

City of Philadelphia



(Bill No. 030390)

AN ORDINANCE

Granting permission to SunGard Availability Services Inc., 401 North Broad Street, Philadelphia, PA 19108, to construct, own, use and maintain a concrete conduit bank housing electrical cables and private telecommunications facilities, under and across Noble street, east of Broad street; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to SunGard Availability Services Inc. to construct, own, use and maintain a concrete conduit bank housing electrical cables and private telecommunications facilities, under and across Noble street, east of Broad street beginning at a point approximately 127 feet east of the east curb line of Broad street at the south property line of Noble street and extending to a point 10 feet north of the north curb line of Noble street to the north property line of Noble street, at a depth varying from a minimum of three feet to a maximum of three feet six inches. The concrete conduit bank will be approximately one foot, two inches (1' 2") wide and six inches (6") high, and will contain two (2) one and one half inch (1½") conduits.

The construction, use and maintenance of said conduit bank 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, Department of Streets, and Department of Public Property, now in force and/or which hereafter may be promulgated.

SECTION 2. Before exercising any rights and privileges under this Ordinance, SunGard Availability Services Inc. must first 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. In addition, before exercising any rights or privileges under this Ordinance, SunGard Availability Services Inc. shall enter into an agreement ("Agreement") with the appropriate City department(s), in form satisfactory to the City Solicitor, to provide that SunGard Availability Services Inc. shall, *inter alia*:

(a) furnish the City with a bond with a corporate surety in the amount and in form satisfactory to the City Solicitor to insure compliance with all the terms and conditions of this Ordinance and the Agreement and to protect and to indemnify the City from all damages or claims for damages which may arise directly or indirectly as a result

City of Philadelphia

BILL NO. 030390 continued

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of the installation, use and maintenance of the facilities authorized by Section 1 of this Ordinance;

(b) 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;

(c) assume the cost of all changes or adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary for the installation of the conduit bank authorized by Section 1 of this Ordinance;

(d) 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;

(e) insure that the conduit bank authorized by Section 1 is installed at the location set forth in Section 1, provided that the Streets Department, in its sole unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice;

(f) remove any or all of the facilities 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;

(g) remove the conduit bank from the public right-of-way pursuant to the applicable City specifications within sixty (60) days when the conduit bank and its electrical and telecommunications cables are no longer used for the purpose authorized by this Ordinance; and

(h) obtain confirmation in a form acceptable to the City Solicitor from the owner(s) of the properties on the north and south sides of Noble street where the conduit bank will be installed, that they have no objection to the conduit bank being installed at their properties.

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 facilities authorized by Section 1 of this Ordinance are no longer being used by SunGard Availability Services Inc. for the purpose authorized by this Ordinance.

City of Philadelphia

BILL NO. 030390 continued

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SECTION 5. The permission granted to SunGard Availability Services Inc. to construct, use and maintain the facilities authorized by Section 1 of this Ordinance shall expire without any further action by the City of Philadelphia if SunGard Availability Services Inc. has not entered into the 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 the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

City of Philadelphia

BILL NO. 030390 continued

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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