

# City of Philadelphia



(Bill No. 010258)

## AN ORDINANCE

Constituting the Fourth Supplemental Ordinance to the Amended and Restated General Airport Revenue Bond Ordinance; authorizing the Mayor, the City Controller and the City Solicitor, or a majority of them, to issue one or more series of Airport Revenue Bonds, of the City of Philadelphia and to take certain actions with respect to Qualified Swap Agreements, Exchange Agreements and similar instruments; determining the sufficiency of pledged Amounts Available for Debt Service; covenanting the payment of interest and principal; authorizing the Bond Committee to take certain action with regard to the terms and conditions of the Airport Revenue Bonds and related agreements; authorizing the Director of Finance of the City to take certain actions with regard to the sale of such Airport Revenue Bonds and the City's continuing disclosure obligation; and specifying applicability of sections of The First Class City Revenue Bond Act and the Amended and Restated General Airport Revenue Bond Ordinance.

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Authorization, Scope and Purpose. The Mayor, the City Controller and the City Solicitor, or a majority of them (the "Bond Committee"), are hereby authorized on behalf of the City of Philadelphia (the "City") to issue one or more series of Airport Revenue Bonds of the City (the "Bonds") which in the aggregate shall not exceed the principal amount set forth below, to be expended as provided in Section 2 of this Ordinance. The Bonds are to be issued under and pursuant to The First Class City Revenue Bond Act of October 18, 1972, Act No. 234 (the "Act"), and are to be secured by the Amended and Restated General Airport Revenue Bond Ordinance (Bill No. 950282), approved on June 16, 1995, as supplemented and amended (the "Amended and Restated Ordinance").

The aggregate principal amount of the Bonds shall not exceed Forty Million Dollars (\$40,000,000) exclusive of costs of issuance (including underwriters' discount), original issue discount, funding of deposits to the Sinking Fund Reserve Account and similar items, and in the event the Bonds are issued with such items, the Bond Committee is hereby authorized to increase the aggregate principal amount of the Bonds so issued, by the amount of such items. The Bonds shall bear interest from the dated date thereof to maturity or prior redemption, if any, at prescribed fixed or variable rates, or any combination thereof, (not exceeding any limitation prescribed by law). The Bonds shall contain a series designation, terms and provisions (including without limitation, interest payment dates, record date, redemption provisions, denominations and provisions for payments by wire transfer) as the Bond Committee, or a majority of them, shall determine to be in the best interest of the City and which are not inconsistent with the

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provisions hereof, of the Act and the Amended and Restated Ordinance. The interest on any portion of the Bonds which, at any time, bear interest at variable rates shall be computed and payable at such times, using such methods and indices and under such terms as shall be determined by the Bond Committee. In connection with the issuance of the Bonds, the Bond Committee is hereby authorized to enter into such Qualified Swaps, Exchange Agreements or similar instruments as it may determine and as are permitted by the Amended and Restated Ordinance.

The Council hereby determines that a private negotiated sale of the Bonds authorized by this Ordinance is in the best interest of the City.

The Bonds shall not pledge the credit or taxing power of the City, or create any debt, charge or lien against the tax, general revenues or property of the City other than the revenues pledged by the Amended and Restated Ordinance.

The Bond Committee, or a majority of them, is authorized on behalf of the City to enter into agreements (the "Agreements") with any bank, insurance company or other appropriate entity providing credit enhancement or payment or liquidity sources for the account of the City for the Bonds, including, without limitation, letters of credit, lines of credit and insurance. Such Agreements may provide for payment or acquisition of the Bonds if the City does not pay the Bonds when due and may provide for repayment with interest to the bank or other institution from the date of such payment or acquisition.

The Fiscal Agent (as defined in the Amended and Restated Ordinance) is hereby designated to act as Bond Registrar pursuant to Section 3.05 of the Amended and Restated Ordinance.

The Bond Committee, or a majority of them, is authorized to make all such covenants and to take any and all such other actions on behalf of the City as may be necessary or appropriate in connection with the consummation of the transactions contemplated herein.

SECTION 2. Purposes for the Bonds. The Bonds shall be issued for the purpose of financing a project, together with financing the costs of issuance (including underwriters' discount), original issue discount, funding of deposits to the Sinking Fund Reserve Account and similar items (the "Project") at the Philadelphia International Airport (the "Airport") consisting of the improvement and expansion of Terminal E, including the addition of new gates and loading bridges, relocation of existing gates and the addition of ancillary amenities.

The costs of the Project are "Project Costs" as such term is defined in the Act, including, but without limitation, the deposits to the Sinking Fund Reserve Account required by, and other funds permitted by, the Amended and Restated Ordinance, and the payment of the costs of the issuance of the Bonds.

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SECTION 3. Finding Required by Act. Based on the report of the Director of Finance of the City filed with the Council pursuant to Section 8 of the Act, a copy of which is attached hereto as Exhibit A including the reports of Leigh Fisher Associates Airport Consultants, and Urban Engineers, Inc., registered consulting engineers, attached thereto, it is hereby determined that the pledged Amounts Available for Debt Service, as defined in the Amended and Restated Ordinance, will be sufficient to comply with the rate covenant contained in Section 5.01(a) of the Amended and Restated Ordinance and also to pay all costs, expenses and payments required to be paid therefrom, in the order and priority stated in Section 4.06 of the Amended and Restated Ordinance.

SECTION 4. Payments From Sinking Fund. The City covenants that, so long as any Bond shall remain unpaid, it will make payments or cause payments to be made out of the Sinking Fund established pursuant to the Amended and Restated Ordinance or any of the other Aviation Funds available therefor, at such times and in such amounts as shall be sufficient for the payment of the interest thereon and the principal thereof when due.

The City has caused to be delivered to the Chief Clerk of City Council an opinion of the City Solicitor to the effect, *inter alia*, that the holders of the Bonds will have no claim upon the taxing power or general revenues of the City nor any lien upon any of the property of the City other than the Pledged Amounts pledged for the Bonds.

SECTION 5. Additional Tax Covenants. The City covenants that it will make no investment or other use of the proceeds of the Bonds which would cause the Bonds to be “arbitrage bonds” under Section 148 of the Internal Revenue Code of 1986, as amended, and Treasury Regulations promulgated thereunder (the “Code”), and that the City will comply with the requirements of Section 148 of the Code throughout the term of the Bonds as more fully described in the determination of the Bond Committee. The Director of Finance is authorized to execute on behalf of the City a report of the issuance of the Bonds as required by Section 149(e) of the Code to the extent that the Bonds are issued as tax-exempt bonds.

SECTION 6. Bonds Not to Become Arbitrage Bonds. The Director of Finance is authorized to make such elections under the Code, and file any reports required to be filed pursuant to the Code, with respect to the Bonds as may be necessary or advisable and to take such action and make such covenants on behalf of the City as may be necessary or advisable with respect to the sale of the Bonds and the investment of the proceeds of the Bonds in order that the Bonds shall not be “arbitrage bonds” as defined in the Code, in order to otherwise effect or maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes, and further to establish such sub-accounts within the Sinking Fund Reserve Account and terms or restrictions relating thereto as may be necessary or advisable to permit issuance of the Bonds. For purposes of Section 4.14 of the Amended and Restated Ordinance, the Rebate Bond Year with respect to the Bonds shall mean the period as determined by the Bond Committee.

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SECTION 7. Form and Terms of Bonds. The Bonds shall be in such form as the Bond Committee may determine pursuant to Section 3.01 of the Amended and Restated Ordinance, consistent with their terms of issuance including principal amount and interest rate or rates, except that they shall be issued in fully registered form only, exchangeable only for fully registered bonds, unless and until issuance in coupon form, in the opinion of bond counsel, will have no adverse effect on the exclusion of interest on the Bonds from gross income for federal income tax purposes, in which case the Bonds may be exchanged for coupon bonds as provided in the Amended and Restated Ordinance.

The Bonds shall be unconditional obligations of the City and shall be satisfied in accordance with their terms under any and all circumstances and irrespective of any rights of set-off, counterclaim, recoupment or defense of payment which the City may have against any party.

The Bonds together with all parity bonds of the City issued under the Amended and Restated Ordinance and all subsequent supplemental ordinances, shall be equally and ratably secured under the Amended and Restated Ordinance, to the extent set forth in the Amended and Restated Ordinance, by a pledge of Pledged Amounts which shall include Project Revenues defined to include revenues, rents, rates, tolls or other charges imposed and moneys received by or on behalf of the City from or in connection with the ownership and operation of the Airport System (exclusive of certain revenues as described in the Amended and Restated Ordinance), as more fully defined in the Amended and Restated Ordinance, together with certain other amounts as set forth in the Amended and Restated Ordinance.

The City covenants, so long as the Bonds shall remain outstanding, it will pay or cause to be paid from the pledged Amounts Available for Debt Service deposited in the Sinking Fund, and other amounts available therefor, the principal of, redemption premium, if any, and interest on the Bonds as the same shall become due and payable.

SECTION 8. Continuing Disclosure. The Director of Finance is authorized on behalf of the City to execute and deliver a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") relating to the Bonds, meeting the requirements of Securities and Exchange Commission Rule 15c2-12(b)(5). The City covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement.

SECTION 9. Effect of Ordinance. This Ordinance is supplementary to the Amended and Restated Ordinance and all sections of the Amended and Restated Ordinance and the Act not inconsistent herewith are applicable to the Bonds authorized hereunder. All definitions of terms contained in the Act or the Amended and Restated Ordinance shall apply to such terms in this Ordinance.

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SECTION 10. Effective Date. This Ordinance shall take effect immediately.

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## EXHIBIT A

[LETTERHEAD OF THE CITY OF PHILADELPHIA]

\_\_\_\_\_, 2001

TO THE PRESIDENT AND MEMBERS OF THE  
COUNCIL OF THE CITY OF PHILADELPHIA

There has been transmitted to the Council the proposed Fourth Supplemental Ordinance to the Amended and Restated General Airport Revenue Bond Ordinance, as supplemented and amended (the "General Ordinance"), specifically authorizing the issuance and sale of up to a maximum aggregate principal amount not to exceed Forty Million Dollars (\$40,000,000) exclusive of costs of issuance (including Underwriter's discount), original issue discount, capitalized interest, funding of deposits to the Sinking Fund Reserve Account and similar items, of Airport Revenue Bonds, Series 2001B (Philadelphia Airport System Project), of The City of Philadelphia (the "Bonds"), and in the event the Bonds are issued with original issue discount, capitalized interest, funding of deposits to the Sinking Fund Reserve Account and similar items, the proposed Fourth Supplemental Ordinance authorizes the City to increase the aggregate principal amount of the Bonds so issued, by the amount of such additional items.

In connection with the proposed issuance of the Bonds, the City has engaged the firm of Leigh Fisher Associates of San Francisco, California (the "Consultant") who has compiled data from the City and the Division of Aviation in order to enable the Consultant to make projections with respect to the current capital improvement program of the Airport System consisting of the City's improvement and expansion of Terminal E, reviewed the Use and Lease Agreements by and between the City and the Scheduled Airlines (as defined therein), and compiled relevant data and made projections to ascertain the adequacy of the revenues of the Airport System to support the financial report required by Act No. 234 of October 18, 1972, as amended, known as The First Class City Revenue Bond Act (the "Act").

The Consultant is an independent firm of airport consultants having broad experience in the analysis of airport systems and has a favorable reputation for competence in this field of work. The Consultant has reviewed the financial operations of the Airport System of the City and has collaborated with the officers and employees of the Division of Aviation, the City Treasurer's Office and the Office of the Director of Finance in the preparation of its report.

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The City has also engaged the firm of Urban Engineers, Inc., of Philadelphia, Pennsylvania, consulting engineers (the “Consulting Engineers”), to report on the physical condition of the facilities of the Airport System. The Consulting Engineers are an independent firm of consulting engineers having broad experience in the design and analysis of the physical operation of airport systems of the magnitude and scope of the Airport System and have a favorable reputation for competence in this field of work.

The reports of the Consultant and Consulting Engineers (the “Feasibility Reports”) are attached to this report and form the basis for the statements and opinions contained herein. The Feasibility Reports have been reviewed and approved by both the Finance Department and by the Division of Aviation. They are transmitted herewith in compliance with Section 8 of the Act and Section 5.04(c) of the General Ordinance.

On the basis of the Feasibility Reports and the schedules and summaries therein contained and in compliance with Section 8 of the Act, the undersigned Chief Fiscal Officer of the City of Philadelphia hereby submits this financial report:

(i) The project for which the Bonds are to be issued is the of the improvement and expansion of Terminal E, including the addition of new gates and loading bridges, relocation of existing gates and the addition of ancillary amenities, as more fully described in the Feasibility Reports;

(ii) The revenues pledged for the payment of the Bonds will be derived from the revenues, rents, rates, tolls and other charges imposed upon all lessees, occupants and users of the Airport System and all other revenues derived from the Airport System constituting pledged “Amounts Available for Debt Service” as defined in the General Ordinance.

(iii) On the basis of the revenues currently in effect and on the basis of the estimated future annual financial operations of the Airport System, all as detailed in the Feasibility Reports, the Airport System will, in my opinion, yield pledged Amounts Available for Debt Service over the amortization period of the Bonds sufficient to comply with the Rate Covenant contained in the General Ordinance and to meet the payment or deposit requirements of (1) all expenses of operation, maintenance, repair and replacement of the Airport System, (2) all reserve or special funds required to be established out of such revenues, (3) the principal of and interest on all bonds to be outstanding under the General Ordinance (including the Bonds), as the same shall become due and payable, for which such pledged Amounts Available for Debt Service are pledged, and (4) state taxes assumed by the city to be paid on such bonds, and such surplus requirements as may be fixed by the General Ordinance.

(iv) The pledged Amounts Available for Debt Service forming the basis for the statement set forth in clause (iii) above comply with the requirements of the definition of “Project Revenues” contained in Section 2 of the Act.

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For the purpose of the opinion expressed in clause (iii) above, you are advised that the City has not covenanted to pay or assume any taxes on the Bonds.

Respectfully submitted,

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Director of Finance

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 31, 2001. The Bill was Signed by the Mayor on May 31, 2001.



Patricia Rafferty  
Chief Clerk of the City Council