

City of Philadelphia



(Bill No. 110380)

AN ORDINANCE

Authorizing the Hispanic Association of Contractors and Enterprises (HACE) Community Development Corporation, 167 West Allegheny Avenue, Philadelphia, PA 19140, to construct, own and maintain six trash receptacles and twelve artificial palm trees, on the east and west footway of North Fifth Street, from Lehigh Avenue to Indiana Avenue, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to HACE Community Development Corporation to construct, own and maintain the following streetscape improvements on the east and west footways along Fifth Street from Lehigh Avenue to Indiana Avenue (the “Encroachment”), as follows:

a. Six (6) trash receptacles will be placed within the project limits:

- One (1) trash receptacle on the west footway of Fifth Street leaving a clear footway of nine feet (9’). The following distance is measured from the north of the north curb line of Lehigh Avenue: two hundred and sixty-five feet (265’).
- One (1) trash receptacle on the east footway of Fifth Street leaving a clear footway of nine feet (9’). The following distance is measured from the north of the north curb line of Lehigh Avenue: two hundred and sixty-five feet (265’).
- One (1) trash receptacle on the west footway of Fifth Street leaving a clear footway of nine feet (9’). The following distance is measured from the north of the north curb line of Somerset Avenue: two hundred and sixty-five feet (265’).
- One (1) trash receptacle on the east footway of Fifth Street leaving a clear footway of nine feet (9’). The following distance is measured from the north of the north curb line of Somerset Avenue: two hundred and sixty-five feet (265’).

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- One (1) trash receptacle on the west footway of Fifth Street leaving a clear footway of nine feet (9'). The following distance is measured from the north of the north curb line of Cambria Avenue: two hundred and sixty-five feet (265').
 - One (1) trash receptacle on the east footway of Fifth Street leaving a clear footway of nine feet (9'). The following distance is measured from the north of the north curb line of Cambria Avenue: two hundred and sixty-five feet (265').
- b. Twelve (12) artificial palm trees, fourteen inches (14") in diameter, ranging in height from ten feet (10') to sixteen feet (16'), will be placed at least two feet (2') off the curb.
- One (1) group of three (3) artificial palm trees will be placed on the north walkway of Lehigh Avenue leaving a clear footway of thirteen feet (13'). The following distance is measured from the west of the west curbline of Lehigh Avenue to the center of the grouping: twenty-seven feet (27').
 - One (1) group of three (3) artificial palm trees will be placed on the north walkway of Lehigh Avenue leaving a clear footway of thirteen feet (13'). The following distance is measured from the east of the east curbline of Lehigh Avenue to the center of the grouping: twenty-eight feet (28').
 - One (1) group of three (3) artificial palm trees will be placed on the south walkway of Lehigh Avenue leaving a clear footway of eleven feet (11'). The following distance is measured from the west of the west curbline of Lehigh Avenue to the center of the grouping: thirty-three feet (33').
 - One (1) group of three (3) artificial palm trees will be placed on the south walkway of Lehigh Avenue leaving a clear footway of nine feet (9'). The following distance is measured from the east of the east curbline of Lehigh Avenue to the center of the grouping: thirty-three feet (33').

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 streetscape improvement prior to installation.

SECTION 2. Before exercising any rights or privileges under this Ordinance, HACE Community Development Corporation must first obtain all required permits, licenses and

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approvals from all appropriate 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. In addition, before exercising any rights or privileges under this Ordinance, HACE Community Development Corporation shall enter into an agreement (“Agreement”) with the appropriate City department(s), satisfactory to the Law Department, to provide that HACE Community Development Corporation shall, *inter alia*:

- (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) 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 construction of the streetscape improvements;
- (c) carry public liability and property damage insurance that covers 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 HACE Community Development Corporation 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 HACE Community Development Corporation as a result of ownership, construction, maintenance, and removal of the trash receptacles and artificial metal palm trees described in Section 1;
- (d) remove or relocate any or all of the streetscape improvements authorized by 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;
- (e) remove any or all of the streetscape improvements authorized by Section 1 of this Ordinance from the public right-of-way pursuant to the applicable City specifications within sixty (60) days when any of the streetscape improvements described in Section 1 are no longer used for the purpose authorized by this Ordinance;
- (f) insure that all construction contractors for the streetscape improvements carry public liability and property damage insurance, naming the City of

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Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the Law Department; and

- (g) 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 3. 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 4. The permission granted by this Ordinance shall automatically terminate without any further legislative action by the City of Philadelphia when the streetscape improvements authorized by Section 1 of this Ordinance are no longer being used by HACE Community Development Corporation for the purpose authorized by this Ordinance.

SECTION 5. The permission granted to HACE Community Development Corporation to construct, own and maintain the streetscape improvements described in Section 1 shall expire without any further action by the City of Philadelphia if HACE Community Development Corporation has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 2 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 costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

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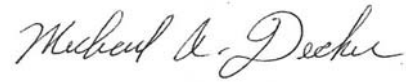
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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 16, 2011. The Bill was Signed by the Mayor on July 19, 2011.



Michael A. Decker
Chief Clerk of the City Council