

City of Philadelphia



(Bill No. 010417)

AN ORDINANCE

Authorizing the Director of Commerce and the Commissioner of Public Property, on behalf of The City of Philadelphia (the "City") to execute and deliver, and consenting to the execution and delivery by Philadelphia Authority for Industrial Development ("PAID") of, agreements with the Commonwealth which shall provide that upon the occurrence of certain events described in this Ordinance, the Commonwealth shall have the option to purchase for One Dollar (\$1.00) a one-third interest in the respective interests of the City and PAID in said baseball ballpark facility, or said football stadium facility, as the case may be, and shall further provide that neither the City nor PAID shall permit the use of said baseball ballpark facility or said football stadium facility by or for, or enter into any lease, license, concession agreement, agreement of sale or other agreement which would permit the use or occupancy of said baseball ballpark facility or said football stadium facility by or for, certain professional baseball and football teams which now or hereafter conduct their home games elsewhere in the Commonwealth of Pennsylvania.

WHEREAS, The City of Philadelphia (the "City") has, pursuant to Ordinance (Bill No. 000722-A) approved by the Mayor December 28, 2000 ("Bill No. 722-A"), approved certain leases providing for the development, financing, construction and operation of a new, modern, high-quality baseball ballpark facility by The Phillies, a Pennsylvania limited partnership (the "Phillies"), within the City; and

WHEREAS, the City has, pursuant to Ordinance (Bill 000721-A) approved by the Mayor December 28, 2000 ("Bill No. 721-A"), approved certain leases providing for the development, financing, construction and operation of a new, modern high-quality football stadium facility by Philadelphia Eagles Limited Partnership, a Delaware limited partnership (the "Eagles"), within the City; and

WHEREAS, the City has, pursuant to Ordinance (Bill No. 000725) approved by the Mayor December 28, 2000 ("Bill No. 725"), authorized Philadelphia Authority for Industrial Development ("PAID") to file applications with the Commonwealth of Pennsylvania (the "Commonwealth") for Capital Facilities Redevelopment Assistance Grants pursuant to the Capital Facilities Debt Enabling Act, Act of February 9, 1999 (P.L. 1, No. 1), 72 P.S. §§ 3919.101 – 3919.5102 (the "CFDEA"), in an aggregate amount of not less than One Hundred Seventy Million Dollars (\$170,000,000) to provide partial funding to assist in the development of a professional baseball ballpark and related improvements and a professional football stadium and related improvements in the City; and

City of Philadelphia

BILL NO. 010417 continued

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WHEREAS, as authorized by Bill No. 000725, PAID has filed applications with the Commonwealth's Office of the Budget for Capital Facilities Redevelopment Assistance Grants in an aggregate amount of not less than One Hundred Seventy Million Dollars (\$170,000,000) to provide partial funding to assist in the development of said professional baseball ballpark and related improvements and said professional football stadium and related improvements; and

WHEREAS, Section 504(8) of the CFDEA, 72 P.S. § 3919.504(8), requires as a condition precedent to the funding of Capital Facilities Redevelopment Assistance Grants for the baseball ballpark and related improvements and the football stadium and related improvements that the Commonwealth receive an option to purchase for One Dollar (\$1.00) a one-third interest in the respective interests of the City and PAID in the professional baseball ballpark Facility (as defined hereinafter) and the professional football stadium Facility if such Facility is sold or if the lease with the professional sports organization occupying such Facility expires or is terminated; and

WHEREAS, the Commonwealth, acting through the Commonwealth Office of the Budget, has required that local municipalities and authorities execute and deliver agreements imposing restrictive covenants intended to limit the relocation of certain existing professional baseball and certain existing professional football franchises which now or hereafter conduct their home games elsewhere in the Commonwealth to the new baseball ballpark Facility or the new football stadium Facility; and

WHEREAS, the City desires to comply, and desires that PAID comply, with such requirements of the CFDEA and of the Commonwealth in order to obtain Capital Facilities Redevelopment Assistance Grants for the baseball ballpark and related improvements and the football stadium and related improvements to be constructed in the City; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Director of Commerce and the Commissioner of Public Property, on behalf of The City of Philadelphia (the "City") are hereby authorized to execute and deliver, and the City hereby consents to the execution and delivery by Philadelphia Authority for Industrial Development ("PAID") of, an agreement with the Commonwealth of Pennsylvania (the "Commonwealth"), providing that, upon sale of the baseball ballpark Facility (the "Baseball Facility") or the expiration or termination of that certain Sublease and Development Agreement by and between PAID, as landlord, and The Phillies, a Pennsylvania limited partnership (the "Phillies"), as tenant, which Sublease was authorized and approved pursuant to Ordinance (Bill No. 000722-A) approved by the Mayor December 28, 2000 ("Bill No. 722-A") at the Baseball Facility, the Commonwealth shall have the option to purchase for One Dollar (\$1.00) a one-third interest in the respective interests of the City and PAID in the Baseball Facility.

City of Philadelphia

BILL NO. 010417 continued

Certified Copy

SECTION 2. The Director of Commerce and the Commissioner of Public Property, on behalf of the City, are hereby authorized to execute and deliver, and the City hereby consents to the execution and delivery by PAID of, an agreement with the Commonwealth, providing that, for and in consideration of the Commonwealth's grant of the funds provided for in the Grant Agreement between the Commonwealth and PAID authorized by Ordinance (Bill No. 000725) approved by the Mayor December 28, 2000 ("Bill No. 725"), PAID and the City shall covenant and agree that during the term of said Grant Agreement, none of PAID, the City or any other Interested Party (defined in Section 5 below), nor any of such parties' heirs, successors and assigns, shall permit the use of the Baseball Facility by or for, or enter into any lease, license, concession agreement, joint venture agreement, agreement of sale or other agreement affecting the use or occupancy of the Baseball Facility which would permit the use or occupancy of the Baseball Facility by or for, any Existing Pennsylvania Baseball Franchise as its home ballpark unless the Commonwealth, by its Governor, consents in writing to such use, or a court of competent jurisdiction orders that such use be permitted. Such covenant shall run with and bind the land and improvements constituting the Baseball Facility. PAID and the City shall further covenant and agree in said agreement that neither shall permit any Interested Party, their heirs, successors or assigns, to violate the above covenant and that the City and PAID shall obtain from all Interested Parties an acknowledgement of and agreement to abide by such covenant. PAID shall, if requested by the Commonwealth, record said agreement in the Department of Records of the City, at PAID's expense. The term "Existing Pennsylvania Baseball Franchise" shall mean: (1) any team or franchise (other than the Phillies) located and operating in the Commonwealth and in existence on the date of the execution and delivery of the agreement contemplated by this Section 2; and (2) any team or franchise (other than the Phillies) which was located and operating in the Commonwealth and in existence within five (5) years prior to the date of the agreement contemplated by this Section 2; and (3) any team or franchise granted to, established in or entering or moving into the Commonwealth from outside the Commonwealth during the term of the agreement contemplated by this Section 2, except for a team or franchise granted to, established in or entering or moving into the Commonwealth for the express purpose of establishing the Baseball Facility as its home. The term "team or franchise" shall mean, as to the Baseball Facility, any professional baseball team operating under the authority of Major League Baseball, the National Association of Professional Baseball Leagues, their successors or assigns, any minor league authority, including but not limited to the Eastern League, Southern League or other such leagues, major league teams, teams in classifications Class AAA through A or such other classifications as may be established by Major League Baseball or the National Association of Professional Baseball Leagues or such organizations from time to time and/or teams affiliated with or sponsored or funded by major league baseball clubs.

SECTION 3. The Director of Commerce and the Commissioner of Public Property, on behalf of the City, are hereby authorized to execute and deliver, and the City

City of Philadelphia

BILL NO. 010417 continued

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hereby consents to the execution and delivery by PAID of, an agreement with the Commonwealth, providing that, upon sale of the football stadium Facility (the “Football Facility”) or the expiration or termination of that certain Sublease and Development Agreement by and between PAID, as landlord, and Philadelphia Eagles Limited Partnership, a Delaware limited partnership (the “Eagles”), as tenant, authorized and approved pursuant to Ordinance (Bill 000721-A) approved by the Mayor December 28, 2000 (“Bill No. 721-A”) at the Football Facility, the Commonwealth shall have the option to purchase for One Dollar (\$1.00) a one-third interest in the respective interests of the City and PAID in the Football Facility.

SECTION 4. The Director of Commerce and the Commissioner of Public Property, on behalf of the City, are hereby authorized to execute and deliver, and the City hereby consents to the execution and delivery by PAID of, an agreement with the Commonwealth, providing that, for and in consideration of the Commonwealth’s grant of the funds provided for in the Grant Agreement between the Commonwealth and PAID authorized by Bill No. 725, PAID and the City shall covenant and agree that during the term of said Grant Agreement, none of PAID, the City or any other Interested Party (defined in Section 5 below), nor any of such parties’ heirs, successors and assigns, shall permit the use of the Football Facility by or for, or enter into any lease, license, concession agreement, joint venture agreement, agreement of sale or other agreement affecting the use or occupancy of the Football Facility which would permit the use or occupancy of the Football Facility by or for, any Existing Pennsylvania Football Franchise as its home stadium unless the Commonwealth, by its Governor, consents in writing to such use, or a court of competent jurisdiction orders that such use be permitted. Such covenant shall run with and bind the land and improvements constituting the Football Facility. PAID and the City shall further covenant and agree in said agreement that neither shall permit any Interested Party, their heirs, successors or assigns, to violate the above covenant and that the City and PAID shall obtain from all Interested Parties an acknowledgement of and agreement to abide by such covenant. PAID shall, if requested by the Commonwealth, record said agreement in the Department of Records of the City, at PAID’s expense. The term “Existing Pennsylvania Football Franchise” shall mean: (1) any team or franchise (other than the Eagles) located and operating in the Commonwealth and in existence on the date of the execution and delivery of the agreement contemplated by this Section 4; and (2) any team or franchise (other than the Eagles) which was located and operating in the Commonwealth and in existence within five (5) years prior to the date of the agreement contemplated by this Section 4; and (3) any team or franchise granted to, established in or entering or moving into the Commonwealth from outside the Commonwealth during the term of the agreement contemplated by this Section 4, except for a team or franchise granted to, established in or entering or moving into the Commonwealth for the express purpose of establishing the Football Facility as its home. The term “team or franchise” shall mean, as to the Football Facility, any professional football team operating under the authority of the National Football League, its successors or assigns.

City of Philadelphia

BILL NO. 010417 continued

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SECTION 5. The term “Facility” as used in this Ordinance, shall mean a stadium, arena or other place owned or leased by a professional sports organization at which a professional athletic event is conducted in the presence of individuals who pay admission to view the event. The term includes a facility to be constructed as well as an existing facility. The term “Facility” shall include the land on which such Facility is located. As to the Baseball Facility, such land shall mean the parcels described in Exhibit “A-1” attached hereto and made a part hereof. As to the Football Facility, such land shall mean the parcel described in Exhibit “A-2” attached hereto and made a part hereof. The parcels of land described on Exhibits “A-1” and “A-2” shall be subject to revision and confirmation pursuant to an as-built survey. The term “professional sports organization” shall mean a sole proprietorship, corporation, limited liability company, partnership or association that: (1) owns a professional major league baseball or national football franchise; and (2) conducts professional athletic events of the franchise at a Facility. The term “Interested Parties” as used in Sections 2 and 4 above, shall mean persons or entities, other than the City or PAID, that hold or maintain any interest in the respective Facility, including but not limited to, mortgagees, lessees, lienholders or easement holders.

SECTION 6. The Director of Commerce and the Commissioner of Public Property, 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 agreements authorized in Sections 1, 2, 3 and 4 above (the “Agreements”), as may be necessary in order to accomplish the intent and purpose of this Ordinance and are further authorized to amend the Agreements and any other documents in any manner consistent with the terms of this Ordinance. The City Solicitor is hereby authorized to include in the Agreements such other terms and provisions as he shall deem necessary or appropriate in connection with the execution and delivery of the agreements authorized pursuant to Bill No. 725, and to make any other changes consistent with the terms of this Ordinance.

SECTION 7. This Ordinance shall take effect immediately.

City of Philadelphia

BILL NO. 010417 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 14, 2001. The Bill was Signed by the Mayor on August 2, 2001.



Marie B. Hauser
Chief Clerk of the City Council