

City of Philadelphia



(Bill No. 130901)

AN ORDINANCE

Authorizing the Commissioner of Public Property, on behalf of the City of Philadelphia, to execute and enter into a Declaration of Rights, Easements, Covenants and Restrictions to govern the relationship among (1) that certain parcel of land, together with the improvements thereon, commonly known as JFK Plaza, located at 15th and Arch Streets, (2) that certain parcel of land, together with the improvements located thereon, commonly known as Love Park Parking Garage, located generally beneath JFK Plaza at 15th and Arch Streets, and (3) certain parcels of land around and beneath Love Park Parking Garage, under certain terms and conditions.

WHEREAS, The City of Philadelphia (the "City") intends to convey fee simple title to a certain parcel of land, together with the improvements located thereon, commonly known as Love Park Parking Garage, located generally beneath JFK Plaza at 15th and Arch Streets (the "Parking Garage"), under certain terms and conditions; and

WHEREAS, The City shall retain fee simple title to the land, and all improvements located thereon, located above, around and beneath the Parking Garage (the "City Retained Property"); and

WHEREAS, In order to provide for the orderly use of the City Retained Property and the Parking Garage following the conveyance of the Parking Garage, it is necessary and appropriate that the City record, immediately preceding recordation of the deed conveying fee simple title to the Parking Garage, a certain Declaration of Rights, Easements, Covenants and Restrictions (the "Declaration") which will describe the respective rights, covenants, easements, responsibilities and restrictions of the new owner of the Parking Garage and the City, as the owner of the City Retained Property; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property, on behalf of the City of Philadelphia, is hereby authorized to execute and enter into the Declaration, under certain terms and conditions, creating the easements described in the term sheet attached as Exhibit "A."

SECTION 2. The City Solicitor is hereby authorized to review and approve all instruments and documents necessary to effectuate this Ordinance, which instruments and documents shall contain such terms and conditions as the City Solicitor shall deem

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necessary and proper to protect the interests of the City and to carry out the purposes of this Ordinance.

EXHIBIT "A"

Summary of the Easements to be Created by the Declaration of Rights, Easements, Covenants and Restrictions

(All capitalized terms used in this Exhibit that are defined in the Ordinance to which this Exhibit is attached shall have the same meanings herein as therein)

1. Property Rights Created by the Declaration:

By executing and recording the Declaration, the City, as the owner of fee simple title to the Parking Garage and the City Retained Property (collectively, the "Affected Property"), will create the following three air rights estates, which together constitute all of the Affected Property: the Parking Garage; the land above and around the Parking Garage (including areas within the beds of 15th Street, Arch Street, 16th Street and the sidewalk and plaza adjacent to the Municipal Services Building (the "Municipal Services Building Plaza"), collectively, the "Upper Park Area"); and the land beneath the Parking Garage (including areas within the beds of 15th Street, Arch Street, 16th Street and the Municipal Services Building Plaza, collectively, the "Lower Park Area"). At this time the City intends to sell only the Parking Garage and to retain title to the Upper Park Area and the Lower Park Area.

Nothing in the Declaration will affect the rights of the Southeastern Pennsylvania Transportation Authority ("SEPTA") as the owner of certain underground areas underneath JFK Plaza and adjacent to the Parking Garage that are used in connection with the transit system. This portion of JFK Plaza is not included within the Affected Area.

2. Easements.

(a) Easements Benefitting the Parking Garage. The Declaration will grant the following perpetual easements to the owner of the Parking Garage and its successors and assigns, under and subject to certain covenants, conditions and restrictions to be described in the Declaration:

(1) Burdening the Upper Park Area.

(i) Easements for pedestrian ingress and egress between adjacent sidewalks to and through the existing stairwells and elevator shafts, and to and through any additional stairwells and elevator shafts as the City may approve in the future.

(ii) An easement for access to the Parking Garage if and to the extent reasonably needed for its maintenance, upkeep, repair and replacement.

(iii) An easement for encroachment due to settlement or measurement or scrivener's error.

(iv) An easement for emergency access if, when and to the extent needed.

(2) Burdening the Lower Park Area.

(i) An easement of support.

(ii) An easement for encroachment due to settlement or measurement or scrivener's error.

(iii) An easement for emergency access if, when and to the extent needed.

(3) Burdening Other Property Owned by the City (including without limitation adjacent streets).

(i) Easements burdening JFK Plaza for pedestrian ingress and egress between adjacent sidewalks to and through existing stairwells leading to the Parking Garage and to and through any additional stairwells leading to the Parking Garage as the City may approve in the future.

(ii) An easement for vehicular ingress and egress across, and for approved Parking Garage signage over, the portions of the Arch Street right-of-way that are currently used exclusively for vehicular ingress and egress between Arch Street and the Parking Garage (the "Arch Street Driveways").

(iii) An easement for vehicular ingress and egress across, and for approved Parking Garage signage on and over, the driveway located on Cherry Street providing access to the Parking Garage (the "Cherry Street Driveway").

(iv) If, when and to the extent the City permits a new driveway serving the Parking Garage on 15th Street between Arch and John F. Kennedy Boulevard (the "15th Street Driveway"), an easement for construction of the 15th Street Driveway (but only for the duration of such construction) and vehicular ingress, egress or both between 15th Street and the Parking Garage, and for approved Parking Garage signage over, the 15th Street Driveway.

(v) An easement for all utilities serving the Parking Garage, at their locations outside the Parking Garage.

(vi) An easement for encroachment due to settlement or measurement or scrivener's error.

(vii) An easement for emergency access if, when and to the extent needed.

(4) Burdening the Municipal Services Building.

(i) Easements for pedestrian ingress and egress between adjacent sidewalks to and through existing stairwells leading to the Parking Garage and to and through any additional stairwells leading to the Parking Garage as the owner of the Municipal Services Building may approve in the future.

(ii) An easement for all or any parts of the ventilation system that expresses air from the Parking Garage through the Municipal Services Building Plaza.

(b) Easements Burdening the Parking Garage. The Declaration will reserve for the City and its successors and assigns the following perpetual easements, under and subject to certain covenants, conditions and restrictions benefiting the Parking Garage to be described in the Declaration:

(1) Benefitting the Upper Park Area.

(i) An easement for the equipment and other facilities serving JFK Plaza and the fountain and irrigation systems therein (the “Park Electrical Facilities” and the “Park Water Facilities”); including the right to use, install, maintain, repair, replace, relocate and remove any and all water, storm water and sewer pipes, electrical lines, gas pipes, wires, conduits or tubes, telecommunications cables, fiber optic cables or any utility lines in the Parking Garage, or running through the Parking Garage.

(ii) An easement of support.

(iii) An easement for encroachment due to settlement or measurement or scrivener’s error.

(iv) An easement for emergency access if, when and to the extent needed.

(2) Benefitting the Lower Park Area.

(i) An easement for encroachment due to settlement or measurement or scrivener’s error.

(ii) An easement for emergency access if, when and to the extent needed.

(3) Benefitting Other Property Owned by the City (including without limitation adjacent streets).

(i) An easement benefitting the owner of JFK Plaza for the use of the drain and/or drainage system of the Parking Garage between the storm water and sewer pipes identified in clause 2(b)(1)(i) above and the public storm water and sewer pipes, as such drainage lines may be modified or relocated from time to time, for the purpose of draining any and all fountains and water features in JFK Plaza now or in the future, and the right of flow through the Parking Garage to such drain and/or drainage system.

(ii) An easement benefitting the owner of JFK Plaza for parking two City vehicles at a location immediately adjacent to the pump room for the fountain located in JFK Plaza (the “Pump Room”), as mutually agreed to by the City and the owner of the Parking Garage.

(iii) An easement benefitting the owner of JFK Plaza providing vehicular and pedestrian ingress and egress to the Park Electrical Facilities, the Park Water Facilities and the Pump Room through the Parking Garage from the Cherry Street Driveway, the Arch Street Driveway and, if, when and to the extent the City permits the 15th Street Driveway, the 15th Street Driveway.

(iv) An easement benefitting the underground pedestrian concourse serving, inter alia, Suburban Station (the “Concourse”) for the right to close the pedestrian access

between the Parking Garage and the Concourse for security, performance of work, regulating the hours of operation of the Concourse, and other similar reasons.

(v) Easements for all City utility services passing through the Parking Garage, in favor of the respective utility provider.

(vi) An easement of lateral support benefitting any buildings and other improvements sharing party walls or otherwise requiring physical support of any structural components of the Parking Garage.

(vii) An easement for encroachment due to settlement or measurement or scrivener's error.

(viii) An easement for emergency access if, when and to the extent needed.

(4) Benefitting the Municipal Services Building.

(i) An easement for the use of the drain and/or drainage system between the trench drain in the Municipal Services Building Loading Area and the public storm water and sewer pipes, as such drainage lines may be modified or relocated from time to time, for the purpose of draining any and all water from the Municipal Services Building Loading Area, and the right of flow through the Parking Garage to such drain.

(ii) An easement providing vehicular ingress and egress from the Municipal Services Building and Municipal Services Building Loading Area through the Parking Garage from the Cherry Street Driveway, the Arch Street Driveway and, if, when and to the extent the City permits the 15th Street Driveway, the 15th Street Driveway.

(iii) An easement for the use of all or any parts of the ventilation system that expresses air from the Municipal Services Building and the Municipal Services Building Loading Area through the Parking Garage and into JFK Plaza or the Municipal Services Building Plaza.

(iv) Easements for all Municipal Services Building utility services passing through the Parking Garage, in favor of the respective utility provider.

(v) An easement of vertical and lateral support.

(vi) An easement for encroachment due to settlement or measurement or scrivener's error.

(vii) An easement for emergency access if, when and to the extent needed.

(c) Easements Benefitting the Upper Park Area and Burdening the Lower Park Area. The Declaration will grant the following perpetual easement to the owner of the Upper Park Area and its successors and assigns and burdening the Lower Park Area, under and subject to certain covenants, conditions and reservations to be described in the Declaration:

(1) An easement of support.

(d) Easements Burdening the Upper Park Area and Benefitting the Lower Park Area. The Declaration will grant the following perpetual easement to the owner of the Lower Park

Area and its successors and assigns and burdening the Upper Park Area, under and subject to certain covenants, conditions and reservations to be described in the Declaration:

(1) An easement for emergency access if, when and to the extent needed.

(e) Miscellaneous Easements. The Declaration will grant such other easements as the City Solicitor determines are necessary or appropriate for the orderly use of the Parking Garage and the City Retained Property.

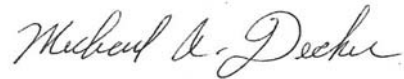
END OF EXHIBIT "A"

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 13, 2014. The Bill was Signed by the Mayor on March 21, 2014.



Michael A. Decker
Chief Clerk of the City Council