drafting, negotiation, execution and delivery of this Agreement, and has actively participated in the drafting, negotiation, execution and delivery of this Agreement. In no event will any provision of this Agreement be construed for against either party as a result of such party having drafted of all or any portion hereof.

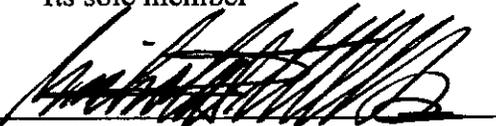
IN WITNESS WHEREOF, the undersigned parties have entered into this Agreement, to be effective as of the Effective Date.

Philadelphia Entertainment and Development  
Partners, L.P.

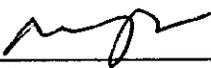
By: FDC/PEDP GP, LLC  
Its general partner

By: Foxwoods GP Philadelphia, LLC  
Its sole member

By: Foxwoods Development Company, LLC  
Its sole member

By:   
Nicholas F. Moles  
Authorized Person

City of Philadelphia and School District of  
Philadelphia

By:   
Romulo L. Diaz, Jr.  
City Solicitor

## **List of Schedules**

Schedule 1 - Property Description

Schedule 2 - The Ordinances

Schedule 3 - Roofing Diagram

Schedule 4 - Sample Developer Agreement Provisions

Schedule 1 - Property Description

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected.

SITUATE in the 1st Ward of the City of Philadelphia described according to a Survey and Plan of Property made for Tower Investments Incorporated by William E. Barton, Land Surveyor 786-A dated 3/10/1992, last revised 9/13/1993, to wit:

BEGINNING at a point formed by the intersection of the Southeasterly side of Delaware Avenue now Christopher Columbus Boulevard (150 feet wide) and the Northerly side of Tasker Street (50 feet wide); thence extending from said point of beginning, North 14 degrees 41 minutes 39 seconds East along the said Southeasterly side of Delaware Avenue now Christopher Columbus Boulevard, the distance of 874 feet 0-1/2 inches to a point on the center line in the bed of former Reed Street; thence extending South 75 degrees 13 minutes 21 seconds East, along the said center line in the bed of former Reed Street, the distance of 909 feet, 5-1/2 inches to a point on the Bulkhead line established by the Secretary of War 9/10/1940; thence extending South 75 degrees 13 minutes 21 seconds East still along the said center line in the bed of former Reed Street, the distance of 543 feet 7-1/8 inches to a point on the Delaware River Pierhead line established by the Secretary of War 9/10/1940; thence extending South 8 degrees 47 minutes 13 seconds East along the said Delaware River Pierhead Line established by the Secretary of War 9/10/1940, the distance of 517 feet 8-1/4 inches to a point; thence extending South 8 degrees 58 minutes 40.7 seconds East still along the Delaware River Pierhead Line established by the Secretary of War 9/10/1940, the distance of 355 feet 11-7/8 inches to a point; thence extending North 75 degrees 13 minutes 21 seconds West, the distance of 495 feet 6-1/2 inches to a point on the said Bulkhead Line established by The Secretary of War 9/10/1940; thence extending North 63 degrees 16 minutes 39 seconds West, the distance of 610 feet 1-3/8 inches to a point; thence extending South 14 degrees 41 minutes 39 seconds West, the distance of 199 feet 11-3/4 inches to a point on the said Northeasterly side of Tasker Street; thence extending North 75 degrees 13 minutes 21 seconds West along the said Northeasterly side of Tasker Street, the distance of 710 feet to a point on the said Southeasterly side of Delaware Avenue, being the first mentioned point and place of beginning.

BEING known as 1499 South Christopher Columbus Boulevard., Philadelphia, Pennsylvania

BEING BRT No. 88-4-0009-06.

BEING the same premises which Sugar Mill Associates, a Pennsylvania limited partnership by Deed dated 1/7/2005 and recorded 1/12/2005 in the County of Philadelphia in Document ID#51097013 conveyed unto Roman Philadelphia Property, LP, a Pennsylvania limited partnership and the said Roman Philadelphia Property, LP, a Pennsylvania limited partnership filed on 2/25/2005 an Amendment to its Limited Partnership Agreement changing its name to Philadelphia Entertainment and Development Partners, L.P., in fee.

Schedule 2 – The Ordinances



# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
ROOM 215 CITY HALL  
PHILADELPHIA, PENNSYLVANIA 19107-3295  
(215) 686-2181  
FAX (215) 686-2180

JOHN F. STREET, ESQUIRE  
MAYOR

TO THE PRESIDENT AND MEMBERS OF THE  
COUNCIL OF THE CITY OF PHILADELPHIA:

I am transmitting herewith for the introduction and consideration of your Honorable Body a proposed ordinance entitled:

## "AN ORDINANCE

To amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River; making certain designations relating to gross floor area, height regulations and off-street parking; and providing that provisions relating to the Commercial Entertainment District shall control over certain other provisions; all under certain terms and conditions."

Attached please find correspondence from Marcia Moore Makadon, Acting Chairperson, Philadelphia City Planning Commission, providing additional information regarding this proposed ordinance. The proposed ordinance has been approved by the Law Department as indicated in the attached letter from Richard Feder, Chief Deputy City Solicitor. I hereby recommend your favorable consideration of this proposed ordinance.

Respectfully submitted,

JOHN F. STREET



# CITY OF PHILADELPHIA

Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

**Romulo L. Diaz, Jr.**  
City Solicitor

**Richard Feder**  
Chief Deputy City Solicitor  
(215) 683-5013

May 30, 2007

Marcia Moore Makadon  
Acting Chairperson  
Philadelphia City Planning Commission  
One Parkway Building  
1515 Arch Street, 13th Floor  
Philadelphia, PA 19102

Dear Ms. Makadon:

You have submitted for review a draft of a proposed Ordinance entitled:

## **"AN ORDINANCE**

To amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River; making certain designations relating to gross floor area, height regulations and off-street parking; and providing that provisions relating to the Commercial Entertainment District shall control over certain other provisions; all under certain terms and conditions."

This proposed Ordinance is in proper form and there is no legal objection to its enactment by Council. In accordance with customary practice, we have not been requested to review any factual premises upon which this Ordinance may be based.

Sincerely,

Richard Feder

RF:sjk

## AN ORDINANCE

To amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River; making certain designations relating to gross floor area, height regulations and off-street parking; and providing that provisions relating to the Commercial Entertainment District shall control over certain other provisions; all under certain terms and conditions..

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

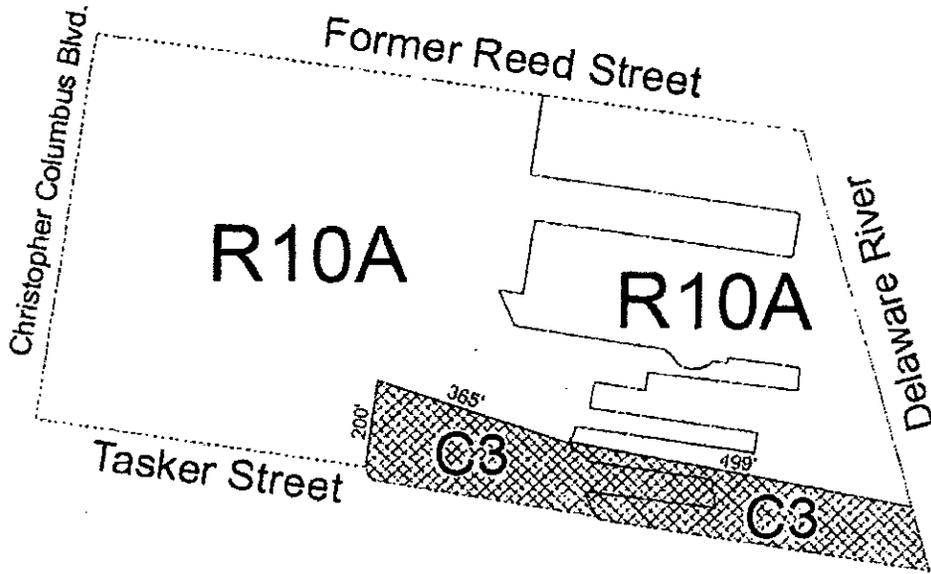
SECTION 1. Pursuant to Section 14-103 of The Philadelphia Code, The Philadelphia Zoning Maps are hereby amended by changing the zoning designations of certain areas of land within an area bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River from the existing zoning designations indicated on Map "A" set forth below to the zoning designations indicated on Map "B" set forth below.

SECTION 2. Pursuant to Chapter 14-400 of The Philadelphia Code, the following designations are hereby made with respect to the Commercial Entertainment District designated with the enactment of this Ordinance:

1. The provisions of Section 14-406(2)(a), relating to gross floor area, shall apply.
2. The provisions of Section 14-407(1), relating to height regulations, shall apply.
3. The provisions of Section 14-408(1)(a)(.1)(.a), relating to off-street parking for licensed gaming facilities, shall apply.

SECTION 3. With respect to the Commercial Entertainment District designated with the enactment of this Ordinance, if the provisions of Chapter 14-400 of the Philadelphia Code, relating to Commercial Entertainment Districts, conflict with the provisions of Section 14-1624, relating to North Delaware Avenue Area Special District Controls, the provisions of Chapter 14-400 shall control.

# Existing Zoning - Map A

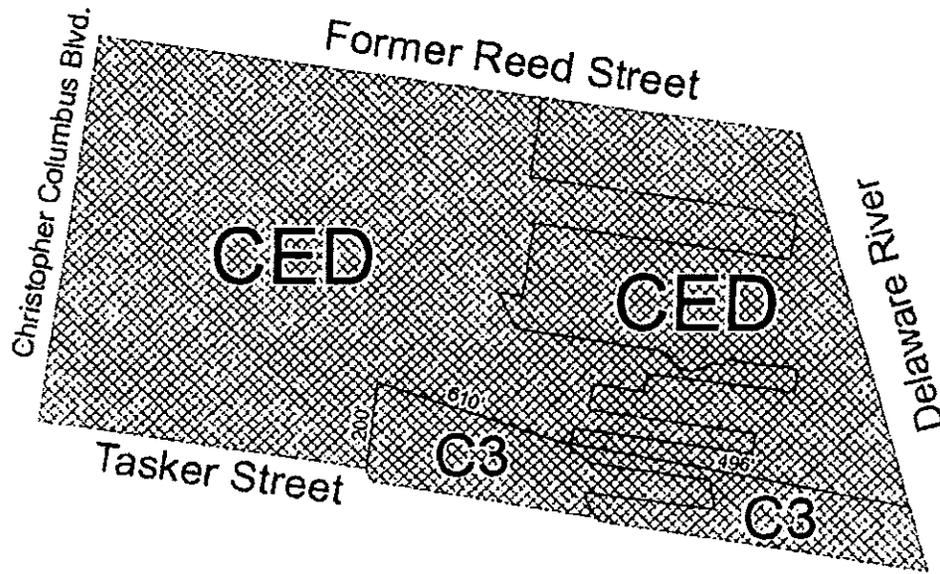


## Legend

-  Commercial
-  Residential



# Proposed Zoning - Map B



## Legend

-  CED Comercial Entertainment District
-  C3 Commercial





# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
ROOM 215 CITY HALL  
PHILADELPHIA, PENNSYLVANIA 19107-3295  
(215) 686-2181  
FAX (215) 686-2180

JOHN F. STREET, ESQUIRE  
MAYOR

TO THE PRESIDENT AND MEMBERS OF THE  
COUNCIL OF THE CITY OF PHILADELPHIA:

I am transmitting herewith for the introduction and consideration of your Honorable Body a proposed ordinance entitled:

## "AN ORDINANCE

Approving the Plan of Development for a Commercial Entertainment District in the area generally bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River."

Attached please find correspondence from Marcia Moore Makadon, Acting Chairperson, Philadelphia City Planning Commission, providing additional information regarding this proposed ordinance. The proposed ordinance has been approved by the Law Department as indicated in the attached letter from Richard Feder, Chief Deputy City Solicitor. I hereby recommend your favorable consideration of this proposed ordinance.

Respectfully submitted,

JOHN F. STREET



# CITY OF PHILADELPHIA

Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

**Romulo L. Diaz, Jr.**  
City Solicitor

**Richard Feder**  
Chief Deputy City Solicitor  
(215) 683-5013

May 30, 2007

Marcia Moore Makadon  
Acting Chairperson  
Philadelphia City Planning Commission  
One Parkway Building  
1515 Arch Street, 13th Floor  
Philadelphia, PA 19102

Dear Ms. Makadon:

You have submitted for review a draft of a proposed Ordinance entitled:

## "AN ORDINANCE

Approving the Plan of Development for a Commercial Entertainment District in the area generally bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River."

This proposed Ordinance is in proper form and there is no legal objection to its enactment by Council. In accordance with customary practice, we have not been requested to review any factual premises upon which this Ordinance may be based.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Feder".

Richard Feder

RF:sjk

05/30/2007 2:02 PM

AN ORDINANCE

Approving the Plan of Development for a Commercial Entertainment District in the area generally bounded by former Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Pursuant to Section 14-403 of The Philadelphia Code, the Plan of Development for the Commercial Entertainment District in the area generally bounded by Reed Street, Tasker Street (Extended), Christopher Columbus Boulevard, and the Delaware River, is hereby approved, allowing application to be made in such District for required permits. The complete Plan of Development is set forth in Exhibits "A" and "B", on file with the Chief Clerk's Office.

SECTION 2. This Ordinance shall take effect immediately.

**Exhibit "A"**

**Exhibit "B"**



# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
ROOM 215 CITY HALL  
PHILADELPHIA, PENNSYLVANIA 19107-3295  
(215) 686-2181  
FAX (215) 686-2180

JOHN F. STREET, ESQUIRE  
MAYOR

May 30, 2007

The Honorable Anna Verna  
President, City Council  
Room 494, City Hall  
Philadelphia, PA 19107

Dear Council President Verna:

I am transmitting for the consideration of your Honorable Body the following:

"AN ORDINANCE Authorizing and directing the revision of lines and grades on a portion of City Plan No. 12-S by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River and by widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, under certain terms and conditions."

The proposed ordinance has my approval and, therefore, I recommend that Your Honorable Body give this matter your favorable consideration.

Respectfully submitted,

John F. Street, Esquire  
Mayor



# CITY OF PHILADELPHIA

Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

**Romulo L. Diaz, Jr.**  
City Solicitor

**Richard Feder**  
Chief Deputy City Solicitor  
(215) 683-5013

May 30, 2007

Clarena Tolson, Commissioner  
Streets Department  
1400 John F. Kennedy Blvd.  
Municipal Services Building, 7<sup>th</sup> Floor  
Philadelphia, PA 19102

Dear Commissioner Tolson:

You have submitted for review a draft of a proposed Ordinance entitled:

## **"AN ORDINANCE**

Authorizing and directing the revision of lines and grades on a portion of City Plan No. 12-S by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River and by widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, under certain terms and conditions."

This proposed Ordinance is in proper form and there is no legal objection to its enactment by Council. In accordance with customary practice, we have not been requested to review any factual premises upon which this Ordinance may be based.

Sincerely,



Richard Feder

RF:sjk

## **AN ORDINANCE**

Authorizing and directing the revision of lines and grades on a portion of City Plan No. 12-S by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River and by widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, under certain terms and conditions.

### **THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:**

**SECTION 1.** Pursuant to Section 11-405 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is authorized to revise the lines and grades on a portion of City Plan No. 12-S by:

- (a) Striking from the City Plan and abandoning a certain 50 feet wide right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River.
- (b) Widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River from 50 feet to 70 feet

**SECTION 2.** This authorization is conditional upon compliance with the following requirements within two (2) years from the date this Ordinance becomes law:

- (a) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, to release the City from all damages or claims for damages which may arise by reason of the City Plan changes authorized herein; in lieu thereof, only after the party in interest has demonstrated best efforts to obtain such agreements and such efforts are unsuccessful, the party in interest shall file an agreement and bond with corporate surety, satisfactory to the City Solicitor, to indemnify the City as aforesaid.
- (b) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to release, indemnify and defend the City from all damages or claims for damages that may arise by reason of the City Plan changes authorized herein.
- (c) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to curbing, sidewalk paving, cartway paving, water pipe, fire hydrants, sewers, inlets and manholes, street light poles and equipment, and to other City structures either overhead, underground, or upon the surface, including the relocation, abandonment, repairing, reconstruction, cutting, and sealing of such structures and facilities which may be necessary in the judgment of the Department of Streets and the Water Department by reason of the City Plan changes authorized herein. The agreement shall provide for the removal of all existing City-owned street lighting poles and equipment and for their delivery to the storage yard of the Street Lighting Division at 701 Ramona Avenue at no cost to the City. The agreement shall provide for the removal of salvageable

hydrants, valves, manhole covers, frames, and connections, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at Twenty-ninth Street and Cambria Street at no cost to the City. The agreement shall also provide for the removal of salvageable cast iron manholes and covers, street inlet grates, frames and hoods, and inlet castings, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at 3201 Fox Street at no cost to the City. The agreement shall provide that this work be completed within two years from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.

- (d) The party in interest shall file a bond, with corporate surety, satisfactory to the City Solicitor, and in an amount satisfactory to the Department of Streets, to cover the cost of the work required under Section 2(c).
- (e) The filing of an agreement by the owner or owners of property affected thereby, granting to the City and the Philadelphia Gas Works the widened portion of the aforesaid right of way for drainage purposes, water main purposes, and gas main purposes authorized in Section 1(b) of this Ordinance. The agreement shall provide that no changes in grades shall be made and that no fences, buildings, or other structures, either overhead, underground, or upon the surface, shall be constructed within the lines of the right of way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the Water Department and the Philadelphia Gas Works. The agreement shall also grant the right of access and occupation at any and all times to the officers, agents, employees, and contractors of the Water Department and the Philadelphia Gas Works for the purpose of construction, reconstruction, maintenance, alterations, repairs, and inspection of present and future facilities and structures.
- (f) The payment by the party in interest of the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

**SECTION 3.** This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one hundred and twenty (120) days after this Ordinance becomes law.



# CITY OF PHILADELPHIA

Law Department  
1615 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

**Romulo L. Diaz, Jr.**  
**City Solicitor**

**Lewis Rosman**  
**Senior Attorney**  
**(215) 683-5009**

November 14, 2007

Clarena Tolson, Commissioner  
Streets Department  
1400 John F. Kennedy Blvd.  
Municipal Services Building, 7<sup>th</sup> Floor  
Philadelphia, PA 19102

Dear Commissioner Tolson:

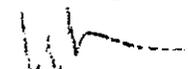
You have submitted for review a draft of a proposed Ordinance entitled:

## **"AN ORDINANCE**

Authorizing and directing the revision of lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by revising the curblines and grades of Christopher Columbus Boulevard from a point approximately nine-hundred feet south of Spruce Street to a point approximately one-thousand two-hundred feet south of Tasker Street, by revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom, by striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom, by reserving and placing on City Plan a right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this Ordinance, by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, and by widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, all under certain terms and conditions."

This proposed Ordinance is in proper form and there is no legal objection to its enactment by Council. In accordance with customary practice, we have not been requested to review any factual premises upon which this Ordinance may be based.

Sincerely,

  
Lewis Rosman

LR:sjk

## AN ORDINANCE

Authorizing and directing the revision of lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by revising the curblines and grades of Christopher Columbus Boulevard from a point approximately nine-hundred feet south of Spruce Street to a point approximately one-thousand two-hundred feet south of Tasker Street, by revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom, by striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom, by reserving and placing on City Plan a right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this Ordinance, by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, and by widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, all under certain terms and conditions.

### THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

**SECTION 1.** Pursuant to Sections 11-404 and 11-405 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is authorized to revise the lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by:

- (a) Revising the curblines and grades of Christopher Columbus Boulevard from a point approximately nine-hundred feet south of Spruce Street to a point approximately one-thousand two-hundred feet south of Tasker Street.
- (b) Revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom.
- (c) Striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom.
- (d) Reserving and placing on the City Plan a fifty feet wide right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this Ordinance.
- (e) Striking from the City Plan and abandoning a certain fifty feet wide right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River.
- (f) Widening a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River from fifty feet to seventy feet.

**SECTION 2.** This authorization is conditional upon compliance with the following requirements within two (2) years from the date this Ordinance becomes law:

- (a) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, to release the City from all damages or claims for damages which may arise by reason of the City Plan changes authorized herein; in lieu thereof, only after the party in interest has demonstrated best efforts to obtain such agreements and such efforts are unsuccessful, the party in interest shall file an agreement and a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, to indemnify the City as aforesaid.
- (b) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to release, indemnify, and defend the City from all damages or claims for damages that may arise by reason of the City Plan changes authorized herein.
- (c) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to curbing, sidewalk paving, cartway paving, water pipe, fire hydrants, sewers, inlets and manholes, street light poles and equipment, and to other City structures either overhead, underground, or upon the surface, including the relocation, abandonment, repairing, reconstruction, cutting, and sealing of such structures and facilities which may be necessary in the judgment of the Department of Streets and the Water Department by reason of the City Plan changes authorized herein. The agreement shall provide for the removal of all existing City-owned street lighting poles and equipment and for their delivery to the storage yard of the Street Lighting Division at 701 Ramona Avenue at no cost to the City. The agreement shall provide for the removal of salvageable hydrants, valves, manhole covers, frames, and connections, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at Twenty-Ninth Street and Cambria Street at no cost to the City. The agreement shall also provide for the removal of salvageable cast iron manholes and covers, street inlet grates, frames and hoods, and inlet castings, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at 3201 Fox Street at no cost to the City. The agreement shall provide that this work be completed within one year from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.
- (d) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to any public utility facilities which may be necessary in the judgment of PECO, Verizon, or any other public utility which maintains facilities within the affected area. The agreement shall provide that this work be completed within one year from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.
- (e) The party in interest shall file a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, in an amount satisfactory to the Department of Streets and the Water Department, to cover the cost of the work required under Section 2(c).
- (f) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, granting to the City the aforesaid right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes authorized in Section 1(d) of this Ordinance and the widened portion of the aforesaid right of way for

drainage purposes, water main purposes, and gas main purposes authorized in Section 1(f) of this Ordinance. The agreement shall provide that no changes in grades shall be made and that no fences, buildings, or other structures, either overhead, underground, or upon the surface, shall be constructed within the lines of the right of way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the Water Department, the Philadelphia Gas Works, and any other public utility which maintains facilities within the said rights of way. The agreement shall also grant the right of access and occupation at any and all times to the officers, agents, employees, and contractors of the City, the Philadelphia Gas Works, and any other public utility which maintains facilities within the said rights of way for the purpose of construction, reconstruction, maintenance, alterations, repairs, and inspection of present and future facilities and structures.

- (g) The payment by the party in interest of the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

**SECTION 3.** This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one hundred and twenty (120) days after this Ordinance becomes law.



# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
ROOM 215 CITY HALL  
PHILADELPHIA, PENNSYLVANIA 19107-3205  
(215) 896-2181  
FAX (215) 896-2180

JOHN F. STREET, ESQUIRE  
MAYOR

November 21, 2007

The Honorable Anna Verna  
Chairwoman, Committee of the Whole  
Room 490, City Hall  
Philadelphia, PA 19107

To the President and Members of City Council of the City of Philadelphia:

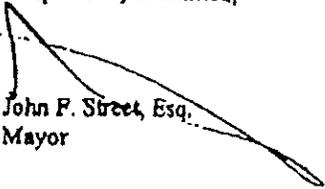
I am transmitting herewith for the introduction and consideration of your Honorable body a proposed Ordinance. The proposed Ordinance is entitled:

## "AN ORDINANCE

Authorizing and directing the revision of lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by revising the curblines and grades of Christopher Columbus Boulevard from a point approximately nine-hundred feet south of Spruce Street to a point approximately one-thousand two-hundred feet south of Tasker Street, by revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom, by striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom, by reserving and placing on City Plan a right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this Ordinance, by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, and by placing on City Plan a right of way for drainage purposes in a location to be determined by the Water Department, all under certain terms and conditions."

The proposed ordinance has my approval and, therefore, I recommend that Your Honorable Body give this matter your favorable consideration.

Respectfully submitted,

  
John F. Street, Esq.  
Mayor



# CITY OF PHILADELPHIA

Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

**Romulo L. Diaz, Jr.**  
**City Solicitor**

**Lewis Rosman**  
**Senior Attorney**  
**(215) 683-5009**

November 21, 2007

Clarena Tolson, Commissioner  
Streets Department  
1400 John F. Kennedy Blvd.  
Municipal Services Building, 7<sup>th</sup> Floor  
Philadelphia, PA 19102

Dear Commissioner Tolson:

You have submitted for review a draft of a proposed Ordinance entitled:

## **"AN ORDINANCE**

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This proposed Ordinance is in proper form and there is no legal objection to its enactment by Council. In accordance with customary practice, we have not been requested to review any factual premises upon which this Ordinance may be based.

Sincerely,

A handwritten signature in black ink, appearing to read "Lewis Rosman".

Lewis Rosman

LR:sjk

## AN ORDINANCE

Authorizing and directing the revision of lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by revising the curblines and grades of Christopher Columbus Boulevard from a point approximately nine-hundred feet south of Spruce Street to a point approximately one-thousand two-hundred feet south of Tasker Street, by revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom, by striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom, by reserving and placing on City Plan a right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this Ordinance, by striking from the City Plan and abandoning a certain right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River, and by placing on City Plan a right of way for drainage purposes in a location to be determined by the Water Department, all under certain terms and conditions.

### THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

**SECTION 1.** Pursuant to Sections 11-404 and 11-405 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is authorized to revise the lines and grades on a portion of City Plan Nos. 12-S, 19-S, 71, 238, and 308 by:

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- (b) Revising the curblines and grades of Tasker Street from Christopher Columbus Boulevard to a point approximately two-hundred fifty feet westwardly therefrom.
- (c) Striking from the City Plan and vacating Tasker Street from Christopher Columbus Boulevard to a dead end approximately seven-hundred ten feet eastwardly therefrom.
- (d) Reserving and placing on the City Plan a fifty feet wide right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Tasker Street being stricken from the City Plan by authority of this ordinance.
- (e) Striking from the City Plan and abandoning a certain fifty feet wide right of way for water main purposes within the lines of former Dickinson Street from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River.
- (f) Subject to the determination of the Water Department as to necessity,
  - (1) Placing on the City Plan a twenty feet wide right of way for drainage purposes extending from Christopher Columbus Boulevard to the Pierhead Line of the Delaware River and adjacent to the southerly side of a certain right of way for drainage purposes, water main purposes, and gas main purposes within the lines of former Reed Street,or
  - (2) Placing on the City Plan a twenty feet wide right of way for drainage purposes extending from Christopher Columbus Boulevard to the Pierhead Line of the Delaware

River and adjacent to the northerly side of Tasker Street (proposed to be stricken from the City Plan and reserved as a right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes by authority of this Ordinance) and the northerly side of a certain right of way for drainage purposes and water main purposes extending from the easterly dead end of Tasker Street to the Pierhead Line of the Delaware River.

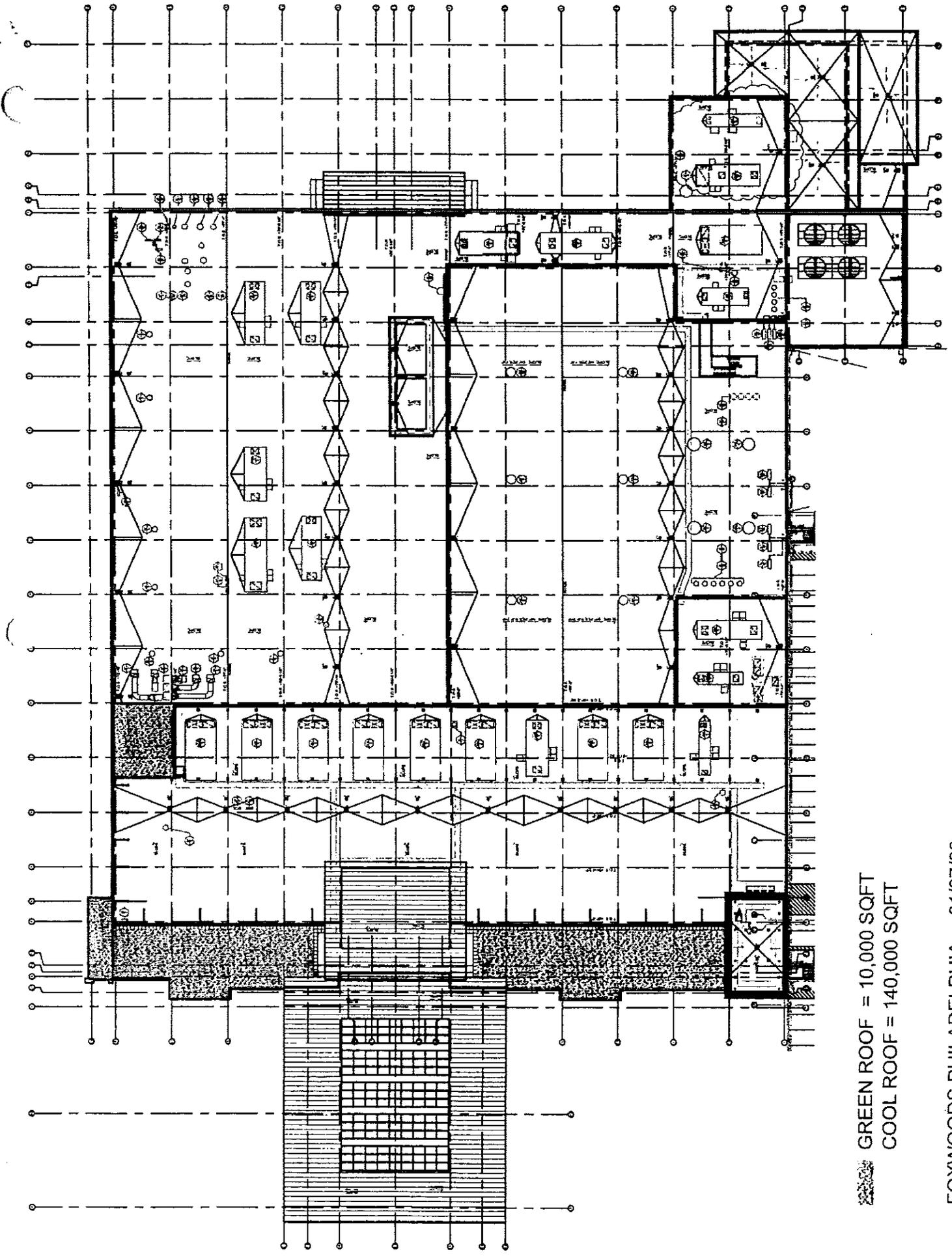
**SECTION 2.** This authorization is conditional upon compliance with the following requirements within two (2) years from the date this Ordinance becomes law:

- (a) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, to release the City from all damages or claims for damages which may arise by reason of the City Plan changes authorized herein; in lieu thereof, only after the party in interest has demonstrated best efforts to obtain such agreements and such efforts are unsuccessful, the party in interest shall file an agreement and a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, to indemnify the City as aforesaid.
- (b) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to release, indemnify, and defend the City from all damages or claims for damages that may arise by reason of the City Plan changes authorized herein.
- (c) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to curbing, sidewalk paving, cartway paving, water pipe, fire hydrants, sewers, inlets and manholes, street light poles and equipment, and to other City structures either overhead, underground, or upon the surface, including the relocation, abandonment, repairing, reconstruction, cutting, and sealing of such structures and facilities which may be necessary in the judgment of the Department of Streets and the Water Department by reason of the City Plan changes authorized herein. The agreement shall provide for the removal of all existing City-owned street lighting poles and equipment and for their delivery to the storage yard of the Street Lighting Division at 701 Ramona Avenue at no cost to the City. The agreement shall provide for the removal of salvageable hydrants, valves, manhole covers, frames, and connections, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at Twenty-Ninth Street and Cambria Street at no cost to the City. The agreement shall also provide for the removal of salvageable cast iron manholes and covers, street inlet grates, frames and hoods, and inlet castings, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at 3201 Fox Street at no cost to the City. The agreement shall provide that this work be completed within one year from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.
- (d) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to any public utility facilities which may be necessary in the judgment of PECO, Verizon, or any other public utility which maintains facilities within the affected area. The agreement shall provide that this work be completed within one year from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.

- (e) The party in interest shall file a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, in an amount satisfactory to the Department of Streets and the Water Department, to cover the cost of the work required under Section 2(c).
- (f) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, granting to the City the aforesaid right of way for drainage purposes, water main purposes, gas main purposes, and public utility purposes authorized in Section 1(d) of this Ordinance and the aforesaid right of way for drainage purposes authorized in Section 1(f) of this Ordinance. The agreement shall provide that no changes in grades shall be made and that no fences, buildings, or other structures, either overhead, underground, or upon the surface, shall be constructed within the lines of the right of way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the Water Department, the Philadelphia Gas Works, and any other public utility which maintains facilities within the said rights of way. The agreement shall also grant the right of access and occupation at any and all times to the officers, agents, employees, and contractors of the City, the Gas Works, and any other public utility which maintains facilities within the said rights of way for the purpose of construction, reconstruction, maintenance, alterations, repairs, and inspection of present and future facilities and structures.
- (g) The payment by the party in interest of the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

**SECTION 3.** This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one hundred and twenty (120) days after this Ordinance becomes law.

Schedule 3 – Roofing Diagram



GREEN ROOF = 10,000 SQFT  
COOL ROOF = 140,000 SQFT

Schedule 4 – Sample Developer Agreement Provisions

## STREET STRIKING RELEASE AGREEMENT

THIS AGREEMENT, made on \_\_\_\_\_, 200\_, between \_\_\_\_\_  
 (“Owner”) and THE CITY OF PHILADELPHIA, (“City”).

### BACKGROUND

- A. The Council of the City of Philadelphia has adopted an Ordinance (Bill No. ), approved by the Mayor on \_\_\_\_\_, 200\_, entitled “AN ORDINANCE authorizing the revision of lines and grades on a portion of City Plan No. by striking from the City Plan and vacating, \_\_\_\_\_ under certain terms and conditions (the “Ordinance”), attached as Exhibit “A” and made a part hereof.
- B. Section 2(a) of the Ordinance requires the owners of property affected thereby to file agreements releasing the City from all damages or claims for damages which may arise by reason of the City Plan changes (“Plan Changes”) authorized therein.
- C. Owner is the owner of the properties identified on Addendum A, five of the properties affected by the Ordinance.
- D. Under the Plan Changes, the City is authorized to strike a street that abuts Owner’s property, and cause the reversion (“Reversion”) to the Owner of the right to the portion of such abutting street that the Owner’s predecessor owner originally dedicated to the City.
- E. The parties desire to enter into this Agreement in accordance with the Ordinance.

THEREFORE, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. The Background above is hereby incorporated into this Agreement.
2. In consideration for the Reversion, Owner, for itself, its successors and assigns, covenants and agrees to release, waive, discharge and covenant not to sue the City, its officials, officers, employees, departments, commissions, boards, and agents, and the respective heirs, successors and assigns of each of the foregoing, from all damages, claims, actions, penalties, liabilities, losses and expenses which may arise by reason of:
  - 2.1. the Plan Changes affecting the area (“Area”) of the City Plan stricken by such Plan Changes, or

2.2. any use of, or incident or activity occurring under, over or on the Area occurring subsequent to the Reversion, or

2.3. any latent or patent defect in or with respect to the Area.

3. **Right-of-Way.**

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE \_\_\_<sup>TH</sup> WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

**BEGINNING**

**THENCE**

**THENCE**

**THENCE**

**BEING**

4. This Agreement may be filed of record in the office of the Department of Records of the City of Philadelphia, which will serve as public notice of the waiver and release set forth in Section 2 hereof.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused these presents to be duly executed the day and year first above written.

APPROVED AS TO FORM  
\_\_\_\_\_, City Solicitor

THE CITY OF PHILADELPHIA

PER: \_\_\_\_\_  
\_\_\_\_\_  
Assistant City Solicitor

BY: \_\_\_\_\_  
Streets Commissioner

[SEAL]

BY: \_\_\_\_\_

TITLE:

ATTEST: \_\_\_\_\_

TITLE: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF PHILADELPHIA

:

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me,  
 \_\_\_\_\_, the under-signed office, a Notary Public in and for the  
 State and County aforesaid, personally appeared \_\_\_\_\_, who acknowledged himself to be  
 the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that  
 he/she as such deponent being duly authorized to do so, executed the foregoing instrument for  
 the purposes therein contained by signing the name of himself as \_\_\_\_\_, and desired that  
 the same might be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Notary Public  
My Commission Expires

Philadelphia, Philadelphia County  
Pennsylvania

**ADDENDUM A**

, Philadelphia, Pennsylvania 191

## STREET STRIKING INDEMNITY AGREEMENT

THIS AGREEMENT, (“**Agreement**”) is made this \_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_ (“**Owner**”) and the City of Philadelphia acting through its Streets Department (“**City**”).

### BACKGROUND

- A. The Council of the City of Philadelphia has adopted an Ordinance (Bill No. \_\_\_\_\_), approved by the Mayor on \_\_\_\_\_, entitled “AN ORDINANCE authorizing the revision of lines and grades on a portion of City Plan No. \_\_\_ bounded by ..., under certain terms and conditions” (“**Ordinance**”), attached as **Exhibit “A”** and made a part hereof.
- B. Section 2 (a) of the Ordinance requires the party requesting changes to the City Plan to file an agreement or agreements, executed by all owners of property affected by the Ordinance, to release the City from all damages and claims for damages that may arise by reason of such City Plan changes (“**Plan Changes**”).
- C. Section 2 (b) of the Ordinance requires the party in interest to file an agreement to release, indemnify and defend the City from all damages or claims for damages, which may arise by reason of the Plan Changes.
- D. The Owner is the owner of properties listed on **Exhibit “B”**, all of which are properties affected by the Ordinance, and the party in interest requesting the Plan Changes under the Ordinance.
- E. The parties desire to enter into this Agreement in accordance with the Ordinance.

THEREFORE, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

- 1. **Background.** The Background above is hereby incorporated into this Agreement
- 2. **Release and Indemnity.**
  - 2.1. In consideration for the City undertaking the Plan Changes at the request of the Owner, the Owner, for itself, its successors and assigns, covenants and agrees to release, waive, discharge and covenant not to sue the City, its officials, officers, employees,

departments, commissions, boards, and agents, and the respective heirs, successors and assigns of each of the foregoing, from all damages, claims, actions, penalties, liabilities, losses and expenses which may arise by reason of:

- 2.1.1. the Plan Changes affecting the area of the City Plan stricken by such Plan Changes (“Area”),
  - 2.1.2. any use of, or incident occurring or activities on or about, the Area,
  - 2.1.3. any breach by Owner of any of its obligations under this Agreement, or
  - 2.1.4. any latent or patent defect in or with respect to the Area.
- 2.2. The Owner covenants to diligently pursue the other property owners affected by the Ordinance to obtain their execution of the Street Striking Release Agreements, attached as **Exhibit “C”**, releasing the City from all damages and claims for damages that may arise by reason of the Plan Changes. In the event that the Owner demonstrates to the satisfaction of the City that it has diligently pursued, but was unsuccessful in obtaining the execution of any such agreements, the Owner must file agreements and bond with corporate surety, satisfactory to the Law Department, to release the City for all damages and claims for damages as provided under the Street Striking Release Agreement.
- 2.3. In consideration for the City undertaking the Plan Changes at the request of the Owner, Owner, for itself, its successors and assigns, shall indemnify, defend and hold harmless the City, its officials, officers, employees, departments, commissions, boards, and agents, and the respective heirs, successors and assigns of each of the foregoing (the “**Indemnified Parties**”) from and against any and all damages, claims, actions, penalties, liabilities, losses and expenses (including, but not limited to, reasonable attorney's fees and expenses) incurred by or asserted against any of the Indemnified Parties by any person or entity (collectively, “**Claims**”) as a result of:
- 2.3.1 the Plan Changes affecting the Area,
  - 2.3.2 any use of, or incident occurring or activities on or about, the Area,
  - 2.3.3 any breach by Owner of any of its obligations under this Agreement, or
  - 2.3.4 any latent or patent defect in or with respect to the Area.
- 2.4 The Owner covenants and agrees to pay any and all such Claims, whether defended by the City or the Owner, and to reimburse the City for the payment of estimated compensation as required by the Eminent Domain Code.
- 2.5 **ONLY WHEN A BOND IS NEEDED** In the event of any Claims, the City will be entitled to and call upon the surety to carry out its obligations under the surety bond (“**Surety Bond**”) provided under the Surety Bond from the Owner and surety to the City of even date herewith, and incorporated herein by reference.

3. **Work.**

3.1. Owner hereby covenants and agrees, for itself, its successors and assigns, at its own cost and expense, and without cost to the City, to undertake the following work necessitated by the Plan Changes ("**Work**"):

3.1.1 Make any and all changes and adjustments to curbing, sidewalk paving, cartway paving, water pipe, fire hydrants, sewers, inlets and manholes street light poles and equipment and other City structures located either overhead, underground or upon the surface of the street, including but not limited to the relocation, abandonment, repairing, reconstruction, cutting and sealing of such structures and facilities, which may be necessary in the sole judgment and discretion of the Department of Streets and the Water Department,

3.1.2 The removal of all City-owned street lighting poles and equipment, which may be necessary in the sole judgment and discretion of the Department of Streets, and their delivery to the storage yard of the Street Lighting Division at 701 Ramona Avenue,

3.1.3 The removal of all salvageable hydrants, valves, manhole covers, frames and connections, as determined in the sole judgment and discretion of the Water Department, and their delivery to the Water Department's storage yard located at 29<sup>th</sup> and Cambria Streets, and

3.1.4 The removal of all salvageable cast iron manholes and covers, street inlet grates, frames and hoods, and inlet castings, as determined in the sole judgment and discretion of the Water Department, and their delivery to the storage yard of the Water Department located at 3201 N. Fox Street.

3.2. Owner covenants and agrees that the Work will be performed and completed before one (1) year from the date of confirmation by the Board of Surveyors of the Plan Changes ("**Completion Date**").

4. **Bond.** Owner agrees to file a bond in the amount of X Dollars (\$X.XX), with corporate surety, satisfactory to the Law Department, to cover the cost of the Work required under Section 3 of this Agreement.

5. **Default; Costs.**

5.1. An event of default ("**Default**") under this Agreement will occur if:

5.1.1. **ONLY IF WORK REQUIRED** the Owner fails to complete the Work to the satisfaction of the City, in its sole discretion, by the Completion Date, or

5.1.2. in the event of any Claims.

5.2. If a Default occurs, the City will be entitled to all legal and equitable remedies available under the law.

5.3. No later than the date of this Agreement, the Owner must pay the cost of:

5.3.1. advertising for the public hearing by the Board of Surveyors on the Plan Changes, and

5.3.2. **ONLY IF APPLICABLE** the cost of the assessments for grading, paving and other municipal improvements and costs incurred by the City in opening and building any streets stricken by Plan Changes, unless previously assessed by the City.

**6. Right-of-Way.**

6.1. For good and valuable consideration, the receipt of which is hereby acknowledged, Owner has granted, bargained and conveyed and by these presents does grant, bargain and convey unto the City, its successors and assigns, the full, free and uninterrupted use, liberty and privilege of the rights-of-way for drainage, water main and public utility purposes, to wit:

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE \_\_\_ WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

**BEGINNING . . .**

6.2. The Owner for itself, its successors and assigns, hereby grants the right of access, ingress, egress and occupancy of the said right-of-way to and for the City, the Philadelphia Water Department and the Philadelphia Gas Works, their officers, agents, employees and contractors, with the necessary equipment and materials, for the construction, reconstruction, maintenance, alteration, repair and inspection of any and all present and future drainage, water main and gas main structures now situate in the said right-of-way or which the said City, the Philadelphia Water Department and the Philadelphia Gas Works may hereafter at any time desire to locate therein.

6.3 It is expressly understood and agreed that the rights and privileges herein granted to the City shall not terminate, cease or diminish unless and until the City shall surrender the same by writing, duly executed by its proper officers.

6.4 The Owner does for itself, its successors and assigns, covenant and agree that no changes in grades shall be made and that no fences, buildings or other structures, either overhead, underground, or upon the surface shall be constructed within the lines of the right-of-way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the City.

7. **Recording.** This Agreement may be filed of record in the office of the Department of Records of the City of Philadelphia, which will serve as public notice of the Owner's indemnity and release set forth in Section 2 of this Agreement.

8. **Notices.** All notices, and other communications given under this Lease to be effective, must be in writing and must be: (a) sent by a recognized national overnight courier service, fees prepaid, or (b) sent by United States registered or certified mail, return receipt requested, postage prepaid, or (c) sent by facsimile transmission (with a confirmation copy to follow by any of the methods of delivery set forth above); in all of the foregoing cases to the following respective addresses:

If to Owner:

If to City:

Department of Streets  
Engineering (Surveys and Design)  
1401 John F. Kennedy Boulevard  
Room 830 Municipal Services Building  
Philadelphia, PA 19102-1676  
Facsimile: (215) 686-5182

with a copy to:

Divisional Deputy City Solicitor, Real Estate and Economic Development  
City of Philadelphia Law Department  
One Parkway Building – 17th Floor  
1515 Arch Street  
Philadelphia, PA 19102  
Facsimile: (215) 683-5069

9. **Whole Agreement; Amendments.** This Agreement sets forth all of the agreements, representations, warranties and conditions of the parties with respect to the subject matter of this Agreement, and supersedes all prior or contemporaneous agreements, representations, warranties and conditions. No alteration, amendment, modification or waiver of any of the terms or provisions of this Agreement, and no future representation or warranty by either party with respect to this transaction, will be valid unless the same is in writing and signed by the party against whom enforcement of same is sought.
10. **Captions; Pronouns.** The captions of the paragraphs of this Agreement are for convenience only and have no meaning with respect to this Agreement or the rights or obligations of the parties hereto. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided in this Agreement, whenever the context may require, any pronoun used herein will include the corresponding masculine, feminine or neuter forms, and the singular form of pronouns or nouns will include the plural and vice versa.
11. **Governing Law.** This Agreement and all issues arising under this Agreement will be governed by the laws of the Commonwealth of Pennsylvania.

12. **Assignment.** Neither Purchaser nor Seller may assign this Agreement without the prior written consent of the other party.

**13. Non-Discrimination.**

13.1. This Agreement is entered into under the terms of the Philadelphia Home Rule Charter and, in its performance, Seller must not discriminate nor permit discrimination against any person because of race, color, religion, age, sex, sexual orientation, gender identity or national origin. Seller's noncompliance with the provisions of this subsection will constitute a substantial breach of this Agreement entitling the City to take appropriate action to enforce compliance, including without limitation, at the City's option, termination of this Agreement and pursuit of such other remedies as may be provided in this Agreement, at law or in equity.

13.2. **ONLY IF OWNER IS AN ENTITY:** In accordance with Chapter 17-400 of The Philadelphia Code, Seller 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 Agreement entitling Purchaser to all rights and remedies provided in this Agreement or otherwise available at law or in equity.

13.3. Seller agrees to include subsections 13.1 and 13.2 (**ONLY IF 13.2 IS IN**) of this Section, with appropriate adjustments for the identity of the parties, in all contracts which are entered into for work to be performed pursuant to this Agreement.

13.4. Seller 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. Failure to so cooperate will constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided herein or otherwise available at law or in equity.

*[Signature page follows]*

**IN WITNESS OF THIS AGREEMENT**, the parties have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

APPROVED AS TO FROM  
\_\_\_\_\_, City Solicitor

THE CITY OF PHILADELPHIA

By: \_\_\_\_\_  
\_\_\_\_\_,  
Assistant City Solicitor

By: \_\_\_\_\_  
\_\_\_\_\_,  
Streets Commissioner

(SEAL)

By: \_\_\_\_\_

Witness: \_\_\_\_\_

**EXHIBIT "A"**

**ORDINANCE**

**EXHIBIT "B"**  
**OWNER'S PROPERTY**

**EXHIBIT "C"**

**STREET STRIKING RELEASE AGREEMENTS (3)**

COMMONWEALTH OF PENNSYLVANIA

:

SS

COUNTY OF PHILADELPHIA

:

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me,

\_\_\_\_\_, the under-signed office, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_ who in due form of law acknowledged that he/she executed the foregoing instrument for the purposes therein contained and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Notary Public  
My Commission Expires  
Philadelphia, Philadelphia County  
Pennsylvania

**SURETY BOND**  
**BOND AMOUNT: \$ \_\_\_\_\_**  
**OBLIGEE: CITY OF PHILADELPHIA**

**CITY OF PHILADELPHIA  
SURETY BOND**

1. ("Owner") and the Surety, \_\_\_\_\_ jointly and severally, bind themselves, their heirs, executors, \_\_\_\_\_, successors, and assigns to the City of Philadelphia ("City") for the performance of work ("Work") set forth in Section 4 and indemnity set forth in Section 2 of the Street Dedication and Striking Indemnity Agreement ("Agreement") between the Owner and the City entered into on \_\_\_\_\_ in accordance with Ordinance number \_\_\_\_\_. The Agreement is incorporated herein by reference, and any capitalized terms used, but not defined in this Bond, will have the same meanings as in the Agreement.
2. The Surety's obligation under this Bond will arise after the City has declared a Default under the Agreement, and notified the Surety of the City's claim under this Bond.
3. In the event that the Surety's obligations under this Bond have arisen because of a Performance Default, then the Surety must, at the Surety's sole cost and expense, undertake one or more of the following actions:
  - 3.1. Arrange for the Owner to perform or cause to perform the Work, provided, however, that the Surety may not proceed with this option, except upon the express written consent of the City, which consent may be withheld by the City for any reason.
  - 3.2. Perform and complete the Work itself, through qualified contractors who are acceptable to the City.
  - 3.3. Tender payment to the City in the amount of all losses incurred by the City as a result of the Performance Default for which the Surety is liable to the City, as determined by the City, including all costs of completion of the Work and all consequential losses, costs, and expenses incurred by the City as a result of the Performance Default, and including all unpaid fees or payments owed to the City by the Owner under the Agreement, except that Surety's payment under this option will in no event exceed the limit of the Bond Amount, which is \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_). The Surety may not proceed with this option, in lieu of the options set forth in subsections 3.1 or 3.2 above, except upon the express written consent of the City, which consent may be withheld by the City for any reason.
4. The Surety shall proceed under Section 3 above within fifteen (15) business days after notice from the City to the Surety of the Performance Default under the Agreement, except that the Surety must proceed within twenty-four (24) hours of any notice from City that states that immediate action by the Surety is necessary to safeguard life or property.

5. If the Surety fails to proceed in accordance with Sections 3 and 4 above, then the Surety will be deemed to be in default on this Bond three (3) business days after receipt of written notice from the City to the Surety demanding that the Surety perform its obligations under this Bond. Thereafter, the City will be entitled to enforce any legal or equitable remedy available to the City. If the Surety has denied liability, in whole or in part, the City will be entitled without further notice to Surety to enforce any legal or equitable remedies available to the City.
6. If the Surety is proceeding under subsections 3.2 or 3.3 above, then the responsibilities of the Surety to the City will not be greater than those of the Owner under the Agreement, and the responsibilities of the City to the Surety will not be greater than those of the City under the Indemnity Agreement. The Surety will be obligated to the limit of Bond Amount as set forth on the front page. When proceeding under subsections 3.2 or 3.3, the Surety's obligations will include, but not be limited, to:
  - 6.1. The responsibilities of the Owner for correction of defective or unsuitable work and performance and completion of the Agreement;
  - 6.2. Additional legal, design professional, and delay costs incurred by the City as a result of the Owner's Performance Default, and as a result of the Surety's action or failure to act under Section 3 above; and
  - 6.3. Actual damages and consequential damages incurred by the City as a result of delayed performance or non-performance of the Work by the Owner or the Surety.
7. In the event that the Surety's obligations under this Bond have arisen because of a Claim Default under the Agreement, Surety, for itself, its successors and assigns, must indemnify, defend and hold harmless the City, its officials, officers, employees, departments, commissions, boards, and agents, and the respective heirs, successors and assigns of each of the foregoing from and against any and all Claims (as that term is defined in the Agreement), and covenants and agrees to pay any and all such Claims, whether defended by the City or the Surety.
8. The Surety hereby waives notice of any change or modification to the Agreement.
9. Any proceeding, suit, or claim, legal or equitable, under this Bond shall be instituted in the U.S. District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Philadelphia County and must be instituted within two (2) years of the date on which the Surety refuses or fails to perform its obligations under this Bond. If a court of law with competent jurisdiction deems the provisions of this section void or prohibited by law, the minimum limitations period available to sureties as a defense in the jurisdiction of the proceeding, suit, or claim will be applicable.

10. All notices to the Surety or the Owner must be mailed or delivered to their respective addresses shown on the signature page. In the event of a change in the address of either of these parties, such party will promptly provide notice to the City and the other party.

11. Any provision of this Bond which conflicts with any applicable statutory or legal requirement will be deemed deleted herefrom, and provisions conforming to such statutory or legal requirement will be deemed incorporated in lieu thereof.

12. The law controlling the interpretation or enforcement of this Bond shall be Pennsylvania law.

**OWNER AS PRINCIPAL:**

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Corporate Seal)

**SURETY:**

Signature: \_\_\_\_\_

Attorney-In-Fact  
(\*Attach Power of Attorney)

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Surety Seal)