

City of Philadelphia



(Bill No. 130902)

AN ORDINANCE

Authorizing the Commissioner of Public Property, on behalf of the City of Philadelphia, to execute and deliver a deed conveying 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; together with certain rights and obligations of the owner of the Love Park Parking Garage unit under a certain Declaration of Rights, Easements, Covenants and Restrictions, all 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; and

WHEREAS, The City’s conveyance of fee simple title to the Parking Garage shall include the rights and obligations of the owner of the Parking Garage unit under the Declaration; 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 deliver a deed conveying fee simple title to the Parking Garage with the net sale proceeds to be used for Love Park Plaza renovations, and the balance to be used for re-payment of a current City indebtedness; together with certain rights and obligations of the owner of the Parking Garage unit under the Declaration, all under certain terms and conditions as described in the term

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sheet attached as Exhibit “A” and the Economic Opportunity Plans attached as Exhibits “B” and “C”.

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

City of Philadelphia

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Exhibit "A" Term Sheet – Sale of Love Park Parking Garage

Purchaser: InterPark Holdings

Purchase Price: \$29,600,000, subject to adjustments to the Purchase Price mutually agreed upon by the City and Purchaser, such adjustments not to exceed in the aggregate a reduction in the Purchase Price of greater than \$1,000,000, and which adjustments may be made by the City and Purchaser based on facts and circumstances that may be discovered during Purchaser's due diligence period under the Purchase and Sale Agreement between the City and Purchaser.

Exhibit "B"
Economic Opportunity Plan – Love Park Plaza

City of Philadelphia Economic Opportunity Plan

Love Park Plaza InterPark, LLC

I. Introduction, Definitions and Goals.

The City of Philadelphia strongly encourages the use of certified Minority ("MBE"), Women ("WBE"), Disabled ("DSBE") and Disadvantaged¹ ("DBEs") Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers in various aspects of the design and construction of the development to be known as the Love Park Plaza (the "Project") at 15th and John F Kennedy Boulevard (the "Site"). In support of this objective, the City of Philadelphia will require that InterPark, LLC (the "Owner") of the Project commit to this Economic Opportunity Plan ("EOP" or "Plan").

This Plan contains ranges of projected M/W/DSBE utilization and goals for the employment of minority and female workers in connection with the Project at the Site. This Plan shall be a part of and incorporated into the resulting agreement(s) with the owners of the Love Park Plaza.

The Owner hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and take notice that the submission of false information is subject to the penalties of 18 PA C. S. Section 4904, relating to unsworn falsification to authorities and 18 PA C. S. Section 4107.2 (a)(4), relating to fraud in connection with minority business enterprises or women's business enterprises.

For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by OEO. Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency² will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oeo/directory.

For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of the City, means: efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce and to achieve the objectives herein stated. Best and Good Faith Efforts are rebuttably presumed met when commitments are made within the M/W/DSBE participation ranges established for the improvements and a commitment is made to employ a diverse workforce as enumerated herein.

¹ Disadvantaged Business Enterprises ("DBEs") are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 26.

² A list of "OEO approved certifying agencies" can be found at www.phila.gov/oeo

II. Project Scope.

The Project consists of renovations to the plaza and fountain. Additional improvements will include upgrades to the sidewalks, plaza lighting, drainage system, signage, site security technology, and the relocation of the LOVE statue.

III. Goals.

A. M/W/DSBE Participation Ranges.

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in the Project, the following participation ranges have been established. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable through the exercise of Best and Good Faith Efforts. These percentages relate to the good faith estimated cost of the Project. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g., MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The ranges are based upon an analysis of factors such as the size and scope of the improvements and the availability of MBEs, WBEs, DSBEs and DBEs to participate in the improvements:

The following contract goals have been set for the Project:

	MBE	WBE	DSBE
Professional Services	20%	5% - 15%	Best Efforts
Construction	25% - 30%	10% - 15%	Best Efforts

B. Employment Goals.

The following Construction contract goals have been set for the Project:

Goal	Percentage
	75%

The Love Park Plaza agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels³:

Minority Apprentices - 50% of all hours worked by all apprentices.

Minority Journeymen - 32% of all journey hours worked across all trades.

Female Apprentices - 7% of all hours worked by all apprentices.

Female Journeypersons - 2% of all hours worked across all trades.

IV. Responsiveness.

A. The Owner and relevant participants shall identify M/W/DSBE commitments and other agreements evidencing its intent to use Best and Good Faith efforts to employ minority persons and females at the levels stated herein. The identified commitments constitute a representation that the M/W/DSBE is capable of providing commercially useful goods or services relevant to the commitments and that the Owner and participants have entered into legally binding commitments or other legally binding agreements with the listed M/W/DSBEs for the work or supply effort described and the percentage amounts set forth. In calculating the percentage of M/W/DSBE participation, the standard mathematical rules apply in rounding off numbers.

B. M/W/DSBE commitments are to be memorialized in a written subcontract agreement. Letters of intent, quotations, contracts, subcontracts and any other documents evidencing commitments with M/W/DSBEs, including the M/W/DSBE Participation and Workforce Commitments Form, become part of and an exhibit to the Agreement.

C. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction of the Project to ensure that Best and Good Faith Efforts have been made.

V. Compliance and Monitoring of Best and Good Faith Efforts.

A. To the extent required by law, the Owner shall ensure that its on-site contractors maintain certified payrolls which include a breakout of hours worked by minority and female apprentices and journeypersons. These documents are subject to inspection by OEO.

B. Prompt Payment of M/W/DSBEs.

The Owner agrees and shall cause its contractors to ensure that M/W/DSBEs participating in the Project receive prompt payment for their work or supply effort within five (5) business days after receipt of a proper invoice following satisfactory performance.

C. Oversight Committee.

The Owner and the City of Philadelphia, in consultation with the appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, including representatives from the Owner, the Developer and/or the General Contractor and Construction

³ These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

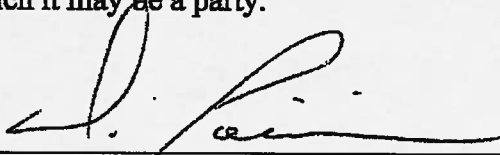
Manager, the Office of Economic Opportunity, City Council, community organizations and the Building Trades. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

D. Reporting.

The Owner agrees to file an annual report with the City of Philadelphia and City Council concerning the performance of the Economic Opportunity Plan through the duration of the Project. In addition, during construction, the Owner will provide "snapshot" reports containing updates for certain categories of information contained in its annual report on a monthly basis during construction. Snapshot reporting will include: (i) utilization of M/W/DSBEs and/or DBEs, and (ii) the hiring and employment of minorities and females. All reports (quarterly & annually) provided to the City under this section will also be provided to the Office of Economic Opportunity.

VI. Remedies and Penalties for Non-Compliance.

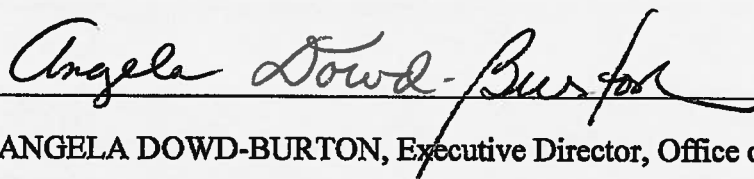
A. The Owner agrees that its compliance with the requirements of this Plan is material to the Agreement. Failure to comply with the Plan may constitute a substantial breach of the Agreement and is subject to the remedies and penalties contained therein or otherwise available at law or in equity. Notwithstanding the foregoing, no privity of contract exists between the City and any M/W/DSBE identified in any contract resulting from implementation of the Plan. Neither the Owner nor the City intends to give or confer upon any such M/W/DSBE any legal rights or remedies in connection with subcontracted services under any law or policy or by any reason of any contract resulting from implementation of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.



Doug Poirier - COO

Signature of Owner Representative⁴

DATE



2/18/2014

ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁵

DATE

⁴ The Owner's Representative is required to sign and date, but the City reserves the right to obtain the Owner's Representative signature thereon at any time prior to Plan certification. The Owner Representative will receive from the City a certified copy of its Plan which should be filed with the Chief Clerk of City Council within fifteen (15) days of the issuance and published by OEO, in a downloadable format, on the OEO website.

⁵ Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600.

Exhibit "C"
Economic Opportunity Plan – Love Park Parking Garage

**City of Philadelphia
Economic Opportunity Plan**

**Love Park Parking Garage
InterPark, LLC**

I. Introduction, Definitions and Goals.

The City of Philadelphia strongly encourages the use of certified Minority ("MBE"), Women ("WBE"), Disabled ("DSBE") and Disadvantaged¹ ("DBEs") Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers in various aspects of the design and construction of the development to be known as the Love Park Parking Garage (the "Project") at 15th and John F Kennedy Boulevard (the "Site"). In support of this objective, the City of Philadelphia will require that InterPark, LLC (the "Owner") of the Project commit to this Economic Opportunity Plan ("EOP" or "Plan").

This Plan contains ranges of projected M/W/DSBE utilization and goals for the employment of minority and female workers in connection with the Project at the Site. This Plan shall be a part of and incorporated into the resulting agreement(s) with the owners of the Love Park Parking Garage.

The Owner hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and take notice that the submission of false information is subject to the penalties of 18 PA C. S. Section 4904, relating to unsworn falsification to authorities and 18 PA C. S. Section 4107.2 (a)(4), relating to fraud in connection with minority business enterprises or women's business enterprises.

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II. Project Scope.

The Project consists of the design and renovation of the below grade garage at 15th and John F Kennedy Boulevard. Renovations include new elevators, glazed enclosed lobby, structural restoration, mechanical, electrical and plumbing repairs, American Disability Act upgrades and parking equipment.

III. Goals.

A. M/W/DSBE Participation Ranges.

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in the Project, the following participation ranges have been established. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable through the exercise of Best and Good Faith Efforts. These percentages relate to the good faith estimated cost of the Project. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g., MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The ranges are based upon an analysis of factors such as the size and scope of the improvements and the availability of MBEs, WBEs, DSBEs and DBEs to participate in the improvements:

The following contract goals have been set for the Project:

Contract	Minority-Owned	Female-Owned	Qualified/Owned
Professional Services	20%	5% - 15%	Best Efforts
Construction	25% - 30%	10% 15%	Best Efforts

B. Employment Goals.

The following Construction contract goals have been set for the Project:

Work - Residency and Operations
75%

The Love Park Parking Garage agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels³:

Minority Apprentices - 50% of all hours worked by all apprentices.

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C. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction of the Project to ensure that Best and Good Faith Efforts have been made.

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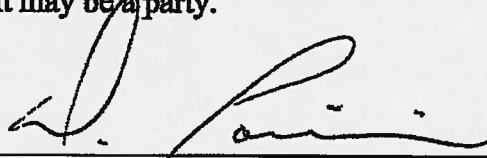
representatives from the Owner, the Developer and/or the General Contractor and Construction Manager, the Office of Economic Opportunity, City Council, community organizations and the Building Trades. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

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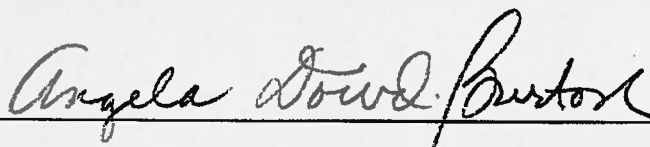
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Doug Poirier - COO

Signature of Owner Representative⁴

DATE



2/18/2014

ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁵

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⁴ The Owner's Representative is required to sign and date, but the City reserves the right to obtain the Owner's Representative signature thereon at any time prior to Plan certification. The Owner Representative will receive from the City a certified copy of its Plan which should be filed with the Chief Clerk of City Council within fifteen (15) days of the issuance and published by OEO, in a downloadable format, on the OEO website.

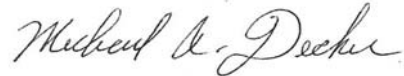
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City of Philadelphia

BILL NO. 130902 continued

Certified Copy

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