

## Legislation Text

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Authorizing the Parks and Recreation Commissioner to enter into an agreement to release and indemnify the Southeastern Pennsylvania Transportation Authority in connection with access provided by SEPTA to carry out a project for improvements to JFK Plaza, aka "Love Park," at 15th and JFK Boulevard, all under certain terms and conditions.

WHEREAS, the City is owner of that certain lot or parcel of ground and all of the improvements thereon bounded by 15th Street, John F. Kennedy Boulevard, 16th Street and Arch Street ("Property");

WHEREAS, the Property is improved by a park located on the surface, commonly known as "JFK Plaza" or "LOVE Park" ("Park"), which includes an existing welcome center ("Welcome Center"), and a 4-level underground parking garage;

WHEREAS, the City recorded in the Department of Records of the City of Philadelphia an Amended and Restated Declaration of Rights, Covenants, Easements and Restrictions ("Declaration") encumbering the Property, recorded on October 20, 2014, as Document 52840805. The Declaration describes the Property as being divided between the "Affected Area" and the "Southern Portion of the Park," each as defined in the Declaration;

WHEREAS, the Declaration further describes the Affected Area as being divided into three portions: the "Upper Park Area," the "Parking Garage" and the "Lower Park Area," each as defined in the Declaration;

WHEREAS, the portions of the Southern Portion of the Park and the Upper Park Area ("City Property") are under the control and jurisdiction of the City, acting through the Department of Parks and Recreation ("DPR");

WHEREAS, immediately after recording the Declaration, the City conveyed its fee interest in the Parking Garage to UGP- Love Park, LLC ("Garage Owner"), an affiliate of InterPark, LLC ("Developer"), pursuant to a Purchase and Sale Agreement dated as of June 26, 2014 ("Agreement of Sale");

WHEREAS, the City retained title to the Southern Portion of the Park, the Upper Park Area and the Lower Park Area;

WHEREAS, Garage Owner plans to repair and/or replace the waterproofing membrane forming the northernmost boundary of the Parking Garage and perform several other improvements to the Parking Garage ("Garage Project");

WHEREAS, the City and the Garage Owner entered into the Construction License for Elevator Project, the Construction License Agreement for Garage Project, and the Construction License Agreement for Park Project dated June 26, 2014 (the "Licenses") to permit the Garage Owner to access the City Property to complete the Garage Project, provided that Developer restores and improves the City Property ("Park Project");

WHEREAS, SEPTA owns property or has an interest in property through the City Transit Division Properties Lease Agreement Between The City of Philadelphia, acting through its Department of Public Property and Southeastern Pennsylvania Transportation Authority, dated July 15, 2014 and effective July 1, 2014 (“Lease”), authorized by City Council Bill No. 130630 (approved January 31, 2014), including but not limited to, a portion of the Suburban Station Commuter Rail Tunnel and Concourse (collectively, “SEPTA Property”) that is below the proposed location of work for the Park Project;

WHEREAS, the SEPTA Property is further depicted on Exhibit A, in the area marked “SEPTA (Below Grade)”;

WHEREAS, the Park Project will include, but is not limited to, the removal of the entire park surface, including all paving, planters, soils and surface amenities, including the fountain, down to the existing waterproofing membrane above the Parking Garage and the SEPTA Property;

WHEREAS, the City intends to reconstruct, remodel and/or improve the Welcome Center (“Welcome Center Project”) in the near future;

WHEREAS, the Welcome Center is depicted on Exhibit A, in the area marked “Existing Welcome Center”;

WHEREAS, the SEPTA Property is below the proposed location of work for the Welcome Center Project as depicted on Exhibit A in the area marked “SEPTA (Below Grade)”;

WHEREAS, the City and SEPTA wish to enter into one or more agreements to address certain matters related to improvements in or about the Park, the Welcome Center, the Park Project and the Welcome Center Project; now, therefore

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

SECTION 1. The Parks and Recreation Commissioner is hereby authorized to enter into an agreement for more than one year with the Southeastern Pennsylvania Transportation Authority (“SEPTA”) relating to access provided by SEPTA to the City and other parties for the purpose of carrying out the Park Project and making improvements to JFK Plaza, which agreement shall release and indemnify SEPTA for claims or losses in connection with the Park improvements.

SECTION 2. The City Solicitor is hereby authorized to review and to approve the agreement authorized by this Ordinance, which shall contain such terms and conditions as the City Solicitor shall deem necessary and proper to protect the interests of the City of Philadelphia and to carry out the purpose of this Ordinance.