

Legislation Text

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Authorizing the Commissioner of Public Property, on behalf of the City and in cooperation with The Philadelphia Municipal Authority (the "Authority"), to undertake a project consisting of the acquisition, design, construction, equipping and leasing of a youth center facility (the "Project") at 91 North 48th Street (the "Property"); authorizing and approving: (i) the sale of the Property by the City to the Authority; (ii) the entering into, execution and delivery of a Lease of the Project from the Authority to the City; (iii) the issuance by the Authority of lease revenue bonds in one or more series, to pay the acquisition price and costs of the Project, and arrangement of interim financing in connection therewith; (iv) the provisions for establishment of credit enhancement, exchange agreements and swaps; (v) the assignment of the Lease by the Authority to a trustee; (vi) the obligation of the City to pay all obligations of the Authority incurred in connection with the issuance of the lease revenue bonds and interim financing, if any (including payments related to any credit enhancement) in the form of rent under the Lease when due; authorizing the Director of Finance and other officers of the City to take such other actions as may be necessary or appropriate to accomplish the intent and purpose of this Ordinance; covenanting that the City will make necessary appropriations in each of the City's fiscal years to provide for rental payments due under the Lease; and covenanting that the City will make rental payments due under the Lease; all under certain terms and conditions.

WHEREAS, In order to provide for the health, safety and well-being of the citizens of the City of Philadelphia (the "City"), the City, in cooperation with the Philadelphia Municipal Authority (the "Authority"), will undertake a project on property located at 91 North 48th Street, Philadelphia, Pennsylvania (the "Property") consisting of the acquisition of the Property by the Authority, and the design, construction, equipping and leasing of a youth center facility (the "Project"), which will include a secure residential detention facility providing educational, health and social services to juveniles and other related facilities, and parking improvements on the Property (together, the "New Youth Center Facility"), the costs of such Project shall include but not be limited to the costs of Property acquisition, preliminary studies, surveys, planning, testing and design work; fees and expenses of engineers, architects, financial advisors, attorneys and other experts engaged in connection with the Project; costs of materials, supplies and construction of the Project; financing costs including interest on money borrowed to finance the Project if capitalized and operating capital during construction, the repayment of temporary loans or the payment of bond anticipation notes made or issued in connection with the Project, and any of the foregoing incurred or paid prior to as well as after the issuance of the lease revenue bonds; and

WHEREAS, The Authority, by the arrangement of interim financing, if necessary, and subsequently, by the issuance of its Lease Revenue Bonds 2008 Series in an amount that will produce gross proceeds (inclusive of any premium or discount) not to exceed Ninety-Seven Million Five Hundred Thousand Dollars (\$97,500,000), plus costs of issuance, and later by refunding bonds, if any (collectively, the "Bonds") will finance the Project; and

WHEREAS, In order to induce the Authority to finance the Project, the City will lease the New Youth Center Facility from the Authority; and

WHEREAS, On November 1, 2004, the City acquired the Property for a purchase price of \$2,378,059 and the Authority, upon obtaining interim financing or upon the issuance of the Bonds if there is no interim

financing, will purchase the Property from the City using proceeds of such interim financing or the Bonds in order to pay the purchase price, including reimbursement of the costs of the City associated with the design, development and construction thereon of the New Youth Center Facility; and

WHEREAS, The Council of the City has, by this Ordinance, determined that it is in the best interests of the City to proceed with the foregoing Project and financing; *NOW, THEREFORE,*

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Council hereby authorizes the Commissioner of Public Property and other appropriate officers of the City of Philadelphia (the “City”), in cooperation with the Philadelphia Municipal Authority (the “Authority”), to undertake a project consisting of the acquisition by the Authority of certain property located at 91 North 48th Street, Philadelphia (the “Property”) and the design, construction and equipping thereon of a secure residential detention facility providing educational, health and social services to juveniles and other related facilities, and parking improvements on the Property (together, the “New Youth Center Facility”) to be leased by the Authority to the City (all hereinafter referred to as the “Project”).

SECTION 2. Project costs shall include, but not be limited to, the costs of Property acquisition, preliminary studies, surveys, planning, testing and design work, fees and expenses of engineers, architects, financial advisors, attorneys and other experts, cost of materials, supplies and construction of the Project, costs of issuance and financing costs including capitalized interest and repayment of interim loans or bond anticipation notes, if any, and any of the foregoing incurred or paid prior to as well as after the issuance of the Authority bonds authorized by this Ordinance.

SECTION 3. The Authority, by arrangement of interim financing, if necessary, and subsequently, by the issuance of its Lease Revenue Bonds 2008 Series in an amount that will produce gross proceeds (inclusive of any premium or discount) not to exceed Ninety-Seven Million Five Hundred Thousand Dollars (\$97,500,000), plus costs of issuance and later by refunding bonds, if any, (collectively, the “Bonds”) will finance the Project. The Bonds shall be issued pursuant to a Trust Indenture (the “Indenture”) between the Authority and a trustee (the “Trustee”). The Authority is authorized to enter into any credit enhancement agreement related to the Bonds and to enter into one or more interim financing agreements in an aggregate principal amount not to exceed the maximum principal amount of Bonds authorized hereby. The principal amounts of such interim financings shall not be counted against the maximum principal amount of Bonds authorized hereby if and to the extent such financings are paid off by the Bonds upon the issuance thereof.

SECTION 4. The Commissioner of Public Property and any other appropriate officers of the City are authorized to execute and deliver a lease of the New Youth Center Facility, including the Property, from the Authority to the City (the “Lease”), the terms of which shall be consistent with this ordinance and substantially in the form of Exhibit “A” attached hereto. The Lease shall not be executed or delivered until the Director of Finance has approved the terms of any interim financing or, if there is no interim financing, has approved the Bond documents.

SECTION 5. The obligations of the City under the Lease shall include the obligation to pay rent solely out of its current revenues in an amount sufficient to pay the principal of, premium, if any, and interest on the Bonds and any payments due for temporary loans or other interim financing, credit enhancement and all obligations of the Authority incurred in connection with the issuance of the Bonds including, but not limited to, all administrative expenses of the Authority incurred in connection with the Project, any arbitrage rebate payments

due to the United States Treasury with respect to the Bonds and, in the event no bonds are issued, amounts necessary to satisfy Authority obligations in connection with any interim financing. The Authority is authorized to assign to the Trustee, some or all of the Authority's right to receive rents under the Lease.

SECTION 6. The Commissioner of Public Property, together with any other appropriate officer of the City, is authorized to sell the Property to the Authority for a purchase price of \$2,378,059, plus all costs incurred by the City in connection with acquisition of the Property and for design, development and construction of the New Youth Center Facility. The Commissioner of Public Property is authorized to execute a special warranty deed, agreement of sale or other appropriate document in connection with the sale of the Property to the Authority. The Commissioner of Public Property is further authorized at the end of the Lease term, on behalf of the City, to purchase the New Youth Center Facility, including the Property, from the Authority for a purchase price not to exceed \$10.

SECTION 7. The Director of Finance, the Commissioner of Public Property and all other proper officials of the City are hereby authorized, jointly and severally, on behalf of the City, to execute all documents and to take all actions as may be necessary or appropriate in order to accomplish the intent and purpose of this Ordinance and the Lease subject to the "Municipal Authorities Act of 2001," P.L. 287, as amended. Said officials are further authorized to amend the Lease in any manner consistent with the terms of this Ordinance and approved in writing by the President of City Council; provided, however, if any such proposed amendment would increase the Authority's or the City's financial obligations under the Lease, or otherwise materially adversely affect the rights and powers of the Authority, the City or any official of the City under the Lease, then the President of City Council shall refer such proposed amendmen to the full Council for its consideration. If Council approves such amendment by Ordinance, it may be executed by the parties; provided further, however, that the President of City Council may waive the requirement for approval of Council if the President of the City Council makes a written determination that a necessary change to protect the interests of the City must be executed sooner than Council approval can legally or practicably be granted. Notwithstanding the foregoing, in the case of changes which are specifically anticipated within the Lease or any exhibits thereto, such changes may be made in accordance with the applicable terms of the Lease.

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

SECTION 9. The City covenants to make appropriations, in each and every fiscal year in such amounts as shall be required in order to make all rental payments due and payable under the Lease.

SECTION 10. All the terms of any interim financing, the Bonds, the Indenture and any credit enhancements shall have the approval of the Director of Finance.

SECTION 11. As long as Bonds issued by the Authority to finance costs of the Project are outstanding or the Authority has any obligations remaining under any interim financing agreement or credit enhancement related to the Bonds, the City covenants unconditionally to make all rental payments due as provided for under the Lease directly to any trustee, including the Trustee, to which the Lease may be assigned as security for payment of the Bonds and the obligations of the Authority under any interim financing agreement or credit enhancements related to the Bonds, 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 setoff, recoupment or counterclaim that the City may have against the Authority or the Trustee or any Bondholder or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise after

the date thereof.

SECTION 12. To the extent required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the City hereby declares its “Official Intent” as prescribed in Treas. Reg. Section 1.150-2 for the reimbursement of the City from the proceeds of the Bonds, or any interim financing, interest on which is excludable from gross income for federal income tax purposes, for costs incurred in connection with the Project prior to the date of issuance of the Bonds, or any interim financing, interest on which is excludable from gross income for federal income tax purposes, including, but not limited to, the purchase of the Property and related acquisition, design and development costs.

SECTION 13. Authorize the Commissioner of Public Property or PMA to acquire or lease up to two additional acres of land in the vicinity of the Property to provide for on site parking for the Project. Upon lease or purchase the additional parking area shall be included in the Project.

SECTION 14. This Ordinance shall take effect immediately.

[Note: Exhibits to this Bill are on file in the Office of the Chief Clerk.]