

City of Philadelphia



(Bill No. 070221)

AN ORDINANCE

Constituting the Seventh Supplemental Ordinance to the Amended and Restated General Airport Revenue Bond Ordinance; authorizing the Use and Lease Agreements, if any, with the Scheduled Airlines to provide for the use of the alternate definition of "Project Revenues" under the Amended and Restated General Airport Revenue Bond Ordinance; authorizing the Use and Lease Agreements, if any, with the Scheduled Airlines to provide for the alternate definition of "Operating Expenses" under the Amended and Restated General Airport Revenue Bond Ordinance; amending the Amended and Restated General Airport Revenue Bond Ordinance to make changes therein to conform to the new Airline-Airport Use and Lease Agreements, if any; electing under the Amended and Restated General Airport Revenue Bond Ordinance to provide for the use of the alternate definition of "Project Revenues"; electing under the Amended and Restated General Airport Revenue Bond Ordinance to provide for the use of the alternate definition of "Operating Expenses"; authorizing the Bond Committee to pledge as Project Revenues under the Amended and Restated General Airport Revenue Bond Ordinance all revenues, rents, rates, tolls or other charges generated by or allocable to the Outside Terminal Area; and authorizing the Bond Committee to include in the definition of "Operating Expenses" all costs and expenses allocable to the Outside Terminal Area to the extent that the Bond Committee determines to pledge as Project Revenues under the Amended and Restated General Airport Revenue Bond Ordinance all revenues, rents, rates, tolls or other charges generated by or allocable to the Outside Terminal Area.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Authorization of Amendment of Use and Lease Agreements. The City of Philadelphia, acting by and through its Department of Commerce, Division of Aviation (the "City"), is hereby authorized to amend the Use and Lease Agreements with the Airlines to the extent necessary to reflect the use of the alternate definition of "Project Revenues" as described in Section 3 herein.

SECTION 2. Authorization of Amendment of Use and Lease Agreements. The City is hereby authorized to amend the Use and Lease Agreements with the Airlines to the extent necessary to reflect the use of the alternate definition of "Operating Expenses" as described in Section 4 herein.

SECTION 3. Amendment of the Amended and Restated General Airport Revenue Bond Ordinance. The following provisions of the Amended and Restated General Airport Revenue Bond Ordinance (Bill No. 1099, approved June 16, 1995) (the "Amended and Restated Ordinance") are amended as follows, *provided, however*, if any

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Airline-Airport Use and Lease Agreements are in effect upon the enactment of this Ordinance then the amendments made to the Amended and Restated Ordinance contained in Section 3(b) and (f) herein shall be effective only upon the written consent of the Scheduled Airlines to amend the Airline-Airport Use and Lease Agreement to reflect the pledge of the Outside Terminal Area revenues as Project Revenues:

(a) The definition of "Cost Centers" in Section 2.01 is amended to read as follows:

"Cost Centers" means the cost areas to be used in the Cost Accounting System as set forth in the Use and Lease Agreements, or, if none of the Use and Lease Agreements is in effect, then as determined by the City from time to time. Such Cost Centers shall initially consist of the Airport Area Cost Center, the Terminal Area Cost Center, the Ramp Area Cost Center, the Other Buildings and Areas Cost Center, the Northeast Philadelphia Airport Cost Center, the Outside Terminal Area Cost Center and the Airport Services Cost Center, all as defined in the Use and Lease Agreements.

(b) The City hereby elects to use the alternate definition of "Operating Expenses" in Article I of the Amended and Restated Ordinance. The definition of "Operating Expenses" in Section 2.01 is restated to read in its entirety as follows:

All costs and expenses of the Airport System necessary and appropriate to operate and maintain in good operating condition during each Fiscal Year those portions of the Airport System from which revenues are derived and which are included within the definition of Project Revenues, and shall include, without limitation, salaries and wages, purchases of services, interest on temporary borrowings to be paid from Bonds, costs of materials, supplies and equipment that can be expensed, maintenance costs, costs of any property or the replacement thereof or for any work or project, related to the Airport System having an estimated life or usefulness and a cost less than minimum standards for capitalization established by the Division of Aviation's accounting policies (provided such minimum standards shall in no event be less than the standards set forth in the City Charter of the City), pension and welfare plan and worker's compensation requirements, unemployment compensation requirements, taxes and payments in lieu of taxes, insurance premiums, provisions

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for claims, refunds and uncollectible receivables and Interdepartmental Charges, all consistently determined in accordance with the accrual basis of accounting adjusted to meet the particular requirements of the Use and Lease Agreements and this Ordinance, consistently applied, but Operating Expenses shall exclude depreciation, amortization, and except as expressly set forth above, Debt Service Requirements and amounts due under Subordinate Obligations and Exchange Agreements. Operating Expenses shall also exclude debt service on General Obligation Bonds and NSS General Obligation Bonds. Aggregate financing payments under capitalized lease agreements shall be payable as Operating Expenses to the extent payments under such capitalized lease agreements either (i) do not constitute Capital Expenditures under the Use and Lease Agreements, or (ii) constitute Capital Expenditures under the Use and Lease Agreements and have not been disapproved by the Majority-in-Interest under the Use and Lease Agreements. Any financing payments on capitalized lease agreements not satisfying the requirements of either clause (i) or (ii) above, may be payable in accordance with Section 4.06(i) hereof.

- (c) The definition of "Overseas Terminal" in Section 2.01 is hereby deleted.
- (d) The definition of "Payments-in-Aid" in Section 2.01 is hereby deleted.
- (e) The definition of "Payment-in-Aid of Terminal Building Operation" in Section 2.01 is hereby deleted.
- (f) The City hereby elects to use the alternate definition of "Project Revenues" in Article I of the Amended and Restated Ordinance. The definition of "Project Revenues" in Section 2.01 is restated to read in its entirety as follows:

All of the revenues, rents, rates, tolls or other charges imposed upon all lessees, occupants and users of the Airport System and all moneys received by or on behalf of the City from all sources during any Fiscal Year (except as hereinafter excluded) from or in connection with the ownership, operation, improvements and enlargements of the Airport System, or any part thereof and the use thereof, including, without limitation, revenues pledged or appropriated for the benefit of the Airport System, all rentals, rates, charges, landing fees, use

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charges, concession revenues, income derived from the City's sale of services, fuel, oil, and other supplies or commodities, and all other charges received by the City or accrued by it from the Airport System, and any investment income realized from the investment of the foregoing, except as provided below, and all accounts, contract rights and general intangibles representing the Project Revenues all consistently determined in accordance with the accrual basis of accounting adjusted to meet the particular requirements of the Use and Lease Agreements (if any of the Use and Lease Agreements are in effect) and this Ordinance.

Project Revenues as defined in the preceding paragraph shall not include (a) any and all Passenger Facility Charges, or any taxes which the City may from time to time impose upon users of the Airport System, (b) any governmental grants and contributions in aid of capital projects, (c) such rentals as may be received pursuant to Special Facility Agreements for Special Purpose Facilities, (d) proceeds of the sale of Bonds and any income realized from the investment of proceeds of the sale of Bonds maintained in the Aviation Capital Fund and income realized from investments of amounts maintained in the Renewal Fund and Sinking Fund Reserve Account, (e) except as required by applicable laws, rules or regulations, net proceeds from the sale of Airport assets, including the sale or transfer of all or substantially all of the assets of the Airport System under Section 9.01 hereof unless the Division of Aviation determines to include any such net proceeds as Project Revenues and such determination is evidenced by written notification by the City to the Fiscal Agent, (f) proceeds of insurance or eminent domain (other than proceeds that provide for lost revenue due to business interruption or business loss), and (g) net amounts payable to the City under a Qualified Swap (other than termination amounts payable to a Qualified Swap Provider due as a result of termination of a Qualified Swap).

(g) The definition of "Use and Lease Agreements" in Section 2.01 is amended by deleting the words "which were effective as of July 1974" and inserting ", currently in effect, if any, and" in lieu thereof.

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(h) Section 4.01 is amended by deleting the words "(exclusive of the Outside Terminal Area and the Overseas Terminal, unless the revenues therefrom are pledged hereunder in accordance with Section 4.02 hereof)".

(i) The second paragraph of Section 4.02 is amended to read as follows:

Amounts constituting revenues, rents, rates, tolls or other charges generated or allocable to the Outside Terminal Area may be pledged hereunder as Project Revenues, only if there shall be delivered to the Fiscal Agent: (i) a written statement supported by appropriate schedules and summaries, that on the basis of historical, and estimated future annual financial operations of the Airport System, from which Amounts Available for Debt Service are to be derived, the Airport System will, in the opinion of the Consultant, yield Amounts Available for Debt Service for each of the five Fiscal Years (or three Fiscal Years in the event that the Consultant is professionally unable to provide an opinion for a period in excess of three Fiscal Years) ended immediately following the pledge of amounts described above, sufficient to comply with the Rate Covenant, and (ii) for so long as any of the Use and Lease Agreements are in effect, with the prior written consent of the Scheduled Airlines to amend the Use and Lease Agreements so that they reflect the foregoing modifications. For purposes of the statement in clause (i) above, the definition of "Operating Expenses" shall be deemed to include projected operating expenses of the Outside Terminal Area and Debt Service Requirements shall be deemed to include the debt service on any Bonds assumed or to be assumed hereunder, and any Qualified Swap, Credit Facility or Standby Agreement related thereto which is secured by a parity pledge of Project Revenues.

(j) Section 4.06(a) is hereby deleted and Section 4.06(b) through (e) are redesignated Section 4.06(a) through (d).

(k) A new section 4.06(e) is added and reads as follows:

(e) to pay termination amounts to a Qualified Swap Provider due as a result of the termination of a Qualified Swap and termination amounts payable to JP Morgan Chase Bank-New York, if any, with respect to

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Payments upon Early Termination on the Interest Rate
Swap Transaction effective on June 15, 2005;

(l) Section 5.01(a)(2)(ii) is amended by deleting the words "exclusive of General Obligation Bonds and NSS General Obligation Bonds issued for improvements to the Outside Terminal Area and the Overseas Terminal, unless revenues, rents, rates, tolls or other charges generated by or allocable to the Overseas Terminal and the Outside Terminal Area are pledged in a Supplemental Ordinance in accordance with Section 4.02 hereof."

(m) Section 5.05 is amended by deleting the words "exclusive of the Outside Terminal Area and the Overseas Terminal unless revenues, rents, rates, tolls or other charges generated by or allocable to the Overseas Terminal and the Outside Terminal Area are pledged in a Supplemental Ordinance in accordance with Section 4.02 hereof." in each of the two places it appears therein.

(n) Section 9.01 is amended by deleting the words "Municipality Authorities Act of 1945, as amended" and inserting the words "Municipality Authorities Act, 53 Pa. C.S. ch. 56, as amended."

(o) Section 9.02(a)(2)(B)(1) is amended by deleting the words "exclusive of General Obligation Bonds issued for improvements to the Outside Terminal Area and the Overseas Terminal unless revenues, rents, rates, tolls or other charges generated by or allocable to the Overseas Terminal and the Outside Terminal Area are pledged in a Supplemental Ordinance in accordance with Section 4.02 hereof."

SECTION 4. Authorization of Bond Committee to Pledge Project Revenues of the Overseas Terminal and/or Outside Terminal Area. The Mayor, the City Controller and the City Solicitor, or a majority of them (the "Bond Committee"), are hereby authorized on behalf of the City of Philadelphia (the "City") to pledge as Project Revenues under the Amended and Restated Ordinance all revenues, rents, rates, tolls or other charges generated by or allocable to the Outside Terminal Area, *provided, however*, if any Airline-Airport Use and Lease Agreements are in effect upon the enactment of this Ordinance then the pledge of the Outside Terminal Area revenues as Project Revenues made by the Bond Committee pursuant to this Section 4 shall be effective only upon the written consent of the Scheduled Airlines to amend the Airline-Airport Use and Lease Agreement to reflect the pledge of the Outside Terminal Area revenues as Project Revenues.

SECTION 5. Authorization of Bond Committee to Include Costs and Expenses of the Overseas Terminal and/or Outside Terminal Area. To the extent that the Bond Committee determines to pledge as Project Revenues under the Amended and Restated Ordinance all revenues, rents, rates, tolls or other charges generated by or allocable to the Outside Terminal Area, the City shall include all costs and expenses of the Outside

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Terminal Area in the definition of "Operating Expenses" under the Amended and Restated Ordinance and such inclusion shall be effective upon the effective date of the pledge of Outside Terminal Revenues as Project Revenues pursuant to Section 4 herein.

SECTION 6. Further Action. The Bond Committee is authorized to make all such covenants and to take any and all such other actions on behalf of the City as may be necessary or appropriate in connection with the consummation of the transactions contemplated herein.

SECTION 7. Other Elections Under the Amended and Restated Ordinance. The Bond Committee is authorized on behalf of the City, without any further action by City Council, to make any and all additional elections under the Amended and Restated Ordinance as it shall determine to be in the best interest of the City as and when it shall deem such elections to be appropriate.

Effect of Ordinance. This Ordinance is supplementary to the Amended and Restated Ordinance and all sections of the Amended and Restated Ordinance and the Act not inconsistent herewith remain effective. All definitions of terms contained in the Amended and Restated Ordinance shall apply to such terms in this Ordinance.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 31, 2007. The Bill was Signed by the Mayor on June 13, 2007.



Patricia Rafferty
Chief Clerk of the City Council