

# City of Philadelphia



(Bill No. 120482)

## AN ORDINANCE

Authorizing the Commissioner of Parks and Recreation to execute a lease with the Philadelphia Authority for Industrial Development (“PAID”), obligating PAID to execute a sublease with the Zoological Society of Philadelphia (the “Society”), under which the Society would construct, manage, operate, maintain, and repair a multi-story parking garage and related streetscape improvements along West Girard Avenue, and exempting the proposed lease from the requirements of Philadelphia Code Section 15-101 et seq., commonly called the “Open Lands Protection Ordinance,” because the Society has already satisfied the requirements of the Open Lands Protection Ordinance, all under certain terms and conditions.

WHEREAS, The Zoological Society of Philadelphia (the “Society”) hired Campbell Thomas & Co., a renowned consultant, in 2002 to perform a comprehensive study (the “Parking and Access Study”) of traffic and parking needs in the vicinity of the Philadelphia Zoo (the “Zoo”); and

WHEREAS, The Parking and Access Study was completed in 2003 and recommended that the Society create better parking opportunities with direct access to Interstate Highway 76 (the Schuylkill Expressway) and the Zoo, create more parking close to the Zoo, and create better public transportation options for access to the Zoo; and

WHEREAS, In response to the Parking and Access Study, in 2010 the Society completed plans for a “Philadelphia Zoo Intermodal Transportation Project” (the “Project”) under which the Society would construct a multi-story parking garage (the “Garage”), provide bus stops to improve public transportation access to the Zoo, and make extensive streetscape improvements along West Girard Avenue between 34th Street and 39th Street and along 34th Street; and

WHEREAS, The proposed Garage would be constructed on a parcel of land in the Fairmount Park system (the “Premises”) that the Society has used as a surface parking lot as early as 1953, nearly 60 years ago; and

WHEREAS, The Premises are not contiguous to any other park or recreation land and are bordered by land used by AMTRAK, by a railroad, and by Girard Avenue; and

WHEREAS, The proposed Garage would nearly double the amount of parking available on the Premises, and consequently make it easier for patrons who drive to the

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Zoo via the Schuylkill Expressway or Girard Avenue to quickly find convenient parking near the Zoo; and

WHEREAS, In accordance with federal regulations and procedures of the Federal Transportation Administration, the Pennsylvania Department of Transportation (“PennDOT”) hired an independent consultant to conduct a “Categorical Exclusion Evaluation” and determine whether the Project complies with requirements for a “Categorical Exclusion” under the National Environmental Policy Act (“NEPA”). The Society has provided to City officials a copy of the Categorical Exclusion Evaluation and the letter from the U.S. Department of Transportation’s Federal Transportation Administration confirming that the Project qualifies for a “Categorical Exclusion”; and

WHEREAS, The Categorical Exclusion Evaluation considered the possible impact of the Project on traffic and parking, historic resources, noise, park and recreation land, wetlands and floodplains, water quality, ecologically sensitive areas and species, safety and security, and other matters; and

WHEREAS, After an in-depth evaluation of the proposed site of the Garage, the Categorical Exclusion Evaluation concluded that the proposed project will not involve any significant negative environmental impacts to socio-economic, natural, or cultural resources. It will not induce significant alterations in land use or affect planned growth, and will not significantly negatively impact air quality, noise levels, or travel patterns; and

WHEREAS, The Categorical Exclusion Evaluation determined that the Project will have no negative effects on traffic in the vicinity of the Zoo, and that “[t]he proposed traffic design will improve congestion and safety issues which currently exist in the area” of the Zoo; and

WHEREAS, the Categorical Exclusion Evaluation concluded that the Project will have a very positive impact on the operations of the Zoo and on the Philadelphia community at-large. [] Nearby residents and the local economy will benefit from the reduced traffic congestion, improved aesthetics of the site, increased numbers of potential customers to the area, ... and facilitated access to public transportation”; and

WHEREAS, The Categorical Exclusion Evaluation determined that the Project will not have any significant impact on water quality in the area, and might even improve water quality in the area because the Society will plant additional street trees, and that the Project will not affect wetlands, will not affect threatened or endangered plants or animals, and will not affect other park land; and

WHEREAS, The Categorical Exclusion Evaluation determined that the security features of the Garage and new walkways and lights along Girard Avenue between the Zoo and the Garage will improve safety along West Girard Avenue, as well as at the

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Zoo's main entrance and along 34th Street, and will reduce opportunities for crime near the Garage; and

WHEREAS, In the course of the Society's consultant's doing the Parking and Access Study, a "Community Review Committee," comprised of five community groups and representatives from the neighborhood near the Zoo, reviewed the Society's study, including the Premises as shown occupied by a multi-story parking garage; and

WHEREAS, In addition, the City of Philadelphia Commerce Department in 2004 prepared "The Centennial District Economic Development Strategy," which includes a plan for development of the area around the Zoo and shows the Premises occupied by a multi-story parking garage; and

WHEREAS, As set forth in the Categorical Exclusion Evaluation, during development of The Centennial District Economic Development Strategy, the City's consultant team met regularly with a steering committee comprised of 23 organizations from the area near the Zoo and the greater Philadelphia area. Those organizations are listed in the Categorical Exclusion Evaluation; and

WHEREAS, PennDOT's consultants for the Categorical Exclusion Evaluation conducted interviews with more than 50 key community leaders interested in the Project to seek their comments about the Project; and

WHEREAS, The Society wrote letters to 26 individuals and groups informing them of the Categorical Exclusion Evaluation and inviting them to submit comments about it. The Society has provided copies of all those letters to City officials; and

WHEREAS, The Society published a public notice in the Philadelphia Inquirer advising the public of a 30-day period to review the Categorical Exclusion Evaluation and submit comments about it, including places where the Categorical Exclusion Evaluation was available to read and the person to contact with comments or questions and that person's contact information; and

WHEREAS, The United States Department of Transportation determined that the Project qualifies for a categorical exclusion from further study under the National Environmental Policy Act; and

WHEREAS, The Open Lands Protection Ordinance creates procedures to ensure that no City of Philadelphia outdoor park or recreation land is converted or transferred for non-park or non-recreation purposes, unless the City obtains substitute park or recreation land, so that the public never suffers a loss of park or recreation land; and

WHEREAS, The Open Lands Protection Ordinance requires that the "Transferee" of outdoor park or recreation land submit an "Alternatives Analysis" and, where the land

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is to be converted or transferred for non-park or non-recreation purposes, provide substitute outdoor park or recreation land of at least equal size, value, and park or recreational usefulness as the land to be converted or transferred; and

WHEREAS, The Society made a presentation about the Garage to the Parks and Recreation Commission and explained how the Categorical Exclusion Evaluation, the Parking and Access Study, the Centennial District Economic Development Strategy, and the efforts to notify the public about the Garage and seek public comments about the Garage during the preparation of those studies and documents have satisfied the Open Lands Protection Ordinance's requirements; now, therefore

## *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. The Council of the City of Philadelphia finds:

A. Philadelphia Code Section 15-101 et seq., commonly called the "Open Lands Protection Ordinance," is vital to ensure the preservation of the City's outdoor parks and recreation land.

B. Under the Open Lands Protection Ordinance, the Zoological Society's proposed construction of a multi-story parking garage (the "Garage") on a parcel of land in the Fairmount Park system (the "Premises") would be a "Conversion" of "Outdoor Park or Recreation Land" under the Open Lands Protection Ordinance.

C. The Garage would be accessory to the Philadelphia Zoo, which Pennsylvania law recognizes is a legally permissible use of park land. Therefore, under the Open Lands Protection Ordinance, the Society would not be required to provide "Substitute Land" to the City in exchange for the Society's lease of the Premises to construct the Garage.

D. PennDOT's Categorical Exclusion Evaluation satisfies the Open Lands Protection Ordinance's requirement for an "Alternatives Analysis" because the evaluation considered the Project's effect on parking, traffic, and environmental conditions in the vicinity of the Garage and the Zoo.

E. Extensive efforts to publicize the proposed Garage to the public and to invite public comments about it were made during the Society's consultant's preparation of the Parking and Access Study of 2003, during the City's preparation of the Centennial District Economic Development Strategy in 2004, and by the Society itself through direct mailing of letters and by public advertisement in 2010 inviting public comments about the Categorical Exclusion Evaluation. PennDOT's Categorical Exclusion Evaluation lists the many organizations that participated in the several processes which have proposed the

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Garage on the Premises. Therefore, the Society has satisfied the Open Lands Protection Ordinance's requirement that the proposed "Transferee" of "Outdoor Park or Recreation Land" include in its Alternatives Analysis a list of all community groups with whom it met to discuss the proposed Project.

F. The Categorical Exclusion Evaluation satisfies the Open Lands Protection Ordinance's other requirements regarding an Alternatives Analysis because of the comprehensive maps, photographs, descriptions, and analyses contained in the evaluation.

G. The proposed Garage is necessary in the public interest because it will provide much needed additional, convenient parking for patrons of the Zoo and, consequently, will help relieve traffic congestion in the vicinity of the Zoo on the Schuylkill Expressway and Girard Avenue.

H. There is no reasonable and practical alternative to use of the Premises for the Garage because (1) the Premises is already used as a surface parking lot and has been for nearly 60 years, (2) the Premises are the closest land to the Zoo on which to practicably construct a multi-story garage, (3) construction of the Garage will not encroach on any other park land, and (4) the Garage will not negatively affect other park or recreation land because the Premises are not contiguous to any other park or recreation land.

I. The Society does not know of any requirements or restrictions applicable to the Premises that would prohibit construction of the Garage.

J. The most reasonable alternatives to transfer or conversion of the Premises would have a direct, significant, negative impact on park or recreation land because the next closest area near the Zoo on which to construct a multi-story garage would require the use of open park land. The closest non-park or recreation land to the Zoo reasonably available for acquisition would require shuttle service for Zoo patrons between the lot and the Zoo, which would increase traffic near the Zoo and in nearby neighborhoods.

K. No further purpose would be served by requiring the Society to comply with the Open Lands Protection Ordinance because the Society has already satisfied the requirements of that ordinance.

SECTION 2. By this Ordinance, the Parks and Recreation Commissioner is authorized to execute a lease on behalf of the City with the Philadelphia Authority for Industrial Development ("PAID"), in substantially the form attached to this Ordinance as Exhibit A, which would require PAID to execute a sublease with the Zoological Society of Philadelphia, in substantially the form attached to this Ordinance as Exhibit B.

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SECTION 3. Based on the findings of Council set forth in Section 1, both the lease authorized by this Ordinance, and the sublease that would be executed pursuant to the lease, are exempted from the requirements of the Open Lands Protection Ordinance.

SECTION 4. The Chief Clerk is directed to keep a copy of Exhibit A on file in the Chief Clerk's office and available for inspection by the public. The Chief Clerk is further directed to keep a copy of the Society's Categorical Exclusion Evaluation on file in the Chief Clerk's office and available for inspection by the public.

SECTION 5. The City Solicitor is authorized by this Ordinance to review and to approve the lease between the City and PAID, and other documents necessary to complete the transaction authorized by this Ordinance, and to impose terms and conditions on them as the City Solicitor determines are necessary and proper to protect the interests of the City of Philadelphia and to carry out the purpose of this Ordinance.

SECTION 6. This Ordinance does not create a regular exemption from the Open Lands Protection Ordinance. Rather, the exemption granted by this Ordinance is extraordinary and given only because of the exhaustive efforts already taken by the Society and consultants working on the Project to conduct the studies and provide to the City the information required by the Open Lands Protection Ordinance, and because of the extensive efforts already taken to inform the public and seek public comment about the Project and the Garage, all as required in the Open Lands Protection Ordinance.

[Note: Exhibits to this Bill are on file in the Office of the Chief Clerk.]

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 21, 2012. The Bill was Signed by the Mayor on June 27, 2012.



Michael A. Decker  
Chief Clerk of the City Council