

# City of Philadelphia



(Bill No. 100716)

## AN ORDINANCE

Authorizing Mt. Airy USA (MAUSA) to install, and the Mt. Airy Business Improvement District (MABID) to own and maintain, four benches on the east and west footway of Germantown Avenue, from Mt. Airy Avenue to East Phil-Ellena Street, and two benches on the south footway of the unit block of West Mt. Pleasant Avenue, all under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to MAUSA to install and MABID to own and maintain the following streetscape improvements:

- (a) Six (6) ground mounted metal benches will be six feet (6') long, up to thirty-two inches (32") tall, and twenty-eight inches (28") deep.

One (1) bench on the east footway of Germantown Avenue leaving a clear footway of at least seven feet six inches (7'-6"). The bench is centered at the following distance:

- (i.) One hundred thirteen feet (113') south of south curb line of Slocum Street.

One (1) bench on the west footway of Germantown Avenue leaving a clear footway of at least seven feet six inches (7'-6"). The bench is centered at the following distance:

- (i.) One hundred eight feet (108') south of south curb line of Carpenter Street.

One (1) bench on the west footway of Germantown Avenue leaving a clear footway of at least nine feet (9'). The bench is centered at the following distance:

- (i.) Nineteen feet (19') north of north curb line of Sedgwick Street.

Two (2) benches on the south footway of Mt. Pleasant Avenue leaving a clear footway of at least seven feet six inches (7'-6"). The benches are centered at the following distances:

- (i.) Thirty feet (30') west of west curb line of Germantown Avenue.

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- (ii.) Forty three feet (43') west of the west curb line of Germantown Avenue.

One (1) bench on the west footway of Germantown Avenue leaving a clear footway of at least eight feet six inches (8'-6"). The bench is centered at the following distance:

- (i.) Twenty feet (20') north of north curb line of West Durham Street.

The exact number, type and location of the streetscape improvements are identified on plans that have been supplied to the Department of Streets for review and have been approved. The Department of Streets will maintain the authority to review and approve the location of each proposed streetscape improvement prior to installation.

SECTION 2. Before exercising any rights or privileges under this Ordinance, MAUSA must first obtain, or have its contractor obtain, all required permits, licenses and approvals from all appropriate City departments, boards, agencies or commissions. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted, it being the express intent of this Ordinance not to supersede any other provision of law governing the issuance of such permits, licenses or approvals. Before exercising any rights or privileges under this Ordinance, MAUSA shall enter into an agreement ("Agreement") with the appropriate City department(s), in form satisfactory to the Law Department, to provide that MAUSA shall, *inter alia*:

- (a) secure, or have its contractor secure, all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law;
- (b) insure that all construction contractors for the streetscape improvements carry public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the Law Department; and
- (c) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the installation of the streetscape improvements authorized in Section 1.

SECTION 3. Before exercising any rights or privileges under this Ordinance, MABID shall enter into an agreement ("Agreement") with the appropriate City department(s), in form satisfactory to the Law Department, to provide that MABID shall, *inter alia*:

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- (a) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law;
- (b) carry public liability and property damage insurance that covers the streetscape improvements authorized to be constructed within the public right-of-way in Section 1, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department. Alternatively, if approved by the City of Philadelphia Office of Risk Management, furnish the City with documentation in a form acceptable to the Law Department acknowledging that MABID is self insured and will protect the City against liability for property damages and liability for injuries or death to persons, including injuries to employees of MABID as a result of ownership, construction, maintenance or removal of the streetscape improvements described in Section 1;
- (c) remove or relocate any or all of the encroachments described in Section 1 of this Ordinance from the public right-of-way within sixty (60) days after lawful service of notice by the City of Philadelphia;
- (d) remove any of the encroachments described in Section 1 of this Ordinance from the public right-of-way pursuant to the applicable City specifications within sixty (60) days when the encroachment is no longer used for the purpose authorized by this Ordinance;
- (e) give the City and all public utility companies the right-of-access, ingress and egress for the purpose of inspection, maintenance, alteration, relocation or reconstruction of any of their respective facilities which may lie within the public footway adjacent to the streetscape improvements described in Section 1.

SECTION 4. The Law Department shall include in the Agreement such other terms and provisions as shall be deemed necessary to protect the interest of the City of Philadelphia.

SECTION 5. The permission to MAUSA to install and the permission to MABID own and maintain the streetscape improvements described in Section 1 shall expire without any further action by the City of Philadelphia if MAUSA and MABID have not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Sections 2 and 3 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 6. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 9, 2010. The Bill was Signed by the Mayor on January 5, 2011.



Michael A. Decker  
Chief Clerk of the City Council