

Legislation Text

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Authorizing the Commissioner of Public Property and the Executive Director of Fairmount Park to enter into an air rights license agreement with Main Street Partners, LP allowing Main Street Properties, LP to construct a deck over a certain portion of the Manayunk Canal Towpath at 2 Rector Street under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property and the Executive Director of Fairmount Park are hereby authorized to enter into an air rights license agreement with Main Street Partners, LP allowing Main Street Properties, LP to construct a deck over a certain portion of the Manayunk Canal Towpath at a property located at 2 Rector Street under certain terms and conditions.

SECTION 2. The terms of the proposed air rights license agreement shall be substantially similar to the terms set forth in Terms Sheet attached hereto as Exhibit "1", with such changes as the City Solicitor deems necessary or appropriate to protect the interests of the City.

EXHIBIT "1"

TERMS FOR PROPOSED AIR RIGHTS LICENSE AGREEMENT

- 1. **Licensor:** City of Philadelphia/Fairmount Park Commission
Licensee: Main Street Properties, LP
- 2. **Property Address/Deck** Bourbon Blue, 2 Rector Street in Manayunk. Deck **Location of Deck** to be located above the Manayunk canal towpath.
- 3. **Size of Deck:** Approximate 410 square foot deck.
- 4. **Commencement Date:** The earlier of the opening of the deck or April 1, 2009.
- 5. **Initial Term:** 5 years
- 6. **Renewal Options** Two (2) renewal periods of five (5) years each. **Periods:** Each option will be exercised on the mutual agreement of all three parties (Licensee, Property Owner and Business Owner).
- 7. **Base License Fee:** \$20.00 per square foot for year one with annual percentage increases based upon the Philadelphia Area Consumer Price

Index (CPI). License Fee may be paid on an annual basis (12 months).

8. **Renewal Option License** Years 6-10; The higher of \$23.00 per square foot or
Fees: the CPI adjusted rent from year 5, with annual percentage increases based upon CPI.

Years 11-15; The higher of \$27.00 per square foot or the CPI adjusted rent from year 10, with annual percentage increases based upon CPI.

9. **Bond For Demolition:** Main Street Properties, LP to obtain a Bond in the amount of the cost of the deck demolition currently estimated to be \$7,500.00.

10. **Termination:** Property owner reserves the right to terminate the Air Rights License Agreement at any time with three months written notice to Fairmount Park. License payments will cease once the deck structure has been removed.

11. **Maintenance:** Property owner will maintain the deck in good order, condition and repair. Property owner will maintain, repair or replace any section of the deck as needed. Property owner is responsible to remove trash and litter daily on the towpath that is a result of use of the deck.

12. **Assignment:** Property Owner may assign or sublicense the air rights upon Fairmount Park's prior written consent; such consent shall not be unreasonably withheld, conditioned or delayed except that any assignment or sublicense shall not result in a substantial change of use of the deck.

13. **Existing Stairs:** Existing stairs at the north side of Rector Street will be demolished and replaced by similar stairs on the south side at the sole cost and expense of Main Street Properties, LP.

14. **Use Restrictions:** No amplified or live music, commercial banners, visual clutter, tenting, roof structures and/or cooking will be allowed on the deck.

15. **Applicable Laws:** Construction and use of the deck will be subject to all applicable laws and execution of the final license agreement will be subject to approval of the Philadelphia City Council and the agreement by the Law Department.