

**SUMMARY OF CITY'S AND CCD'S RESPONSIBILITIES RE: DILWORTH
PLAZA LEASE – AUGUST 29, 2013**

Below is listed a brief overview of the City's and CCD's respective responsibilities under the Lease. A summary of the key Lease terms follows.

City's Responsibilities:

1. City Services¹ attached for your information (Background D p.1, lease Exhibit C)
2. Subsurface Infrastructure and any defects not required to be addressed during Reconstruction Work. (1.04 p.3)
3. Limited City Services set forth in Exhibit C. Including –
 - a. Police patrolling/ protection: Police shall walk through the Premises with the same frequency as they do otherwise in Center City and be deployed routinely by the City for any major event occurring on the Premises for the full length of the event
 - b. Trash pickup, except from the Café, with the same frequency as is performed otherwise in Center City
 - c. Rodent Control: The Health Department shall make inspections of the Premises with the same frequency as it does otherwise in Center City
 - d. Fire/ ambulance services; Rescue Squad deployment for any major event occurring on the Premises for the full length of the event
 - e. Road maintenance to adjacent streets, as necessary
 - f. Maintenance of vehicular lighting fixtures and traffic control signals adjacent to Premises, as necessary and promptly upon identification of a malfunction or damage
 - g. Maintenance/ replace of damaged signage (other than those signs maintained by CCD), as necessary
 - h. Utility charges, excluding Café
 - i. To facilitate CCD's performance of the Reconstruction Work, supply contractors with as much space is reasonably requested by CCD to be used as field offices for contractors, including space in City Hall
 - j. Storage facility for Personalty
4. Traffic Signals and standard highway fixtures, including street lights
5. Repairs that result from City's actions or negligence including City Hall maintenance. (7.01(a)(i) p.11)

¹ Capitalized Terms are defined in the Lease. Relevant Lease sections and page numbers are also included.

CCD's Responsibilities:

1. Reconstruction Work (Background D p.1)
2. Maintain, manage, and operate the Premises per Operations Plan (Background D p. 2)
3. CCD is responsible for City Work, SEPTA Work, and SEPTA work coordination. (Background E p.1)
4. Replace or install new light fixtures and traffic signals surrounding the Plaza
5. Construction Fence (3.03 p.8)
6. ADA Compliance (1.04 (c) p.4)
7. CCD shall maintain, repair, and operate Premises (1.04 (d) p.4).
8. Information and interpretative, transit, visitor, and historical signs (2.01 p. 4)
9. Permits for construction (2.02 p. 5)
10. All services and equipment necessary for safe use occupation and operation of the Premises. (2.07 p. 6)
11. Full management responsibility for licensing, including scheduling and coordination all events on the Surface (including Annual Events and Public Events) (2.10 (d) p. 6)
12. Installation and maintenance of pedestrian scale lights (5.07 p10)
13. All utility charges for the Cafe (6.01 p.10)
14. CCD shall perform all services set forth in exhibit C at its sole expense
 - a. Maintain street and pole lighting within the plaza, including replacing light bulbs
 - b. Power wash sidewalks, monthly April – November
 - c. Repair/ replace trash receptacle
 - d. Remove graffiti, as needed
 - e. Litter pick up, 3 times per day
 - f. Prune trees/ Shrubs, as needed
 - g. Mow and maintain grass, as needed
 - h. Rake leaves, as needed
 - i. Plant and maintain flower beds, annually
 - j. Repair/ replace sidewalks, as needed
 - k. Maintain/ repair/ replace irrigation systems, as needed
 - l. Repair/ Replace benches
 - m. Repairs/ maintain fountain and water features
 - n. Maintenance/ Replacement of Damaged CCD signage at the Premises
15. Removal of Improvements at Term's end (7.06 p.12)
16. Security of Premises, including fire alarms(7.07 p. 12)
17. Maintenance of all trees, shrubs, and landscaping growing on the Premises. (7.09 p.12)
18. Transparent and competitive selection process for licenses (9.02 p.14)
19. Repairs for Partial Destruction (26.01 (b) p. 28)
20. Book of Accounts of use and occupancy (31.01 p. 29)

SUMMARY OF DILWORTH PLAZA LEASE

- 1) **Parties:**
 - a. **Landlord** – City of Philadelphia through its Department of Public Property (“City”)
 - b. **Tenant** – Center City District (“CCD”)
- 2) **Date of the Agreement:** August 26, 2011 (Preamble)
- 3) **Premises:** Dilworth Plaza as more particularly described in exhibit A.
- 4) **Background:**
 - a. CCD will perform Reconstruction Work per Development Plan. (Background “D” p.1)
 - b. CCD responsible for maintenance, managing, and operating Premises. (Background “D” p.1)
 - c. CCD will enter into agreement with SEPTA and work with City on Interim SEPTA Pathways during construction. (Background “E” p.1)
 - d. CCD is responsible for performing SEPTA Work. (Background “E” p.1)
 - e. CCD will replace or install new Light Fixtures and Traffic Signals (“City Work”). (Background “E” p.1)
 - f. CCD will perform the Improvements and alterations to Premises and City Work. (Background “F”)
 - g. CCD will schedule Improvements in coordination with SEPTA work. (Background F p.1)
- 5) **Premises Condition Background:**
 - a. CCD accepts Premises “as-is” including all applicable zoning, any Surface and Concourse level conditions, and all latent and patents defects and hazards. (1.04 p. 3)
 - b. CCD is NOT responsible for the Subsurface Infrastructure and preexisting conditions not included in the Reconstruction Work. (1.04 p. 3)
 - c. CCD is responsible for ADA and other applicable law compliance arising from the Reconstruction Work. (1.04 (c) p. 4)
 - d. City will provide Limited City Services attached as Exhibit C. (1.04 (d) p. 4).
 - e. CCD, not City, shall have the obligation to maintain, repair or operate Premises, except for Limited City Services. (1.04 (d) p. 4)
 - f. In the event of Casualty Loss, City will cooperate with CCD in seeking any funds necessary, including insurance proceeds, to repair and upgrade Premises. (1.04 (e) p. 4)
 - g. City will not be liable for actions or conditions existing outside the scope of City’s, or its agents, acts or omissions. (1.05 p.4)

6) Use:

- a. CCD shall perform the Reconstruction Work. (2.01 p. 4)
- b. CCD shall occupy, manage, operate and maintain the Premises for open space, and pedestrian and public use. (2.01 p. 4)
- c. CCD shall install information and interpretative, transit, visitor, and historical signs. (2.01 p. 4)
- d. CCD can terminate lease if an Unanticipated Hazard condition (greater than \$1 million increase in Reconstruction Work) is discovered. (2.01 (a) p.5)
- e. CCD will obtain all necessary permits and City will cooperate in issuing all necessary permits. (2.02 p.5)
- f. No Alcohol permitted during business hours without City's written approval. Otherwise, when allowed by applicable law, CCD may sell alcohol at the Café and outside during non-recurring special events. CCD shall not sell alcohol for off-site consumption. (2.03 p.5)
- g. CCD my permit commercial activities consistent with Operations Plan. (2.06 p.5)
- h. CCD shall provide for all services and equipment necessary for safe use occupation and operation of the Premises. (2.07 p. 6)
- i. Fees and licensing use of the Premises from CCD shall be addressed in Operation Plan. (2.08 p. 6).
- j. During the Reconstruction Work, City can only access the Premises for an emergency. After the Reconstruction Work, the Premises will be open except for special events and public safety. (2.09 p. 6)
- k. **Operations Plan:** To be negotiated and attached as an exhibit (2.10 p.6-7)
 - i. Addresses Fees and licensing use of the Premises by CCD to the parties
 - ii. City shall include list of Annual City Events for a twelve month period and update that list at least three months before the beginning of the new twelve month cycle. If the list is not updated the dates from the previous year will apply to the new one.
 - iii. CCD shall include list of Public Use Events.
 - iv. CCD will control the full management responsibility for licensing, including scheduling and coordination all events on the Surface (including Annual Use Events and Public Use Events).
 - v. CCD and City will cooperate with each other in facilitating events that have not been regularly scheduled ("Special Events"). Try to locate in Special Events Zone on the North Side of City Hall.
 - vi. If the Mayor or his representative is not to be on the Surface and participating in the event, the event holder will reimburse the CCD for costs associated with the Special Event.

- vii. If Mayor or his representative is to participate, then event holder will not reimburse CCD for costs.
- viii. City will endeavor to relocate ad hoc gatherings (e.g. political demonstrations) to Special Event Zone.
- ix. CCD may raise sufficient revenue from operating the Premises to perform necessary repairs and maintenance and upgrades.
- x. Outline the City cooperation in use of adjoining streets in connection with the Reconstruction Work and parking, deliveries, and scheduling.

7) **Term:**

- i. **Commencement Date:** Date that the CCD erects the construction fence around the Plaza. (3.01 p.7) Letter from CCD should have been sent to City identifying commencement date. (3.04 p.8)
- ii. **Initial Term:** 20 years from the Commencement Date (3.01 p.7)
- iii. **Renewal Term:** 10 years. Renewal notice from CCD is required 6 month before Initial Term expires. (3.01 p.7)
- iv. **Maximum Term:** 30 years (3.01 p.7)
 - 1. City is not responsible for the fence. (3.03 p.8)

8) **Rent:** One Dollar per year.

- a. **Additional Rent:** CCD will pay any costs or damages that result from default, damages, utilities, or governmental fees, including taxes. (4.02 p. 8)

9) **Improvements and Alterations:**

- a. All permanent improvements constructed by CCD will be the Improvements. (Does not included City Work or Septa Work) (5.01 p.8)
- b. CCD shall maintain and operate all Permanent signage facilities. (5.01 (a) p. 9)
- c. CCD cannot alter the Premises without the written consent of City, if inconsistent with Development Plan. (5.02 p. 9) Exception for interior Café alterations.
- d. CCD can perform changes to the Personalty (chairs, tables, lighting, etc) as needed.
 - i. CCD shall pay for any Alterations. (5.03 p.9)
- e. Alterations will be part of the Premises. (5.05 p.9)
- f. City will own, control, and maintain all City Work. (5.07 p. 10).
- g. The sidewalk will be part of the Premises maintained by the CCD. (5.07 p.10)
- h. City will maintain traffic signals and standard highway fixtures, including street lights. (5.07 p.10)
- i. CCD will install and maintain pedestrian scale lights. (5.07 p10)

10) Utilities:

- a. City shall pay utilities per the Limit City Services and CCD shall pay all utilities for the cafe. (6.01 p.10)
- b. For events required by City that are not Annual City Events nor events involving the mayor, event holders will supply insurance premiums and assurance of payment for costs and fees consistent with Operations Plan before CCD will be required to schedule the event. (6.01 p. 10)

11) Maintenance and Repair; Fixtures; Security:

- a. Repairs include all necessary and prudent repairs, replacement, renewals, and alterations, whether ordinary or extraordinary, foreseen or unforeseen, whether capital in nature or otherwise. (7.00 p. 11)
- b. CCD shall at its sole cost maintain the Premises and Improvements. (7.01 p. 11)
- c. City shall pay for repairs that result from its acts of omissions, including working on City Hall. (7.01(a)(i) p.11)
- d. CCD shall not be responsible for Subsurface Infrastructure.(7.01(b) p. 11)
- e. CCD shall perform all Tenant Services set forth in exhibit C at its sole expense. (See Attached)
- f. CCD shall be responsible for ADA compliance of City Work during construction, but not after. (7.02 p. 11).
- g. CCD shall be responsible for ADA compliance of its Improvements. (7.02 p. 11)
- h. CCD shall not install Improvements without City's consent unless the Improvement is consistent with the Reconstruction Work and Development Plan and shall remove all trade fixtures at the end of the term and repair Premises, normal wear excepted. (7.06 p. 12)
- i. City shall not be responsible for security of Premises except as described in Limited City Services attached as Exhibit C. (7.08 p. 12)
- j. CCD shall maintain all trees, shrubs, and landscaping growing on the Premises. (7.09 p.12)
- k. CCD shall pay additional rent to City for any act or omission, or failure to perform any Repairs or other work required under the lease. (7.10 p. 12)

12) Entry on Premises by City:

- a. City will enter as member of the public and any time necessary to perform its governmental function. (8.01 p. 13)
- b. City reserves the right to construct or reconstruct any facility on or beneath Premises as necessary (e.g. utilities). (8.02 p. 13).

13) Special Provisions and Requirements:

- a. CCD acknowledges and understands that the Premises is a public space open for public use. CCD's action will not impede the general public's use of the Premises except in instances of Permitted Licenses, preparation for special events, and public safety (i.e. crowd control). (9.02 p.14)

- b. CCD may execute one more licenses in order to implement the Operations plan. Licenses uses cannot unreasonably interfere with use of the Premises by the general public. (9.02 p.14)
 - c. Examples of permitted licenses are: ice skating rink, outdoor markets, the Café, and concerts. (9.02 p.14)
 - d. CCD or its licensee may charge a fee without being an unreasonable interference. (e.g. tickets for a concerts or ice skating.) (9.02 p.14)
 - e. CCD must use an transparent and competitive bidding process for licenses. (9.02 p.14)
 - f. CCD must provide City with information about possible Licensees including financial records, business plans, menus, and any other information the City deems necessary. (9.02 p.14)
 - g. CCD or Licensees cannot sell tobacco products. (9.02 (b) p. 14)
 - h. CCD will prohibit license from selling non sanctioned goods. (9.02 (b)).
 - i. **License fees:**
 - i. CCD will use all funds charged to Permitted Licensee and any other fees collected by CCD to maintain the Premises, make repairs, for programming on the Premises, mortgage payments relating to the Premises, and as a return on CCD equity invested in the project. (9.03 p. 15)
 - ii. If any funds remain at year's end beyond operating costs, CCD shall allocate funds to either loan or mortgage payments or enhancing other public places in Center City, Philadelphia.
 - iii. CCD will segregate funds, fees, and other income relating to the Premises in its accounting systems. CCD will provide financial reports to the City. (9.03 p. 15).
- 14) **Indemnification of City:** CCD will indemnify the City and cause it licensees to indemnify the City. (10.01 p. 15)
- 15) **Insurance:** CCD will maintain insurance and cause the licensees to maintain. (11.01 p. 16)
- 16) **Subletting & Assignment:** CCD cannot sublet or transfer its rights without City's written consent (except for event licenses). (13.01 p. 20).
- 17) **Surrender of Premises; Hold over Tenancy:**
- a. CCD shall surrender the Premises in good order and repair, reasonable wear excepted. (14.01 p. 20).
 - b. CCD shall not remove Improvements, but shall remove trade fixtures from Premises. (14.02 p.20)
 - c. City not responsible for loss or damage to CCD's property. (14.03 p.21).
 - d. If CCD holds over, the lease will be month to month. (14.04 p.21)

18) **CCD's Records:**

- a. CCD shall keep books of accounts re: use and occupancy of the Premises. (31.01 p. 29).
- b. City shall have the right to inspect and audit CCD's books. (31.02 p. 29)

19) **Philadelphia 21st Century Minimum Wage and Benefits Standard:** CCD is subject to it.

Exhibit C: City and Tenant Services

Limited City Services:

1. Police patrolling/protection: Police shall walk through the Premises with the same frequency as they do otherwise in Center City and be deployed routinely by the City for any major event occurring on the Premises for the full length of the event
2. Trash pickup, except from Cafe, with the same frequency as is performed otherwise in Center City
3. Rodent Control: The Health Department shall make inspections of the Premises with the same frequency as it does otherwise in Center City
4. Fire/ambulance services; Rescue Squad deployment for any major event occurring on the Premises for the full length of the event
5. Road maintenance to adjacent streets, as necessary
6. Maintenance of vehicular lighting fixtures and traffic control signals adjacent to Premises, as necessary and promptly upon identification of a malfunction or damage
7. Maintenance/replacement of damaged signage (other than those signs maintained by Tenant pursuant to item #14, below) at the Premises as necessary
8. Utility charges, excluding the Cafe
9. To facilitate Tenant's performance of the Reconstruction Work, Landlord shall supply Tenant's contractors with as much space as is reasonably requested by Tenant to be used as the field offices of Tenant's contractors, which space shall be located within City Hall, provided such space is available or can be made available by City.
10. Storage facility for Personalty

Limited CCD Services:

1. Maintain street and pole lighting within the park, including light bulbs
2. Power wash sidewalks, monthly April- November
3. Repair/replace trash receptacles
4. Remove graffiti, as needed
5. Litter pick up, 3 times per day
6. Prune trees/shrubs, as needed
7. Mow and maintain grass, as needed
8. Rake leaves, as needed
9. Plant and maintain flower beds, annually
10. Repair/replace sidewalks, as needed
11. Maintain/repair/replace irrigation systems, as needed
12. Repair/replace benches
13. Repair/maintain fountain and water features
14. Maintenance/replacement of damaged CCD signage at the Premises