

# City of Philadelphia



(Bill No. 190901)

## AN ORDINANCE

Authorizing MMB Contractors, Inc. ("Owner") to construct, own and maintain hardscaped patios, an accessible ramp, and planter boxes at 2225 Spring Garden Street, Philadelphia, PA ("Property"), under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to Owner to construct, own and maintain a hardscaped patios, an accessible ramp, and planter boxes at the Property ("Encroachments") as follows:

#### Encroachment Description:

Remove existing concrete patio on the east and west side accessible entrance, and replace with new decorative patios to the east and west of accessible entrance, surrounded by planter boxes, while maintaining a 10' Walking Zone and 4' Furnishing Zone in accordance with The Philadelphia Code Chapter 11-901 and Complete Streets standards.

SECTION 2. 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 & Inspections and the Department of Streets, provided that the Department of Streets, in its sole discretion, may allow minor variations of the dimension limits set forth in Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner 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, Owner shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner will comply with the following:

- (a) agrees that upon one hundred and eighty (180) days' notice from the City, it shall remove the Encroachment without cost or expense to the City and shall remove the Encroachment 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;

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(b) shall 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 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;

(c) shall assume the cost of all changes and adjustments to, and relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the placement of the Encroachments;

(d) shall carry public liability and property damage insurance that covers the Encroachments and lists the City of Philadelphia as an additional insured 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;

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

(f) 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 Encroachment described in Section 1; and

(g) 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 Encroachment. Owner shall also agree to release the City from any and all claims relating to the Encroachment, including if ordered removed or when street, sidewalk or utility construction occurs.

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

SECTION 5. The permission granted to Owner to install, own and maintain the Encroachments will expire without any further action by the City of Philadelphia if Owner 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.

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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 December 12, 2019. The Bill was Signed by the Mayor on December 30, 2019.



Michael A. Decker  
Chief Clerk of the City Council