

## Legislation Text

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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

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.

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 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.

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.

***Exhibit “A-1”***

***Baseball Facility Land***

The following three (3) parcels of land:

*Parcel A:*

ALL THAT CERTAIN lot or piece of ground Situate in the Thirty-ninth Ward of the City of Philadelphia and described in accordance with a Plan o Property made by Vincent J. Nero, Registered Professional Engineer/Surveyor dated April 20, 1993 as follows:

BEGINNING at the point of intersection of the northerly side of Pattison Avenue (one hundred twenty feet wide) and the easterly side of Tenth Street (one hundred eight feet wide); thence extending northwardly along the easterly side of said Tenth Street the distance of nine hundred sixty-two and five hundred fifty-four one-thousandths feet to a point; thence extending eastwardly along a property line the distance of five hundred seventy-four and six hundred one-thousandths feet to a point on the westerly side of Darien Street (eighty-four feet wide); thence extending southwardly along the westerly side of said Darien Street the distance of nine

hundred sixty-two and five hundred fifty-four one-thousandths feet to a point on the northerly side of said Pattison Avenue; thence extending westwardly along the northerly side of said Pattison Avenue the distance of five hundred seventy-four and six hundred one-thousandths feet to a point on the easterly side of said Tenth Street, being the first mentioned point and place of beginning.

CONTAINING in area five hundred fifty-three thousand eighty-four square feet, also being twelve and six thousand nine hundred seventy-one ten-thousandths acres.

*Parcel B:*

ALL THAT CERTAIN lot or piece of ground Situate in the Thirty-Ninth Ward of the City of Philadelphia bounded on the east by the westerly side of 10<sup>th</sup> Street (one hundred eight feet wide), on the north by the southerly side of Hartranft Street (extended eastwardly to 7<sup>th</sup> Street), on the west by the easterly side of 11<sup>th</sup> Street (extended northwardly to Hartranft Street (extended eastwardly to 7<sup>th</sup> Street)) and on the south by the northerly side of Pattison Avenue (one hundred twenty feet wide).

*Parcel C:*

ALL THAT CERTAIN lot or piece of ground Situate in the Thirty-Ninth Ward of the City of Philadelphia consisting of that approximately nine hundred sixty-two and five hundred fifty-four one-thousandths feet portion (to be vacated) of the bed of 10<sup>th</sup> Street (one hundred eight feet wide) running from the northerly side (extended) of Pattison Avenue at the south to the southerly side of Hartranft Street (extended eastwardly to 7<sup>th</sup> Street) at the north.

***Exhibit "A-2"***

***Football Facility Land***

ALL THAT CERTAIN lot or piece of ground Situate in the Thirty-ninth Ward of the City of Philadelphia and described in accordance with a Plan of Property made by Barton & Martin Engineers dated February 24, 1986 as follows:

BEGINNING at the point of intersection of the southerly side of Pattison Avenue (one hundred twenty feet wide) with the westerly side of Darien Street (eighty-four feet wide); thence extending from said point of beginning south fourteen degrees thirty minutes zero seconds west along the westerly side of said Darien Street and the easterly side of a certain fifteen feet wide easement for electric, gas and telephone services the distance of one thousand six hundred thirty-two and four hundred seventy-seven one-thousandths feet to a point of curve; thence continuing along the westerly side of said Darien Street on an arc curving to the right having a radius of one hundred feet subtending a central angle of thirty-seven degrees fifty-five minutes five and six tenths seconds the arc distance of sixty-six and one hundred eighty one-thousandths feet to a point of reverse curve; thence continuing along the westerly side of said Darien Street along an arc curving to the left having a radius of eighty feet subtending a central angle of eight degrees eleven minutes fifty-seven and seven tenths seconds the arc distance of eleven and four hundred forty eight one-thousandths feet to a point on the northerly right-of-way line of Pennsylvania Legislative Route 1000 (Interstate I-95); thence extending along the northerly side of said Legislative Route 1000 south eighty-five degrees fifty-five minutes forty-eight and eight-tenth seconds west the distance of eight hundred forty-one and eighty-eight one-thousandths feet to an angle point; thence continuing along the northerly side of Legislative Route 1000 north eighty-nine degrees forty-seven minutes forty-nine and two-tenths seconds west the distance of one hundred ninety-two and seven hundred

ninety-five one-thousandths feet to a point; thence leaving the northerly side of said Legislative Route 1000 and extending north fourteen degrees thirty minutes zero seconds east partially along the easterly side of Eleventh Street (one hundred twenty-four feet wide) the distance of one thousand nine hundred eighty-two and eight hundred ninety-seven one-thousandths feet to a point at the southwesterly side end of the cut off corner which connects the easterly side of said Eleventh Street with the southerly side of said Pattison Avenue; thence extending along said cut off north fifty-nine degrees thirty minutes zero seconds east the distance of fifty and nine hundred eleven one-thousandths feet to a point on the southerly side of said Pattison Avenue; thence extending south seventy-five degrees thirty minutes zero seconds east along the southerly side of said Pattison Avenue the distance of nine hundred seventy-five and six hundred one-thousandths feet to a point on the westerly side of said Darien Street, being the first mentioned point and place of beginning.

CONTAINING in area One million eight hundred eighty-three thousand one hundred sixty-eight square feet, also being Forty-three and twenty-three thousand one hundred fifty-eight hundred-thousandths acres.

EXCEPTING THEREFROM AND THEREOUT the following described parcel:

BEGINNING at the point of intersection of the southerly side of Pattison Avenue (one hundred twenty feet wide) with the westerly side of Darien Street (eighty-four feet wide); thence extending from said point of beginning south fourteen degrees thirty minutes zero seconds west along the westerly side of said Darien Street and the easterly side of a certain fifteen feet wide easement for electric, gas and telephone services the distance of seven hundred feet; thence extending north seventy-five degrees thirty minutes zero seconds west crossing that certain fifteen feet wide easement for electric, gas and telephone services the distance of one thousand eleven feet and six hundred one-thousandths feet to a point on the easterly side of Eleventh Street (one hundred twenty-four feet wide); thence extending north fourteen degrees thirty minutes zero seconds east partially along the easterly side of Eleventh Street (one hundred twenty-four feet wide) the distance of six hundred sixty-four feet to a point at the southwesterly side end of the cut off corner which connects the easterly side of said Eleventh Street with the southerly side of said Pattison Avenue; thence extending along said cut off north fifty-nine degrees thirty minutes zero seconds east the distance of fifty and nine hundred eleven one-thousandths feet to a point on the southerly side of said Pattison Avenue; thence extending south seventy-five degrees thirty minutes zero seconds east along the southerly side of said Pattison Avenue the distance of nine hundred seventy-five and six hundred one-thousandths feet to a point on the westerly side of said Darien Street, being the first mentioned point and place of beginning.

CONTAINING in area Seven hundred seven thousand four hundred seventy-two square feet, also being Sixteen and two thousand four hundred thirteen ten-thousandths acres.