

Legislation Text

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Approving the First Amendment to Second Amended and Restated Parking Garage Development Agreement and Lease and Estoppel of the Philadelphia Redevelopment Authority for the redevelopment and urban renewal of a portion of the Market Street East Urban Renewal Area, located generally on the east and west sides of Eleventh street from Arch to Filbert streets, but excluding certain air rights; authorizing the Redevelopment Authority to execute the development contract and lease and estoppel with Parametric Garage Associates and to take such action as may be necessary to effectuate the development contract and lease and estoppel.

WHEREAS, The Philadelphia Redevelopment Authority ("Redevelopment Authority") has prepared and submitted an urban renewal plan and a redevelopment proposal for the redevelopment of the Market Street East Urban Renewal Area, which said plan and proposal were approved by Ordinance of the Council on September 16, 1969, as amended; and

WHEREAS, The Redevelopment Authority entered into a Parking Garage Development Agreement and Lease with Parametric Garage Associates ("Parametric") dated March 24, 1982, as amended by an Amended and Restated Parking Garage Development Agreement and Lease dated November 15, 1983, further amended by an Amendment to Parking Garage Development Agreement and Lease dated June 15, 1993, and further amended by an Amendment to Parking Garage Development Agreement and Lease dated August 12, 1996 (collectively, the "Original Lease") which granted to Parametric a leasehold interest in property located generally along Eleventh street between Filbert street and Arch street (the "Original Leased Premises"); and

WHEREAS, The Original Lease was further amended by an Amendment to Amended and Restated Parking Garage Development Agreement and Lease dated December 23, 1998 (the "Amended Lease") which, among other things, deleted certain portions of the Original Leased Premises (the "Removed Parcels") from the Original Lease in order to allow for development of a hotel project known as the Hilton Garden Inn; and

WHEREAS, The property now subject to the Amended Lease is comprised of the Original Leased Premises minus the Removed Parcels (the "Amended Leased Premises"); and

WHEREAS, The Council of the City of Philadelphia adopted Resolution No. 110904 on December 15, 2011 authorizing the Redevelopment Authority to amend the Amended Lease by entering into a Second Amended and Restated Parking Garage Development Agreement and Lease (the "Second Amended Lease") to permit the Parametric to refinance its leasehold interest in the Amended Leased Premises to fund a partial repayment of its existing indebtedness to the Redevelopment Authority under the Amended Lease and other financial obligations owed to the City of Philadelphia ("2012 Loan"); and

WHEREAS, The 2012 Loan has matured and Parametric has requested that the Redevelopment Authority further amend certain sections of the Second Amended Lease, including extending the expiration date of the Second Amended Lease, as required by the new lender who will repay the 2012 Loan: and

WHEREAS, The Redevelopment Authority has prepared a term sheet as attached hereto as Exhibit "A" for a First Amendment to Second Amended and Restated Parking Garage Development Agreement and Lease and

Estoppel ("First Amendment") for the Amended Leased Premises. The area of the Amended Leased Premises is bounded as follows:

Parcel No. 12-1. All that certain lot or piece of ground situated in the Fifth Ward of the City of Philadelphia beginning at a point formed by the intersection of the southeasterly side of Eleventh street (fifty-five feet nine and one-quarter inches wide) and the northeasterly side of Filbert street (fifty feet six inches wide) (legally open); Thence extending from said point of beginning north ten degrees, forty-one minutes, east along the said southeasterly side of Eleventh street, the distance of one hundred forty-seven feet to a point on the southwesterly side of Cuthbert street (variable width); Thence extending south seventy-nine degrees, nineteen minutes, east along the said southwesterly side of Cuthbert street the distance of sixty feet one inch to a point; Thence extending south ten degrees, forty-one minutes, west partly along the northwesterly side of said Cuthbert street and partly passing through a wall the distance of sixty-seven feet to a point; Thence extending south seventy-nine degrees, nineteen minutes, east the distance of twenty-five feet to a point; Thence extending south eleven degrees, one minute, west passing through a wall the distance of eighty feet to a point on the said northeasterly side of Filbert street; Thence extending north seventy-nine degrees, nineteen minutes, west along the said northeasterly side of Filbert street, the distance of eighty-four feet two and three-quarters inches to a point on the said southeasterly side of Eleventh street, being the first mentioned point and place of beginning.

Parcel No. 12-2. All that certain lot or piece of ground situated in the Fifth Ward of the City of Philadelphia beginning at a point formed by the intersection of the southwesterly side of Arch street (seventy-two feet wide) (legally open) and the southeasterly side of Eleventh street (fifty-five feet nine and one-quarter inches wide); Thence extending from said point of beginning south seventy-nine degrees, nineteen minutes, east along the said southwesterly side of Arch street the distance of thirty-nine feet to a point; Thence extending south eleven degrees, one minute, west passing through a wall the distance of one hundred thirty-three feet to a point on the northeasterly side of Cuthbert street (variable width); Thence extending north seventy-nine degrees, nineteen minutes, west along the said northeasterly side of Cuthbert street, the distance of thirty-eight feet two and three-quarters inches to a point on the said Southeasterly side of Eleventh street; Thence extending north ten degrees, forty-one minutes, east along the said southeasterly side of Eleventh street, the distance of one hundred thirty-three feet to a point on the said southwesterly side of Arch street, being the first mentioned point and place of beginning.

Parcel No. 12-3. All that certain lot or piece of ground situated in the Fifth Ward of the City of Philadelphia beginning at a point formed by the intersection of the northwesterly side of Eleventh street (fifty-five feet nine and one-quarter inches) and the southwesterly side of Arch street (seventy-two feet wide); Thence extending from said point of beginning south ten degrees, forty-one minutes, west along the said northwesterly side of Eleventh street and crossing the bed of Cuthbert street (Cuthbert street west of Eleventh street is intended to be stricken and vacated from the City Plan) the distance of three hundred four feet to a point on the northeasterly side of Filbert street (fifty feet six inches wide) (legally open); Thence extending north seventy-nine degrees, nineteen minutes, west along the said northeasterly side of Filbert street the distance of one hundred and twenty-five feet to a point; Thence extending north eleven degrees, one minute, east partly recrossing the bed of said Cuthbert street, the distance of one hundred and fifty feet to a point; Thence extending south seventy-nine degrees, nineteen minutes, east partly passing within the bed of said Cuthbert street the distance of seven feet to a point; Thence extending north eleven degrees, one minute, east recrossing the bed of said Cuthbert street, the distance of one hundred fifty-four feet to a point on the said southwesterly side of Arch street; Thence extending south seventy-nine degrees, nineteen minutes, east along the said southwesterly side of Arch street the distance of one hundred sixteen feet two and three-quarters inches to a point on the said northwesterly side of Eleventh street, being the first mentioned point and place of beginning.

Parcel No. 12-4 (Air Rights only). All that certain lot or piece of ground situated in the Fifth Ward of the City of Philadelphia being spaces bounded on the bottom by an approximate elevation of fifty-five and five-tenths feet above City Datum extending upward to an approximate elevation of one hundred eighteen and five-tenths feet; and bounded on the sides by the vertical projection of planes beginning at the intersection of the southerly side of Arch street (seventy-two feet wide - legally open sixty-six feet) and the westerly side of Eleventh street (fifty-five feet nine and one-quarter inches wide); Thence extending eastward along the southerly side of Arch street, crossing Eleventh street fifty-five feet nine and one-quarter inches to the easterly side of Eleventh street; Thence extending southward along the easterly side of Eleventh street; one hundred thirty-three feet to the northerly side of Cuthbert Street (twenty-four feet wide); Thence extending eastward along the northerly side of Cuthbert street, thirty-eight feet two and three-quarters inches to a point; Thence extending southward along a line parallel to Eleventh street and crossing Cuthbert street, twenty-four feet to the southerly side of Cuthbert street; Thence extending westward along the southerly side of Cuthbert street, thirty-eight feet one inch to the easterly side of Eleventh street; Thence extending southward along the easterly side of Eleventh street, one hundred forty-seven feet to the northerly side of Filbert street (fifty feet six inches wide); Thence extending westward along the northerly side of Filbert street and crossing Eleventh street, fifty-five feet nine and one-quarter inches to the westerly side of Eleventh street; Thence extending northward along the westerly side of Eleventh street, three hundred four feet to the southerly side of Arch street, being the first mentioned point and place of beginning.

THE AMENDED LEASED PREMISES EXCLUDES THE FOLLOWING PARCELS:

Hotel Lobby Parcel No. 1B. All that certain lot or piece of ground lying below a horizontal plane fifty five and five-tenths feet above Philadelphia City Datum, said elevation being the bottom surface of the structural 'T' beam supporting the garage floor slab and beginning at the point of intersection of the southerly side of Arch street (seventy-two feet wide) with the westerly side of Eleventh street (fifty-five feet nine and three-eighths inches wide); Thence from said point of beginning extending south eleven degrees one minute zero seconds west, along the said westerly side of Eleventh street one hundred twenty-nine feet nine inches to a point; Thence north seventy-eight degrees fifty-nine minutes zero seconds west sixty feet seven and one-half inches to a point; Thence north eleven degrees one minute zero seconds east, along the centerline of the building columns one hundred twenty-nine feet nine inches to a point on the southerly side of Arch street; Thence south seventy-eight degrees fifty-nine minutes zero seconds east, along the said southerly side of Arch street, sixty feet seven and one-half inches to the point and place of beginning.

Hotel Service Parcel No. 1C. All that certain lot or piece of ground lying below a sloping plane which is forty-six and nine hundredths feet above Philadelphia City Datum on the north side and fifty-seven and sixty-four hundredths feet above Philadelphia City Datum on the south side, said plane being the underside of the structural ramp leading from Arch street to the garage parking, and beginning at an interior point located the following two courses and distances from the point of intersection of the southerly side of Arch street (seventy-two feet wide) with the westerly side of Eleventh street (fifty-five feet nine and three-eighths inches wide), north seventy-eight degrees fifty-nine minutes zero seconds west, along the said southerly side of Arch street sixty feet seven and one-half inches to a point; Thence south eleven degrees one minute zero seconds west ninety-seven feet eleven and one-half inches to the point of beginning; Thence from said point of beginning south eleven degrees one minute zero seconds west one hundred forty-two feet nine and one-half inches to a point; Thence north seventy-eight degrees fifty-nine minutes zero seconds west nineteen feet one inch to a point; Thence north eleven degrees one minute zero seconds east one hundred forty-two feet nine and one-half inches to a point; Thence south seventy-eight degrees fifty-nine minutes zero seconds east nineteen feet one inch to the point and place of beginning.

Parcel No. 1. All that certain lot or parcel of ground lying above a horizontal plane one hundred six and forty-two hundredths feet above Philadelphia City Datum, said elevation being seven feet above the highest level of the existing garage slab floor and beginning at the point of intersection of the northerly side of Filbert street (fifty feet six inches wide) with the westerly side of Eleventh street (fifty-five feet nine and three-eighths inches wide); Thence from said point of beginning extending north seventy-eight degrees fifty-nine minutes west along the said northerly side of Filbert street one hundred twenty-five feet zero inches to a point; Thence north eleven degrees twenty minutes east one hundred fifty feet zero inches to a point; Thence south seventy-eight degrees fifty-nine minutes east seven feet zero inches to a point; Thence north eleven degrees twenty minutes east one hundred fifty-four feet zero inches to a point on the southerly side of Arch street (seventy-two feet wide); Thence south seventy-eight degrees fifty-nine minutes east along the said southerly side of Arch street one hundred sixteen feet three and three-quarters inches (one hundred sixteen feet two and three-quarters inches by deed) to a point on the westerly side of Eleventh street; Thence south eleven degrees one minute west along the said westerly side of Eleventh street three hundred four feet zero inches to the point and place of beginning.

Parcel No. 2. (Air Rights Estate above Eleventh street and Cuthbert street). All that certain lot or parcel of ground lying between a horizontal plane one hundred six and forty-two hundredths feet above Philadelphia City Datum, said elevation being seven feet above the highest level of the existing garage floor slab and a horizontal plane one hundred eighteen and five-tenths feet above Philadelphia City Datum and beginning at the point of intersection of the northerly side of Filbert street (fifty feet six inches) with the westerly side of Eleventh street (fifty-five feet nine and three-eighths inches wide); Thence from said point of beginning extending north eleven degrees one minute east along the said westerly side of Eleventh street three hundred four feet zero inches to a point on the southerly side of Arch street (seventy-two feet wide); Thence south seventy-eight degrees fifty-nine minutes east crossing the bed of Eleventh street fifty-five feet nine and three-eighths inches to a point on the easterly side of Eleventh street; Thence south eleven degrees one minute west along the said easterly side of Eleventh street one hundred thirty-three feet zero inches to a point on the northerly side of Cuthbert street (twenty-four feet wide); Thence south seventy-eight degrees fifty-nine minutes east along the said northerly side of Cuthbert street thirty-eight feet two and five-eighths inches to a point; Thence south eleven degrees twenty-one minutes west crossing the bed of Cuthbert street twenty-four feet zero inches to a point on the southerly side of Cuthbert street; Thence north seventy-eight degrees fifty-nine minutes west along the said southerly side of Cuthbert street thirty-eight feet seven-eighths inches to a point on the easterly side of Eleventh street; Thence south eleven degrees one minute west along the said easterly side of Eleventh street one hundred forty-seven feet zero inches to a point on the northerly side of Filbert street; Thence north seventy-eight degrees fifty-nine minutes west crossing the bed of Eleventh street fifty-five feet nine and three-eighth inches to the point and place of beginning.

Parcel No. 3. All that certain lot or parcel of ground lying above a horizontal plane one hundred six and forty-two hundredths feet above Philadelphia City Datum, said elevation being seven feet above the highest level of the existing garage slab floor and beginning at the point of intersection of the northerly side of Filbert street (fifty feet six inches wide) with the easterly side of Eleventh street (fifty-five feet nine and three-eighths inches), Thence from said point of beginning extending north eleven degrees one minute east along the said easterly side of Eleventh street one hundred forty-seven feet zero inches to a point on the southerly side of Cuthbert street (twenty-four feet wide); Thence south seventy-eight degrees fifty-nine minutes east along the said southerly side of Cuthbert street sixty feet seven-eighths inches to a point; Thence south eleven degrees twenty-one minutes west sixty-seven feet zero inches to a point; Thence south seventy-eight degrees fifty-nine minutes east twenty-five feet zero inches to a point; Thence south eleven degrees twenty-one minutes west eighty feet zero inches to a point on the northerly side of Filbert street; Thence north seventy-eight degrees fifty-nine minutes west along the said northerly side of Filbert street eighty-four feet two and five-eighths inches to the point and place of beginning.

Parcel No. 4. All that certain lot or parcel of ground lying above a horizontal plane one hundred six and forty-two hundredths feet above Philadelphia City Datum, said elevation being seven feet above the highest level of the existing garage slab floor and beginning at the point of intersection of the easterly side of Eleventh street (fifty-five feet nine and three-eighths inches wide) with the southerly side of Arch street (seventy-two feet wide); Thence from said point of beginning extending south seventy-eight degrees fifty-nine minutes east along the said southerly side of Arch street thirty-eight feet eleven and seven-eighths inches to a point; Thence south eleven degrees twenty-one minutes west one hundred thirty-three feet zero inches to a point on the northerly side of Cuthbert street (twenty-four feet wide); Thence north seventy-eight degrees fifty-nine minutes west along the said northerly side of Cuthbert street thirty-eight feet two and five-eighths inches to a point on the easterly side of Eleventh street; Thence north eleven degrees one minute east along the said easterly side of Eleventh street, one hundred thirty-three feet to the point and place of beginning.

The First Amendment is in substantial conformity with the amended urban renewal plan and the amended redevelopment proposal approved by the Council; and

WHEREAS, Parametric Garage Associates desires to enter into the First Amendment for the Amended Leased Premises; and

WHEREAS, Pursuant to the Urban Redevelopment Law, 35 P.S. § 1709(k), the Redevelopment Authority may lease any real property in a redevelopment area subject to the approval of City Council.

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That a First Amendment to Second Amended and Restated Parking Garage Development Agreement and Lease and Estoppel containing the terms and conditions set forth in Exhibit "A" ("First Amendment") submitted by the Philadelphia Redevelopment Authority (hereinafter "Redevelopment Authority") for the redevelopment of that portion of the Market Street East Urban Renewal Area is hereby approved. City Council authorizes the Redevelopment Authority to proceed with a First Amendment in substantial conformity with the hereby approved First Amendment. The Redevelopment Authority is authorized to execute and deliver the hereby approved First Amendment with Parametric Garage Associates (or with the Philadelphia Authority for Industrial Development which will in any event enter into an instalment sale agreement with Parametric regarding the leasehold) and to take such action in substantial conformity to the First Amendment as may be necessary to carry it out.

EXHIBIT A

Terms of Proposed First Amendment to Second Amended and Restated Parking Garage Development Agreement and Lease and Estoppel by and between the Philadelphia Redevelopment Authority, as Landlord and Parametric Garage Associates, as Tenant

Landlord: Philadelphia Redevelopment Authority.
Tenant: Parametric Garage Associates, or PAID, with an installment sale agreement in favor of Parametric Garage Associates.
Premises: Parking garage at 11th and Arch Streets.

Extension of Expiration Date: From December 31, 2051 to December 31, 2062.

Rent: Rent - No change - Base Annual Net Rent: \$300,000.

Other Payments: Under a separate Participation Agreement with the City and PAID, PRA remains entitled to 9.8% of the proceeds of a \$9,600,000 Note (PAID A Note) and a \$34,189,882.81 Note (PAID B Note), each of which was subordinate to a \$16,000,000 lien in favor of Great American Life Insurance Company and will now be subordinate to a \$15,000,000 loan in favor of Citi Real Estate Funding Inc.

Transfer Taxes: Tenant will pay all transfer taxes associated with this transaction, including, without limitation, extension of the lease term.

As Is, No Responsibility of Landlord: The Premises is rented "As Is", without representations or warranties. Landlord has no responsibility or liability for any maintenance, repairs, rebuilding, replacements, services, compliance with legal requirements, or damages. Tenant will re-affirm this principle and re-affirm its release of the Landlord, as well as confirm that Landlord is not in default of the lease.

Estoppel Certificates Both Tenant and Landlord will provide estoppel certificates to the new lender, Citi Real Estate Funding Inc.

Other Terms Remain All other terms under the original lease remain the same.

Note: this Term Sheet is for summary and City and PRA approval purposes only. It is not intended as a substitute to the actual lease, and the PRA is not bound until execution of a written First Amendment to Second Amended and Restated Parking Garage Development Agreement and Lease and Estoppel between Landlord and Tenant.