

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into and effective this 10th day of March 2017 (the "Effective Date"), by and between the URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH, (the "URA") a redevelopment authority established and existing under the Urban Redevelopment Law of the Commonwealth of Pennsylvania, 35 P.S. §1701 et seq., as amended, located at 200 Ross Street, Pittsburgh, Pennsylvania 15219 (the "URA"), and MCCAFFERY INTERESTS, INC., (or its assigns as long as McCaffery holds the majority interest), an Illinois corporation having a mailing address of 875 N. Michigan Ave., Suite 1800, Chicago, Illinois 60611 ("Redeveloper").

WHEREAS, the URA is the owner of a certain parcel of property located between 16th and 21st Streets in City of Pittsburgh Council District 7, designated as Block 9-D, Lot 200 in the Deed Registry of Allegheny County, Pennsylvania, and the structure thereon, known as the "Produce Terminal" (Block 9-D, Lot 200 and the Produce Terminal shall hereinafter collectively be referred to as the "Produce Terminal", and a depiction of the Produce Terminal as set forth in the Request for Proposals that was issued for the Produce Terminal, showing the current property line of the Produce Terminal, along with potential public right of way reservations, is attached hereto as Exhibit A); and

WHEREAS, the Produce Terminal is located in the certified redevelopment area known as The Lower Strip District Redevelopment Area; and

WHEREAS, by Resolution No. 98 (2016), at its meeting of April 14, 2016, the Board of Directors of the URA (the "URA Board") accepted with conditions a Redevelopment Proposal Package from Redeveloper for the purchase and development of the Produce Terminal (the "Proposal Package"), and authorized the execution of a Disposition Contract with Redeveloper; and

WHEREAS, because the Produce Terminal is located in a certified redevelopment area, the Pennsylvania Urban Redevelopment Law, 35 P.S. §1701 et. seq., requires the approval of the Pittsburgh City Council ("Council") prior to the URA's conveyance of the Produce Terminal to Redeveloper; and

WHEREAS, the URA and the Redeveloper are desirous of using funds from various government and other bodies, including RACP, Multi-modal funds, and others, including funds generated through the implementation of a tax increment financing district (the "TIF District") to make certain improvements within the public realm areas adjacent to and within the Produce Terminal, including but not limited to those public realm areas that include Smallman Street, pedestrian way extensions on the Terminal Building, pedestrian cut-throughs of the Terminal Building and at the intersections of 16th and 21st Streets and Smallman all collectively (the "Public Realm Improvements"); and

WHEREAS, the initiation of the TIF District to fund the Public Realm Improvements requires Council authorization; and

WHEREAS, URA and Redeveloper have initiated certain administrative and legislative actions to clarify the zoning status of the Produce Terminal (the "Zoning Actions"); and

WHEREAS, the Zoning Actions requires Council Approval; and

WHEREAS, it is contemplated by the Redeveloper and the URA that, following the execution of this Agreement, the City of Pittsburgh (the "City") will advance Council actions and resolutions that are necessary to: 1) approve the conveyance of the Produce Terminal to the Redeveloper (as further described in Section 4.g below), 2) initiate the TIF District, and 3) approve the Zoning Action (collectively the "Council Actions"); and

WHEREAS, it is further contemplated that the appropriate City departments will work to promptly advance the design and reconstruction of Public Realm Improvements necessary to positively affect pedestrian safety, vehicular traffic and attractiveness within the Smallman Street area adjacent to the Produce Terminal.

NOW, THEREFORE, intending to be legally bound, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals are incorporated herein by reference.
2. Redeveloper. The term "Redeveloper" shall refer to McCaffery Interests, Inc., any successor in interest or assign, and any related entity, including any venture that may be formed for the purchase and/or development of the Produce Terminal. If Redeveloper acquires 1600 Smallman, it hereby agrees to include 1600 Smallman Street within the proposed TIF District.
3. Term. The term of this MOU shall commence on the Effective Date and will remain in effect unless otherwise terminated by either party upon 90 days written notice for any reason (the "Term").
4. Lease Agreement. Redeveloper and the URA agree that, should the Council Actions be approved by Council and signed by the Mayor of the City of Pittsburgh, the Redeveloper and the URA will make good faith efforts to negotiate and enter into a Disposition Contract and a ninety-nine (99) year Lease Agreement regarding the Produce Terminal (collectively the "Lease Agreement"), under which Redeveloper will lease the Produce Terminal from the URA. The Lease Agreement will provide for the redevelopment of the Terminal Building in up to four phases subject to reasonable market demand and financing requirements, and for the Redeveloper to maintain and manage the entire

Produce Terminal during all phases of development. The terms of the Lease Agreement, including rental payments, timing and extent of each phase, and timing of the required URA Board approvals of the financing and construction plans for each phase are summarized herein and will be fully detailed in the Lease Agreement. Redeveloper will use commercially reasonable efforts to advance each phase of the project through aggressive marketing and leasing strategies. It is anticipated that no subsequent phase will commence later than the second anniversary of the completion of a prior phase as evidenced by the first Certificate of Occupancy for any portion of such prior phase. The Lease Agreement shall include covenants customary of transactions of this type, including without limitation covenants that Redeveloper use commercially reasonable efforts to satisfy each of the following terms and conditions:

- a. Phase I will include a "food centric" Public Market of at least 20,000 gross square feet with programming and features aspiring to fulfill the Mission Statement attached hereto as Schedule A (the "Public Market"); and
- b. Subject to final design, to locate the Public Market and Phase I at the 16th Street side of the Produce Terminal; and
- c. Subject to Section 4(a) Redeveloper will undertake to create and fulfill a Merchandise Plan for the Produce Terminal, that will allocate no less than 40,000 gross sf in the aggregate to local and or regional businesses focused on artisan food, crafts, produce, meats, and creative arts. To assist such businesses and only if necessary, the URA will use commercially reasonable efforts to establish a revolving public investment fund to support capital costs for small local or regional businesses seeking to open in the Terminal and the surrounding Strip District business community; and
- d. Develop the Produce Terminal in such a way as to obtain a LEED Silver rating for the redeveloped portions of the core and shell; and
- e. Extend the lease term with the Society for Contemporary Craft ("SCC") in its current space until the redevelopment phase of that portion of the Terminal Building is undertaken, subject to a mutually acceptable increase in the current rent of the tenant along with the tenant's agreement that any such further lease extension may also require a relocation of the tenant within the Produce Terminal on mutually acceptable terms and conditions; and
- f. Subject only to the limited demolition that may be required to create pedestrian passages from Smallman Street to Spruce Way as approved in the Lease Agreement, the Redeveloper will not pursue or allow any structural demolition of the Produce Terminal and upon completion of the redevelopment, Redeveloper will support the designation of the Produce Terminal as an historic

structure through the City of Pittsburgh Department of City Planning Historic Review Commission, subject to federal and state directives.

g. The URA will seek all necessary approvals to lease the Produce Terminal to the Redeveloper upon the following financial terms: a \$600,000 cash lease payment will be paid to the URA at the time of funding of the first construction loan draw or at the time of the initial closing with Redeveloper under the Lease Agreement, whichever shall occur first; the outstanding lease payment amount of \$1,900,000 will be secured in a form to be determined, and will be paid by two additional lease payments of \$950,000 each, due at Redeveloper's financial closings for the second and third phases of its development of the Produce Terminal. The entire balance of the lease obligations to be paid no later than the financial closing for the redevelopment of the third phase of the Produce Terminal development. In addition, each payment shall include annual interest on any outstanding balance, accruing at 2% per annum. If at any time the URA should wish to sell its interest it must first offer such interest to the Redeveloper in the same manner as is stated in the ROFO referred to in Section 5(c) below. The final terms and conditions of this contemplated transaction shall be contained in a definitive Lease Agreement, the Note, and other customary URA conveyance documents (together the "Conveyance Documents") that are still to be negotiated, and, if approved by the URA Board, to be executed and delivered at or before the closing of the lease of the Produce Terminal.

h. During the time any amount of the note is outstanding, the URA or its designate will receive monthly reports regarding the financial performance and general operations that are customarily in the industry provided such reports are not prohibited by the holder of the first mortgage. The URA will have no management obligations or responsibilities regarding the project.

5. Conditions. The URA and Redeveloper agree that, should the Council Actions be approved by Council and signed by the Mayor of the City of Pittsburgh, the Conveyance Documents to Redeveloper will include the following:

a. Covenants or use restrictions setting out the objectives set forth in Section 4 above; and

b. A prohibition against any conveyance of the leasehold in the Produce Terminal, or any interest in or part thereof, by Redeveloper, other than as set out in 5(d) hereof, that is structured in a manner to avoid paying realty taxes of any manner that are then commonly set out and applicable to real estate in the City of Pittsburgh; and

c. Subject to item (d) below, A right of first offer in favor of the URA for any proposed conveyance of any interest in or any portion of the Produce Terminal; and

d. A covenant stating that, should Redeveloper (1) materially breach the terms of the Conveyance Documents, or (2) transfer the Produce Terminal, or any interest therein or any part thereof (other than (i) through a commercial lease for any portion of the project; or (ii) in the pursuit of arranging equity financing for the project; or (iii) through the ordinary course of estate planning by the principals of the Redeveloper, in violation of the URA's right of first offer described hereunder, in addition to any remedies available at law or equity, the Redeveloper shall be required to pay to URA a claw-back of the amount of URA or City funds and/or City subsidy that was applied to the Produce Terminal; and

e. An option for Redeveloper to purchase the Produce Terminal, the terms of which option will be more fully negotiated by Redeveloper and the URA, provided, (i) Redeveloper is then in full compliance of the Terms of the Lease, and (ii) the term of such purchase option shall commence on a date which is 15 years following substantial completion of the first phase of the Produce Terminal project as evidenced by the first Certificate of Occupancy for such fist phase.

6. URA Covenants. The URA agrees that, should the Council Actions be approved by Council and signed by the Mayor of the City of Pittsburgh, the URA shall use commercially reasonable efforts to utilize existing URA lending programs and, subject to availability and to URA discretion, a portion of the funding generated by the TIF District, not to exceed a to be agreed upon amount, to support Redeveloper's efforts to lease retail space in the Produce Terminal to small local businesses and the Society of Contemporary Crafts.

7. City Planning. The URA and Redeveloper each agree to participate in, and cooperate in good faith with the efforts of the City of Pittsburgh Department of City Planning and the City of Pittsburgh Department of Public Works efforts to plan and implement the Public Realm improvements. Such participation and cooperation shall include Redeveloper's right to participate in public meetings, and meetings held by Department of City Planning Department staff with outside consultants, and to provide support for funding applications that may be submitted by the URA, Redeveloper, or the City of Pittsburgh.

8. Entire Agreement. As of the Effective Date, this MOU and the Proposal Package constitute the sole agreements between the parties concerning the matters described herein. This MOU may not be amended except in writing signed by all parties.

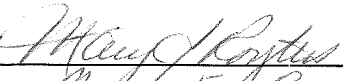
9. Governing Law. This MOU shall be governed by the internal laws of the Commonwealth of Pennsylvania. Any party may terminate this MOU upon the occurrence of a breach of any provision by the other party and the failure of the breaching party to cure same within one hundred twenty (120) days of written notice.

10. URA Board Approval. The disposition and conveyance of the Produce Terminal is subject to and contingent upon the standard URA disposition process and approvals of the URA Board.


IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding, effective the date first above set forth.

SIGNATURES APPEAR ON FOLLOWING PAGE

WITNESS/ATTEST:

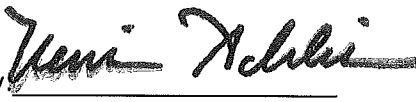
By: 
Name: MARY E. ROSTAS
Title: Assistant Secretary

URBAN REDEVELOPMENT
AUTHORITY OF PITTSBURGH

By: 
Robert Rubinstein
Executive Director

WITNESS:

By: 

By: 
Kevin Acklin
Chairman, Board of
Directors

WITNESS/ATTEST:

By: _____
Name:
Title:

MCCAFFERY INTERESTS, INC.

By: _____
Name:
Title:

SCHEDULE A

THE MISSION OF THE TERMINAL DEVELOPMENT

We are committed to creating a public space which appeals to all Pittsburghers. It will have a strong commitment to the artisan food community. We envision the final product to contain businesses and events that are representative of local and regional merchants and the character of Pittsburgh, and that present the produce of local farmers. Artisan producers of crafts and local business owners will be given every opportunity to participate as merchants in the Terminal. Working with the City of Pittsburgh and in response to civic and social input, we hope to create a gathering place that will attract artists, musicians and other creative persons.

EXHIBIT A

DEPCTION OF THE PRODUCE TERMINAL

On following page.

WITNESS/ATTEST:

By: _____
Name: _____
Title: Assistant Secretary

WITNESS:

By: _____

WITNESS/ATTEST:

By: Catherine Wilcox
Name: Catherine Wilcox
Title: Executive Assistant

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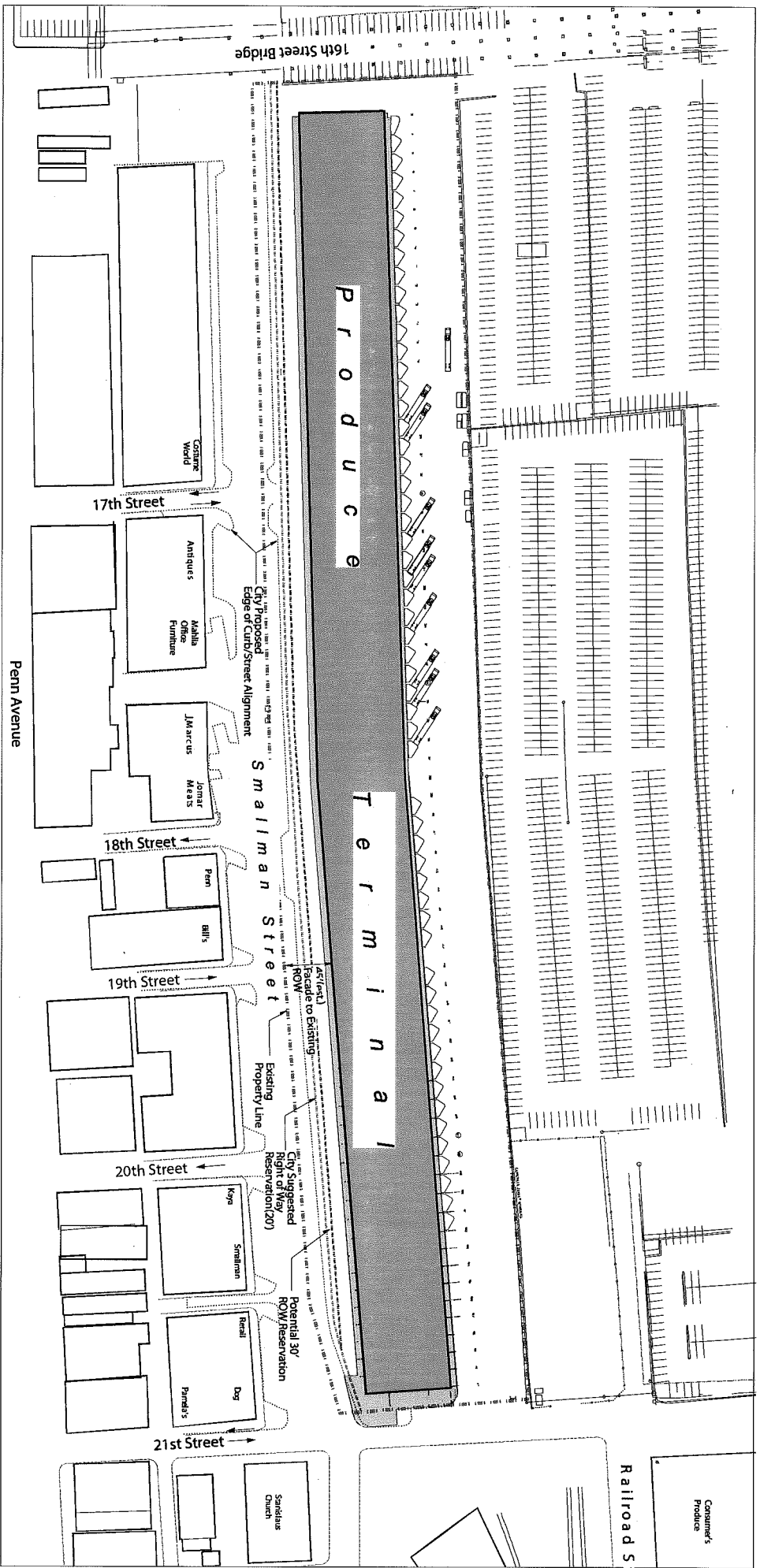
**URBAN REDEVELOPMENT
AUTHORITY OF PITTSBURGH**

By: _____
Robert Rubinstein
Executive Director

By: _____
Kevin Acklin
Chairman, Board of
Directors

MCCAFFERY INTERESTS, INC.

By: McCaffery
Name: Daniel McCaffery
Title: CEO



Produce Terminal Building
Conceptual Property/ ROW Reservation Exhibit
 Urban Redevelopment Authority of Pittsburgh

NOTE: All information is only conceptual. Users must verify all information. URA makes no representation to the integrity of the information provided.

