

City of Philadelphia



(Bill No. 000721-A)

AN ORDINANCE

Authorizing the Commissioner of Public Property and the Director of Commerce, on behalf of the City of Philadelphia (the "City"), to enter into a Ground Lease Agreement (the "Eagles Ground Lease") with the Philadelphia Authority for Industrial Development ("PAID") providing for the leasing by the City to PAID of certain parcels of land owned or to be acquired by the City, and further authorizing said officers to enter into a Prime Lease Agreement (the "Eagles Prime Lease") between PAID and the City providing for the subleasing by PAID to the City of all or a portion of such land and certain improvements to be constructed thereon, including a football stadium and accessory and related amenities, improvements and infrastructure and the payment of certain costs for such stadium complex and further authorizing said officers to enter into a Leaseback-Lease Agreement (the "Eagles Leaseback") between PAID and the City providing for the sub-subleasing of said land as improved back from the City to PAID; covenanting to be bound by the terms of the aforementioned Eagles Ground Lease, Eagles Prime Lease and Eagles Leaseback; and obligating PAID to finance a portion of the costs of the acquisition of such land and any additional land in connection with the sports stadia or sports complex, demolition, site preparation, improvements and infrastructure in connection therewith and a portion of any and all other costs incurred in connection with the sports stadia; imposing a limitation on the aggregate amount of bonds which are to be issued by PAID to finance or refinance the project; covenanting to make appropriations in each of the City's fiscal years to provide for all payments due under the Eagles Prime Lease; dedicating the vehicle rental tax authorized by Act 25 of 1999 to the new sports stadia projects; authorizing the Director of Finance and other officials of the City to take all actions necessary to accomplish the intent and purpose of this Ordinance and the Eagles Ground Lease, Eagles Prime Lease, Eagles Leaseback and an Eagles Lease and Development Agreement between the Philadelphia Eagles Limited Partnership or its successor as holder of the National Football League franchise for the City or a controlled affiliate and PAID containing the terms and conditions substantially as approved herein; and authorizing approval of all of the terms of the aforementioned Leases and other documents and amendments thereto by the Director of Finance and/or the City Solicitor.

WHEREAS, the City of Philadelphia ("City") has determined that the health, safety, and general welfare and economic development, stability and prosperity of the people of the City and the Commonwealth of Pennsylvania (the "Commonwealth") are directly dependent upon the continued encouragement, promotion, attraction, development, stimulation, growth and expansion of business, commerce and tourism within the boundaries of the City; and

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WHEREAS, the City has determined that the attraction and retention of major league professional sports franchises encourages, fosters and stimulates the greater health, safety and general welfare, and the economic development and prosperity of the people of the City and the Commonwealth, keeps the City and the Commonwealth competitive and viable in the attraction, retention and further growth of the City's tourism, convention and other businesses, provides recreational, educational, cultural, entertainment and other opportunities for the people of the City and the Commonwealth, and generally serves as a valuable asset to the City, the Commonwealth and their respective citizens, merchants, business interests and sports fans; and

WHEREAS, the City has determined that the interests of the public will best be served by securing the agreement of the Philadelphia Eagles Limited Partnership or its successor as holder of the National Football League franchise for the City or a controlled affiliate (the "Eagles") to continue to play its home professional football games in a new football stadium; and

WHEREAS, the development of a new football stadium and improvements, infrastructure, accessory uses and amenities is appropriate in the City, which, because of its size, is capable of retaining and supporting major professional sports teams such as the Eagles, as well as attracting and promoting other sports, musical, recreational and cultural events, and attracting business and tourism to the City as a result of such development of the Eagles stadium project, and will be an important and integral factor in the continued encouragement, promotion, attraction, stimulation, development, growth and expansion of business, commerce and tourism in the City for the benefit health and welfare of the people of the City and the Commonwealth; and

WHEREAS, the development of the Eagles stadium project on public property in the City will provide significant benefits to the general public and will require the investment and expenditure of substantial private funds; including funds to be provided by the Eagles; and

WHEREAS, the Commonwealth of Pennsylvania General Assembly (the "General Assembly") has by statute further determined that assisting municipalities and local authorities in the financing of the construction of stadiums to be leased to professional sports organizations under certain terms and conditions is an appropriate public purpose; and

WHEREAS, the City has determined to have a new, modern, high-quality football stadium designed, developed, constructed, financed and operated within the City; and

WHEREAS, in cooperation with the City, Philadelphia Authority for Industrial Development ("PAID") has undertaken as a project the design, development, construction, financing and operation of such a stadium; and

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WHEREAS, by an Act approved June 25, 1999 (Act 25 of 1999) ("Act 25"), the General Assembly authorized the City to impose an excise tax on the rental of motor vehicles within the City, and to dedicate the tax for costs of capital projects, and the City has imposed the vehicle rental tax and intends to take all actions necessary to maximize the revenues from such tax and dedicate such tax to the costs of the new sports stadia projects; and

WHEREAS, additional public funding for the stadium will be provided primarily from the Commonwealth and the balance of the funds will be provided by the Eagles; and

WHEREAS, the City has authorized the acquisition of fee simple title to certain parcels of land for lease to PAID and lease by PAID to the Eagles; and

WHEREAS, it is expected that PAID and the Eagles will enter into a lease and development agreement for the Eagles stadium project ("Eagles Lease and Development Agreement") containing substantially the terms and conditions approved in Section 8 of this Ordinance and annexed to this Ordinance as Exhibit D and made a part hereof; and

WHEREAS, the City has requested that PAID assist the City in financing a portion of the costs of the Eagles stadium project as a public facility by taking a leasehold interest in certain parcels of land, and simultaneously subleasing such land as improved back to the City; and

WHEREAS, PAID has agreed to undertake the Eagles stadium project as a public facility pursuant to its statutory powers; and

WHEREAS, the City is willing to enter into the Eagles Prime Lease with PAID for a specified term under terms and conditions requiring the City, *inter alia*, to make rental and other payments sufficient to pay: (i) principal of or maturity value, premium, if any, and interest on any bonds, notes or other form of indebtedness issued from time to time by PAID for the purpose of financing or refinancing the costs of acquisition of certain parcels of land, demolition, site preparation, improvements and infrastructure in connection therewith and any and all other costs incurred in connection with the sports stadia; (ii) obligations of PAID, if any, incurred in connection with obtaining any credit or liquidity facility, other enhancement or any swap, relating to such financing or refinancing; (iii) the establishment of reserves, if any, in connection therewith; and (iv) the fees, costs and all other liabilities of PAID incurred in connection with such financing or refinancing, the administration, operation, maintenance, renewal and repair of the Eagles Stadium Complex (as defined in Section 9 below) and the administration of documents executed in connection with the Eagles stadium project, and any other transactions required in connection with the Eagles stadium project, all as further provided in the Eagles Prime Lease; and

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WHEREAS, PAID will be required to assign certain of its rights under the Eagles Prime Lease (defined below) to a trustee under an indenture (the "Indenture") and the City will be required to make some or all of its rental payments under the Eagles Prime Lease directly to such trustee; now therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property and the Director of Commerce, on behalf of the City, are hereby authorized to enter into (a) a Ground Lease Agreement (the "Eagles Ground Lease") with PAID providing for the leasing by the City to PAID of the Eagles Site (defined in Section 9 below), (b) a Prime Lease Agreement (the "Eagles Prime Lease") between PAID and the City providing for the subleasing of the Eagles Stadium Complex (defined in Section 9 below) back from PAID to the City and the payment by the City of certain costs, if any, for the Eagles Stadium Complex, and (c) a Leaseback-Lease Agreement between PAID and the City providing for the sub-subleasing of the Eagles Stadium Complex back from the City to PAID (the "Eagles Leaseback"; together with the Eagles Ground Lease and the Eagles Prime Lease, the "Eagles Leases"). The Eagles Leases shall be substantially in the form of Exhibit "A" as to the Eagles Ground Lease, Exhibit "B" as to the Eagles Prime Lease, and Exhibit "C" as to the Eagles Leaseback, each attached hereto and hereby made a part hereof.

SECTION 2. The City agrees to be bound by each and every provision, covenant and agreement set forth in the Eagles Leases.

SECTION 3. The Eagles Leases herein authorized shall be made in connection with the issuance at any time or from time to time by PAID of bonds, notes or other forms of indebtedness for the purpose of financing or refinancing a portion of the costs of the Eagles Stadium Complex (as defined herein), additional land in connection with the sports stadia, demolition, site preparation, improvements and infrastructure in connection therewith and a portion of any and all other costs incurred in connection with the sports stadia (the "Bonds") in an aggregate principal amount not to exceed One Hundred One Million Five Hundred Thousand Dollars (\$101,500,000) net of original issue discount, plus amounts necessary for any reserves, capitalized interest, costs of issuance, amounts necessary to effect any refunding and such amount as may be finally determined to be owed to any condemnees as Just Compensation (as defined in the Pennsylvania Eminent Domain Code), at any one time outstanding.

SECTION 4. The City covenants to make appropriations in each of its fiscal years during the term of the Eagles Prime Lease in such amounts as shall be required in order to timely make all rental payments due and payable, and to timely pay all other obligations of the City under the Eagles Prime Lease.

SECTION 5. The City covenants unconditionally to timely pay all rental payments due under the Eagles Prime Lease which have been assigned to the trustee directly to the

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such trustee, to which certain rights under the Eagles Prime Lease will be assigned, all as provided in the Indenture, some or all of which will be part of the security for payment of the Bonds issued under the Indenture and as security for PAID's obligations under a credit facility and/or liquidity facility securing the Bonds, if any, or swap agreement, if any, and to pay all other obligations of PAID as required under the Eagles Leases, if any, and to make additional rental payments due under the Eagles Prime Lease to PAID for any and all other costs, if any, for the Eagles Stadium Complex, all of which payments shall not be suspended, abated, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever and regardless of any rights of setoff, recoupment or counterclaim that the City may have against PAID or the trustee or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstances or occurrence that may arise after the commencement date of the terms of the Eagles Leases.

SECTION 6. The Director of Finance and all other proper officials of the City are hereby authorized to execute all documents and to take all actions, including the execution of the Eagles Ground Lease, Eagles Prime Lease and the Eagles Leaseback, and the execution of a continuing disclosure agreement, as may be necessary, in order to accomplish the intent and purpose of this Ordinance and of the Eagles Leases and are further authorized to amend the Eagles Leases and any other documents in any manner consistent with the terms of this Ordinance. The City Solicitor is hereby authorized to include in the Eagles Leases such other terms and provisions as he shall deem necessary or appropriate in connection with the Eagles stadium project and to make any other changes consistent with the terms of this Ordinance.

SECTION 7. All terms of the Bonds, the Indenture and credit facility and/or liquidity facility and/or reimbursement agreement and swap agreement, if any, shall be subject to the approval of the Director of Finance.

SECTION 8. The Director of Finance and City Solicitor are hereby authorized to approve the execution and delivery by PAID of the Eagles Lease and Development Agreement as follows:

(a) The Council of the City of Philadelphia hereby approves the Eagles Lease Terms (the "Eagles Terms") attached hereto as Exhibit "D" as the basis of the Eagles Lease and Development Agreement. The Eagles Lease and Development Agreement shall conform in all material respects to the terms and provisions of the Eagles Terms, and may contain such other terms and conditions as are not inconsistent therewith. The Chief Clerk of Council shall keep Exhibit "D" on file and make it available for public inspection during regular office hours.

(b) The Eagles Lease and Development Agreement shall be approved as follows:

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(i) The parties thereto shall file the Eagles Lease and Development Agreement with the Chief Clerk of Council, with copies delivered by hand to the President of City Council;

(ii) The Council shall have ten (10) calendar days after the date the Eagles Lease and Development Agreement is filed with the Chief Clerk of Council to approve or disapprove the Eagles Lease and Development Agreement by Resolution. If Council does not act within said ten (10) calendar day period, the Eagles Lease and Development Agreement shall be deemed approved.

(c) Upon and after the approval of the Eagles Lease and Development Agreement as provided in section 8(b) above, the City Solicitor is hereby authorized to consent to the inclusion therein, and in the other instruments contemplated therein and in Exhibit "D", of such other terms and provisions, not inconsistent with this Ordinance and the Eagles Terms, as he shall deem necessary or appropriate in connection with the transactions contemplated thereby to accomplish the purposes of this Ordinance.

(d) Any other provision of this Ordinance to the contrary notwithstanding, unless and until the Eagles Lease and Development Agreement has been approved or deemed approved as provided in Subsection 8(b) above, PAID shall not issue bonds, notes or other forms of indebtedness which are supported by City rental payments to PAID pursuant to documents authorized by this Ordinance for any purpose other than to finance costs of the acquisition of land, relocation, demolition, site preparation and infrastructure in connection therewith, and the aggregate principal amount of such bonds, notes or other forms of indebtedness issued by PAID, plus the total aggregate principal amount of bonds, notes, or other forms of indebtedness authorized to be issued by PAID pursuant to subsection 8(d) of Bill No. 000722, shall not exceed in total One Hundred Million Dollars (\$100,000,000), net of original issue discount, plus amounts necessary for any reserves, capitalized interest, costs of issuance, amounts necessary to effect any refunding and such amount as may be finally determined to be owed to any condemnees as Just Compensation (as defined in the Pennsylvania Eminent Domain Code), at any one time outstanding. Unless and until the Eagles Lease and Development Agreement is approved or deemed approved as provided in subsection 8(b) above, the City's obligation to make appropriations pursuant to Section 4 above and to make rental payments due under the Eagles Prime Lease under Section 5 above shall be limited to such appropriations, and such rental payments as are necessary to provide for the debt service and other payments due from PAID in connection with the issuance of its bonds, notes or other forms of indebtedness as authorized in this subsection 8(d), and no rental payments due under the Eagles Prime Lease in excess of such amounts shall be assigned to any trustee. Upon approval or deemed approval of the Eagles Lease and Development Agreement, PAID shall be authorized to issue

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all of the bonds, notes, or other forms of indebtedness authorized in Section 3 of this Ordinance.

SECTION 9. The term "Eagles Site" shall mean certain parcels of land as further described in Exhibit "E" attached hereto and hereby made a part hereof. The term "Eagles Stadium" shall mean a new, modern, high-quality professional football stadium for the conduct of the Eagles' home professional football games and the conduct of other events and other activities. The term "Eagles Stadium Complex" shall mean the Eagles Site and the Eagles Stadium, and any other related and accessory land, improvements, infrastructure and appurtenances related thereto.

SECTION 10. In accordance with Act 25 and Bill No. 000083 (approved March 28, 2000), the Ordinance of City Council by which the excise tax on the rental of motor vehicles was enacted and dedicated, the Director of Finance is hereby authorized to enter into an agreement with PAID, committing the excise tax on the rental of motor vehicles to the payment of the City's obligations under the Eagles Prime Lease and/or the payment of any of the City's obligations under any lease related to the financing of a stadium for the Eagles or the Phillies, all as provided in such Act and Ordinance, such tax and such commitment not to be repealed, reduced or revoked until all bonds, together with interest thereon, shall have been paid or provision for such payment shall have been made, it being understood that all of the proceeds of the excise tax on the rental of motor vehicles are dedicated solely to the costs of capital projects and debt service on bonds issued for capital projects.

SECTION 11. The City Solicitor shall file copies of the executed Eagles Ground Lease, Eagles Prime Lease and Eagles Leaseback and all amendments thereto with the Clerk of City Council.

SECTION 12. The Clerk of City Council shall keep on file for public inspection all Exhibits referred to in this Ordinance.

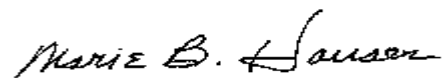
This Ordinance shall take effect immediately.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 20, 2000. The Bill was Signed by the Mayor on December 28, 2000.



Marie B. Hauser
Chief Clerk of the City Council