



Western Pennsylvania Office
355 Fifth Avenue, Suite 1022
Pittsburgh, PA 15222
(412) 201-4301
Fax (412) 281-9987

Main Office
2 South Easton Road
Glenside, PA 19038-7615

Central Pennsylvania Office
118 Locust Street
Harrisburg, PA 17101-1414
(717) 236-9486, ext. 205
Fax (717) 233-4088

For Public Distribution

Memorandum

To: Cheryl Hall-Russell, President and CEO
From: Bob Damewood
Date: June 27, 2012
Re: Lower Hill Inclusionary Development Principles

In 2009, Hill House Association authorized RHLS to research strategies that have been used locally and around the country to ensure that existing residents benefit from neighborhood development, and to work with the Hill District Consensus Group to vet those strategies and advocate for their inclusion in the Hill District Master Plan. The result was the adoption and inclusion in the Master Plan of the attached Non-Displacement Strategies and Strategies for Reclaiming the Lower Hill. To the best of my knowledge, Hill House Association has not taken an official position with respect to any of the specific strategies, although Terri Baltimore and Jules Matthews did participate on the Master Plan Management Committee that adopted them.

Some of the attached strategies are designed to ensure that the Mellon Arena site is developed in a way that blends with the social and cultural fabric of the neighborhood and that existing Hill District residents have a realistic opportunity to live, work and own businesses there. The Pittsburgh Penguins, which have development rights to the site, have publicly declared that they do not intend to abide by the strategies as set forth in the Master Plan, but that they are open to adopting a voluntary set of "inclusionary principles". The City Solicitor and General Counsel for the Pittsburgh Urban Redevelopment Authority have raised legal concerns with respect to some of the strategies, but those concerns (attached) generally apply only to enforcement by the City and the URA, not to voluntary implementation by the Penguins.

In the coming months there will be opportunities to negotiate inclusionary development principles with the Penguins and to provide public comment on their development plans. The

Penguins are currently working with the Department of City Planning to establish a Specially Planned District in the Lower Hill. This will have the effect of streamlining the development approval process, because it will eliminate the need to obtain separate development plan approval for each phase of the project. The Penguins have also indicated that they will seek Tax Increment Financing for Lower Hill infrastructure. The URA's TIF guidelines require, among other things, that the TIF project be in compliance with the neighborhood plan.

The purpose of this memo is to summarize the Lower Hill inclusionary development principles contained in the Hill District Master Plan, in order to aid Hill House in determining whether and how to weigh in on the Penguins' Lower Hill development plans. Each summary will include the language from the Master Plan, the rationale behind each principle, examples of successful application of each principle in other development contexts, and a discussion of any legal concerns. Legal concerns will be broken out by applicability to the URA, the City of Pittsburgh, and the Pittsburgh Penguins, since each will have a different role in the redevelopment of the Lower Hill.¹ This memo will then summarize the process and timeline for establishing a Lower Hill Specially Planned District and obtaining TIF approval, and the relevance of the Hill District Master Plan to each of those processes.

A. BACKGROUND OF THE HILL DISTRICT MASTER PLAN AND INCLUSIONARY DEVELOPMENT PRINCIPLES

The 28 acre Civic Arena site (hereinafter referred to as the Lower Hill) is owned by the Sports and Exhibition Authority of Pittsburgh and Allegheny County (SEA) and the URA. SEA owns the lower portion of the site (the "Civic Arena" site), which comprises about 2/3 of the entire site. The URA owns the remaining, upper portion (the "Melody Tent" area). A term sheet dated March 13, 2007, between the SEA, the City of Pittsburgh, the Lemieux Group and others gave the Penguins development rights over both parcels. These terms were later incorporated into

¹ The URA's role will be as a subsidy provider, so the applicable legal consideration will be whether the URA can place certain conditions on the award of public subsidy. The City's role will primarily be zoning and land use approval, so the applicable legal consideration will be whether it can require conformity with the Master Plan as a condition of approving a new zoning designation for the Lower Hill. The Penguins' role will be as master developer, so the applicable legal consideration will be whether a given principle would expose the Penguins or its developers or property managers to legal liability.

various sublease, option and development agreements. Under these agreements, the Penguins are required to develop approximately 2.8 acres per year, beginning on the first anniversary of the demolition of the Arena and preparation of the land for additional parking. The Arena has been demolished, and preparation of the site for additional parking is scheduled to be completed by the end of this summer. If the Penguins fail to keep this schedule, they can lose development rights to the portion of the land that should have been developed. In such an event, the Penguins designate the land to be forfeited.

The Hill District Master Plan was completed in September, 2011. The Master Plan grew out of the Community Benefits Agreement (CBA) between the One Hill Neighborhood Coalition, the Pittsburgh Penguins, the URA, and various public entities including the City of Pittsburgh. Under the CBA, the public entities and the URA agreed to secure funding for a comprehensive neighborhood plan to guide future development in the Hill. The purpose of the Master Plan was “to seek balanced growth and encourage new investment and development in the Hill District without displacing existing Hill residents” and to give Hill District residents “the opportunity to benefit from the expected growth and development in their neighborhood.”

The CBA obligates the City and the URA to “use the Master Plan to guide their decisions regarding project selection and development activities in the Hill District.” The Master Plan would not preempt the authority of the Planning Commission to approve development plans for the Hill, but all development plans must include the Hill District Master Plan as “a statement of guiding principles.”

In July, 2009, four planning teams made community presentations at Hill House as part of the Master Plan consultant selection process. Each of them was asked what experience they have with incorporating strategies in community master plans in order to ensure that existing residents aren't displaced as property values increase. The representative from CHP (the consultant that was initially selected to complete the Master Plan) responded that it would be up to community stakeholders to inform the consultant which strategies the community wants to include in the Plan. I discussed this with then Hill House President and CEO Evan Frazier, and he authorized me to research anti-displacement strategies and to work with the Consensus Group to vet those

strategies and advocate for their inclusion in the Master Plan. Bonnie Young-Laing (Co-Director of the Consensus Group) and I brought this idea to the Hill District Planning Forum, which asked that strategies for reclaiming the Lower Hill also be explored. Dr. Young-Laing and I compiled a set of strategies, vetted them with various “sector committees” of the Planning Forum (established to engage stakeholders around specific planning issues), and compiled a set of recommended strategies for inclusion in the Master Plan. These strategies were adopted by the Planning Forum in the spring of 2010. See Damewood and Young-Laing, *Strategies to Prevent Displacement of Residents and Businesses in Pittsburgh’s Hill District* (2010), available online at http://www.prrac.org/pdf/Hill_District_Anti-Displacement_Strategies-final.pdf.

The bulk of the Master Plan process took place from September, 2010, to September, 2011. It was prepared by Sasaki Associates and Stull + Lee Architects (after CHP was removed from the consultant team), and overseen by a Master Plan Management Committee chaired by Daniel Lavelle and consisting of numerous community stakeholders and public officials, including representatives of the URA and the Department of City Planning. The final product had to be approved by the Management Committee and by a Master Plan Steering Committee consisting of representatives of the Consensus Group and various elected officials.

The Management Committee considered the recommended inclusionary development strategies over a period of several months. In early 2011, the strategies were vetted with local developers and subsequently revised in response to the few objections that were expressed. They were also revised in response to comments made by the planning consultants and to legal concerns raised in early June, 2011, by the Department of City Planning. The Non-Displacement Strategies and Strategies for Reclaiming the Lower Hill were adopted as part of the Master Plan by the Management Committee in June, 2011, and by the Steering Committee in September, 2011.

B. INCLUSIONARY DEVELOPMENT PRINCIPLES IN THE MASTER PLAN

The Non-Displacement Strategies and Strategies for Reclaiming the Lower Hill contain the following inclusionary development principles for the Lower Hill:

1. Economic Opportunities
 - First Source Hiring

- Enhanced MBE/WBE Commitments
- 2. Community Ownership/Equity
 - Co-Ownership Requirements
- 3. Design Strategies
 - Neighborhood Design Guidelines
 - Entrance
- 4. Housing Strategies
 - Inclusionary Housing Development
 - Right to Return
- 5. Business Development Strategies
 - Inclusionary Business Development
 - Neighborhood-Scale Retail

1.a. Economic Opportunities – First Source Hiring

Language in the Master Plan

First Source Hiring. All developers must meet with a Hill District-based employment center or program to review project based job descriptions and establish realistic, mutually agreed upon hiring goals. Developers must agree to interview pre-qualified Hill District residents before advertising to the public at large and to provide a hiring priority for Hill District residents.

The above language applies to all development within the Hill District, not just the Lower Hill.

Rationale

The intent of this principle is to enhance economic opportunities for existing Hill District residents in connection with the development of the Lower Hill. This would serve two important objectives – improving the ability of Hill District residents to afford new housing in the Lower Hill (which will in turn help to “reclaim” the Lower Hill as part of the neighborhood) and helping existing Hill District residents afford increases in property costs that will come with increased investment in the neighborhood.

The Hill District is one of the lowest income neighborhoods in the City of Pittsburgh. According to the 2010 census, the median income of Hill District households is only \$18,000 – half that for the City as a whole. According to the Feb. 2012, PGHSNAP (Pittsburgh Sector Neighborhood

Asset Profiles), 43% of Hill District residents live below the poverty line – twice the rate for the City as a whole. In order to ensure that existing Hill District residents benefit from development in the Lower Hill and from revitalization of the neighborhood above Crawford Street, strategies to improve residents' earning capacity must be pursued. First source local hiring is one such strategy.

Examples of Successful Implementation (Consol Center and Cambria Suites Hotel)

Examples of successful first source hiring initiatives are too numerous to mention, but one particularly relevant example is the Hill District CBA, under which the Penguins agreed to fill all new jobs by first considering and interviewing Hill District residents referred by the Hill District First Source Center or other local sources. The Penguins and their contractors have largely abided by their hiring commitments with respect to the Consol Energy Center and the Cambria Suites hotel. To date, 76 Hill District residents (15219 zip code) have been hired by various employers at the Consol Center, and 11 have been hired at Cambria Suites. (It is important to note, though, that the CBA does not explicitly require developers and contractors in the Lower Hill to agree to first source hiring – it only requires the Penguins to inform them that first source hiring is a “principle” under the CBA.)

Potential Legal Concerns

URA: The URA's General Counsel has indicated that the URA can not legally impose first-source hiring obligations on developers and contractors. I disagree with this position. Not only does the URA have the legal authority to require local hiring, they are legally obligated to do so under Section 3 of the U.S. Housing and Community Development Act of 1968. Section 3 requires that recipients of HUD housing and community development funding extend hiring and contracting opportunities to low-income residents of the area where the HUD-funded project is located, to the greatest extent feasible. For each new job created as a result of the HUD-funded project, residents of the neighborhood are entitled to first priority. The URA receives and administers HUD housing and community development funds for the City of Pittsburgh, and is accordingly subject to Section 3. Most URA contracts and financing documents already contain Section 3 local hiring requirements. The first-source hiring principle in the Master Plan merely

specifies the mechanism (interviewing Hill District residents before advertising jobs to the general public) for implementing a legal requirement that the URA already imposes on most recipients of URA funding.

City: The City Solicitor did not raise any legal objections to this principle, but there is a good chance that a blanket requirement that all developers give a hiring preference to local residents - enforceable through the zoning code, rather than as a condition of receiving public funds - would violate the Commerce Clause of the U.S. Constitution. See *White v. Massachusetts Council of Construction Employers*, 460 U.S. 204 (1983) (Boston resident hiring preference on construction projects did not violate the Commerce Clause, as it only applied to projects that were funded in whole or in part with city or federal funds and therefore the city was acting as a “market participant”, not as a market regulator).

Penguins: Even if the City or the URA would be prohibited from requiring the Penguins to comply with First Source Hiring, there is no reason why the Penguins could not voluntarily agree to it. In fact, the CBA already obligates the Penguins (but not their developers and contractors) to consider and interview Hill District residents first for all new jobs in the Lower Hill.

1.b. Economic Opportunities – Enhanced MBE/WBE Contracting Commitments

Language in the Master Plan

Enhanced MBE/WBE Commitments. All developers must commit to a MBE participation rate of 30% and WBE participation rate of 15% on all contracts, including but not limited to pre-construction services (architectural, engineering, urban planning, market and traffic study consultants, and other real estate consultants), supply contracts and construction. Particular consideration must be given to Hill District businesses in fulfilling these requirements.

The above language applies to all development in the Hill District, not just the Lower Hill. (The current MBE/WBE contracting goals for the City and URA are 18% and 7%, respectively.)

Rationale

Like First Source, the intent of this principle is to enhance economic opportunities for existing residents of the Hill District, to help them afford new housing in the Lower Hill and increases in housing costs throughout the neighborhood.

Examples of Successful Implementation (Consol Center Garage/Lower Hill Demolition and Infrastructure Design)

There are already several good examples of successful MBE/WBE contracting in the Lower Hill. The SEA reports MBE/WBE participation rates of 27% and 6% for the Civic Arena demolition and 27% and 10% for the Lower Hill infrastructure design. The reported participation rates for the Consol Garage construction were 51% MBE and 8% WBE.

Potential Legal Concerns

URA: The URA General Counsel has stated that requiring MBE/WBE goals of 30% and 15% would expose the URA to a potential lawsuit, and that there is no guarantee that the URA would prevail. There may be some merit to this position – all affirmative action programs, including the URA’s current MBE/WBE contracting goals of 17% and 8% - are subject to legal challenge with no guarantee that they will be upheld. But as long as the percentages are supported by documented evidence of discrimination in public contracting, are consistent with the availability of qualified MBEs and WBEs in the local market, and are stated as good faith goals, not quotas, they should be no more legally indefensible than the URA’s current MBE/WBE contracting goals.

Legal challenges to MBE/WBE contracting requirements are generally brought under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution, which provides that no state shall deny any person within its jurisdiction equal protection of the laws. Under the Equal Protection Clause, whenever a state or local government provides a benefit based on a “suspect” classification such as race, courts will strike down that benefit unless (1) it is justified by a “compelling governmental interest”, (2) it is “narrowly tailored” to serve that interest, and (3) no less restrictive means are available to achieve that interest. Affirmative action programs such as MBE contracting preferences will be invalidated if they don’t satisfy these criteria. See *City of Richmond, Va. v. J.A. Croson Co.*, 488 U.S. 469 (1989).

To survive an Equal Protection Clause challenge, M/WBE goal percentages must be narrowly tailored to remedy the documented effects of past discrimination (this is generally supplied by one or more disparity studies); must be consistent with an assessment of the availability of qualified MBEs and WBEs in the relevant market; must incorporate race- and gender neutral alternatives (such as relaxation of administrative contracting barriers and the provision of training and financial assistance); and must provide for waivers and good faith efforts as opposed to hard quota requirements. See, e.g., *Contractors Ass'n of Eastern Pennsylvania, Inc. v. City of Philadelphia*, 91 F.3d 586 (3rd Cir., 1996). The URA's existing M/WBE requirements were presumably designed to meet these standards. It would be good to review the City's disparity studies and determine whether a 35% and 10% contracting goal is justified, but assuming there is documentary support for the URA's existing goals, the well-documented impact of Lower Hill urban renewal on Black-owned businesses should justify a higher MBE contracting goal in the Lower Hill. It would also be good to assess the availability of qualified MBEs and WBEs to do work in the Lower Hill, but the SEA's track record shows that a 35%/10% goal is not infeasible. The bottom line is that all M/WBE contracting goals are subject to legal challenge, and the goals stated in the Master Plan are not significantly more susceptible to legal challenge than those that the URA currently uses.

City: The City Solicitor did not raise any legal objections to this principle.

Penguins: Even if the City or the URA were prohibited from requiring the Penguins to adopt enhanced MBE/WBE contracting goals, there is no reason why they could not voluntarily agree to those goals. The MBE/WBE goals that the Penguins adopted for the Consol Center Garage (a combined goal of 62%) were much higher than those required by the Master Plan.

2. Community Ownership/Equity

Language in the Master Plan

Co-Ownership Requirements. All development projects receiving a subsidy from or through the City, County, or URA should provide co-ownership opportunities for Hill District community-based organizations (CBOs) or Hill District faith-based organizations. The CBO or faith-based organizations should have an interest in the ownership, profits, developer fee, and/or cash flow. If the CBO or

faith-based organization provides development services beyond helping to secure community and government support for the project, the organization should receive a higher level of interest in the ownership, profits, developer fee, and/ or cash flow. In addition, the CBO or faith-based organization that has an ownership interest should have the ability to approve or reject major project decisions, and retain a right of first refusal to acquire the project if it is sold.

The above language applies to all development in the Hill District that receives a public subsidy, not just the Lower Hill. It would be up to the developer to choose a community partner. This provision was vetted with local developers as part of the Hill District Master Planning process, and there were no unresolved objections.

Rationale

The intent of this principle is to give Hill District organizations an equity stake in neighborhood assets, to help ensure that the long-term use and disposition of developed properties continue to benefit Hill District residents. Decades of discriminatory housing and community development policy have left the Hill District with a high percentage of absentee ownership. According to the 2010 census, only 30% of all homes in the Hill District are owner-occupied, less than half of the homeownership rate for the City as a whole. This is no accident – starting in the mid 1930s and continuing for nearly four decades, the prevailing housing policy applicable to African-American neighborhoods was to develop large subsidized rental housing projects, while homeownership was discouraged through the federal practice of mortgage redlining. Combined with widespread private market housing and job discrimination, these policies left African-Americans out of the post-war housing boom and left much of the property in the Hill District owned by non-residents.

30% of all parcels in the Hill District – *excluding the Lower Hill* – are currently owned by the City, URA, HACP or other public entities. This dynamic gives public entities and developers a greater say than Hill District residents in how land in the Hill is developed and used. To reclaim the Lower Hill in a way that ensures that it will remain a part of the cultural fabric of the Hill over the long run, and to ensure that existing residents will continue to be able to live, work and own businesses in a revitalized Hill, Hill District residents and community-based organizations must have more of an ownership stake in development projects within the neighborhood.

Examples of Successful Implementation (Clairton Southside)

The Sanders Task Force was established in the 1990s to allocate a portion of Allegheny County's CDBG funding over a seven year period. In 2001, Sanders sought development proposals to redevelop Clairton's Southside neighborhood, which at that time was one of the most severely distressed neighborhoods in Allegheny County. The Clairton Southside revitalization was funded primarily by HUD funds administered by Allegheny County Economic Development. Both HUD and ACED were represented on the Sanders Task Force. As a condition of funding, Sanders required that the developer enter into a joint venture with a local community-based organization to undertake the project. As a joint venture partner, the community organization (CEDCC) was able to ensure that all aspects of the development (lease-purchase arrangements, admissions criteria, housing sales prices, and employment/contracting opportunities) benefited existing residents of the community. The resulting revitalization project has won regional and state-wide awards as a community development best practice.

Potential Legal Concerns

URA: The URA's General Counsel has stated that the URA can't give preference to faith-based organizations. That is true as far as it goes, but this provision doesn't require a preference for faith-based organizations - all that is required is that publicly-funded developers take on a community partner, which can be community-based or faith-based. The URA's General Counsel has also implied that the URA can't give preference to Hill District organizations, saying that "URA projects ... should provide equal opportunity for all citizens to participate in the benefits". But requiring publicly-funded developers to secure a community partner doesn't deny anyone the ability to participate in the benefits of a URA-funded project, it only ensures that some entity based in the neighborhood has an equity stake and a role in the project. Moreover, the fact that the primary regulatory agency to which the URA is accountable (HUD) participated on the Sanders Task Force and didn't raise legal objections to a similar requirement is a good indication that local co-ownership requirements on publicly-funded community development projects are permissible.

City: The City Solicitor raised the same objections about faith-based organizations as the URA. As explained above, no preference for faith-based organizations is required.

Penguins: There is no reason why the Penguins could not voluntarily agree to this principle.

3. Design Strategies

Language in the Master Plan

Neighborhood Design Guidelines. Development in the Lower Hill District must reflect the social, cultural and historical characteristics of the Greater Hill District.

Entrance. The western entrance to the neighborhood should be marked at the intersection of Centre Avenue and Washington Place with a prominent structure that honors the history and culture of the Hill District, which could be [combined with]² the artwork by Walter Hood adjacent to the new arena.

These principles would apply generally to development in the Lower Hill, regardless of whether the Penguins receive public subsidy. Note that the Penguins have still not installed the Walter Hood artwork (“Curtain Call”), and that no source of funding has been identified for an adjacent structure.

Rationale

The intent behind the Design principles is to develop the Lower Hill within the context of the rest of the neighborhood and to ensure that it is perceived as an integral part of the social and cultural fabric of the Hill.

Examples of Successful Implementation (Bedford Hill; Chicago Bronzeville Gateway)

A good example of using neighborhood design guidelines to ensure that new development is contextual with the existing neighborhood is the Bedford Hill HOPE VI. Bedford Hill was a large public housing revitalization project in the Hill District where old barracks style apartment buildings were demolished and new townhouses and detached homes were constructed on scattered sites throughout the neighborhood. The designs for the new houses were based on the

² The words “combined with” were inadvertently removed by the consultants from the text that was originally considered and approved by the Master Plan Management Committee.

“Bedford and Hill District Pattern Book” by Urban Design Associates. The planning book contained designs for lots, gardens, house sizes, styles, windows and architectural details, based on positive existing patterns in the Hill District. The result was attractive, contextual, and consistent with the architectural character of the Hill.

There are many examples of marking an entrance to a neighborhood in order to distinguish it as culturally significant (many Chinatowns throughout the country have a gateway arch that serves this function). One example where this has been done in the context of an African-American neighborhood is the Bronzeville Gateway project in Chicago. Bronzeville is a historic African-American neighborhood on the South Side of Chicago that has suffered decades of disinvestment and distress but is now seeing a great deal of reinvestment. To commemorate Bronzeville’s historic significance, the Bronzeville Merchants’ Association is installing ten 6’ by 3’ obelisks, inscribed with historical information, at various entrance points to the neighborhood.

Potential Legal Concerns

Neither the URA General Counsel nor the City Solicitor have raised any legal objections to the Design principles.

4.a. Housing Strategies – Inclusionary Affordable Housing

Language in the Master Plan

Inclusionary Affordable Housing. All housing development plans for the Lower Hill must, to the greatest extent feasible and subject to the regulations associated with any housing assistance resources utilized, provide that at least 30% of all units must be affordable to very low-income households (at or below 50% AMI). If public funding is used or if project-based subsidy is available, at least half of the affordable units must, to the greatest extent feasible and subject to the regulations of any housing assistance resources utilized, be affordable to extremely low-income households (at or below 30% AMI). In allocating housing and community development resources, the City and URA should encourage a higher percentage of affordability and/or the use of deep subsidies to achieve deeper income targeting. To the extent possible, and subject to funding availability and HUD approval, HACP should consider making project-based subsidy available for mixed-income housing development in the Hill District, particularly the Lower Hill.

This principle would apply to all housing development in the Lower Hill. The 30% affordability requirement was vetted by local housing developers as part of the Master Plan process and there were no objections. HACP's Executive Director, Fulton Meachem, has expressed interest in supporting an affordable housing component in the Lower Hill.

Rationale

The purpose of the inclusionary affordable housing principle is to ensure that existing residents of the Hill District have a realistic opportunity to live in new housing that will be built in the Lower Hill. The Penguins have announced plans to build 1200 housing units in the Lower Hill. Because of its location adjacent to downtown, the Lower Hill has the potential to be one of the hottest real estate markets in town. In 2010, when this principle was adopted in the Master Plan, the average monthly rent for newer residential properties in the Downtown market ranged from \$1,100 for a studio apartment to \$2,583 for a 3-bedroom apartment.³ At Fifth Avenue Lofts in Uptown, rents range from \$725 for a studio apartment to \$2,950 for a 3-bedroom. Most Hill District residents can not afford these rents. As previously mentioned, the median household income of Hill District residents is about \$18,000 per year. A household earning \$18,000 per year can afford a maximum monthly rent of \$450, including utilities. Without an affordable housing component, few Hill District residents will be able to afford to live in the Lower Hill.

Another reason to require inclusionary affordable housing in the Lower Hill is to help stimulate balanced housing development above Crawford Street. The housing market analysis prepared by Bowen National Research for Hill House EDC in 2011 states that development of higher-end for-sale housing in the Lower Hill could reduce the market for a similar product elsewhere in the Hill District by as much as 50% (p. I-11). By implication, development of a wide range of housing options in the Lower Hill would have less of a negative impact on the overall demand for higher-end for-sale housing and lead to a more balanced housing market throughout the Hill.

Examples of Successful Implementation (Montgomery County MD, Boston Chinatown)

³ Encore on 7th, Penn Garrison, Cork Factory, Heinz Lofts, and Morgan at North Shore.

There are hundreds of examples of inclusionary housing laws around the country. The oldest and most successful has been Montgomery County, Maryland, where more than 12,000 units of affordable housing have been produced since 1974. One example of using an inclusionary housing requirement to reclaim a part of a neighborhood that was previously taken for urban renewal is Boston's Chinatown. Boston's Chinatown lost one-third of its housing and one-half of its land area in the 1950s and 1960s to make way for highway construction and urban renewal projects. Much of the area is now available for redevelopment, and the neighborhood succeeded in getting public benefit criteria written into the zoning code. Among the public benefit criteria is a requirement that 50% of all new residential developments be affordable to low-income households.

Potential Legal Concerns

URA. The URA General Counsel has not raised any specific legal objections to this principle, and there is no legal reason why the URA could not condition the award of subsidy to the Penguins on the inclusion of affordable housing in the Lower Hill. In fact, the URA has a long history of supporting mixed-income housing development (e.g., East Liberty, Addison Terrace).

City. The City Solicitor hasn't raised any legal objections to this principle either, but there are a couple of legal issues that would be implicated by enforcing the principle through the zoning code, such as whether the City has the legal authority to impose inclusionary affordable housing requirements and whether such requirements would amount to a compensable "taking" under the Fifth Amendment to the U.S. Constitution. We have researched these issues extensively and come to the conclusion that the City has the legal authority to require inclusionary affordable housing and that it would not be considered an unconstitutional taking. Since the City hasn't raised any legal objections, I won't provide a detailed analysis here, but I would be glad to provide further detail if and when the need arises.

Penguins. There is no legal reason why the Penguins could not implement this principle voluntarily. What legal concerns there are have to do with the City's authority to impose an inclusionary housing requirement through the zoning code. These concerns, even if they were valid, would not restrict the Penguins from acting voluntarily.

4.b. Housing Strategies – Right to Return

Language in the Master Plan

Right to Return. All housing development plans for the Lower Hill District must provide an admissions preference for displaced persons to the greatest extent possible, including persons who were displaced in the Lower Hill urban renewal effort and their descendents.

This principle would apply to all housing development in the Lower Hill, regardless of whether it is publicly subsidized.

Rationale

The purpose of the right to return principle is to address the historical wrong that was caused by displacing over 8,000 residents from the Lower Hill in the late 1950s. Now that the area is being restored to residential use, displaced residents and their children and grandchildren should have an opportunity to return.

Examples of Successful Implementation (San Francisco Certificate of Preference Program)

A good example of a right to return preference for residents who were displaced by urban renewal is San Francisco's Certificate of Preference Program. Established in 1967, the program gives people who were displaced by the San Francisco Redevelopment Agency a priority to occupy affordable housing units that were either developed with Agency assistance or developed on the original urban renewal site. The Redevelopment Agency imposes this requirement on housing developers when it provides assistance or sells property that is part of an urban renewal area. To be eligible for a certificate of preference, a displaced person must show that they lived in an urban renewal area, and either their name must appear on the agency's "site occupancy records" or they must prove that they resided at the unit at the time that it was acquired by the Redevelopment Agency. Persons who are displaced by other Redevelopment Agency activities (not on the urban renewal area) are entitled to a lesser priority.

Potential Legal Concerns

URA and City. Both the URA General Counsel and the City Solicitor have objected that the right to return provision would be difficult to implement and that it could constitute illegal discrimination. The URA General Counsel is concerned that “development conditions restricting who can participate in the benefits of projects may well be subject to various non-discrimination laws, including without limitation the federal and state constitutions.” While the concern about difficulty of implementation is valid (more on that below), the right to return principle, as written in the Master Plan, would not violate any anti-discrimination laws.

As mentioned above, the Equal Protection Clause of the 14th Amendment provides that no state shall deny any person within its jurisdiction equal protection of the laws. Article I, Section 26 of the Pennsylvania Constitution states that no political subdivision of the Commonwealth may discriminate against any person in the exercise of a civil right. This provision is identical in scope to the Equal Protection Clause. See *Love v. Borough of Stroudsburg*, 597 A.2d 1137, 1139 (1991). Under the Equal Protection Clause, governments are permitted to treat different classes of people differently, provided the classification bears a reasonable relationship to a legitimate governmental interest. But discrimination on the basis of a “suspect” classification, such as race, is subject to “strict scrutiny” – it will be upheld only if the classification is narrowly tailored to serve a compelling state interest. *Loving v. Virginia*, 388 U.S. 1 (1967). To show discrimination on the basis of a suspect classification, there must be “discriminatory intent”. In other words, a person who is denied housing in the Lower Hill because they don’t qualify for a displaced person preference would have the burden of showing that the preference was adopted with the intent to discriminate on the basis of race or some other illegal classification. Without a showing of intentional discrimination, the fact that the preference tends to benefit African-Americans and has a “disparate impact” against other races would not be enough to justify strict scrutiny. *Washington v. Davis*, 426 U.S. 229 (1976). The bottom line is, under either the federal or state constitutions, the City and URA would only need to show that an admissions preference for displaced residents bears a reasonable relationship to a legitimate governmental interest. This would not be a difficult standard to meet.

The question of whether a right to return preference violates anti-discrimination statutes is a closer one, but the principle was drafted so as not to run afoul of these laws. Unlike the federal

and state constitutions, the Fair Housing Act and the Pennsylvania Human Relations Act prohibit practices that have a “disparate impact” on members of a certain race, and they make it unlawful to “indicate any preference ... based on race” in advertising for the sale or rental of any dwelling. To support a disparate impact claim, a plaintiff would have to show that the selection rate for white applicants is disproportionately low compared to the selection rate for black applicants. See, e.g., *Langlois v. Abington Housing Authority*, 207 F.3d 43, 48 (1st Cir. 2000). In a 1200-unit higher-end housing development where at least 70% of the units are to be rented or sold at market rate, it is hard to imagine that white applicants would be disproportionately rejected.

To support a discriminatory advertising claim, it would have to be shown that an ordinary reader or ordinary listener would interpret a preference for displaced Lower Hill residents as expressing a discriminatory intent. See Schwemm, *Housing Discrimination: Law and Litigation* (2001), p. 15-2. Approximately 80% of the residents displaced from the Lower Hill were black. Requiring a preference for a population that is 80% black could potentially be construed as indicating a preference for African-American applicants. However, the right to return principle avoids this legal problem by applying to all displaced persons, not only those displaced from the Lower Hill. This creates an indefinite class of beneficiaries, so that it could not be construed as a preference for members of any particular race. That is the approach used by the City of San Francisco, which has a 2-tiered priority that includes persons who were displaced by any Agency activities.

The other objection raised by the City and the URA – that the right to return principle would be difficult to implement - does have merit. Unlike San Francisco, there are no “site occupancy records” that can be used to identify who would be entitled to the preference. While a housing manager could allow applicants to demonstrate eligibility for the preference by showing other kinds of proof, it would be difficult to determine what kinds of proof would be acceptable, and even more difficult for someone claiming the preference to produce evidence that they or their parents or grandparents lived in the Lower Hill at the time the URA acquired property there.

Penguins. The legal analysis and practical concerns outlined above apply to the Penguins as well as to the City and URA. As drafted, the right to return principle would not cause the Penguins or

their developers or property managers to violate the Fair Housing Act or the Human Relations Act, but as a practical matter it would be extremely difficult to implement.

5. Business Development Strategies

Language in the Master Plan

Inclusionary Business Development. All commercial or retail development plans for the Lower Hill District must include market-tested strategies to achieve a goal of at least 20% of the commercial or retail floor area for businesses that are majority owned by Hill District residents or are currently located in the Hill District, and for businesses that were displaced from the Lower Hill by urban renewal.

Neighborhood-Scale Retail. All commercial or retail development plans for the Lower Hill District must commit best efforts to achieve a balanced retail mix of local, regional and national companies.

These principles apply to all development in the Lower Hill, regardless of whether it is publicly funded.

Rationale

The intent of the inclusionary business development principle is to ensure that Hill District business owners have a realistic opportunity to own businesses in the Lower Hill. It does not impose a hard set-aside. All that is required is that the Penguins develop a realistic inclusionary business strategy. The intent of the neighborhood-scale retail principle is to ensure that business development in the Lower Hill includes a balanced mix of retail that serves both neighborhood residents and visitors drawn from throughout the region.

Examples of Successful Implementation (San Jose “Heart of the City” Project)

San Jose’s “Heart of the City” project is a \$184.5 million mixed-use development that will produce over 500 units of housing and over 100,000 square feet of retail space in downtown San Jose, California. As a condition of providing about \$36 million in subsidy, the city required the developer (CIM) to set aside at least 10% of all retail space for locally-owned small businesses, and to use best efforts to achieve a retail mix of 30% local, 30% regional, and 30% national

companies. The first phase of the project broke ground in 2004, and at least 3 mixed-use projects have been completed to date.

Potential Legal Concerns

URA. The URA’s General Counsel has stated that requiring a set quota or percentage of retail space to be set aside for businesses that are owned by Hill District residents or were displaced by urban renewal in the Lower Hill could potentially be subject to legal challenge. He does not provide a legal basis for this position, and I am unaware of any. But in any case, the inclusionary development principle doesn’t mandate a quota or required percentage, only “market-tested strategies to achieve a goal”. The URA did not raise any legal objections to the neighborhood-scale retail principle.

City. The City Solicitor has stated that providing a preference for businesses that are owned by Hill District residents or were displaced by urban renewal in the Lower Hill could potentially give rise to claims of illegal discrimination. As discussed above, to sustain a claim for illegal discrimination under the Equal Protection Clause, it would be necessary to show “discriminatory intent” – that the inclusionary business development principle was adopted with the intent to discriminate on the basis of race. Here there is no basis for a finding of discriminatory intent. And unlike the Fair Housing Act, no “disparate impact” claims can be brought with respect to retail leasing. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race in connection with programs or activities receiving federal financial assistance, but the Supreme Court has found that only intentional discrimination is prohibited and that individuals may not sue to enforce the Department of Justice’s “disparate impact” regulations. *Alexander v. Sandoval*, 532 U.S. 275 (2001). Like the URA, the City did not raise any legal objections to the neighborhood-scale retail principle.

Penguins. There is no legal reason why the Penguins could not implement these principles voluntarily.

C. SPECIALLY PLANNED DISTRICT

Overview

The Penguins are working with the Department of City Planning to establish a Specially Planned District in the Lower Hill. A Specially Planned District is a special zoning classification that is designed to allow for the orderly development of large parcels of land for a mix of uses. It offers developers greater flexibility because it bypasses the traditional development plan approval process.

Under the current zoning designation (Golden Triangle-E), the Penguins would be required to submit either a Project Development Plan (for projects under 3 acres) or a Master Development Plan (for projects of 3 acres or more). Project Development Plans must meet site development standards for the GT-E district and must satisfy 13 review criteria, including compatibility with existing residential areas, minimizing traffic congestion, ensuring access to public transportation, and protecting views. Master Development Plans must satisfy those criteria plus 6 additional but somewhat overlapping criteria. In either case, the development plan for each phase would have to be approved by the Planning Commission after a public hearing.

Creating a Specially Planned District would give the Penguins a more streamlined development approval process. Instead of having to obtain development plan approval for each phase of the project, the Penguins would prepare a single Land Development Plan that would govern all development within the district. Once the Land Development Plan is approved by the Planning Commission, all subsequent construction plans will be reviewed by the Zoning Administrator and will be approved as long as they are found to be in “substantial compliance” with the Land Development Plan.

To establish a Specially Planned District, three public hearings are required: a hearing by the Planning Commission to recommend approval of a preliminary Land Development Plan and rezoning application; a hearing by City Council to amend the zoning code to establish the Specially Planned District; and a second hearing by the Planning Commission to approve the final Land Development Plan. For the most part, the standards that will govern development within the Specially Planned District are written by the property owner/applicant with assistance from the Department of City Planning. These Subdivision Regulations and Standards are written into the Zoning Code when the Specially Planned District is created. The criteria for approving a

preliminary Land Development Plan, establishing a Specially Planned District and approving a final Land Development Plan are very similar to the criteria for approving a Master Development Plan. What is different is the process – establishing a Specially Planned District requires three public hearings relatively early on, with more or less automatic development approvals after that, while keeping the existing GT-E zoning designation requires a separate public hearing for each development phase.

The Land Development Plan for a Specially Planned District must include an Implementation Program that details the timeline and actions to be undertaken by the applicant and others to implement the plan. The Implementation Program must include “[a]n estimate of the overall environmental, social and economic consequences of the implementation program including the impact on population distribution, employment, economic and environmental conditions and an evaluation, to the extent feasible, of the consequences of alternative implementation programs.” This provision arguably requires the Penguins to evaluate the effectiveness of their proposed Implementation Plan at achieving the social objectives stated in the Hill District Master Plan, and to compare that approach with full implementation of the inclusionary development principles contained in the Master Plan.

The zoning code also empowers the Planning Commission to require the applicant to conduct planning studies in order to determine the impact of the proposed development on the City, including the socio-economic impact. Given the mass displacement of African-American residents and businesses from the Lower Hill, it would be reasonable to examine the impact of the Penguins’ proposed Land Development Plan on the ability of African-Americans to live, work and own businesses in the Lower Hill.

Finally, the review criteria for Planning Commission and City Council approval of a rezoning application and Land Development Plan include, variously, “compliance”, “compatibility”, “conformity” and “consistency” with the “plans and policies adopted by the City”. The CBA, which requires the City to use the Master Plan to guide its development decisions, is arguably a “policy” adopted by the City.

Timeline

The Penguins are currently working with the Department of City Planning to draft Subdivision Regulations and Standards and a preliminary Land Development Plan for the Lower Hill. Once that work is done, establishing a Specially Planned District will involve the following steps.

- Community meetings (estimated start date by the end of July, 2012). The Penguins will hold one or more meetings in the Hill to present their Land Development Plan and obtain community feedback. There are no set requirements for community meetings, but the Planning Commission will reject a rezoning application if the applicant has made no effort to engage the community.
- First Planning Commission hearing (once the community meetings have been held). The Planning Commission will hold a public hearing on the rezoning application and preliminary Land Development Plan, and must make a recommendation to City Council within 90 days of receipt of the application.
- City Council hearing (within 120 days of Planning Commission recommendation). City Council will hold a Zoning Map Amendment hearing to consider the rezoning application. The decision must be made within 90 days of the Council hearing.
- Second Planning Commission hearing (after the zoning map amendment). The Planning Commission will hold a public hearing on the final Land Development Plan.

Relationship to the Master Plan

The zoning code requires that the Planning Commission consider whether a preliminary Land Development Plan “complies with plans and policy documents adopted from time to time by the City” and whether a final Land Development Plan is in “compatibility and conformance with ... plans and policies approved by the Planning Commission.” The code also requires City Council to consider a rezoning application’s “consistency ... with adopted plans and policies of the City.” Unfortunately, neither the City nor the Planning Commission has a history of adopting or approving neighborhood master plans. According to Noor Ismail, Director of the Department of City Planning, the most the City or the Planning Commission can do is “duly accept” a plan.

That would allow them to consider the plan in their decision-making, but it would fall short of requiring that development projects comply with or be compatible with the neighborhood plan.

On the other hand, the City is a signatory to the CBA, which could be considered a “policy” adopted by the City with respect to the Hill. The CBA states that the City will use the Master Plan “to guide [its] decisions regarding ... development activities in the Hill District.” This would require that the Planning Commission at least consider conformance with the Master Plan when reviewing the Penguins’ Land Development Plan. The CBA also says that the Master Plan will not preempt the authority of the Planning Commission to review and approve any master plan, etc., “provided, however, that the Hill District Master Plan shall serve as a statement of guiding principles for any such plan.” This would seem to require that the Planning Commission reject any plan that does not use the Hill District Master Plan as its guiding principles. Finally, as mentioned above, the Master Plan should be relevant in determining what “environmental, social and economic consequences” should be addressed in the Penguins’ Implementation Program, and which “alternative implementation programs” need to be evaluated.

Potential Legal Challenges to Creation of a Specially Planned District

[Redacted from Public Version]

D. TAX INCREMENT FINANCING

Overview

The Penguins have indicated that they will seek Tax Increment Financing for Lower Hill infrastructure. TIFs are a public subsidy to a developer, financed by the additional taxes (the “tax increment”) generated as a result of the development. Normally, 100% of the tax increment would go to the taxing bodies. Under a TIF, a certain percentage (no more than 60% over 20 years or 75% over 10 years) of the tax increment is pledged to the URA and used to make payments on a loan or a bond issuance. The loan or bond proceeds are then either granted or loaned to the developer.

The taxes that can be diverted for a TIF include property taxes and parking taxes. The minimum TIF amount is \$2 million. The maximum amount depends on how much TIF capacity the City

has available. The aggregate value of all property in all TIF districts (post-development) may not exceed 10% of the total assessed value of all property in the City. The City is close to that limit now, so the amount that can be awarded to the Penguins might be limited unless existing TIFs are paid off before the Lower Hill TIF is approved.

TIFs must be approved by each taxing body (City of Pittsburgh, the Pittsburgh School District and Allegheny County). They are governed by State law, City and County ordinances, a School District resolution and URA guidelines. Each of these imposes certain minimum requirements. The most basic requirements are a blight determination (the TIF district must meet state blight criteria) and a “but-for” test (the project would not succeed but for the TIF). In order to support a “but-for” determination, the Penguins will have to provide the URA with a financial analysis of their development project. This should be public information.

The following additional requirements are relevant to inclusionary development in the Lower Hill (with the source of the requirement in parentheses):

- Compliance with Master Plan (URA)
 - All TIF developments must comply with all neighborhood master plans
- Local Hiring/First Source
 - Best efforts to use City residents for 50% of all new jobs (City)
 - Must have an affirmative plan to inform and train City residents (City)
 - Must first consider candidates referred by City’s Employment and Training Division (City)
- MBE/WBE
 - Must have a plan to meet or exceed MBE/WBE goals (URA)
 - Must abide by City MBE/WBE requirements (City)
- Inclusionary Business Development
 - For commercial developments, at least 10% of the building space should be targeted for use by local business or other local use (County)

In the City, TIF applications are submitted to the URA. Once a draft Plan is submitted, the URA reviews the application and passes an “inducement resolution” recommending consideration of the request by a committee of the three taxing bodies. The taxing bodies then pass resolutions of “intent to participate” and establish a TIF committee. The TIF committee reviews the TIF Plan and recommends approval. Each of the taxing bodies then votes on whether to establish the TIF.

It is unclear what the community participation process will be. The URA guidelines say that applicants are “expected” to coordinate their TIF planning with local community groups, but the exact process will be determined by the Penguins and spelled out in a “community engagement plan” to be included in the TIF application.

Timeline

The TIF approval process will involve the following steps:

- TIF application Part 1. This will be submitted to the URA and will include summary information about the TIF project.
- TIF application Part 2. This will include detailed information about the TIF project, including sources and uses of funds and a financial analysis of project operations.
- Basic conditions report, economic impact study and draft TIF Plan. These will include existing site information, job projections, effect on tax receipts, and all information the taxing bodies need to approve the TIF.
- Inducement Resolution passed by the URA Board.
- Resolutions of Intent to participate in the TIF passed by City Council, County Council and the School Board.
- TIF Committee is formed by the City, County, School and URA. The TIF Committee reviews the TIF Plan and recommends approval.
- Resolutions to Participate are passed by County Council and the School Board.
- Public Hearing held by City Council.
- Resolution creating the TIF district passed by City Council..

According to the URA, the entire process of approving a TIF takes about 9-12 months from the submission of the draft Plan, which the Penguins have not yet submitted. Since the proposed use of TIF funds will most likely be for new infrastructure (streets, sidewalks, water and sewer lines, and other underground utilities), the infrastructure planning that is currently being undertaken by SEA (and which is not yet fully funded) will need to be completed before a draft Plan can be submitted. The TIF process is therefore unlikely to begin until sometime next year.

Relationship to the Master Plan

The URA's TIF Guidelines state, under "Evaluation Criteria", that the TIF-financed development "must be consistent with the goals and objectives outlined in the City Master Plan (when approved), and with all applicable local plans, ordinances and codes." The URA's TIF Application (Part 2, Form #5 – Requirements, Certifications and Disclosures) clarifies this, stating that all TIF applications "must be in accordance with the City of Pittsburgh Master Plan (when finalized) *and any neighborhood Master Plans that exist for the area of the proposed TIF district*" (emphasis added). Refusal of the Penguins to comply with the inclusionary strategies contained in the Master Plan would therefore make the Lower Hill development ineligible for a TIF under the URA's TIF Guidelines. The URA could conceivably waive the requirement, since it is contained only in the URA's own guidelines and not in state law or local ordinance, but such a waiver would arguably violate the CBA, which requires the URA to use the Master Plan to guide its decisions regarding project selection and development activities in the Hill.

Potential Legal Challenges to Establishment of a TIF District

[Redacted from Public Version]

I am available to answer any questions and to discuss possible next steps.

Attachments:

- Greater Hill District Development Principles, Non-Displacement Strategies and Strategies to Reclaim the Lower Hill
- Memorandum from Elaine Wizzard, Assistant City Solicitor, dated June 7, 2011
- Memorandum from George Specter, URA General Counsel, dated August 8, 2011
- Hill District CBA, Section I (Hill District Master Plan)

The Management Committee has adopted Development Principles, Non-Displacement Strategies and Strategies for Reclaiming the Lower Hill, to serve as foundations for the Master Plan and to guide all land use, project approval and subsidy allocation decisions affecting the Greater Hill District:

The **Greater Hill District Development Principles** (set forth in Appendix A) provide a framework for the Master Plan and will serve as guidelines for development activities and the allocation of public resources in the Greater Hill District. They were developed by the Hill District Planning Forum, a coalition of community-based organizations in the Hill District and Uptown. The Management Committee adopted the Development Principles after vetting them with private developers to assess their likely impact on development. The Development Principles will be used along with the Evaluation Criteria set forth on pages 32 to 33 to prioritize development projects and review proposed development activities in the Greater Hill District.

The **Greater Hill Non-Displacement Strategies** (set forth in Appendix B) are intended to govern development activities and public funding decisions affecting the Greater Hill District, in order to ensure that existing residents of the Hill District and Uptown will enjoy the benefits of a revitalized neighborhood. The Hill District is characterized by lower household incomes and a high percentage of renters, and these conditions make residents vulnerable to displacement as the market improves and property values increase. The Non-Displacement Strategies are designed to prevent displacement by supporting the economic self-sufficiency and housing stability of existing residents.

The **Strategies for Reclaiming the Lower Hill** (set forth in Appendix C) are intended to govern land use

and development activities in the Lower Hill District. In the 1950s and early 1960s, much of the Lower Hill was demolished to make way for a planned cultural district for more affluent Pittsburghers. 1300 buildings on 95 acres of land were demolished. 413 businesses and over 8,000 residents were forced to relocate, receiving little to no compensation. The Hill District lost its commercial core, much of its population, and its connection to downtown. It was left isolated, disconnected from job opportunities, and starved for capital investment. The Strategies for Reclaiming the Lower Hill are designed to ensure that the Lower Hill is redeveloped in a way that reintegrates the area into the cultural fabric of the community, provides housing and employment opportunities for Hill District residents, and serves as a catalyst for market-driven investment throughout the neighborhood.

Foundations of the Plan

DEVELOPMENT PRINCIPLES
NON-DISPLACEMENT STRATEGIES
STRATEGIES FOR RECLAIMING THE LOWER HILL



Hill District Master Plan community meeting

Appendix A

DEVELOPMENT PRINCIPLES

The Hill District Planning Forum has adopted the following Development Principles which will serve as a foundation for the Master Plan and guide all land use, project approval and subsidy allocation decisions affecting the Greater Hill District:

1. *Address/Right Historical Wrongs*

- 1.1. The Mellon Arena and the Melody Tent sites sit on the Lower Hill District, thus these sites are part of the Greater Hill District. Going forward, these sites will be referred to as the Lower Hill District.
- 1.2. Any development plan for the Lower Hill District should aim to restore the pre-Arena street grid as part of creating a new mixed use neighborhood that is connected into adjacent Hill District neighborhoods.
- 1.3. Land use and development plans for the Lower Hill will preserve no physical remnant of Civic Arena/Mellon arena and the resulting displacement of 8,000+ Hill Residents and businesses.
- 1.4. New developments in the Lower Hill must include 'right of return' preferences for individuals, families, organizations, and businesses displaced by urban renewal to the greatest extent possible.
- 1.5. New development in the Lower Hill must include space for Hill District businesses (see Non-Displacement Strategies) to the greatest extent possible.
- 1.6. New development in the Lower Hill must include affordable housing (see Non-Displacement Strategies) to the greatest extent possible.

2. *Promote Economic Justice*

- 2.1. All housing developments within the Hill District must minimize the displacement of residents and businesses.
- 2.2. All development plans must include first source hiring provisions within the project labor agreements for all stages of work at any development site.
- 2.3. All development contracts must require a minimum MBE participation rate of 30% and WBE participation rate of 15%. Compliance with this principle will be monitored by a 5 person committee; 3 of the 5 committee members will be Hill District Residents/Stakeholders.
- 2.4. All development projects receiving a subsidy from or through the City, County, or URA should provide co-ownership opportunities for Hill District Community-Based organizations and/or Hill District Faith-Based organizations (see Non-Displacement Strategies).

3. *Reflect Neighborhood Driven Civic Design*

Community residents should have ready access to all developing and finalized plans, proposals, and studies regarding the Greater Hill District. Input from community residents must be included in the development stages of any plan or study affecting the neighborhood and community residents must have seats on

development/study committees whose products will influence the Greater Hill District.

The design of redevelopment projects should consider the social, cultural, and historic characteristics of the Greater Hill District's built and natural environment.

- 3.1. Ground level retail and street activating uses are encouraged as supported by market demand for all new development west of Crawford Street in the Lower Hill.
- 3.2. All traffic and parking plans must minimize negative impacts on existing and future neighborhood residents.
- 3.3. Traffic and parking plans must minimize noise and pollution, while also maximizing resident access to parking and the roadways leading to their homes.
- 3.4. The design of all new development should recognize that the Hill District is primarily a residential neighborhood with neighborhood business districts that are at the edge of the Pittsburgh Central Business District (See the "Bedford Hill District Pattern Book").
- 3.5. All development plans must be designed to benefit existing and future community residents and businesses, while allowing for future growth of retail, residential, and commercial spaces.

4. Promote a Green and Healthy Environment

- 4.1. All plans for the Hill District must include provisions for green and sustainable development. This includes ample green space, trees, parks and playgrounds, and LEED certified building standards, as outlined in the Hill District Green Print and other plans.
- 4.2. The design review process for all new proposed projects should seek to preserve the views from the Hill District in all directions (as per Green Print). Development of the Lower Hill must not impair views of Downtown from Crawford Street to the greatest extent possible.

5. Utilize Neighborhood Strengths and Assets

- 5.1 Land use, public art and development plans must honor the historical and cultural legacy of the Hill District as a predominately African American neighborhood. Such plans should also abide by Historic Preservation standards set by the Historical Hill Institute or other neighborhood preservation entities.
- 5.2 Community groups and service organizations based in the Hill District should have a priority to acquire vacant land and buildings as needed to improve the quality of educational, social service, and recreational opportunities for Hill District residents.
- 5.3 All future development plans for the Hill District shall incorporate existing community plans (including the Green Print, Centre Avenue Design Guidelines, and the "Bedford Hill District Pattern Book").

Appendix B

NON-DISPLACEMENT STRATEGIES

To ensure that the Greater Hill District is developed in a way that benefits the existing residents, the Management Committee has adopted the following Non-Displacement Strategies to govern development activities in the Greater Hill District:

Economic Opportunities

First Source Hiring. All developers must meet with a Hill District-based employment center or program to review project based job descriptions and establish realistic, mutually agreed upon hiring goals. Developers must agree to interview pre-qualified Hill District residents before advertising to the public at large and to provide a hiring priority for Hill District residents.

Enhanced MBE/WBE Commitments. All developers must commit to a MBE participation rate of 30% and WBE participation rate of 15% on all contracts, including but not limited to pre-construction services (architectural, engineering, urban planning, market and traffic study consultants, and other real estate consultants), supply contracts, and construction. Particular consideration must be given to Hill District businesses in fulfilling these requirements.

Homeowner Support

Owner-Occupied Rehab. In allocating housing and community development resources for the Hill District, the City and URA should prioritize the rehabilitation of owner-occupied homes through grants to low-income homeowners.

Equity Protection Services. In allocating housing and community development resources for the Hill District, the City and URA should prioritize "equity protection" services to help existing homeowners resolve tax, title and mortgage issues.

Condemnation-Free Development. Except in the case of a substantial and imminent threat to health or safety, eminent domain may not be used to acquire occupied property for redevelopment.

Renter Support

Build First. Except in the case of a substantial and imminent threat to health or safety, all proposals for the redevelopment of an occupied rental property must minimize the involuntary displacement of residents to the greatest extent feasible, by, for example, building replacement housing first before requiring residents to move, by relocating residents on-site and redeveloping the site in phases, or by master leasing temporary relocation housing (preferably in the Hill) for those who may choose to return to the redeveloped property

Support for Tenants in Redevelopment. All plans to redevelop publicly subsidized housing in the Hill District must include a comprehensive plan to support existing tenants in the transition to new, mixed-income housing. At a minimum, the plan should provide for multi-disciplinary services to respond to the multiple needs of families in transition.

Preserving Affordability

Inclusionary Affordable Housing. Overall housing development plans must include a mix of owned and rental housing suited for all income levels. For rental housing developments of 10 or more units (other than in the Lower Hill District), at least 10% of all units must, to the greatest extent feasible and subject to the regulations associated with any housing assistance resources utilized, be affordable to very low-income households (at or below 50% AMI). For for-sale housing developments of 10 or more units (other than in the Lower Hill District), at least 10% of all units must, to the greatest extent feasible and subject to the regulations associated with any housing assistance resources utilized, be affordable to low-income households (at or below 80% AMI). In allocating housing and community development resources, the City and URA should encourage a higher percentage of affordability and/or the use of deep subsidies to achieve deeper income targeting.

One for One Replacement. All plans to redevelop publicly subsidized housing in the Hill District must include, to the greatest extent feasible, a plan to preserve the existing project-based rental subsidy.

Community Ownership/Equity

Priority to Acquire Vacant and Publicly-Owned Property. In disposing of vacant and publicly-owned property, the City and the URA should give priority to community groups and service organizations based in the Hill District with the capacity to develop such properties in a timely manner.

Co-Ownership Requirements. All development projects receiving a subsidy from or through the City, County, or URA should provide co-ownership opportunities for Hill District community-based organizations (CBOs) or Hill District faith-based organizations. The CBO or faith-based organizations should have an interest in the ownership, profits, developer fee, and/or cash flow. If the CBO or faith-based organization provides development services beyond helping to secure community and government support for the project, the organization should receive a higher level of interest in the ownership, profits, developer fee, and/or cash flow. In addition, the CBO or faith-based organization that has an ownership interest should have the ability to approve or reject major project decisions, and retain a right of first refusal to acquire the project if it is sold.

Appendix C

STRATEGIES FOR RECLAIMING THE LOWER HILL

In the 1950s and early 1960s, much of the Lower Hill District was demolished to make way for a planned cultural district for more affluent Pittsburghers. 1,300 buildings on 95 acres of land were demolished. 413 businesses and over 8,000 residents were forced to relocate, receiving little to no compensation. The Hill District lost its commercial core, much of its population, and its connection to downtown. It was left isolated, disconnected from job opportunities, and starved for capital investment.

The Hill District now has a rare opportunity to correct this legacy. A 28-acre portion of the Lower Hill will soon become available for development. The Management Committee has adopted the following strategies to govern development activities in the Lower Hill, in order to ensure that the Lower Hill is developed in a way that reintegrates the area into the cultural fabric of the community, provides housing and job opportunities for Hill District residents, and serves as a catalyst for market-driven investment throughout the neighborhood:

Design Strategies

Neighborhood Design Guidelines. Development in the Lower Hill District should reflect the social, cultural and historical characteristics of the Greater Hill District. The Civic Arena should be demolished.

Entrance. The western entrance to the neighborhood should be marked at the intersection of Centre Avenue and Washington Place— with a prominent structure that honors the history and culture of the Hill District, which could be the artwork by Walter Hood adjacent to the new arena.

Housing Strategies

Inclusionary Affordable Housing. All housing development plans for the Lower Hill must, to the greatest extent feasible and subject to the regulations associated with any housing assistance resources utilized, provide that at least 30% of all units must be affordable to very low-income households (at or below 50% AMI). If public funding is used or if project-based subsidy is available, at least half of the affordable units must, to the greatest extent feasible and subject to the regulations of any housing assistance resources utilized, be affordable to extremely low-income households (at or below 30% AMI). In allocating housing and community development resources, the City and URA should encourage a higher percentage of affordability and/or the use of deep subsidies to achieve deeper income targeting. To the extent possible, and subject to funding availability and HUD approval, HACP should consider making project-based subsidy available for mixed-income housing development in the Hill District, particularly the Lower Hill.

Right to Return. All housing development plans for the Lower Hill District must provide an admissions preference for displaced persons to the greatest extent possible, including persons who were displaced in the Lower Hill urban renewal effort and their descendants.

Business Development Strategies

Inclusionary Business Development. All commercial or retail development plans for the Lower Hill District must include market-tested strategies to achieve a goal of at least 20% of the commercial or retail floor area for businesses that are majority owned by Hill District residents or are currently located in the Hill District, and for businesses that were displaced from the Lower Hill by urban renewal.

Neighborhood-Scale Retail. All commercial or retail development plans for the Lower Hill District must commit best efforts to achieve a balanced retail mix of local, regional, and national companies.

MEMORANDUM

TO: Noor Ismail, Planning Director

FROM: Elaine Wizzard, Assistant City Solicitor

DEPT: Law

RE: Review of Greater Hill District Development Principles

DATE: June 7, 2011

Planning Department requested the Law Department to review the Greater Hill District Development Principles for legal issues. The management committee includes representatives from the Mayor's Office, Pittsburgh City Council and the Department of City Planning. The potential legal issues have not been explored in depth, but only provide an example of possible legal issues that may arise. The review is provided below:

General Issues -

- The Hill District Management Plan ("HDMP") is a list of community planning guidelines, which like other community management plans, will not be legally enforceable and therefore cannot preempt the City's Zoning Code. Further, Paragraph 1 of Section 1 in The Hill District Community Benefits Agreement expressly provides that HDMP shall not preempt the authority of the City Planning Commission or any applicable government entity to review and approve any master plan, any land development, subdivision or other related plans. The HDMP shall serve as a statement of guiding principles.
 - o The usage of language "must" and "all" throughout the HDMP is mandatory language and too inclusive to be realistic for guidelines for the City Planning principles.
 - o Do the Hill District representatives of the Master Plan Management Committee accurately represent the majority of citizens, organizations and businesses from the entire Hill District?
- The Lower Hill (or 28 acres where the Civic Arena is located) is optioned to the Penguins to develop. The City's ability to require certain guidelines in this area is limited at this time.
- The City and the Planning Commission could recognize and work to advance the goals of the HDMP, but development should also benefit the City as a whole.
- Many of the guidelines do not identify the entity that is supposed to be responsible for performing the guideline.

Specific Issues –

I. Development Principles

1.3. The SEA may have to preserve the Civic Arena if it is designated as historic. There is also a remote possibility that some physical remnants will remain if that agreement is the result of a negotiation from a potential lawsuit on the historic status of the Civic Arena.

1.4. How would the City authenticate those individuals who have been displaced and have a “right of return?” Similarly, how does the City enforce that right? How far removed from a displaced ancestor should the right to return extend? A “right to return preference” could cause concern for potential discrimination lawsuits for those individuals without a “right to return preference” or those individuals who believe they are denied a “right to return preference.”

2.4. The City would not be able to require development projects receiving a subsidy from the City to provide ownership opportunities for faith based organizations.

3. This paragraph provides requirements that input from community residents must be included in the development stages of any plan and that residents must have seats on development/study committees. Are these supposed to be City committees?

3.2-3.4. These development principles in these sections can not preempt the zoning code. There is also a possibility that any area in the City can be rezoned.

4.1. “All plans for the Hill District must include provisions for green and sustainable development.” This can be a guideline, but cannot supersede the zoning code.

4.3. “Land use, public art and development plans must honor the historical and cultural legacy ...”such plans must also abide by Historic Preservation standards set by the Historical Hill Institute. This can be a guideline, but cannot supersede the Historic Review Ordinance or Zoning Code.

4.4. This section requires that community groups and service organizations should have a priority to acquire vacant land and buildings as needed. The City would not have any control over this requirement if the land or building is being sold by a private entity. If a City-owned building, this requirement could potentially present a legal issue of discrimination or other treatment of inequality.

4.5. The section requires that future developments should incorporate all the other plans referenced here, which complicates the development plans even more by having to incorporate the other plans along with usual City Planning/Zoning requirements. Further, if the requirements in the plans differ, which Plan supersedes the others?

II. Non-Displacement Strategies

Homeowner Support

Owner-occupied rehab – The City *should* prioritize the rehabilitation of owner-occupied homes through grants to low-income homeowners. Does the City have these proposed grants to give or will the grants be distributed from the state or other source?

Equity Protection Services – The City *should* prioritize “equity protection” services to help homeowners resolve tax, title and mortgage issues. Pro Bono representation is already provided by Allegheny County Bar Association. The City would have to protect its own interest in tax issues and it should not get involved with private mortgage entities.

Renter Support

Build First – What entity is responsible for providing for the relocation of involuntary displaced residents?

Support for tenants in Redevelopment – Again, what entity is responsible for providing for a comprehensive plan and the team of professionals to respond to the needs of the transitioned families?

Community Ownership/Equity

Priority to Acquire Vacant and Publicly-Owned Property – This section requires that the City *should give priority* to community groups and service organizations based in Hill District. The City would not have any control over this requirement if the land or building is being sold by a private entity. If a City-owned building, this requirement could potentially present a legal issue of discrimination or other treatment of inequality.

Co-Ownership Requirements – See 2.4 above.

III. Strategies for Reclaiming the Lower Hill

Right to Return – See 1.4 above.

Inclusionary Business Development – references businesses that were displaced from the Lower Hill by urban renewal. See 1.4 above.

To: Rob Stephany, Executive Director, Urban Redevelopment Authority (URA)
Lena Andrews, Planning and Development Specialist, URA

From: George R. Specter, General Counsel, URA

Re: Review of Hill District Master Plan, Appendices A, B and C

Date: August 8, 2011

You have requested a legal review of the Hill District Master Plan ("Plan"), Appendices A, B and C, and accordingly the following represents some legal issues that could arise as the Plan may materialize during implementation. We caution that at this point the Plan constitutes principles developed by the Hill District Planning Forum ("Forum"), a non-public organization, and have not been approved in any applicable legal or regulatory processes. In this regard, please note also that the Authority is an agency of the Commonwealth, and obviously may exercise only those powers vested in it statutorily, and in the exercise of its redevelopment functions is subject to all other applicable statutes, ordinances and regulations applicable to it and functions which it may be carrying out.

In reviewing the Appendices, it is important to remember that the twenty-six (26) acres owned in the Lower Hill by the SEA (approximately 18+ acres) which includes the Arena and URA (approximately 8+ acres), is under option to the Pittsburgh Penguins for development, and to the extent that the URA is involved in Penguins' development activities, URA processes and procedures will be followed, the URA cannot legally assure any developer or Hill District residents or businesses how a proposal will be acted upon by the City of Pittsburgh ("City"), including its boards and commissions (such as Planning Department, Planning Commission, Zoning Board of Adjustment, Historic Review Commission, etc.).

Appendix A. Development Principles. Paragraph numbers herein refer to paragraphs in Appendix A.

1.2. It may not be practically feasible or logical to restore the pre-Arena street grid in any new development, and imposition of this requirement on developers is likely to limit the breadth and scope of development proposals, which otherwise might be presented to the URA.

1.3. First, the URA has no jurisdiction over the Civic Arena, and at this time its fate is unknown. There is now pending in the United States District Court in Pittsburgh a case in which Preservation Pittsburgh seeks to prevent demolition of the Arena, and there is no certainty as to how or when this case will be resolved. In any event, the Arena is owned by the SEA, and not the URA.

1.4. The URA would not have the legal right to include "right of return preferences" for persons or businesses displaced by the redevelopment activities of the 1950s -1960s. The difficulties in locating such people aside, redevelopment activities are subject to all applicable federal, state and local laws, ordinances and regulations, and development conditions restricting who can participate in the benefits of projects may well be subject to various non-discrimination laws, including without limitation the federal and state constitutions. .

1.5. While new development would likely seek to accommodate Hill District businesses, the URA cannot legally guarantee that a future development proposal not satisfactory to the Forum will not be approved. Although the views of the Forum in this and all other aspects are highly respected, the URA cannot delegate its legal obligations to the approval of a private organization, but must act in accordance with applicable law.

1.6. Use of the word "must" which appears in various places in the Appendices is not legally acceptable. The URA has the obligation to act not only in the interests of good and quality redevelopment of an area, but it should also be in the best interests of the City at large. Therefore, no assurance can be given as to the nature of a future development.

2.1. The URA does have relocation responsibilities under federal and state law, but legal assurance cannot be given as to the extent of displacement in a project not yet proposed. This paragraph is somewhat similar to 1.5, and the points referenced therein are also applicable here.

2.2. The URA cannot legally impose first source hiring obligations upon developers or their contractors. This requirement may well implicate anti-discrimination and other civil rights laws.

2.3. The URA cannot mandate minimum MBE and/or WBE quota hiring, and it is likely that such a requirement could be the subject of a lawsuit challenging the provision. As to a compliance committee, the Forum could form such a committee, but its requests and preferences would not be binding on the URA, developers or contractors.

2.4. This memorandum addresses only URA activities, and will not speculate as to unknown City or County subsidies which may impact a project. In either event, the URA cannot control those actions. URA projects seek to benefit not only the affected community, but must also be in the best interests of the City and its residents, and should provide equal opportunity for all citizens to participate in the benefits of projects. With respect to faith-based organizations, the URA cannot favor them over others, as this would implicate serious constitutional issues which could result in legal challenges, and delay or invalidate projects.

3. The provisions of paragraph 3 are somewhat broad, but the URA must recognize that not every document or proposal is necessarily a public document under applicable law. Therefore, it cannot consent to this provision. As to committees, it is not clear what types of committees is contemplated, but in any event, the URA

cannot abrogate or delegate its legal obligations and responsibilities, even though it welcomes public input and comment from affected communities, but it is premature to determine how these characteristics will affect an unknown future development.

3.1 – 3.5. It appears that these provisions and consideration of them is addressed in various provisions of the City Code, such as traffic, parking, zoning, etc., and are considered when the URA is reviewing a development proposal.

4.1. The URA does consider green and sustainable development, but lacking a development proposal before it, cannot at this time agree that these considerations will be applicable to any and all future projects in the Hill District or elsewhere.

4.2. While protection of existing views which are considered desirable is a development consideration, it should be noted that there is no legal right to a particular view, and therefore a flat prohibition against impairment of a particular view is not acceptable.

5.1. The factors referenced are not legal requirements which can be imposed on the URA, It should also be noted that historic preservation standards in the City are set forth in Chapter 11 of the City Code, and the URA would act in accordance with them, but in any event cannot delegate its responsibilities to the Historical Hill Institute.

5.2. The URA cannot grant priority purchase rights to community groups or service organizations, but can give consideration to them in connection with any proposals they might make in connection with a specific project.

5.3. This provision is similar to 5.2 above, and the same considerations are applicable. There can be no legal assurance given as to community plans. As with all public input, they can be considered, but cannot be mandated for inclusion as future development plans are reviewed and considered.

Appendix B. Non-Displacement Strategies:

Economic Opportunities.

First Source Hiring. As stated in 2.2 above, the URA cannot impose first source hiring upon developers or their contractors. Mutually agreed upon hiring goals appear to constitute quotas, which are not favored in the law. While developers and contractors might reasonably be asked to consider qualified Hill District residents, there is no legal basis for requiring a hiring priority.

Enhanced MBE/WBE participation rates of 30% and 15% would not be permissible under applicable law. We believe that such a requirement would likely lead to a court challenge, and there is no assurance that the URA could prevail in such a case. In fact, there is a decision of the United States Supreme Court which casts doubt upon

this requirement under current circumstances. In this connection, we note that the Pittsburgh Code, with respect to City contracts, only encourages goals of 25% and 15% respectively.

Homeowner Support.

Owner-Occupied Rehab. Although not strictly a legal issue, we note that there can be no assurance that there will be any grants at any particular time, and to the extent that grants may be available from time to time, depending upon the source of such funds they may be subject to use restrictions.

Equity Protection Services. These are not the types of services traditionally associated with redevelopment activities. They appear to be in the nature of legal services, which are not within the purview URA functions.

Condemnation. The URA, although statutorily vested with the power of eminent domain, has not utilized the process for some years, and has no existing plans to do so.

Renter Support.

The "Build First" concept, while patently desirable may not be economically feasible. Likewise, while phased redevelopment might well be the process used, interim housing, whether via master leasing or otherwise may also be so prohibitively expensive as to be unfeasible. These issues would be equally applicable to the requested support for tenants in redevelopment.

Community Ownership/Equity.

Decisions as to co-ownership opportunities will be based upon proposals submitted at some future time, and since the request is that priority be given to "community groups and service organizations... with the capacity to develop such properties in a timely manner" that may be consistent with redevelopment priorities and programs at the time. As stated in 2.4 above, the URA cannot give preferences to faith based organizations, and because of constitutional implications would have to consider very carefully under applicable law the extent of any such relationship and/or interaction.

Appendix C. Strategies For Reclaiming The Lower Hill.

The proposals set forth in Appendix C are primarily concepts related to social, cultural and design goals for future projects. With respect to the percentage goals contained under Inclusionary Business Development, we caution that when implemented to the extent that arguably they constitute quotas or required percentages, they could be challenged in lawsuits.

HILL DISTRICT COMMUNITY BENEFITS AGREEMENT

SECTION I. HILL DISTRICT MASTER PLAN.

1. The SEA, the City and the County (the "Public Entities") and the URA shall secure funding for the development of a strategic planning document and conditions report for the Hill District (the "Hill District Master Plan"). The Hill District Master Plan will be a comprehensive neighborhood plan and will serve as a conceptual framework to guide future development in the Hill District. The Hill District Master Plan shall not preempt the authority of the City Planning Commission or any applicable governmental entity to review and approve any master plan, any land development, subdivision or other related plans submitted in connection therewith from time to time; provided, however, that the Hill District Master Plan shall serve as a statement of guiding principles for any such plan.
2. The Hill District Master Plan shall be developed with extensive community input, including but not limited to the use of focus groups. The URA will contract with a planning professional to facilitate the development of the Hill Master Plan. The URA shall select the planning professional pursuant to a request for proposals ("RFP"), subject to the reasonable approval of the Steering Committee.

The Steering Committee shall come to consensus of various matters so that key decisions can be made (not including those committed by law to some other body, agency or official) with respect to the Hill District Master Plan. Provided, however, a vote will be required for the Steering Committee's reasonable approval of: (1) selection of the planning professional, (2) the community input process, and (3) the final Hill District Master Plan. The Steering Committee will determine what other matters will require a vote.

Each official or entity appointing a member or members to the Steering Committee shall have the right to remove its appointee(s), in its sole discretion, for any reason, including but not limited to if such member is not working cooperatively to come to consensus with other members of the Steering Committee.

3. The Hill District Master Plan shall be developed from August 2008 to February 19, 2010, or such other period as the Steering Committee shall set. The Steering Committee shall meet with the planning professional during this period at least monthly and more often if requested by the planning professional. The scope, process and final approval of the Hill District Master Plan shall be subject to reasonable approval of the Steering Committee. The Penguins Entities agree not to submit a master plan for the Additional Redevelopment Area to the City Planning Commission until the Hill District Master Plan has been approved by the Steering Committee on or before February 19, 2010. If the Hill District Master Plan has not been approved by the Steering Committee on or before February 19, 2010, the Penguins Entities may submit the master plan for the Additional Redevelopment Area to the City Planning Commission without Steering Committee having approved the Hill District Master Plan. Notwithstanding the forgoing, the Parties acknowledge that plans for the development of the New Arena Hotel as presently contemplated may be submitted to the City Planning Commission or other appropriate governmental agencies at any time.

4. The Hill District Master Plan shall represent the community's vision of the Hill District, and shall address many elements, including but not limited to the following:
 - (a) Land use;
 - (b) Community facilities and services;
 - (c) Parks and recreation;
 - (d) Open green space;
 - (e) Capital improvements;
 - (f) Conservation of housing;
 - (g) Sociological and environmental impacts;
 - (h) Urban design;
 - (i) Educational facilities;
 - (j) Commercial development;
 - (k) Traffic and transportation;
 - (l) Infrastructure;
 - (m) Arts and culture;
 - (n) Improvement of physical elements and geographic attributes of the community;
 - (o) Historic preservation;
 - (p) Vacant property review; and
 - (q) Economic development.

Without limitation of the foregoing, the Hill District Master Plan may recommend that certain proposed developments and uses (including commercial, recreational, community center and residential uses) should be located within certain designated portions of the Hill District in preference to certain other portions of the Hill District, with the understanding that the Hill District Master Plan will be a broad, flexible template, not an immutable planning document.

5. The Hill District Master Plan is intended to seek balanced growth and encourage new investment and development in the Hill District without displacing existing Hill residents. It is the intention that current Hill District residents shall have the opportunity to benefit from the expected growth and development in their neighborhood.
6. Upon development and completion of the Hill District Master Plan, specific proposals for funding of projects (including historic preservation projects) will be reviewed on a project by project basis, in accordance with the then existing programs of the City, County, Commonwealth, Federal government and other financing and funding programs and sources. The Public Entities and the URA will use the Hill District Master Plan to guide their decisions regarding project selection and development activities in the Hill District. Nothing, however, in this Agreement will preclude the submission of the projects by Hill District organizations and/or funding of projects by the Public Entities and the URA prior to completion of the Hill District Master Plan, so long as the Public Entities and the URA comply with the City planning process and provide for a public comment period with respect to any proposed development projects.