File #: 230326, **Version:** 0

Authorizing Northern Liberties Business Improvement District to own, operate and maintain certain lighting encroachments along the 400 and 500 blocks of 2nd Street in the City of Philadelphia, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Northern Liberties Business Improvement District ("Owner") to own, operate and maintain pedestrian light poles with accompanying solar lights (the "Encroachments") at 428 to 518 N. 2nd Street, Philadelphia, PA 19123 as follows:

Encroachment Description:
No more than ten (10) pedestrian poles with accompanying solar lights, placed at regular intervals along the sidewalk frontage of 2nd Street, Philadelphia, PA 19123, situated along the west-side of 2nd Street between Willow and Spring Garden Streets, as designated by the Philadelphia Office of Property Assessment ("OPA"). The Encroachments existing on the date this ordinance is enacted represent the approved design and specifications, and no replacement(s) shall deviate from the dimensions, brightness, or footprint unless such deviation is determined to be reasonable by the Department of Streets.

SECTION 2. The ownership, operation, 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 3. Before exercising any rights or privileges under this Ordinance, and where applicable, Owner 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.

SECTION 4. Before exercising any rights and privileges under this Ordinance, Owner shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Owner, *inter alia*:

(a) owns, operates, maintains and keeps in good repair and working order the Encroachments to the satisfaction of the Streets Department;

(b) agrees that 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 reason of the construction of the Encroachment, or if requested by Owner and approved by the City;

(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 ensure that all construction contractors for the Encroachment(s) 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 Encroachment 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 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; and

(i) furnish the City in a manner satisfactory to the Law Department a corporate surety to insure compliance with all the terms and conditions of this Ordinance and the Agreement, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by a surety bond.

SECTION 4. The City Solicitor 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 Owner to install, own, and maintain the Encroachment described in Section 1 shall 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.

SECTION 6. 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 sixty (60) days after the date this Ordinance

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