

Legislation Text

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Continuing the Philadelphia Hospitality Improvement Levy District (the “District”), a business improvement district encompassing certain existing and future hotel properties within the boundaries of the City of Philadelphia (the “City”), and continuing the Philadelphia Hospitality Improvement Levy District Corporation (“PHiL DC”) to serve as the neighborhood improvement district management association for the District; approving a new plan for the District, including a list of proposed programs and services related to the development and promotion of the hotel and tourism industry in the City and County of Philadelphia and their estimated cost; providing for special assessment fees to be levied on eligible hotel property owners within the District to fund such programs and services; authorizing the Director of Commerce, on behalf of the City, to execute an agreement with PHiL DC relating to the District; and reauthorizing PHiL DC to assess eligible property owners within the District and collect or cause to be collected special assessment fees to be used in accordance with the approved plan; all in accordance with the provisions of the Community and Economic Improvement Act, and under certain terms and conditions.

WHEREAS, Bill No. 170468 (signed September 26, 2017) established a business improvement district encompassing the City of Philadelphia, known as the Philadelphia Hospitality Improvement Levy District (the “District”); designated the Philadelphia Hospitality Improvement Levy District Corporation, a nonprofit corporation incorporated under the laws of the Commonwealth of Pennsylvania (“PHiL DC”), as the neighborhood improvement district management association (the “NIDMA”) for the District; and approved a final plan for programs and services within the District and designated PHiL DC to impose special assessment fees and administer programs and services within the District in order “to promote and enhance more attractive and safer commercial, industrial, residential and mixed-use neighborhoods; economic growth; increased employment opportunities; and improved commercial, industrial, business districts and business climates”; and

WHEREAS, On December 31, 2022, the District will automatically terminate unless it is continued by ordinance; and

WHEREAS, The Council of the City of Philadelphia (“Council”) is authorized by the Community and Economic Improvement Act, Act of December 21, 1998, P.L. 1307, No. 174 (53 P.S. §18101 *et seq.*), as heretofore amended, including by Act of May 24, 2016, No. 32 and the Act of May 24, 2016, No. 28 and as the same may be further amended, restated, or supplemented from time to time (as so amended, the “Act”), to continue, by ordinance, business improvement districts beyond the date of termination be reenacting the municipal enabling ordinance creating the original business improvement district, following a review of the business improvement district and the NIDMA programs and services provided within the District; and

WHEREAS, The purpose of this Ordinance is to continue a business improvement district encompassing certain hotels and properties that will contain hotels in the future, within the boundaries of the District until December 31, 2039 and to ensure that all actions required by the Act to continue such a district have been taken before the enactment of this Ordinance, and the Plan adopted pursuant to Bill No. 170468 is superseded and replaced by this Plan upon adoption of this ordinance and the start of the next fiscal year of the BID; and

WHEREAS, Special assessment fees will continue to be imposed on hotels within the District by the NIDMA to fund (i) supplemental programs, services and improvements related to the development and promotion of the

hotel and tourism industry in the City and (ii) administrative expenses of the District; and

WHEREAS, Special assessment fees imposed and collected upon such properties shall be equitably apportioned among the hotels based upon a percentage of gross short-term guest sleeping room rental revenue as determined by PHiL DC's board of directors in accordance with PHiL DC's bylaws attached as Exhibit "A-4" to the plan set forth in Exhibit "A" attached hereto and the final plan approved under Section 4 of this Ordinance; and

WHEREAS, All procedures required by the Act for continuing the District have been followed; in particular, more than forty-five (45) days have elapsed from the last public hearing required by the Act, and the Clerk of Council has not received objections filed by owners of one-third or more of the benefited properties or affected property owners whose property valuation as assessed for taxable purposes amounts to one-third or more of the total property valuation within the boundaries of the District; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

1. In accordance with the provisions of the Community and Economic Improvement Act, Act of December 21, 1998, P.L. 1307, No. 174 (53 P.S. §18101 *et seq.*), as heretofore amended, including by Act of May 24, 2016, No. 32 and the Act of May 24, 2016, No. 28 and as the same may be further amended, restated, or supplemented from time to time (as so amended, the "Act"), a business improvement district is hereby continued encompassing all hotel properties, defined as properties on which a for-profit business is operating, or will be operating during the life of the District, within the boundaries of the City that furnishes fifty (50) or more rooms for rent on a nightly basis, as set forth in the plan attached hereto. The district is known as the Philadelphia Hospitality Improvement Levy District (the "District").

2. Philadelphia Hospitality Improvement Levy District Corporation, a nonprofit corporation incorporated under the laws of the Commonwealth of Pennsylvania ("PHiL DC"), is hereby continued as the neighborhood improvement district management association (the "NIDMA") for the District.

3. PHiL DC shall have any and all powers authorized for a NIDMA under the Act, including the power to levy, collect and enforce special assessment fees on eligible property owners for the purpose of funding (i) programs, services and improvements related to the development and promotion of the hotel and tourism industry in the City and County of Philadelphia and (ii) administration expenses of the District pursuant to the Act.

4. Council hereby approves as the final plan for the District the plan set forth in Exhibit "A" attached hereto. PHiL DC is hereby authorized to impose and collect special assessment fees on all properties within the District on which hotels with fifty or more rooms operate in accordance with the provisions of the final plan and the provisions of the Act.

5. Upon adoption of this final plan, and the start of the next fiscal year of the District, the plan adopted pursuant to Bill No. 170468 is superseded and replaced by this plan.

6. The Director of Commerce, on behalf of the City, is hereby authorized to enter into an agreement with PHiL DC, in a form approved by the City Solicitor, which agreement shall include the following provisions:

(a) A detailed description of the respective duties and responsibilities of the City and of PHiL DC with respect to the District as set forth in the final plan approved under Section 4;

(b) A requirement that the City will maintain within the District the same level of municipal programs and services that were provided within the District before its establishment;

(c) A "sunset provision" under which the agreement will terminate on December 31, 2039 and may not be renewed unless the District is continued beyond that date in accordance with the sunset provisions of Section 13 of this Ordinance;

(d) The NIDMA's agreement to be responsible for the calculation, imposition and collection of all special assessment fees levied within the District and the City's agreement to impose and enforce liens for nonpayment of such special

assessment fees as set forth in the Act; provided that the agreement may include a provision wherein the City may designate PHiL DC (or its designee) as agent for the City to perform the City's responsibility to impose and enforce liens for nonpayment of special assessment fees on behalf of the City and under its authority;

(e) Any special assessment fees levied by PHiL DC shall be the sole responsibility of the affected property owner, and the City shall not be liable for any special assessment fees due;

(f) The NIDMA shall agree that it shall not seek to impose liens, or ask the City to impose liens, resulting from the nonpayment of special assessment fees that would exceed in priority liens related to any City claims or judgments, whether based on "municipal claims" (as such term is defined in the Municipal Claims and Tax Lien Act, 53 P.S. §7101 through §7505) or otherwise resulting from non-payment of ad valorem real estate taxes, and PHiL DC shall agree further that no lien that is filed shall take priority over any City liens; and

(g) PHiL DC shall have no right to file a lien against any City property interest in connection with any unpaid special assessment fees.

7. The District shall terminate on December 31, 2039 in accordance with the provisions of the final plan approved under Section 4. The District may be continued beyond that date only if Council enacts a new ordinance following a review of the District and the programs and services provided by PHiL DC within the District.

8. The Chief Clerk shall keep on file the plan referred to as Exhibit "A" in Section 4 of this Ordinance, and all accompanying documents referenced in Exhibit "A," and shall make them available for inspection by the public during regular office hours.