

City of Philadelphia



(Bill No. 100446)

AN ORDINANCE

Authorizing the Commissioner of Public Property, on behalf of the City of Philadelphia, to enter into a sublease agreement with the Philadelphia Authority for Industrial Development, for use by the City, of a premises located at 2800 S. 20th Street, Philadelphia, Pennsylvania, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property, on behalf of the City of Philadelphia, as subtenant, is hereby authorized to enter into a sublease agreement for a period not to exceed 30 years with the Philadelphia Authority for Industrial Development, as tenant and sublandlord, for use by the City, affiliated agencies and other government agencies cooperating with the City, of a premises located at 2800 S. 20th Street, Philadelphia, Pennsylvania, pursuant to terms substantially set forth in the document attached hereto as Exhibit "A".

SECTION 2. The City Solicitor is hereby authorized to review and to approve the lease and other documents necessary to effectuate this Ordinance, which lease and documents shall contain such terms and conditions as the City Solicitor shall deem necessary and proper to protect the interests of the City of Philadelphia and to carry out the purpose of this Ordinance.

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EXHIBIT "A"

Terms of Proposed Lease and Sublease for 2800 S. 20TH STREET

1. **Landlord:** Defense Realty, LLC
2. **Tenant and Sublandlord:** Philadelphia Authority for Industrial Development
3. **Subtenant:** City of Philadelphia
4. **Square Footage:** Approximately 47,000 square feet
5. **Premises Address:** 2800 S. 20th Street, Building 6, Philadelphia, PA 19145
6. **Use of the Premises:** The Premises shall be used exclusively as the Delaware Valley Intelligence Center (DVIC) and for purposes related to the operations of the DVIC. The DVIC will function primarily as a "regional fusion center" for information and intelligence gathered from various criminal justice and public safety agencies related to terrorist threats, criminal activity, natural disasters and other hazards.

The Premises shall not be used for any of the following, whether operated publicly or privately: penal or correctional institutions, prisoner pre-release programs, day reporting for ex-offenders, programs or housing for ex-offenders, the detention of persons under arrest, under charge or conviction of a crime or where the detention is for purposes of: (i) extradition, (ii) deportation or (iii) other law enforcement.

For purposes of this Section 6, the following definitions shall apply:

1) Ex-offender. A person previously convicted of a felony or who was incarcerated for any conviction or a person currently on probation or parole for any conviction.

2) Penal or correctional institution (public)(private). As defined in Section 14-102 of the Philadelphia Code.

3) Pre-release program. A program for persons not yet formally paroled from prison and therefore remaining under detention, even if such persons are housed outside the walls of a correctional institution.

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7. **Commencement Date:** Work on fit out will commence during the first quarter of the 2010-2011 fiscal year in order to preserve grant funds.
8. **Term:** The lease will be a long term lease to be negotiated with the landlord determined by and subject to grant allocations and the fit out amortization schedule.
9. **Rent:** The rent will be negotiated with the landlord.
10. **Maintenance and Utilities:** The City will be responsible for the maintenance and utilities associated with the leased premises.
11. **Cost of Fit-Out:** The estimated cost of fit out is just over \$20 million. The Task Force has accumulated over \$11 million in federal funding to date. Fit out costs exceeding the money available at the lease inception will be amortized over the life of the lease.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 17, 2010. The Bill was Signed by the Mayor on June 30, 2010.



Michael A. Decker
Chief Clerk of the City Council

Delaware Valley Intelligence Center (DVIC) Economic Opportunity Plan

I. Project and Plan Introduction

The creation of a Regional Fusion Center is imminent, and will benefit the City of Philadelphia in a number of ways both through job creation, construction activity, and enhancing the ability of the City and entire region to collect, evaluate, and disseminate information related to terror threats, or criminal activity. Operational activities of the Center will enable the entire region to evaluate and respond to threat activities in a rapid and integrated manner.

The proposed Regional Fusion Center, named the Delaware Valley Intelligence Center (DVIC) is an initiative of the Southeast Pennsylvania Regional Task Force (SEPA RTF or Task Force) that has been in the planning stages for the past four years.

This project, valued at approximately \$20 million consists of two related, but independent, components. Neither component is under the direct contracting control of the City; however, we have taken steps to ensure that minority participation is an integral part of the effort to complete the fit-out of the DVIC. The initial approach for each component is different based on where we are in the design and build effort. However, in each case our efforts are an attempt to create EOP goals compatible with those of the City and are reflective of the nature of the contract work to be performed.

The purpose, standards and procedures of this Economic Opportunity Plan (the "Plan") are the expressed wishes of DVIC as set forth herein. Participants shall include professional services providers and their respective consultants, the general contractor or construction manager retained by DVIC to construct the Project (the "General Contractor") and the General Contractor's subcontractors, and all vendors of supplies, services, equipment and materials for the Project (collectively, the "Participants" and each a "Participant").

It is the intent of DVIC to use good faith efforts and to require all of its Participants to use good faith and nondiscriminatory efforts to provide either joint venture partnerships, sub-consulting and/or sub-contracting opportunities for disadvantaged business enterprises (collectively, M/W/DS-BEs and/or DBEs) as identified by either the City of Philadelphia's Office of Economic Opportunity ("OEO") or the Pennsylvania Unified Certification Program ("PAUCP"). In all phases of the Project, DVIC will require that all Participants commit to the foregoing.

Neither DVIC nor any Participant shall discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, ancestry, age, or handicap in the award and performance of contracts pertaining to the Project or with respect to any and all related employment practices. All Participants in the Project shall observe and be subject to the enforcement of all relevant City of Philadelphia, Commonwealth of Pennsylvania and federal laws, ordinances, orders, rules and/or regulations regarding M/W/DS-BEs and/or DBEs and

Philadelphia based business enterprises. Furthermore, affirmative action will be taken, consistent with sound procurement policies and applicable laws, to ensure that M/W/DS-BEs and/or DBEs are afforded a meaningful and representative opportunity to participate in contracts relating to the Project.

For the purposes of this Plan, the term “minority” shall refer to the following: African American or Black (all persons having origins in any of the Black African racial groups); Hispanic/Latino (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Asian and Pacific Islander (all persons having origins from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); and Native Americans (which includes all persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians).

Agencies and representatives of the City of Philadelphia and/or Commonwealth of Pennsylvania may be consulted regarding the appropriate inclusion of M/W/DS-BE and/or DBE firms and socially/economically disadvantaged professionals in this Project as outlined in this Plan and with regard to its implementation.

A. Statement of Diversity Practices, Policies and Past Achievements.

Regional Fusion Center has made commitments in the past to promote diversity. Regional Fusion Center is committed to achieving and maintaining diversity goals established within this Economic Opportunity Plan.

II. Procedures for Determination

A. Project Scope.

The proposed Regional Fusion Center, named the Delaware Valley Intelligence Center (DVIC) is an initiative of the Southeast Pennsylvania Regional Task Force (SEPA RTF or Task Force) that has been in the planning stages for the past four years. The City of Philadelphia is one of the five local counties that comprise the Task Force and has assumed a leadership role in the effort to establish the DVIC at the old Quartermaster Depot at 20th and Oregon Avenue.

The Task Force has accumulated a little over \$11 million in federal funding that will be used to help defray the total cost of the DVIC, estimated at just a little over \$20 million. The remaining necessary costs to fit out the facility would be built into a long term lease negotiated between the City and the owner, Defense Reality.

We are currently in the Phase II of this project which involves development of detailed design specifications, construction plans and associated documentation. Once Phase II is completed, we will have a firm grip on the actual scope of work and associated costs. This will lead Phase III,

actual construction and fit-out of the DVIC and the awarding of contracts and sub-contracts to perform the work. Phase III is scheduled to start in earnest during the latter part of the third calendar quarter.

The annual lease payments would be made through a combination of City funding, and an annual allocation of grant funding from the Task Force provided to the City in a minimum amount of \$1 million per year. Several units of PPD will be transferred from leased space at the Frankford Arsenal to the DVIC to form a core of the operational support for the center.

The Task Force had retained the consulting services of SOSSEC, a consortium to design and manage the fit out of the DVIC. A preliminary design and feasibility study has been completed with grant funding through a \$300,000 contract with Bucks County, the previous fiscal agent for the Task Force. The cost estimate portion of the study was performed by Becker & Frondorf, a competent and reputable estimating firm known to the City.

SOSSEC has extensive experience with the design and fit out of this type of facility, and was retained by the State of New Jersey to implement a similar facility in West Trenton. This facility collects, evaluated and disseminates intelligence information to federal, state and local law enforcement agencies, and serves as the emergency operations center for the entire State of New Jersey.

In addition, the Task Force has also retained the services of the Philadelphia Health Management Corporation (PHMC) to act as its fiscal agent for all grant activities, including those related to the DVIC. Very recently this role has been transferred from Bucks County to PHMC.

Rehabilitation and Build-Out of Leased Space

The recently completed cost and feasibility study for the DVIC (Phase I) estimates that the build-out costs, not the responsibility of the owner, will amount to approximately \$10M. Some of this will be paid up-front from existing funding, and the remainder built into the cost of the lease. The un-funded construction costs will be amortized over the life of the lease, paid for by a combination of federal grant funding and annual city payments.

The build-out will be the responsibility of the property owner, who will select the contractor entities to perform the work. In order to ensure minority participation on the part of the owner's contractors, we will build into the requirements of the lease that the owner must require that the bidding contractors submit an EEO plan compatible with current City goals and requirements.

Information and Technology Operating Capacity

Phase I of the project, performed by SOSSEC, estimates the value of this component of the project at approximately \$8.5M. SOSSEC, Inc. is implementing the project through a team of companies that are members within the SOSSEC Consortium. This consortium is comprised of a significant number of non-traditional, minority owned, women owned, and disabled owned

businesses. The team of companies assembled to execute this project reflects the need to satisfy M/W/DS-BE and/or DBE participation goals.

Suffice it to say that much of the overall IT support is proprietary in nature and may only be available from one or two sources depending on the nature of hardware or software being provided.

SOSSEC has committed that the future selection of vendors and other sub-contract personnel following the completion of Phase II will reflect a “best effort” to engage companies that reflect appropriate M/W/DS-BE and/or DBE participation.

This Plan shall apply to contracts awarded by DVIC and sub-contracts awarded by its Participants. Probable areas for such contracts may include contracts for environmental remediation; for the renovation, expansion and overbuild of the existing structure on the Site; and for the charter school.

B. Duration.

This Plan shall apply to contracts awarded and procurements by DVIC and all Participants throughout the implementation, construction, and operations phases.

C. Statement of Objectives.

The Objectives set forth in the Plan shall be incorporated in all requests for proposals, bid packages and solicitations for the Projects and communicated to all Participant levels.

D. Best and Good Faith Efforts.

Participants shall reasonably exhaust the use of best and good faith efforts as defined hereunder to provide appropriate participation and utilization opportunities for M/W/DS-BE and/or DBE firms. All Project contractors and vendors will be required to do likewise, consistent with best and sound procurement practices, and with applicable law. *Best and good faith efforts* will be deemed adhered to when a Participant meets the criteria set forth in this section and demonstrates and documents its efforts throughout the length of the Project. If the established ranges for inclusion of M/W/DS-BE and/or DBE firms are not met, a Participant must submit a Subcontracting/Vendor Plan showing how *best and good faith efforts* were made to achieve said ranges. This plan must include, but not be limited to, the following:

- Solicitation through newspapers, periodicals advertisements, job fairs, etc. that focus on construction and are minority-owned and/or focused.
- Telephone logs.
- Evidence of solicitation to qualified and OEO certified M/W/DS-BE and/or DBE firms.
- Bid results and reasons as to why no awards were made to M/W/DS-BE and/or DBE firms.
- Use of City/OEO-certified business firms via their directory.
- Correspondence between contracting firm and any M/W/DS-BE and/or DBE firms.

- Attendance logs and/or records of any scheduled pre-bid or pre-proposal meeting
- Specific, general and technical assistance offered and provided to M/W/DS-BE and/or DBE firms related to their portion of the project.
- Proof there was notification of and access to bid documents at company or other office locations for open and timely review.

E. Monitoring of *Best and Good Faith Efforts*.

DVIC shall establish requirements relative to monitoring of best and good faith efforts of the Participants engaged in the Project in consultation with appropriate city, state and federal agencies and/or private professional entities to include the following:

- 1) Participants shall submit copies of signed contracts and purchase orders with M/W/DS-BE and/or DBE subcontractors.
- 2) Participants shall be ready to provide evidence of payments to their subcontractors, sub-consultants and supply vendors for participation verification. This documentation should be provided monthly or included with every request for payment to Contractors.
- 3) At the conclusion of work, the Subcontractor shall provide a statement or other evidence of the actual dollar amounts paid to M/W/DS-BE and/or DBE subcontractors.
- 4) All On-site Contractors shall be prepared to submit "certified" payrolls listing the following items for all on-site employees:
 1. Full name
 2. Full Social Security number
 3. Full address
 4. Trade classification (e.g., laborer, carpenter, apprentice, electrician, plumber, and foreman)
 5. Gender
 6. Race
 7. Hours worked
 8. All withholding (e.g., laborer, local, state, FICA, etc.)
 9. Name of Contractor and Indication of Prime for Subcontractors
 10. Name of Project
- 5) Certified payroll reports shall be signed by an authorized company officer.
- 6) The Participant shall comply with all applicable requirements of any federal, state or local law ordinance or regulation relating to contract and payroll compliance.

F. Documentation of *Best and Good Faith Efforts and Compliance.*

Two components have been established to facilitate the inclusion of M/W/DS-BE and/or DBE firms as contractors and vendors, and minority /female/local residents as Project site workforce participants:

1) **M/W/DS-BE and/or DBE contracting and vending participation levels:** the basis for each determination will be the total dollar amount of the bid/contract OR the total dollar amount of the bid/contract for the identified Project task.

2) **Minority/Female/Local Resident Employment Participation Levels:** the basis for each determination will be the projected total on-site field employee hours divided by the number of minority, female and local residents' employee hours anticipated to be performed on the Contractor's payroll, and each of the Contractor's on-site subcontractors payrolls.

G. Oversight Committee

DVIC and the City of Philadelphia, in consultation with the appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, including representatives from DVIC, City Council and/or the General Contractor and Construction Manager, Office of Economic Opportunity and the District Councilperson, or his/her designee.

The first meeting of the Project Oversight Committee shall be called by DVIC within one (1) month of the initiation of this Project (as determined by DVIC) and shall meet on a regular basis during all phases of the Project. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

III. Certified M/W/DS-BE and/or DBE Firms

A. Only businesses that are owned, managed and controlled, in both form and substance, as M/W/DS-BE and/or DBE firms shall participate in this Project's Economic Opportunity Plan. To ensure this standard, all businesses, including joint ventures, must be certified by the Philadelphia Office of Economic Opportunity (OEO) or members of the Pennsylvania Unified Certification Program (PAUCP). Both agencies are authorized to certify such enterprises.

B. M/W/DS-BE and/or DBE certification should not be the sole determination of a Bidder's or Contractor's financial or technical ability to perform specified work. DVIC reserves the right to evaluate the Contractor's or Subcontractor's ability to satisfy financial, technical, or other criteria separate and apart from said certifications before bid opening. Pre-qualification conditions and requirements shall be conveyed in a fair, open and non-discriminatory manner to all.

C. DVIC recognizes that M/W/DS-BE and/or DBE certifications may expire or the firm may experience de-certification by an authorized governmental entity. Certifications that expire during a firm's participation on a particular phase of the Project may be counted toward overall goals for participation ranges. However, said firm MUST become re-certified prior to consideration for future goal credit in the Project's Plan. If a firm has been de-certified, said firm would not be eligible to participate.

D. An M/W/DS-BE and/or DBE and/or DBE submitting as the prime contractor is required, like all other Participants, to submit a bid and/or RFP that is responsive to the Reauthorized Executive Order 02-05, and applicable law, and will only receive credit, in its certification category, for the amount of its own work or supply effort on the specified work in the bid and or RFP. In order to maximize opportunities for as many businesses as possible, a firm that is credited in two or more categories (e.g. MBE and WBE, or WBE and DSBE) will only receives credit as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Bidders/Respondents will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

IV. Non-Compliance

A. In cases where DVIC has cause to believe that a Participant, acting in good faith, has failed to comply with the provisions of the Plan, DVIC in consultation with the Project Oversight Committee and with the assistance and consultation of the appropriate agencies and professional entities shall attempt to resolve the noncompliance through conciliation and mediation.

B. In conciliation, the Participant must satisfy DVIC and the Project Oversight Committee that said Participant has made its *best and good faith efforts* to achieve the agreed upon participation goals by certified M/W/DBE firms. *Best and good faith efforts* on the part of the Participant/Contractor shall include:

1) Entering into a contractual relationship with the designated M/W/DBE firm in a timely, responsive and responsible manner, and fulfilling all contractual requirements, including payments, in said manner.

2) Notifying all parties, including DVIC, the M/W/DS-BE and/or DBE firm, the Project Oversight Committee and all relevant Participants, of any problems in a timely manner.

3) Requesting assistance from DVIC and/or the Project Oversight Committee in resolving any problems with any M/W/DS-BE and/or DBE firm.

4) Making every reasonable effort to appropriately facilitate successful performance of contractual duties by an M/W/DS-BE and/or DBE firm through timely, clear and direct communications.

C. In cases where DVIC and/or the Project Oversight Committee has cause to believe that any Participant has failed to comply with the provisions of the Plan, they shall conduct an investigation.

D. After affording the Participant notice and an opportunity to be heard, DVIC and/or the Project Oversight Committee are authorized to take corrective, remedial and/or punitive action. Such actions may include, but are not limited to:

1) Declaring the Participant as non-responsible and/or non-responsive, with a determination as ineligible to receive the award of a contract, continue a contract and/or ineligible for any other future contracts affiliated with this Plan;

2) Suspending the violating Participant from doing business with the Owner;

3) Withholding payments to the violating Participant; and/or

4) Pursuing and securing any relief which DVIC and/or the Project Oversight Committee may deem to be necessary, proper, and in the best interest of the Owner and the Project, consistent with applicable policy and law.

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V. Participation Goals

The following *Professional Services* contract goals have been set for **Design and Fit Out** of the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	15%	5%	1%

The following *Employment* goals have been set for **Build-out of Leased Space** of the Project:

Employment	Philadelphia Residents	Minorities	Females	Disabled
Construction Workforce	50%	35%	7%	0%

The following **Construction Contract** goals have been set for **Build-out of Leased Space** the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Construction Sub-Contractors	25%	10%	3%

The following *Contract* goals have been set for **Information and Technology Operating Capacity** of the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Sub-Contractors	15%	5%	1%

The following *Employment* goals have been set for **Operating Capacity** of the Project:

Employment	Philadelphia Residents	Minorities	Females	Disabled
Operating Workforce	50%	35%	7%	2%

Owner Representative

Date

City of Philadelphia Representative

Date