

Legislation Text

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Authorizing the revision of lines and grades on a portion of City Plan No. 307 by striking from the City Plan and vacating certain sub-surface portions of Market Street east of Ninth Street, Tenth Street between Market Street and Filbert Street, and Eleventh Street between Market Street and Filbert Street, and by striking from said City Plan and vacating certain aerial portions of Ninth Street between Market Street and Filbert Street and Tenth Street between Market Street and Filbert Street; and authorizing the conveyance of such struck and vacated areas, together with certain areas previously struck and vacated; all under certain terms and conditions.

WHEREAS, the City of Philadelphia, together with the Philadelphia Redevelopment Authority (the “Redevelopment Authority”), is facilitating the renewal and further redevelopment of properties on the north side of Market Street between Eighth and Eleventh Streets commonly known as the Gallery Mall (the “Gallery Mall”); and

WHEREAS, the existing structures comprising the Gallery Mall extend underneath portions of Market Street, Ninth Street, Tenth Street, and Eleventh Street, and over portions of Ninth Street and Tenth Street, and it is contemplated that future redevelopment of Gallery Mall may involve expansion of the current structures; and

WHEREAS, it is desirable to provide for the renewal and further redevelopment of Gallery Mall by revising the City Plan through striking and vacating certain sub-surface and aerial portions of Market Street, Ninth Street, Tenth Street, and Eleventh Street which have not been previously stricken and vacated; and

WHEREAS, such renewal and further redevelopment of the Gallery Mall will require certain transfers of interests in real estate which require authorization by City Council, including, without limitation, the conveyance of certain portions of Ninth Street and Market Street previously struck from the City Plan and vacated.

NOW, THEREFORE,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 11-403 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is hereby authorized to revise the lines and grades on a portion of City Plan No. 307 by:

- (a) Striking from the City Plan and vacating a certain sub-surface portion of Market Street, east of Ninth Street and adjacent to a certain previously stricken sub-surface portion of Market Street, the said portion being authorized herein to be stricken being more particularly identified in Exhibit “A” attached hereto.
- (b) Striking from the City Plan and vacating two certain aerial portions of Ninth Street, between Market Street and Filbert Street and adjacent to a certain previously stricken aerial portion of Ninth Street, and striking from the City Plan and vacating a third aerial portion of Ninth Street, between Market Street and Filbert Street and above the said certain previously stricken aerial portion of Ninth Street, by raising the upper limiting elevation established by the previous striking, the three said portions being more

particularly identified in Exhibit “B” attached hereto.

- (c) Striking from the City Plan and vacating two certain sub-surface portions of Tenth Street, between Market Street and Filbert Street and extending into the bed of said Filbert Street at its intersection with said Tenth Street, the two said portions being more particularly identified in Exhibits “C-1” and “C-2” attached hereto.
- (d) Striking from the City Plan and vacating a certain aerial portion of Tenth Street, between Market Street and Filbert Street, the said portion being more particularly identified in Exhibit “D” attached hereto.
- (e) Striking from the City Plan and vacating a certain sub-surface portion of Eleventh Street, between Market Street and Filbert Street, the said portion being more particularly identified in Exhibit “E-1” attached hereto.

SECTION 2. Exhibits “A,” “B,” “C-1,” “C-2,” “D,” and “E-1” to this Ordinance shall be kept on file by the Chief Clerk and shall be available for public inspection.

SECTION 3. The Commissioner of the Department of Public Property is hereby authorized to execute and deliver a deed or deeds conveying to the Redevelopment Authority for nominal consideration fee simple title to (i) the sub-surface areas described in Exhibit “F” attached hereto (collectively, the “Sub-Surface Areas”), (ii) the aerial areas described in Exhibit “G” attached hereto (each an “Aerial Area,” and collectively, the “Aerial Areas”), and (iii) any and all property to which the City acquires a fee interest as a result of a reversion pursuant to the striking and vacating authorized in Section 1 above (collectively, the “Reversion Areas”). Notwithstanding the authorization set forth in the preceding sentence, the Commissioner of the Department of Public Property may adjust the metes and bounds of the property to be conveyed to the Redevelopment Authority if, in the opinion of the Commissioner or the Law Department, such adjustments shall be necessary or desirable in order to accommodate existing conditions (as adjusted, the Sub-Surface Areas, the Aerial Areas, and the Reversion Areas being collectively known as the “Areas”). Subject to the requirements set forth in Section 4 below, the Redevelopment Authority shall be authorized to lease to and to deliver deeds for the Areas to PR Gallery I Limited Partnership, Keystone Philadelphia Properties, LP, and their respective successors and assigns (collectively, the “Redeveloper”).

SECTION 4. The authorization set forth in Section 3 above is conditional upon the Redeveloper entering into, within two years of the date of this Ordinance, one or more agreements (each a “Required Agreement”) between the Redeveloper and the appropriate City Department or departments, in form satisfactory to the City Solicitor, providing that, *inter alia*:

- (a) the Redeveloper shall obtain an agreement, satisfactory to the City Solicitor, by the owner(s) of property affected thereby, to release the City from all damages or claims for damages which may arise by reason of the City Plan changes authorized herein; in lieu thereof, only after the party in interest has demonstrated best efforts to obtain such agreements and such efforts are unsuccessful, the Redeveloper shall file an agreement and a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, to release the City as aforesaid.
- (b) the Redeveloper shall, in form satisfactory to the City Solicitor, release, indemnify, and defend the City from all damages or claims for damages that may arise by reason of the City Plan changes authorized herein.

- (c) the Redeveloper shall obtain an agreement, in form satisfactory to the City Solicitor, by the owner(s) of property affected thereby, providing the officers, agents, employees, and contractors of the City, SEPTA, the Gas Works, and any other public utility company which maintains facilities within or adjacent to the Areas with rights of access, ingress, egress, and occupation at any and all times for the purposes of inspection, maintenance, alteration, relocation, or reconstruction of any of their respective facilities and structures.
- (d) the Redeveloper shall pay the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.
- (e) each Required Agreement shall be recorded and shall run with the land.
- (f) the Redevelopment Authority or the City and its successors shall have the option, exercisable in its sole discretion, to be effectuated by filing a confirmatory deed, to cause an Aerial Area to be re-conveyed to the Redevelopment Authority or the City in the event that such area is not improved by a physical structure (and for which construction thereof has not commenced) for a period of five (5) or more consecutive years.
- (g) the Redeveloper shall furnish the City with a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the applicable Required Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance, or use of structures now or hereafter located within the Areas, or in lieu thereof, submit documentation in a form and content acceptable to the City that the Redeveloper self-assumes the liabilities and obligations normally covered by such surety bond.
- (h) the Redeveloper shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law, and no such department, board, agency or commission shall be required to issue any such permit, license, or approval solely because this Ordinance has been enacted.
- (i) the Redeveloper shall assume the costs of all changes and adjustments to, and relocation or abandonment of City utilities and City structures wherever located as may be necessary by construction with respect to the Areas.
- (j) the Redeveloper shall carry public liability and property damage insurance, co-naming the City as an insured party, in such amounts as shall be satisfactory to the City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that the Redeveloper is self-insured and is providing the City the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania.
- (k) the Redeveloper shall indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of structures located within the

Areas, and the Redeveloper shall also agree to release the City from any and all claims relating to the Areas, including if ordered removed or when street, sidewalk or utility construction occurs.

SECTION 5. The various executive officers of the City are hereby authorized to enter into and/or execute, on behalf of the City, all other agreements or documents as are required to be entered into or executed by such officers under the preceding sections of this Ordinance or in order to effectuate the purposes of the agreements or other matters authorized by this Ordinance.

SECTION 6. The City Solicitor shall include in each Required Agreement and any and all other agreements and documents authorized by this Ordinance such other reasonable terms and conditions as the City Solicitor may deem necessary and desirable to protect the interests of the City.

SECTION 7. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00) toward costs thereof is paid by the Redeveloper into the City Treasury within one hundred and twenty (120) days after this Ordinance becomes law.