



Legislation Text

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Authorizing and approving the execution and delivery of a Service Agreement between The City of Philadelphia and the Philadelphia Authority for Industrial Development relating to the refunding of certain bonds previously issued to finance and/or refinance Alternative Funding Mechanisms for a portion of the unfunded actuarial accrued liability of the City of Philadelphia Retirement System implemented pursuant to the Municipal Pension Plan Funding Standard and Recovery Act; approving the issuance by the Philadelphia Authority for Industrial Development of bonds, notes or other evidences of indebtedness in one or more series, to refund such bonds; authorizing and approving the City's obligation to pay in full when due the Service Fee and other amounts payable under the Service Agreement; authorizing certain City officers to take certain actions required to issue bonds, notes or other evidences of indebtedness; covenanting that the City will make necessary appropriations in each of the City's fiscal years to provide for the Service Fee and other amounts due under the Service Agreement; covenanting that the City will make timely payments of the Service Fee and other amounts due under the Service Agreement; authorizing and approving the Director of Finance and other City officers to take such actions, if any, as may be necessary or appropriate to accomplish the intent and purpose of this Ordinance; 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 Section 6-600 of the Philadelphia Home Rule Charter, by Ordinance approved December 3, 1956, as amended, and the Municipal Retirement Benefit Plan 1987 Ordinance, which became effective January 8, 1987, as amended; and

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 and by Act No. 2009-44 of the General Assembly approved September 18, 2009 (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, pursuant to Ordinance (Bill No. 980789) of the Council of the City, approved by the Mayor on December 22, 1998, the Council of the City 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 then currently 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 "1999 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 to be provided to the City by the issuance of bonds of the Authority as hereinafter described; (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 1999 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 (the “Economic Development Law”), to enter into the 1999 Service Agreement and to undertake the Alternative Funding Mechanism; and

WHEREAS, the Authority issued its Pension Funding Bonds (City of Philadelphia Retirement System) Series 1999A - 1999C (the “1999 Bonds”) to finance, among other things, a deposit of \$1,250,000,000 in the City Retirement System pursuant to such Alternative Funding Mechanism; and

WHEREAS, the City determined that the Authority was able to realize debt service savings by issuing bonds and applying the proceeds to purchase certain 1999 Bonds from the holders thereof; and

WHEREAS, the City desired to apply all or a portion of such debt service savings to fund a deposit to the City Retirement System with respect to a portion of the unfunded actuarial accrued liability of the City Retirement System; and

WHEREAS, in connection therewith, the Council of the City, by Ordinance (Bill No. 120824), adopted November 29, 2012, and approved by the Mayor on November 29, 2012, determined that it was in the best interests of the City to authorize and approve: (i) the execution and delivery of a service agreement (the “2012 Service Agreement”); (ii) the issuance by the Authority of bonds, notes or other evidences of indebtedness to, among other things, pay the costs of the purchase of some or all of the 1999 Bonds and finance a deposit to the City Retirement System; and (iii) the performance by the City of its obligation to pay in full when due the service fee and other amounts payable under the 2012 Service Agreement; and

WHEREAS, the Authority issued its City Service Agreement Refunding Revenue Bonds (City of Philadelphia, Pennsylvania), Series 2012 (Federally Taxable) (the “2012 Bonds,” and together with the 1999 Bonds, the “Prior Bonds”) to finance, among other things, the purchase of certain of the 1999 Bonds from the holders thereof and a deposit to the City Retirement System; and

WHEREAS, the City desires that the Authority provide financial services to the City through financing a project consisting of the refunding of all or a portion of the Prior Bonds (including, in some instances, the refunding of interest only) to achieve budgetary savings for the City in its current and/or certain future fiscal years and the resulting refinancing of the service agreement payments related thereto; and

WHEREAS, the City desires to promote the health, welfare and safety of the residents of the City by promoting economic activity, by alleviating or eliminating unemployment, blight and other unhealthy conditions and by otherwise providing public benefit and prosperity within the City; and

WHEREAS, the Council of the City has, by this Ordinance, determined that the refunding of all or a portion of the Prior Bonds (including, in some instances, the refunding of interest only) and associated budgetary savings for the City will enable the City to maintain City services and activities necessary to promote the foregoing purposes; and

WHEREAS, the Council of the City has, by this Ordinance, determined that it is in the best interests of the City to authorize and approve: (i) the execution and delivery of a service agreement (the “Service Agreement”); (ii) the issuance by the Authority of bonds, notes or other evidences of indebtedness in such amount and for such purposes as described in Section 1 herein in one or more series, from time to time, either as taxable or tax-exempt obligations; and (iii) the performance by the City of its obligation to pay in full when due the Service Fee (as defined below) and other amounts payable under the Service Agreement; and

WHEREAS, the Authority is authorized, among other things, to finance the operating costs of public facilities, and finance and refinance certain projects and activities which promote a public purpose, including the financing of activities that promote the health, welfare and safety of the residents of the City, and to issue such bonds, notes or other evidences of indebtedness to refund all or a portion of the Prior Bonds pursuant to the applicable provisions of the Economic Development Law and the Pension Plan Act; and

WHEREAS, the City is authorized to enter into the Service Agreement to enable the refunding of all or a portion of the Prior Bonds; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Council of the City hereby: (i) authorizes and approves the execution and delivery of the Service Agreement, which shall be substantially in the form of Exhibit A hereto, with the Authority; (ii) approves the issuance from time to time by the Authority of bonds, notes or other evidences of indebtedness (the "Obligations") in an aggregate principal amount not to exceed One Hundred Forty Million Dollars (\$140,000,000), net of original issue discount, plus amounts necessary for costs of issuance, amounts necessary to effect any refunding of the Obligations, interest on the Obligations and costs of credit or liquidity enhancement, at any one time outstanding, in one or more series, either as taxable or tax-exempt obligations, to refund all or a portion of the Prior Bonds (including, in some instances, the refunding of interest only), and to finance interest on the Obligations, costs of credit or liquidity enhancement, amounts necessary to effect any refunding of the Obligations, and the costs of issuing the Obligations; and (iii) authorizes and approves the performance by the City of its obligation to pay in full when due the Service Fee payable under the Service Agreement (the "Service Fee") and other amounts payable under the Service Agreement.

SECTION 2. The Director of Finance of the City (the "Director of Finance") is hereby authorized to execute and deliver, on behalf of the City, the Service Agreement in substantially the form of Exhibit A hereto, with such changes as the City Solicitor shall advise based on requirements of law or otherwise, and the Director of Finance shall approve, consistent with the terms of this Ordinance. No amendment or supplement to the Service Agreement which permits the aggregate principal amount of Obligations (at any one time outstanding) described in Section 1 hereof to be exceeded shall be executed unless first approved by ordinance of the Council of the City.

SECTION 3. The issuance of Obligations to refund outstanding Obligations (whether at maturity, through redemption or otherwise) is hereby approved, and the Director of Finance is hereby authorized to execute and deliver, on behalf of the City, any required amendment or supplement to the Service Agreement in such form as the City Solicitor shall advise and the Director of Finance shall approve, consistent with the terms of this Ordinance; provided that no amendment or supplement to the Service Agreement shall permit the issuance of Obligations which cause the aggregate principal amount (at any one time outstanding) described in Section 1 hereof to be exceeded unless first approved by ordinance of the Council of the City.

SECTION 4. The Service Agreement authorized by this Ordinance (and any required amendment or supplement thereto) shall be executed in conjunction with the issuance by the Authority of its Obligations in an aggregate principal amount (at any one time outstanding) that does not exceed that set forth in Section 1 hereof to be applied for the purposes described in Section 1 hereof. The Obligations shall not be executed or delivered by the Authority until the Director of Finance has approved the terms of such Obligations.

SECTION 5. 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 (including one or more continuing disclosure agreements, letters of representation, continuing covenant agreements, escrow agreements, credit and/or liquidity agreements, and any amendments or supplements to agreements relating to the Prior Bonds, including amendments to the 1999 Service Agreement and the 2012 Service Agreement) and to take all actions (including the filing of certified copies of this Ordinance and the Service Agreement, and any amendments to the 1999 Service Agreement and the 2012 Service Agreement, in accordance with the Pension Plan Act, and all other actions required by the Constitution and the laws of the Commonwealth of Pennsylvania), as may be necessary or appropriate in order to accomplish the intent and purpose of this Ordinance and the Service Agreement or otherwise in order to effectuate the financing approved hereby and the issuance of the Obligations.

SECTION 6. The obligation of the City to pay the payment requirements of the Alternative Funding Mechanisms, as refinanced in part pursuant to the Service Agreement, in full when due, as required by the Pension Plan Act, including Section 1001(e)

of the Pension Plan Act, is hereby authorized, approved and acknowledged. The City covenants to budget and make appropriations beginning in Fiscal Year 2022 and in each and every fiscal year thereafter in such amounts as shall be required in order to make all Service Fee payments and all other amounts due and payable under the Service Agreement.

SECTION 7. The City covenants unconditionally to make all Service Fee payments, and all other amounts due as provided for under the Service Agreement, directly to any trustee and/or other entity (the "Trustee") to which the Service Fee payments may be assigned as security for payment of the Obligations and the obligations of the Authority under any credit facility and/or liquidity facility securing any Obligations, only out of current revenues of the City, 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 set-off, recoupment or counterclaim that the City may have against the Authority or the Trustee or any holder of Obligations, any credit and/or liquidity provider 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 date thereof.

SECTION 8. The City agrees to be bound by each and every provision, covenant and agreement set forth in the Service Agreement.

SECTION 9. This Ordinance shall take effect immediately.

EXHIBIT A

Form of Service Agreement