

Legislation Text

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Authorizing the Director of Finance, on behalf of the City, to enter into an amendment to a Contract for Parking Services with The Philadelphia Parking Authority (the "Parking Authority"), such amendment to provide for the Parking Authority to apply the proceeds of certain parking revenue bonds heretofore issued by said Authority in 1999 to a substitute project consisting of the construction of (i) parking facilities at property generally located at the northwest corner of Eighth and Chestnut streets in the City of Philadelphia (the "Substitute Parking Facilities Project"); and (ii) additional parking facilities on adjacent property generally located at Eighth and Market streets (the "Additional Parking Facilities Project"), such Substitute Parking Facilities Project and Additional Parking Facilities Project to be in lieu of the acquisition by the Parking Authority of an off-street multi-story parking garage facility heretofore authorized by Ordinance (Bill No. 990186) approved May 10, 1999.

WHEREAS, Pursuant to Ordinance (Bill No. 990186) approved May 10, 1999 ("1999 Ordinance"), the Director of Finance of the City entered into a certain Contract for Parking Services, dated May 1, 1999, with the Parking Authority (the "Contract") providing for the Parking Authority to undertake a project consisting of (i) the acquisition and/or construction of a garage parking facility designated the Eighth and Chestnut Garage, as defined in the 1999 Ordinance; and (ii) under certain limited circumstances, the acquisition of certain real estate and improvements adjacent to the Eighth and Chestnut Garage for development as additional parking facilities or for resale for commercial development, with the proceeds of any such resale to be used either to finance the completion of the Eighth and Chestnut Garage or, upon prior approval of City Council by Ordinance, to finance other parking facilities in the City (collectively, the "1999 Project"); and

WHEREAS, The Parking Authority agreed to acquire the Eighth and Chestnut Garage to be constructed by Pavilion East Associates, L.P., a Pennsylvania limited partnership ("PEA") on property owned by the Parking Authority and generally located at the northwest corner of Eighth and Chestnut streets in the City of Philadelphia (the "Chestnut Street Property") pursuant to the terms of a certain Agreement of Sale dated January 28, 1999 between the Parking Authority and PEA, as amended (the "Acquisition Documents"); and

WHEREAS, PEA was unable to deliver the Eighth and Chestnut Garage to the Parking Authority pursuant to the terms of the Acquisition Documents and such Acquisition Documents have been terminated; and

WHEREAS, There continues to be and will be a need for convenient and economical parking facilities in and around Center City Philadelphia due to recent and anticipated commercial and residential development in the area of Center City east of Broad street and due to increased tourism and cultural activity in this Center City area; and

WHEREAS, The Parking Authority has determined to meet the need for parking facilities in the area surrounding the Chestnut Street Property by undertaking the Substitute Parking Facilities Project at the Chestnut Street Property and/or the Additional Parking Facilities Project at Eighth and Market streets (the "Market Street Property") in lieu of the acquisition of the Eighth and Chestnut Garage; and

WHEREAS, The Contract entered into pursuant to the 1999 Ordinance was entered into by the City in

order to induce and enable the Parking Authority to issue parking revenue bonds to finance the 1999 Project; and

WHEREAS, On May 27, 1999, the Parking Authority issued such parking revenue bonds (the “1999A Bonds”); and

WHEREAS, The Contract provides that in the event the Parking Authority determines that the acquisition or construction of the 1999 Project is infeasible, as contemplated by the Acquisition Documents, the Parking Authority shall submit to City Council, additional or alternative parking projects to be developed or acquired with the proceeds of the 1999A Bonds; and

WHEREAS, The Parking Authority has submitted the Substitute Parking Facilities Project and the Additional Parking Facilities Project to City Council as alternative parking projects to be substituted for the 1999 Project and constructed with proceeds of 1999A Bonds (collectively, the “Alternative Project”); now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Director of Finance, on behalf of the City, is hereby authorized to enter into an agreement, in the form of an amendment to the Contract (as that term is defined in the above recitals), providing for (i) the Parking Authority to expend up to \$9,000,000 of the unspent proceeds of the 1999A Bonds for the Alternative Project (as those terms are defined in the above recitals) and to apply the remaining proceeds of the 1999A Bonds to redeem an applicable amount of the 1999A Bonds as provided under the indenture securing the 1999A Bonds; and (ii) the City to appropriate on the Parking Authority’s behalf, if and as necessary, on an annual basis, as a service fee for the Parking Authority’s undertaking the Alternative Project a sum equal to any deficit in the debt service reserve fund established under the indenture securing the 1999A Bonds (the “Contract Amendment”). The Contract Amendment shall provide that if: (i) any proceeds of the 1999A Bonds remain after the completion of the Alternative Project, such proceeds shall be applied by the Parking Authority to redeem a proportionate share of the 1999A Bonds; or (ii) for any reason the proceeds of the 1999A Bonds are not able to be used to undertake or complete the Alternative Project, the Parking Authority shall sell the Chestnut Street Property and/or the Market Street Property (as those terms are defined in the above recitals) and use the proceeds of such sale to redeem all or a proportionate share of the 1999A Bonds. The Contract Amendment shall be substantially in the form of the Amendment to the Contract for Parking Services attached as Exhibit “A” hereto and made a part hereof.

SECTION 2. The Director of Finance and all other appropriate officers of the City are hereby authorized to take all actions, including the execution of other agreements, documents, instruments and certificates, as may be necessary in order to accomplish the intent and purpose of this Ordinance.

SECTION 3. The City Solicitor may include in the Contract Amendment and in any other documents authorized or required by this Ordinance such other terms and conditions, not inconsistent with the terms of this Ordinance, as the City Solicitor may deem necessary or desirable to protect the interests of the City.

EXHIBIT “A”

AMENDMENT TO CONTRACT FOR PARKING SERVICES

THIS AMENDMENT TO CONTRACT, made as of this _____ day of _____, 2002, between the City of Philadelphia (the "City") and The Philadelphia Parking Authority (the "Authority").

BACKGROUND:

WHEREAS, the City and the Authority entered into that certain Contract for Parking Services at Eighth and Chestnut Streets dated as of May 1, 1999 (the "1999 Contract"). (Capitalized terms used but not defined herein shall have the meanings ascribed to them in the 1999 Contract.); and

WHEREAS, pursuant to the 1999 Contract, the Authority agreed to undertake a project consisting of (i) the acquisition and/or construction of a garage parking facility (the "Garage Facility") at land owned by the Authority at Eighth and Chestnut Streets (the "Chestnut Street Property"); and (ii) under certain circumstances, the acquisition of certain real estate and improvements at Eighth and Market Streets (the "Market Street Property") for development as additional parking facilities or for resale for commercial development, with the proceeds of any such resale to be used either to finance the completion of the Garage Facility or, upon prior approval of City Council by Ordinance, to finance other parking facilities in the City (collectively, the "1999 Project"); and

WHEREAS, the Authority agreed to acquire the Garage Facility to be

constructed by Pavilion East Associates, L.P., a Pennsylvania limited partnership (“PEA”) on the Chestnut Street Property pursuant to the terms of a certain Agreement of Sale dated January 28, 1999 between the Authority and PEA, as amended (the “Acquisition Documents”); and

WHEREAS, PEA was unable to comply with the terms of the Acquisition Documents and deliver the Garage Facility to the Authority;

WHEREAS, the Authority is required to acquire the Market Street Property as a condition to the termination of the Acquisition Documents; and

WHEREAS, the Authority has determined that it will construct substitute parking facilities at the Chestnut Street Property and additional parking facilities on the Market Street Property (collectively, the “Alternative Project”); and

WHEREAS, the Authority plans to finance the construction of the Alternative Project with the proceeds of the 1999A Bonds; and

WHEREAS, the 1999 Contract requires that the parties enter into an amendment thereto if it became necessary for the Authority to pay the costs of an alternative or additional project with proceeds of the 1999A Bonds.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, and intending to be legally bound hereby, and in accordance with the provisions of the Philadelphia Home Rule Charter adopted April 17, 1951, it is agreed

between the parties hereto that the 1999 Contract is hereby amended as follows:

1. The term "**Garage Facility**" is hereby amended to mean the Alternative Project, consisting of a surface parking lot at the Chestnut Street Property in the City of Philadelphia and a surface parking lot at the Market Street Property in the City of Philadelphia;

2. The Authority will expend up to \$9,000,000 of the unspent proceeds of the 1999A Bonds to construct the Alternative Project.

3. If any proceeds of the 1999A Bonds remain after the completion of the Alternative Project, then such proceeds shall be applied by the Authority to redeem a proportionate share of the 1999A Bonds.

3. If for any reason the proceeds of the 1999A Bonds cannot be used to undertake or complete the Alternative Project, the Authority shall sell the Chestnut Street Property and/or the Market Street Property and use the proceeds of such sale(s) to redeem all or a proportionate share of the 1999A Bonds.

4. Except as explicitly amended hereby, the 1999 Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Contract to be executed in their respective names by their proper officers, duly authorized, and the Authority has caused its seal to be affixed hereto, duly attested, all as of the day and year first above written.

CITY OF PHILADELPHIA, PENNSYLVANIA

By: _____

Director of Finance

THE PHILADELPHIA PARKING AUTHORITY

By: _____

Executive Director

Attest: _____

Secretary/Assistant Secretary

(SEAL)