

# City of Philadelphia



(Bill No. 230445)

## AN ORDINANCE

Authorizing Brandywine Realty Trust to construct, own and maintain various right-of way encroachments at 3001-03 John F. Kennedy Boulevard, 3025 John F. Kennedy Boulevard, 3025-53 Market Street, and 3101-57 Market Street (Rear), all under certain terms and conditions.

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

### SECTION 1.

PART 1. Permission is hereby granted to Brandywine Realty Trust, by and through Brandywine Operating Partnership, L.P. or a wholly-owned subsidiary thereof, on behalf of Drexel University (“Drexel”), to install, own, and maintain encroachments at 3001 John F. Kennedy Boulevard, Philadelphia, PA 19104 and 3151 Market Street, Philadelphia, PA 19104 as specified in the Encroachment Descriptions below ( the “Encroachments”), subject to all restrictions set forth in this ordinance.

#### *3001-03 John F. Kennedy Boulevard*

Planters (6): Six (6) proposed planters adjacent to the 3001 John F. Kennedy Boulevard, located along the north curblineline of John F. Kennedy Boulevard, from a point approximately two hundred and thirty-three feet five inches (233’-5”) west of the 30<sup>th</sup> Street west curblineline to a point approximately one hundred ninety-seven feet one inch (197’-1”) farther west and encroaching upon the north footway of John F. Kennedy Boulevard starting at a point offset two feet (2’-0”) to a point six feet (6’ -0”) farther north.

Each planter is six feet (6’-0”) in length, six feet (6’ -0”) in width, and four feet (4’ -0”) in height.

A minimum of six feet four inches (6’-4”) of clear passable sidewalk space is to remain after installation.

#### *3101R Market Street*

Planters (10): Ten (10) proposed planters adjacent to 3101R Market Street, located along the south curblineline of John F. Kennedy Boulevard, from a point approximately two hundred and fifteen feet four inches (215’-4”) east of the John F. Kennedy Boulevard east curblineline to a point approximately three hundred and eleven feet (311’-0”) farther east and encroaching upon the south footway of John F. Kennedy Boulevard starting at a point offset two feet (2’-0”) to a point six feet (6’-0”) farther south.

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Each planter is six feet (6'-0") in length, six feet (6'-0") in width, and four feet (4'-0") in height.

A minimum of eight feet (8'-0") of clear passable sidewalk space is to remain after installation.

PART 2. Permission is hereby granted to Brandywine Realty Trust, by and through Brandywine Operating Partnership, L.P. or a wholly-owned subsidiary thereof, on behalf of Drexel and Brandywine 3025 JFK LP ("Brandywine") (together, "Drexel and Brandywine"), to install, own, and maintain encroachments at 3025 John F. Kennedy Boulevard, Philadelphia, PA 19104 as specified in the Encroachment Descriptions below ( the "Encroachments"), subject to all restrictions set forth in this ordinance.

## *3025 John F. Kennedy Boulevard*

Waste Receptacle Bins: A total of six (6) separate waste receptacles, placed in groups of two (2), will be placed along the north sidewalk of John F. Kennedy Boulevard along the property frontage of 3025 John F. Kennedy Boulevard, as shown on plans to be approved by the Department of Streets, placed a minimum two feet (2') north of the north John F. Kennedy curb line. The waste receptacles will be a maximum dimension of approximately twenty-one inches in diameter (21") and thirty-six and one sixteenth inches (36-1/16") in height. The waste receptacle bins will start from a point thirty-six feet (36'-0") east of the west property line of 3025 John F. Kennedy Boulevard and will continue along a straight line at the following intervals: approximately one hundred fifteen feet eight inches (115'-8") from the center line of the first two (2) waste receptacles to the second two (2) waste receptacles; and approximately one hundred three feet ten inches (103'-10") from the center line of the second two (2) waste receptacles to the third two (2) waste receptacles. A minimum ten feet six inches (10'-6") of clear passable sidewalk walking zone shall remain after installation.

Planters (8): Eight (8) proposed planters adjacent to 3025 John F. Kennedy Boulevard, located along the north curblineline of John F. Kennedy Boulevard, from a point approximately three hundred and five feet ten inches (305'-10") east of the John F. Kennedy Boulevard west curblineline to a point approximately one hundred ninety-four feet eleven inches (194'-11") farther east and encroaching upon the north footway of John F. Kennedy Boulevard starting at a point offset two feet (2'-0") to a point six feet (6'-0") farther north.

Each planter is six feet (6'-0") in length, six feet (6'-0") in width, and four feet (4'-0") in height.

A minimum of six feet four inches (6'-4") of clear passable sidewalk space is to remain after installation.

PART 3. Permission is hereby granted to Brandywine Realty Trust, by and through Brandywine Operating Partnership, L.P. or a wholly-owned subsidiary thereof, on behalf of Academic Properties, Inc. ("API"), to install, own, and maintain encroachments at 3025-53 Market Street, Philadelphia, PA 19104 as specified in the Encroachment Description below ( the "Encroachments"), subject to all restrictions set forth in this ordinance.

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## *3025-53 Market Street*

Planters (3): Three (3) proposed planters adjacent to 3025-53 Market Street, located along the south curblin of John F. Kennedy Boulevard, from a point approximately two hundred and ninety-three feet ten inches (293'-10") west of the 30<sup>th</sup> Street west curblin to a point approximately eighty-seven feet nine inches (87'-9") farther west and encroaching upon the south footway of John F. Kennedy Boulevard starting at a point offset two feet (2'-0") to a point six feet (6' -0") farther south.

Each planter is six feet (6'-0") in length, six feet (6' -0") in width, and four feet (4' -0") in height.

A minimum eight feet (8' -0") of clear passable sidewalk space is to remain after installation.

SECTION 2. The permissions described in Section 1 are conditioned upon the continued validity of the ground leases or, as it pertains to 3101R Market Street, the license, executed between Brandywine Operating Partnership, L.P. (or a wholly-owned subsidiary thereof) on the one hand and Drexel or API on the other hand, for the premises described above. The memorandum of leases are public record and are referenced at Document ID No. 53283063 (as to 3025-53 Market Street), Document No. 53342863 (as to 3001-03 John F. Kennedy Boulevard, Document I.D. No. 53388513 (as to 3025 John F. Kennedy Boulevard). The license is attached hereto as Exhibit "A." Upon termination of a referenced lease or license, ownership shall revert to the owner(s) in fee of the respective adjacent property, provided however that the termination of one lease or license shall not affect the ownership of an Encroachment adjacent to a property subject to a different lease or license.

SECTION 3. The construction, use and maintenance of the Encroachments described and listed 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, the Department of Streets, and the Art Commission 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. Before exercising any rights or privileges under this Ordinance, Brandywine Realty Trust, its affiliates, agents and/or assigns, 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 and privileges under this Ordinance, Brandywine Realty Trust shall enter into an agreement

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("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Brandywine Realty Trust *inter alia*:

(a) Maintains and keeps in good repair and working order the Encroachments to the satisfaction of the Streets Department;

(b) agrees that upon one hundred and eighty (180) days notice from the City, it shall remove the Encroachment(s) at no cost and 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;

(c) shall 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) shall 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 of the Encroachments;

(e) shall 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 Owner 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) shall insure that all construction contractors for the Encroachments 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 City Solicitor;

(g) shall 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 Encroachments described in Section 1;

(h) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachments. Owner shall also agree to release the City from any and all claims relating to the Encroachments, including if ordered removed or when street, sidewalk or utility construction occurs; and

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(i) 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 Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreements, or in lieu thereof, submit documentation in a form and content acceptable to the City that the Owners self-assume the liabilities and obligations normally covered by the Surety Bond.

SECTION 5. The City Solicitor shall include in the Agreements such other terms and conditions as shall be deemed necessary to protect the interests of the City.

SECTION 6. The permission granted to Brandywine Realty Trust to construct, own and maintain the Encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Brandywine Realty Trust has not entered into an Agreement and satisfied all requirements of the Agreements that are listed in Section 3 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 7. 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 one-hundred and twenty (120) 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 October 26, 2023. The Bill was Signed by the Mayor on November 13, 2023.



Michael A. Decker  
Chief Clerk of the City Council