

Community Benefits Agreement

This agreement (the “Agreement”), made this ___ day of June 2014, is by and between Drexel University, Wexford Science and Technology and the community groups who are signatories hereto.

Background

A joint venture comprised of Drexel University (“Drexel”) and Wexford Science and Technology (“Wexford”) will be purchasing from the School District of the City of Philadelphia an approximate 14-acre site in the Powelton neighborhood of Philadelphia.

Previously and in other locations, Drexel and Wexford have separately developed properties successfully and with community input.

The community groups that have been involved in this Agreement include the following:

The Powelton Village Civic Association (“PVCA”) is a civic association whose boundaries include the 14-acre site. PVCA is a Registered Community Organization (“RCO”) recognized as such by the Philadelphia City Planning Commission pursuant to the City Code.

The Lancaster Avenue 21st Century Business Association (“LA21”) is a 501C(6) Non-Profit organization, whose boundaries include the 14-acre site. LA21 is a Registered Community Organization (“RCO”), recognized as such by the Philadelphia City Planning Commission, pursuant to the City Code.

West Powelton/Saunders Park (“West Powelton”) boundaries include the 14-acre site. West Powelton is a Registered Community Organization (“RCO”), recognized as such by the Philadelphia City Planning Commission, pursuant to the City Code.

People’s Emergency Center, Mantua Community Improvement Committee, Mantua Civic Association and 24th Democratic Ward

The parties intend to work cooperatively, with the involvement of other community groups and the office of the district City Councilmember, in the planning and development of the 14-acre site.

And, now, for the mutual covenants and conditions contained herein, and other good, legal and valuable consideration, receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions:

In addition to the terms defined in the Background section above, the following definitions are used and applied in this Agreement and understood as such by the parties to be herein bound:

Site: The term “Site” shall mean the real property located in an area bounded by Powelton Avenue, Lancaster Avenue, 37th Street, Warren Street, 36th Street, Filbert Street and 38th Street.

Owner: The term “Owner” refers to the joint venture of Drexel University and Wexford Science and Technology, which joint venture is purchasing the Site from the School District of the City of Philadelphia.

2. Advisory Group: A community Advisory Group shall be formed to provide input and feedback to the Owner regarding the use and development of the Site.

- a. **Composition of Group:** The Advisory Group shall consist of one representative from each RCO encompassing the Site and a representative from the District Councilperson’s office. Other members shall include representatives of other community groups with interest in the Site as appointed by the District Councilperson. An additional seat in the Group shall be created for any new RCO that encompasses the site. The Advisory Group shall consist of an odd number of members, with the District Councilperson supplying a second representative, if needed, to establish an odd number. In the event of a difference of opinion, the Advisory Group, by motion approved by three (3) members, may decide to vote on differing opinions, by majority vote, and thereby adopt an official position of the Group.
- b. **Advisory Group meetings:** All Advisory Group meetings shall include participation by a representative from Drexel University and a representative from Wexford Science and Technology.
- c. **RCO delegates:** To the extent the Advisory Group will have different meetings for different topics, any particular RCO or other community group may send a different delegate to any such meetings, so long as each RCO or other community group has only one (1) seat at any particular Group meeting.
- d. **The Owner shall consider in good faith, but not be required to implement, any input and recommendations provided by any and all members of the Advisory Group.**

3. Site Development Plan: Any new construction at the Site will be guided by a comprehensive Site Development Plan generated by the Owner, with community input.

A purpose of this agreement is to establish a process by which the Advisory Group can provide meaningful advisory input into the planning of the Site. To accomplish this, the following steps will be taken:

- a. Within 120 days (or such earlier time as the Owner and the Advisory Group may agree) of the Owner's acquisition of the site, the Owner shall have its planning firm conduct appropriate studies and analyses, which will include collaborative and iterative consultations with the Advisory Group. The planning firm, shall prepare a Site Development Plan, that includes the following aspects: uses; building height and massing; parking facilities; traffic study/studies; landscaping plans; storm water controls; a basic sequence of development; designation of interim uses; improvements along 38th Street, Powelton Avenue and Lancaster Avenue; and design standards and other strategies to obtain neighborhood-oriented retail establishments along Powelton and Lancaster Avenues. The Owner may engage certain professionals and consultants as may be required or helpful in preparing the Site Development Plan, with such professionals and consultants being open to community input, if requested by the Advisory Group.
- b. Given the size of the Site, the uncertainties of the development market, and other factors, the Site will not be fully developed in the near term, and therefore the initial Site Development Plan need not specify elements for all areas and it may indicate that certain areas are reserved for future development and shall therefore be addressed at a reasonable time prior to the planning, design and development of said reserved areas. Further, the Site Development Plan may be amended from time to time as the Owner sees fit.
- c. The process to develop the Site Development Plan shall include the following:
 - i. The Owner and the Advisory Group shall convene at least one public meeting of the Advisory Group and present the proposed Site Development Plan and solicit feedback.
 - ii. The Owner and the Advisory Group shall maintain open communications throughout the process of preparing a Site Development Plan.
 - iii. Following the public meeting(s), the Owner and the Advisory Group shall reconvene for discussion and feedback. Thereafter, the Owner shall distribute the Site Development Plan to the Advisory Group. If and when the Owner wishes to amend the Site Development Plan, the Owner shall either implement the process included above or, upon consultation with the Advisory Group, follow a different process as agreed to by the Advisory Group and the Owner.

4. Interim Use: The parties recognize that the existing buildings and facilities will be demolished resulting in portions of the site being vacant for a potentially significant period of time prior to new construction. Regarding the use and care of such vacant areas prior to final development, Owner agrees to keep such areas clean, free from undue litter and free from attractive nuisances. Any mature trees on the Site will be left in place until that area is ready for development (and, the Owner will attempt, but is not committing to, keeping mature trees along Warren Street; along 36th Street; behind the current University City High School building; in the playground of the Walnut Center; and, south of the Drew School, in place for the long run, incorporating them into the development plan). If possible, not unduly expensive and not impracticable, Owner, during the time after demolition but prior to development shall create on the Site areas of green space for community use. The signatories hereto understand that, if a tree is in the reasonable path of development, the tree shall be removed. During this interim period, the Owner shall not use more than thirty-three percent (33%) of the Site as a surface parking lot.

5. Height Limits: As indicated on the plan attached as Exhibit A and as indicated in the rezoning bill No. 140437, the height restrictions for development at the Site shall be as follows:
 - a. Drawing an imaginary line from the west end of Warren Street along the center of the bed of the former Warren Street to 38th Street, everything to the North of that line should be no higher than sixty five (65) feet for a distance of 10 feet from and parallel to Powelton Avenue or Lancaster Avenue and, thereafter no higher than 75 feet for the remaining portion of the area bounded by 38th Street, Powelton Avenue, Lancaster Avenue, 37th Street and the bed of the former Warren Street (“Lot 1”).

 - b. Notwithstanding Section 5.a., for any development located on the portion of Lot 1 that is within approximately one-hundred thirty five (135) feet of the 37th Street edge of Lot 1, going west parallel to Lancaster Avenue, shall be no higher than fifty-five (55) feet for a distance of 10 feet from and parallel to Lancaster Avenue and 10 feet from and parallel to 37th Street, and otherwise up to a height of sixty-five (65) feet, unless permission is granted to build higher (to the limit described in Section 5.a.) by a simple majority vote of the present and voting members of a group comprised of the following people: one (1) representative from each of the RCO’s whose territories include the Site at the time of this Agreement; and, if necessary to create an odd number of group members, one representative from the District Councilperson’s office, with such vote to be taken after the Owner presents to such group suitable plans and detail concern such proposed development.

 - c. South of the legally opened Warren Street, there shall be a 65 foot height limit along a line parallel and for a distance of 50 feet from Warren Street. It is intended that any structure built on the south side of Warren Street on the Site will be designed in a manner respectful of the context and massing of the properties on the north side of Warren Street.

6. 37th Street Extension: 37th Street shall be extended south through to Filbert Street and it shall be a public street, provided, however, that the City of Philadelphia accepts the dedication of this street. Prior to the Owner constructing new development along Filbert Street, the Owner shall study the possibility of extending 37th Street, as a public street, through to Market Street and report to the Advisory Group on the feasibility of such extension.
7. FAR limitation: An overall FAR of 750% shall apply to the Site. To the extent the Owner develops the Site to have greater than 2.7 million gross square feet of building space (the “Additional Space”), the Owner shall make a contribution to a fund for the benefit of the Powel School, the McMichael School and any district public school on the Site, to be shared equally among those schools (the “Contribution”). Owner’s Contribution shall be made following the expiration of 60 days from the issuance of a final Occupancy Permit for any building(s) that contains the Additional Space. The amount of the Contribution shall be calculated on the following formula: an amount equal to 1 % of the hard core and shell costs of the Additional Space. The amount of such costs will be the cost indicated on the building permit application submitted by the Owner or its designee, and signed by the project architect, for the construction of the hard core and shell, as adjusted for the square footage of the Additional Space. The Advisory Committee and the Owner shall discuss and agree on the methods and procedures according to which Contribution should be disbursed.
8. Parking Podiums: The Signatories hereto understand that the Site Development Plan should reflect sufficient parking spaces to accommodate the onsite needs of development at the site and to avoid the use of neighborhood parking resources by users of the Site. A portion of the parking will be contained in podium style parking, which is regulated in both form and design by the Philadelphia Zoning Code. The Owner and the Advisory Group will work together with the goal to further buffer structures with suitable screening and other uses. Buffering with residential and retail use shall be a preferred method. The parties will explore methods to encourage the use of public transportation and pedestrian and bicycle use. Development of the site shall include ample bicycle parking facilities. The parties agree that there will be no more than 4 parking podiums on the Site, with two such parking podiums to be on the portion of the Site controlled by Drexel and the other two parking podiums to be on the portion of the Site controlled by Wexford. Further, the parties agree that, in addition to the 4 parking podiums, Wexford may develop a structured parking building that may stand-alone or be integrated with other uses and structures. None of the above ground parking shall front on or be significantly visible from Powelton Avenue or Lancaster Avenue; although this Agreement does not specify where the entrances and exits from parking garages may or may not be located. In the design of the stand-alone parking garage, the Owner shall have a goal, but not a commitment, to have all floors of two (2) sides of such structure be obscured by residential or commercial uses. Notwithstanding anything herein to the contrary, the number of parking podiums may be increased by a simple majority vote of the present and voting members of a group comprised of the following people: one (1) representative from each of the RCO’s whose territories include the Site at the time of this Agreement;

and, if necessary to create an odd number of group members, one representative from the District Councilperson's office, with such vote to be taken after the Owner presents to such group suitable plans and detail concern such parking podiums.

9. Neighborhood Retail: The Owner agrees to design new construction along Powelton and Lancaster Avenues to provide retail uses to serve the community and shall develop strategies to secure an appropriate tenant mix for the community while respecting the commercial zoning and nature of the area in good faith in consultation with the Advisory Group. The parties agree that the retail experience at Chestnut Square would be a good model to achieve.
 - a. Business Development: Owner in good faith agrees to develop measures to build and strengthen the relationship with the Lancaster Avenue business community in an effort to establish a diverse and successful corridor that will develop and create jobs in the community.
 - b. Financial Institutions: Owner, in good faith, agrees to make attempts to obtain as a tenant(s) at the Site along Powelton Avenue and/or Lancaster Avenue a local or community bank(s) offering extended hours of operation to serve the business community in the area.
 - c. Drexel recognizes the historical and contextual nature of the existing properties along the Lancaster Avenue corridor adjacent to the Site and agrees to work with the RCOs in efforts to maintain such nature and fabric.
10. Construction and Development of 14-Acre Property: Owner, in good faith, agrees to provide informational sessions/courses/seminars primarily addressing the importance of all licensed contractors to receive certification and bonds. Such sessions/courses/seminars shall provide attendees with the relevant knowledge, information and instruction for obtaining the necessary certifications and bonds. Further, should Owners determine that an assessed fee is necessary to provide such sessions/courses/seminars, Owners shall offer the sessions/courses/seminars at a reasonable cost, so as not to unduly financially burden minority contractors or members of the community to the detriment of their exclusion. The primary purpose of this clause is to increase the number of minority participants in legally bidding for and having the opportunity to work on this development and others in the future as well as to increase the understanding for the significant need of certifications and bonds. Further, this clause assists and aids in compliance with the City of Philadelphia Economic Opportunity Plan specified in Bill No. 140437.
11. Building and Project Design Review Process: For each building and significant project on the Site, the Owner and the Advisory Group agree to engage in a cooperative review process. When the Owner identifies a proposed building or significant project on the Site it wishes to explore and develop, before design commitments are made, , the Owner shall notify the Advisory Group and allow at least a 45 day period during which the Advisory Group will be involved in the planning process of each such building or project at the working group level, so that there is an opportunity to fully explore the use, density and

architectural aspects of each said project before design commitments are made by the Owner. The Owner shall, in good faith, consider but not be bound by the Advisory Group's input and recommendations.

12. Residential Uses: To the extent any new construction is residential in nature, the Owner agrees that pursuant to and compliant with the Fair Housing Amendments Act and any other applicable governing state, local and federal statutes and regulations, the design and marketing for such units will be market rate and not be geared towards undergraduate college students; and that Drexel will not designate such units as Drexel Approved Housing.
13. School: The development of a public school at the Site is a goal for the community and Drexel.
 - a. The area to the south of Warren Street, as indicated on the plan attached as Exhibit A, will be reserved by the Owner for a period of 7 years from the date of the Owner's purchase of the site for the possibility of developing a district public school serving the community. All parties recognize that only the School District of the City of Philadelphia can authorize a new school at the Site and neither the Owner nor Drexel University is committing to the development of any school at the Site. However, Drexel will work diligently to explore its possibility.
 - b. Within 90 days after Owner takes ownership of the site, Drexel shall reconvene the original Steering Committee and the working groups it created to study the feasibility of expanding the Powel School and creating a partner inquiry-based middle school for the community. The Steering Committee will initiate a new planning process to develop key components for the implementation of the plan that was submitted to the School District of Philadelphia in 2013, and will work with the University to gain permission from the School District to proceed with the school plan. In particular, the work will involve:
 - 1) Powel Working Group: study the opportunity to expand the number of classrooms at Powel (K-4) and consider temporary locations for this expanded school.
 - 2) Middle School Working Group: review the existing plan and academic program for the new middle school (5-8), prepare a formal proposal for the SRC, and consider options for implementing the middle school in temporary space.
 - 3) K-8 Campus Working Group: review the plan developed through the planning process that outlines the vision for the K-8 campus, including Drexel's role as a university partner, cost efficiencies through shared facilities use and programmatic alignments, and governance issues.
 - 4) Site/Facility Working Group: participate in a community planning process and contribute to the plan for the K-8 campus and specifically the school facility.

5) Other working groups as desired by the Steering Committee.

The Steering Committee shall meet as needed but at least once each year and shall produce a written status report by June 30 of each year. The Steering Committee meetings shall include, among other things, a status report from Drexel about the efforts to establish funding for the construction of the school, which topic will also be addressed in the annual status reports. Each Working Group shall meet at least once each year until a final report is completed and such Group is excused by the Steering Committee; and such groups shall report written plans and recommendations to the Steering Committee by April 30 of each year.

All members of the Steering Committee shall receive regular updates about the status of the project from Drexel. All members of the Steering Committee shall also receive copies of documents/applications submitted to the School District and representatives from stakeholder groups will be made aware of the status of negotiations with the School District. As the process is underway, regular public meetings, or reports to nearby community groups and other stakeholders, including but not limited to applicable RCOs, will be conducted to keep the broader neighborhood updated as to status, progress and next steps.

As part of the planning process, Drexel will attempt to initiate a discussion with the School District, the District Councilmember's office and the Steering Committee about the appropriate delineation of the catchment areas for the Powel School and McMichael School.

14. Signatories' Obligations. The parties hereto shall support City Council Bill No. 140437 at all public sessions of the Philadelphia City Council or any of its committees, and shall not oppose or challenge such legislation in any way, so long as such legislation is in the form agreed to by the parties as reflected in this Agreement. Further, the signatories shall not encourage others to oppose or challenge such legislation.
15. This Agreement shall be added to the City Council record of the Bill.
16. Remedies and Enforcement: In the event of any material violation of the terms of this Agreement, all legal and equitable remedies, including, without limitation, injunctive relief, specific performance and damages, if any, shall be available to the parties hereto. Neither the failure on the part of the parties to enforce any term or provision hereof, or the waiver of any right hereunder, shall discharge or affect the right to enforce the same in the event of any subsequent breach or default. The remedies provided for breach of the terms and provisions of the Agreement shall be deemed cumulative and not exclusive. A failure to perform any provision of this Agreement, for which Owner is obligated, shall be cured by the Owner within a commercially reasonable time period after receipt of written notice of said failure to perform thereof.
17. Assignment: This Agreement is binding on and shall inure to the benefit of the parties' hereto and their respective heirs, legal representatives, successors and assigns. If the Owner sells the Site, or any rights to develop the Site, the Owner hereby agrees to provide the buyer or transferee with a copy of this Agreement and to assign this Agreement to said buyer or transferee who shall be bound by the terms of this Agreement

in which event Owner shall be released from all of its obligations under this Agreement. In such an event, Owner will notify the other parties of the identity and contact information of such buyer or transferee within five (5) days of sale or conveyance.

18. Entire Agreement: This Agreement contains the entire agreement between the parties and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Agreement in whole or in part unless such agreement is in writing and signed by the parties.

19. Notices: All notices or communications under this Agreement shall be in writing and shall be deemed duly given if delivered in person, by certified mail, or by a national overnight courier service, to the following addressees, unless otherwise agreed to by the parties in writing:

If to the Owner:

If to Drexel University:

If to Wexford Science and Technology:

If to any of the RCO's:

To their addresses on file with the Philadelphia City Planning Commission.

If to the District Councilperson, to her office in City Hall.

20. Governing Law: This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

21. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed duplicate originals of this Agreement and the undersigned represent that they are authorized to execute and deliver this Agreement on behalf of the respective parties.

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