

City of Philadelphia



(Bill No. 030826)

AN ORDINANCE

Authorizing the City of Philadelphia (the “City”) in cooperation with the Philadelphia Authority for Industrial Development (the “Authority”), to undertake a Project to promote the health, safety and welfare of the residents of the City of Philadelphia; supplementing the Ordinance (Bill No. 980789) which established an Alternative Funding Mechanism to achieve savings in the schedule of payments required to amortize the unfunded actuarial accrued liability of the City Retirement System; authorizing and approving (i) the Project, (ii) the entering into, execution and delivery by the Director of Finance of a First Supplemental Service Agreement between the City of Philadelphia and the Authority, (iii) the issuance by the Authority of variable rate bonds in one or more series in an aggregate amount of net proceeds not to exceed \$275,000,000, to pay the costs of the Project, (iv) the use of certain prior proceeds to pay costs of the Project, (v) the assignment of the First Supplemental Service Agreement by the Authority to a trustee, and (vi) the obligation of the City of Philadelphia to pay the Payment Requirements under the First Supplemental Service Agreement when due; authorizing the Director of Finance, on behalf of the City of Philadelphia, to enter into the First Supplemental Service Agreement with the Authority; authorizing the Director of Finance, on behalf of the City of Philadelphia, to approve a Repurchase Agreement and a Swap Agreement; authorizing the Director of Finance and other officers of the City of Philadelphia to take such other actions as may be necessary or appropriate to accomplish the intent and purpose of this Ordinance; covenanting that the City of Philadelphia will make necessary appropriations in each of the City’s fiscal years to provide for payment requirements due under the First Supplemental Service Agreement; and covenanting that the City of Philadelphia will satisfy payment requirements due under the First Supplemental Service Agreement; all under certain terms and conditions.

WHEREAS, The City of Philadelphia (the “City”) has established a pension and retirement system (the “City Retirement System”) pursuant to the Philadelphia Home Rule Charter Section 6-600 by Ordinance approved December 3, 1956, as amended, and the Municipal Retirement Benefit Plan 1987 Ordinance which became effective January 8, 1987, as amended, both of which ordinances were substantially superseded by the enactment of the Public Employees Retirement Code, Title 22 of The Philadelphia Code, added Bill No. 980843 (approved January 13, 1999), as amended (collectively, the “Retirement System Ordinance”); and

WHEREAS, The City Retirement System had, as of July 1, 1997, an unfunded actuarial accrued liability of approximately \$2,657,231,000; and

City of Philadelphia

BILL NO. 030826 continued

Certified Copy

WHEREAS, The City is authorized, pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, Act No. 205 of the General Assembly of the Commonwealth of Pennsylvania (“General Assembly”), approved December 18, 1984 (P.L. 1005), as amended and supplemented, including as amended and supplemented by Act No. 1998-82 of the General Assembly approved June 18, 1998 (collectively, the “Pension Plan Act”), to use an Alternative Funding Mechanism, as defined in Section 1001 of the Pension Plan Act, to reduce the unfunded actuarial accrued liability of the City Retirement System; and

WHEREAS, The Council of the City of Philadelphia, by its Ordinance Bill No. 980789, approved December 22, 1998 (the “1998 Ordinance”), determined that in order to provide for the safety and soundness of the City Retirement System and to achieve savings in the schedule of payments required to amortize the unfunded actuarial accrued liability of the City Retirement System, it was in the best interests of the City to provide for an Alternative Funding Mechanism consisting of (i) the execution and delivery of a Service Agreement (the “Original Service Agreement”) by and between the City and the Philadelphia Authority for Industrial Development (the “Authority”) providing for the funding of up to \$1,250,000,000 of the unfunded actuarial accrued liability of the City Retirement System, such funding having been provided to the City by the issuance by the Authority of its Pension Funding Bonds (City of Philadelphia Retirement System), Series of 1999 in three series, including Series 1999C in an aggregate principal amount of \$225,000,000 (the “1999C Bonds”), (ii) the deposit of net proceeds of up to \$1,250,000,000 in the City Retirement System upon receipt thereof; and (iii) the obligation of the City to pay in full when due the payment requirements of the Alternative Funding Mechanism set forth on Schedule 1 to the Original Service Agreement, all as authorized by the Pension Plan Act; and

WHEREAS, The City and the Authority were authorized by the Pension Plan Act and the Economic Development Financing Law, 73 P.S. 371 et seq. as amended, to enter into the Original Service Agreement and to undertake the Alternative Funding Mechanism; and

WHEREAS, the Authority issued the 1999 Bonds and entered into the Original Service Agreement with the City;

WHEREAS, at the direction of the City, pursuant to Section 4.02 of the Original Indenture and a purchase agreement dated as of June 12, 2002 between the Authority and Societe Generale, as purchaser, the Authority sold its Option Rights (as defined therein) with respect to the 1999C Bonds;

WHEREAS, at the request of the City, the Authority has determined to undertake a project (the “Project”) consisting of (i) repurchasing the Option Rights, (ii) currently refunding the 1999C Bonds and (iii) entering into a First Supplemental Service Agreement (the “First Supplemental Service Agreement”) with the City pursuant to

City of Philadelphia

BILL NO. 030826 continued

Certified Copy

which the City agrees to make payments to the Authority sufficient to meet the Payment Requirements under the First Supplemental Service Agreement; and

WHEREAS, in order to finance the Project, the Authority will issue its variable rate Pension Fund Refunding Bonds (City of Philadelphia Retirement System), Series of 2004, in an aggregate principal amount yielding proceeds of up to \$275,000,000; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Council of the City of Philadelphia (the “City” or “Council”) hereby authorizes and approves (i) a project (the “Project”) consisting of (a) repurchasing the Option Rights, (b) currently refunding the 1999C Bonds and (c) entering into a First Supplemental Service Agreement (the “First Supplemental Service Agreement”) pursuant to which the City agrees to make payments to the Authority sufficient to meet the Payment Requirements thereunder and (ii) the obligation of the City to pay in full the payment requirements of the Alternative Funding Mechanism (the “Payment Requirements”), as set forth on Schedule 1 to the Original Service Agreement, as supplemented and amended by the First Supplemental Service Agreement and Schedule 2 thereto (as so supplemented and amended, the “Service Agreement”). The Payment Requirements shall be amounts based on a final maturity of the Alternative Funding Mechanism no later than 2028 and a maximum yield on the Authority’s refunding bonds not to exceed twenty percent (20%) per annum.

SECTION 2. The Director of Finance is hereby authorized to execute and deliver, on behalf of the City, the First Supplemental Service Agreement in substantially the form of Exhibit A hereto, with such changes as the City Solicitor shall advise and the Director of Finance shall approve, consistent with the terms of this Ordinance.

SECTION 3. The First Supplemental Service Agreement authorized by this Ordinance shall be executed in conjunction with the issuance by the Authority of its variable rate Pension Fund Refunding Bonds (City of Philadelphia Retirement System), Series of 2004, in an aggregate principal amount yielding proceeds of up to \$275,000,000 (the “2004 Bonds”), pursuant to a trust indenture (the “Original Indenture”) as supplemented and amended by a First Supplemental Indenture (the “First Supplemental Indenture” and together with the Original Indenture, the “Trust Indenture”) for the purpose of (a) repurchasing the Option Rights, (b) currently refunding the 1999C Bonds and (c) paying the costs of issuance of the 2004 Bonds, such bonds to bear interest at a maximum rate or yield not to exceed twenty percent (20%) per annum. The First Supplemental Service Agreement shall not be executed or delivered until the Director of Finance has approved the bond documents. In connection therewith, the Director of Finance is authorized to apply the proceeds from the original sale of the Option Rights to the costs of the Project, and such proceeds are hereby approved and appropriated for such purpose.

City of Philadelphia

BILL NO. 030826 continued

Certified Copy

SECTION 4. The Director of Finance is hereby authorized to approve, on behalf of the City, a repurchase agreement between the Authority and Societe Generale (the “Repurchase Agreement”) to effect the repurchase by the Authority of the Options Right in substantially the form the Director of Finance shall approve upon the advice of the City Solicitor and consistent with the terms of this Ordinance, such approval to be evidenced by the execution by the Director of Finance of the Repurchase Agreement.

SECTION 5. The Director of Finance is hereby authorized to approve, on behalf of the City, an interest rate swap agreement with respect to the 2004 Bonds between the Authority and a swap provider which the Director of Finance shall approve upon the advice of the City Solicitor (the “Swap Agreement”) in substantially the form the Director of Finance shall approve upon the advice of the City Solicitor and consistent with the terms of this Ordinance, such approval to be evidenced by the execution by the Director of Finance of the Swap Agreement.

SECTION 6. The Director of Finance and all other proper officials of the City are hereby authorized, jointly and severally, on behalf of the City, to execute all documents and to take all actions, including the filing of this Ordinance and the final First Supplemental Service Agreement with the Public Employees Retirement Commission, as required by the Pension Plan Act, the Constitution and the laws of the Commonwealth, or as may be necessary or appropriate in order to accomplish the intent and purpose of this Ordinance and the First Supplemental Service Agreement. The Director of Finance shall determine and certify before the closing for the 2004 Bonds that the net present value savings is at least \$17 million for the first five (5) years of the 2004 Bonds. A copy of such written certification shall be filed with the Chief Clerk of Council prior to closing.

SECTION 7. The final First Supplemental Service Agreement, with completed Schedule 2 attached thereto, shall be transmitted by the Mayor to the President of City Council, with copies to the Chief Clerk of Council and each member of Council prior to filing with the Public Employees Retirement Commission. Any amendments or supplements to such Schedule 2 reflecting any change in the Payment Requirements during the term of the Service Agreement shall be filed with the Public Employees Retirement Commission pursuant to the Pension Plan Act; provided that, prior to any such filing, the Mayor shall transmit copies of such filing to the President, the Chief Clerk and each member of Council.

SECTION 8. The obligation of the City to pay the Payment Requirements of the Alternative Funding Mechanism as set forth on Schedule 2 of the Service Agreement, in full when due, as required by Section 1001(e) of the Pension Plan Act, is hereby authorized, approved and acknowledged.

SECTION 9. This Ordinance shall take effect immediately.

City of Philadelphia

BILL NO. 030826 continued

Certified Copy

EXHIBIT A

Form of First Supplemental Service Agreement

City of Philadelphia

BILL NO. 030826 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 18, 2003. The Bill was Signed by the Mayor on December 31, 2003.



Patricia Rafferty
Chief Clerk of the City Council