

# City of Philadelphia



(Bill No. 100684)

## AN ORDINANCE

Authorizing the Pennsylvania Academy of the Fine Arts, located at 128 North Broad Street, to construct, own and maintain various encroachments in the right-of-way on the west side of North Broad Street between Arch and Race Streets, the east side of North Carlisle Street between Cherry and Race Streets, and the south side of Cherry Street between North Carlisle and Burns Streets, under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to the Pennsylvania Academy of the Fine Arts to construct, own and maintain various right-of-way encroachments as follows:

Broad Street Sculpture, Upper Projection – this encroachment will be approximately twenty-seven feet seven inches (27' – 7") in length, approximately fifty feet (50' – 0") in height, project approximately thirteen feet three inches (13' – 3") into the right-of-way over the west sidewalk of North Broad Street, and will begin approximately nineteen feet (19' – 0") above the sidewalk level. The overhang begins approximately three hundred nineteen feet six inches (319' – 6") south of the south curb line of Race Street.

Broad Street Sculpture, Lower Projection – this encroachment will be approximately eight feet nine inches (8' – 9") in length, approximately eight feet eight inches (8' – 8") in height, project approximately four feet two and one-half inches (4' – 2.5") into the right-of-way of the west sidewalk of North Broad Street, and will be located at grade level on the sidewalk. The encroachment begins approximately three hundred eighteen feet three inches (318' – 3") south of the south curb line of Race Street.

Broad Street Sidewalk Lighting – up to ten (10) separate encroachments, consisting of flush-mounted, in-grade LED lighting fixtures, constitute the Broad Street Sidewalk Lighting. Each LED light fixture will range in size from two and one-half inches (2.5") to four inches (4") in diameter and will be flush-mounted within the sidewalk paving. All lighting fixtures will be located within a rectangular area, approximately twenty feet (20' – 0") wide, and projecting approximately nine feet nine and one-half inches (9' – 9.5") into the right-of-way. The rectangular area containing these encroachments begins approximately three hundred twelve feet nine inches (312' – 9") south of the south curb line of Race Street.

Broad Street Building Lighting – two (2) separate encroachments, consisting of flush-mounted, in-grade halide light fixtures, constitute the Broad Street Building Lighting. Each halide light fixture will be approximately thirteen inches (13") in diameter and will

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be flush-mounted within the sidewalk paving, with light focused on the adjacent building. The lighting fixtures will be spaced approximately two feet (2' – 0") from each other and will be located within a rectangular area, approximately one foot six inches (1' – 6") wide, and projecting from the property line approximately two feet four inches (2' – 4") into the right-of-way. The rectangular area containing these encroachments begins approximately three hundred sixty-four feet eight inches (364' – 8") south of the south curb line of Race Street.

Broad Street Sidewalk Bollards – up to five (5) separate encroachments, consisting of stainless steel bollards, constitute the Broad Street Sidewalk Bollards. Each bollard will be approximately eight inches (8") in diameter and approximately forty-two inches (42") in height, mounted at grade level on the sidewalk paving. All bollards will be spaced approximately eight feet (8' – 0") from each other and will be located fully within the warning strip of a wide ADA pedestrian ramp, within a rectangular area approximately thirty-five feet (35' – 0") long and two feet (2' – 0") wide. The rectangular area containing these encroachments begins approximately three hundred fourteen feet three inches (314' – 3") south of the south curb line of Race Street.

Broad Street Sidewalk Planters – up to thirteen (13) separate encroachments, consisting of sidewalk-mounted planters, constitute the Broad Street Sidewalk Planters. Each planter will range from approximately thirty inches (30") to fifty-one inches (51") in diameter, and will range from approximately two feet three and one-half inches (2' – 3.5") to three feet eleven inches (3' – 11") in height, with all planters mounted at grade level on the sidewalk paving. Spacing between planters will vary to accommodate other sidewalk objects, but planters will be spaced a minimum of nine feet (9' – 0") from each other. The planter encroachments will be located to the north and to the south of an ADA pedestrian ramp, within a rectangular area approximately two hundred seventy-five feet (275' – 0") long, beginning at the west curb line of North Broad Street and extending inward into the sidewalk a width of six feet (6' – 0"). The rectangular area containing these encroachments begins approximately one hundred sixty-seven feet (167' – 0") south of the south curb line of Race Street.

Carlisle Street Sidewalk Lighting – up to four (4) separate encroachments, consisting of flush-mounted, in-grade LED lighting fixtures, constitute the Carlisle Street Sidewalk Lighting. Each LED light fixture will range in size from two and one-half inches (2.5") to four inches (4") in diameter and will be flush-mounted within the sidewalk paving. All lighting fixtures will be located within a rectangular area, approximately twenty feet (20' – 0") wide, and projecting approximately two feet eleven inches (2' – 11") into the right-of-way. The rectangular area containing these encroachments begins approximately three hundred thirteen feet (313' – 0") south of the south curb line of Race Street.

Carlisle Street Sidewalk Bollards – up to three (3) separate encroachments, consisting of stainless steel bollards, constitute the Carlisle Street Sidewalk Bollards. Each bollard will be approximately eight inches (8") in diameter and approximately forty-two inches (42")

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in height, mounted at grade level on the sidewalk paving. All bollards will be spaced approximately eight feet (8' – 0") from each other and will be located within a rectangular area approximately twenty feet (20' – 0") long, beginning at the east curb line of North Carlisle Street and extending inward into the sidewalk a width of two feet two inches (2' – 2"). The rectangular area containing these encroachments begins approximately three hundred sixteen feet six inches (316' – 6") south of the south curb line of Race Street.

Cherry Street Building Lighting – three (3) separate encroachments, consisting of flush-mounted, in-grade halide light fixtures, constitute the Cherry Street Building Lighting. Each halide light fixture will be approximately thirteen inches (13") in diameter and will be flush-mounted within the sidewalk paving, with light focused on the adjacent building. The lighting fixtures will be spaced a minimum of fourteen feet (14' – 0") from each other and will be located within a rectangular area, approximately two feet (2' – 0") wide, and projecting from the property line approximately five feet (5' – 0") into the right-of-way. The rectangular area containing these encroachments begins approximately forty-two feet (42' – 0") east of the east curb line of Burns Street.

Cherry Street Sidewalk Bollards – up to eight (8) separate encroachments, consisting of stainless steel bollards, constitute the Cherry Street Sidewalk Bollards. Each bollard will be approximately eight inches (8") in diameter and approximately forty-two inches (42") in height, mounted at grade level on the sidewalk paving. All bollards will be spaced a minimum of seven feet (7' – 0") from each other and will be located within a rectangular area approximately fifty feet (50' – 0") long, beginning at the south curb line of Cherry Street and extending inward into the sidewalk a width of two feet two inches (2' – 2"). The rectangular area containing these encroachments begins approximately two feet six inches (2' – 6") east of the east curb line of Burns Street.

Cherry Street Ash Urn – this encroachment will be approximately ten inches (10") in diameter, approximately thirty-six inches (36") in height, will be located at grade level on the sidewalk, and will be centered on a point in the right-of-way located approximately two feet six and one-half inches (2' – 6.5") north of the property line and twenty-nine feet six inches (29' – 6") east of the east curb line of Burns Street.

SECTION 2. Before exercising any rights or privileges under this Ordinance, the Pennsylvania Academy of the Fine Arts must first obtain or have its contractor(s) obtain all required permits, licenses and 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, the Pennsylvania Academy of the Fine Arts shall enter into an agreement ("Agreement")

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with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that the Pennsylvania Academy of the Fine Arts, shall, *inter alia*:

- (a) upon one hundred and eighty (180) days notice from the City, remove the encroachments described in Section 1 without cost or expense to the City and shall remove the encroachments described in Section 1 at no cost or expense to the City of Philadelphia when given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal sponsored construction project;
- (b) furnish the City with either a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the City Solicitor to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance or use of the encroachments described in Section 1 or their removal, or in lieu thereof, submit documentation in form and content acceptable to the City that the Pennsylvania Academy of the Fine Arts self-assumes the liabilities and obligations normally covered by the Surety Bond;
- (c) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law. 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;
- (d) assume the costs of all changes and adjustments to, and relocation or abandonment of, City utilities and City structures wherever located as may be necessary by the reason of the construction or removal of the encroachments described in Section 1;
- (e) carry public liability and property damage insurance, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that the Pennsylvania Academy of the Fine Arts is self-insured and is providing the City of Philadelphia the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;
- (f) insure that all construction contractors for the encroachments described in Section 1 carry public liability and property damage insurance, naming the

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City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the City Solicitor; 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 right-of-way of any affected streets.

SECTION 3. The construction, use and maintenance of the various encroachments described in Section 1 shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections and the Department of Streets, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 4. The City Solicitor shall include in the Agreement such other terms and conditions deemed necessary to protect the interests of the City.

SECTION 5. The permission granted to the Pennsylvania Academy of the Fine Arts to construct, own and maintain the encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if the Pennsylvania Academy of the Fine Arts has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 4 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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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