

City of Philadelphia



(Bill No. 030345)

AN ORDINANCE

Authorizing National Constitution Center, Bourse Building, Suite 560, 111 S. Independence Mall East, Philadelphia, PA, 19106, lessee of the property on the east side of Independence Mall West (formerly North Sixth street) and the west side of Independence Mall East (formerly North Fifth street), Philadelphia, PA 19106, its successors and assigns to construct, own and maintain the National Constitution Center encroachment on the east footway of Independence Mall West and a retaining fence/wall encroachment on the west footway of Independence Mall East, under certain terms and conditions.

WHEREAS, The United States of America acting by and through the Department of Interior, is the owner of property on the east side of Independence Mall West (formerly North Sixth street) and the west side of Independence Mall East (formerly North Fifth street), Philadelphia, PA and has entered into a ninety-nine (99) year lease with the National Constitution Center; and

WHEREAS, the National Constitution Center has requested permission to construct, own and maintain the National Constitution Center encroachment on the east footway of Independence Mall West and a retaining fence/wall encroachment on the west footway of Independence Mall East; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The National Constitution Center, its successors and assigns, is hereby authorized to construct, own and maintain the following structures:

(a) Building Encroachment- Beginning at a point located approximately three hundred and thirteen feet (313') south of the south curblineline of Race street and fifteen feet eight inches (15'-8") east of the east curblineline of Independence Mall West, the face of the building, approximately sixty one feet (61') high, encroaches onto the east footway of Independence Mall West approximately two feet four inches (2'-4").

The toe of the footing extends westward from the face of the building wall an additional two feet (2') at this location and encroaches approximately four feet four inches (4'-4") beneath the footway.

The face of the building proceeds southward for approximately two hundred and seventy nine feet (279') to a point located approximately five hundred and

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ninety two feet (592') south of the south curbline of Race street and sixteen feet six inches (16'-6") east of the east curbline of Independence Mall West.

The face of the building, approximately sixty one feet (61') high, encroaches onto the east face of the building wall an additional two feet (2') at this location and encroaches approximately three feet six inches (3'-6") beneath the footway.

The face of the building turns approximately ninety degrees (90°) and proceeds eastward for approximately one foot six inches (1'-6") into the property at 501 Arch street.

(b) Retaining Fence/Wall- Beginning at a point located approximately thirty four feet (34') south of the south curbline of Race street and twelve feet eight inches (12'-8") west of the west curbline of Independence Mall East, the wall, which is approximately eighteen inches (18") wide by six feet (6') high, encroaches on the west footway of Independence Mall East for approximately five feet four inches (5'-4").

The wall proceeds southward for approximately three hundred and four feet (304') to a point located approximately three hundred and thirty eight feet (338') south of the south curbline of Race street and twelve feet (12') west of the west curbline of Independence Mall East. The wall, which is approximately eighteen inches (18") wide by three feet (3') high, encroaches on the west footway of Independence Mall East for approximately six feet (6').

The wall turns approximately ninety degrees (90°) and proceeds westward for approximately eight feet (8') into the property on 501 Arch street.

SECTION 2. The construction, use and maintenance of the National Constitution Center encroachment on the east footway of Independence Mall West and retaining fence/wall encroachment on the west footway of Independence Mall East 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.

SECTION 3. Before exercising any rights or privileges under this Ordinance, the National Constitution Center must first obtain or have their 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, the National Constitution Center shall enter into an agreement ("Agreement") with the appropriate

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City department or departments, in a form satisfactory to the Law Department, to provide that the National Constitution Center shall, *inter alia*:

- (a) agree that upon one hundred and eighty (180) days notice from the City, it shall remove the National Constitution Center encroachment and retaining fence/wall encroachment without cost or expense to the City and shall restore the cartway and footways 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;
- (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 Law Department 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 National Constitution Center encroachment and retaining fence/wall encroachment or its removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that the national Constitution Center self-assumes liabilities and obligations normally covered by 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 of the National Constitution Center encroachment and retaining fence/wall encroachment;
- (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 Law Department, or in lieu thereof, submit documentation in form and content acceptable to the City that the National Constitution Center 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;

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- (f) insure that all construction contractors for the National Constitution Center encroachment and retaining fence/wall encroachment 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
- (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 the National Constitution Center.

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

SECTION 5. The permission granted to the National Constitution Center to construct, own and maintain the National Constitution Center encroachment and retaining fence/wall encroachment described in Section 1 shall expire without any further action by the City of Philadelphia if National Constitution Center has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 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 June 5, 2003. The Bill was Signed by the Mayor on July 31, 2003.



Patricia Rafferty
Chief Clerk of the City Council