



Legislation Details (With Text)

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**Type:** Resolution    **Status:** Passed Finally  
**File created:** 10/20/2009    **In control:** Committee on Public Works  
**On agenda:**    **Final action:** 11/5/2009  
**Enactment date:** 11/5/2009    **Enactment #:** 671  
**Effective date:** 11/10/2009

**Title:** Resolution amending Resolution No. 561, approved October 14, 2008, entitled "Granting unto, United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, the privilege and license to construct, maintain and use at their own cost and expense, planters and bollards on the sidewalk area of William Penn Place and 1000 Liberty Avenue in the 2nd Ward, 6th Council District of the City of Pittsburgh."

**Sponsors:**

**Indexes:** ENCROACHMENTS & EASEMENTS

**Code sections:**

**Attachments:** 1. 2009-1865.doc

Date	Ver.	Action By	Action	Result
11/12/2009	1	Mayor	Signed by the Mayor	
11/5/2009	1	City Council	Passed Finally	Pass
10/28/2009	1	Committee on Public Works	AFFIRMATIVELY RECOMMENDED	Pass
10/20/2009	1	City Council	Read and referred	

Presented by Mrs. Harris

Resolution amending Resolution No. 561, approved October 14, 2008, entitled "Granting unto, United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, the privilege and license to construct, maintain and use at their own cost and expense, planters and bollards on the sidewalk area of William Penn Place and 1000 Liberty Avenue in the 2nd Ward, 6th Council District of the City of Pittsburgh."

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** This Resolution No. 561, approved October 14, 2008, which presently reads as follows:

Granting unto, United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, the privilege and license to construct, maintain and use at their own cost and expense, planters and bollards on the sidewalk area of William Penn Place and 1000 Liberty Avenue in the 2<sup>nd</sup> Ward, 6<sup>th</sup> Council District of the City of Pittsburgh.

**Section 1.** That the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, are hereby granted the privilege to construct, maintain and use at their own cost and expense, seventeen (17) 36" wide x 48" long x 36" high pre-cast

concrete planters spaced 4' apart behind the curb area of the 9' sidewalks at Liberty Avenue and William Penn Place, per Exhibit A.

Four (4) temporary decorative concrete encased bollards spaced 5' apart on center 36" high x 15" wide, on the sidewalk area of William Penn Place, per Exhibit B.

Thirty-one (31) decorative concrete encased bollards spaced 5' apart on center 39" high x 15" wide on the sidewalk area on Liberty Avenue and William Penn Place, per Exhibit C.

All bollards located 2' to 2'6" from face of bollard to edge of curb in the 2nd Ward, 6th Council District of the City of Pittsburgh.

The said encroachment shall conform to the provisions of their resolution and in accordance with the Plan identified as Accession D-667 on file in the Division of Surveys, Department of Public Works.

**Section 2.** The said Grantee prior to the beginning of the construction of said encroachment shall submit to the Director of the Department of Public Works of the City of Pittsburgh a complete set of plans, in triplicate, showing the location and all details of said construction. Said plans and said construction shall be subject to the approval and supervision of the Director of the Department of Public Works.

**Section 3.** The encroachment herein granted shall be subject and subordinate to the rights of the City of Pittsburgh and its powers and supervision over City streets, and also to Resolutions of the City of Pittsburgh relating thereto, and to the provisions of any general Resolutions which have been or may be hereafter passed relating to said construction, maintenance and its use on City streets and compensation for same.

**Section 4.** The said Grantee shall bear the full cost and expense of the repair of any street pavement damaged, repair of sewer, water lines and other surface and sub-surface structures which may be in any way damaged or disturbed by reason of the construction, maintenance, use and operation of said construction. All work, including the repaving and repairing of any portion of the street damaged, shall be done in the manner and at such times as the Director of the Department of Public Works may order and shall be subject to their approval and supervision.

**Section 5.** The rights and privileges granted by their Resolution are granted upon the express condition that the City of Pittsburgh, without liability, reserves the right to cause the removal of said construction upon giving to the said Grantee at least three (3) months written notice through the proper officers, pursuant to a resolution of Council, to the said the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, to that effect and that the said Grantee shall when so notified at the expiration of the said three (3) months forthwith remove said construction and replace street to its original condition at their own cost and expense.

**Section 6.** That the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, shall be responsible for and shall assume all liability, either of said the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, or the City of Pittsburgh, for damages to persons or property by reason of the construction, maintenance and use of said encroachment and it is a condition of their grant that the City of Pittsburgh assumes no liability for damage to either persons, or property on account of their grant, and that the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, for themselves, their successors and assigns, shall, by accepting the terms of their Resolution, hereby indemnify, save harmless and defend the City of Pittsburgh from any and all damages and claims for damages arising by reason of said construction, maintenance and use.

That the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, shall maintain in effect during the entire period of their license the following insurance for the protection of the City of Pittsburgh, all premiums being at the expense of the licensee, which insurance shall be non-cancelable except upon thirty (30) days written notice to said City and which insurance shall cover and name said City as an additional insured:

Public Liability	\$ 100,000.00 -	\$ 300,000.00
Property Damage	\$ 50,000.00	

Prior to commencement of their license and as required by said City, from time to time licensee shall submit proof of the above insurance in the form of a certificate, duly attested by the proper officers or authorized representatives of a responsible insurance company.

**Section 7.** The foregoing rights and privileges are granted subject to the following conditions, to wit: Their Resolution shall become null and void unless within 120 days after its approval the said the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107, their successors and assigns, shall file with the Department of Public Works their certificate of acceptance of the provisions thereof, said certificate to be executed by the United States General Services Administration, Mid-Atlantic Region, 100 Penn Square East, Philadelphia, PA 19107

IS HEREBY AMENDED TO READ AS FOLLOWS:

Granting unto, United States General Services Administration, Mid-Atlantic Region, 20 North 8th Street, Philadelphia, PA 19107, their successors and assigns, the privilege and license to construct, maintain and use at their own cost and expense, planters and bollards on the sidewalk area of William Penn Place and 1000 Liberty Avenue in the 2nd Ward, 6th Council District of the City of Pittsburgh.

**Section 1.** That the United States General Services Administration, Mid-Atlantic Region, 20 North 8th Street, Philadelphia, PA 19107, their successors and assigns, are hereby granted the privilege to construct, maintain and use at their own cost and expense, seventeen (17) 36" wide x 48" long x 36" high pre-cast concrete planters spaced 4' apart behind the curb area of the 9' sidewalks at Liberty Avenue and William Penn Place, per Exhibit A.

Four (4) temporary decorative concrete encased bollards spaced 5' apart on center 36" high x 15" wide, on the sidewalk area of William Penn Place, per Exhibit B.

Thirty-one (31) decorative concrete encased bollards spaced 5' apart on center 39" high x 15" wide on the sidewalk area on Liberty Avenue and William Penn Place, per Exhibit C.

All bollards located 2' to 2'6" from face of bollard to edge of curb in the 2nd Ward, 6th Council District of the City of Pittsburgh.

The said encroachment shall conform to the provisions of their resolution and in accordance with the Plan identified as Accession D-667 on file in the Division of Surveys, Department of Public Works.

**Section 2.** The said Grantee prior to the beginning of the construction of said encroachment shall submit to the Director of the Department of Public Works of the City of Pittsburgh a complete set of plans, in triplicate, showing the location and all details of said construction. Said plans and said construction shall be subject to the approval and supervision of the Director of the Department of Public Works.

**Section 3.** The encroachment herein granted shall be subject and subordinate to the rights of the City of Pittsburgh and its powers and supervision over City streets, and also to Resolutions of the City of Pittsburgh relating thereto, and to the provisions of any general Resolutions which have been or may be hereafter passed relating to said construction, maintenance and its use on City streets and compensation for same.

**Section 4.** The said Grantee shall bear the full cost and expense of the repair of any street pavement damaged, repair of sewer, water lines and other surface and sub-surface structures which may be in any way damaged or disturbed by reason of the construction,

maintenance, use and operation of said construction. All work, including the repaving and repairing of any portion of the street damaged, shall be done in the manner and at such times as the Director of the Department of Public Works may order and shall be subject to their approval and supervision.

**Section 5.** The rights and privileges granted by their Resolution are granted upon the express condition that the City of Pittsburgh, without liability, reserves the right to cause the removal of said construction upon giving to the said Grantee at least three (3) months written notice through the proper officers, pursuant to a resolution of Council, to the said the United States General Services Administration, Mid-Atlantic Region, 20 North 8th Street, Philadelphia, PA 19107, their successors and assigns, to that effect and that the said Grantee shall when so notified at the expiration of the said three (3) months forthwith remove said construction and replace street to its original condition at their own cost and expense.

**Section 6.** During the course of construction of the Improvements contemplated herein, Grantee agrees to cause its general contractor (the "Contractor") to carry the following insurance in the amounts indicated to protect the Grantor against any liability to persons or property incident to the construction of the Improvements or resulting from any accident occurring in, about or on the Licensed Premises which shall be due to, arise out of, result from, or be in any connected to the construction of the Licensed Improvements.

- |           |                         |                                    |
|-----------|-------------------------|------------------------------------|
| <b>A)</b> | <b>Public Liability</b> | <b>\$ 100,000.00/\$ 300,000.00</b> |
| <b>B)</b> | <b>Property Damage</b>  | <b>\$ 50,000.00</b>                |

The policy shall provide that the Grantor, be named as Additional Insured for Contractor's full limits of coverage on a primary basis, but in no case less than limits specified; and shall be endorsed with a waiver of subrogation clause with respect to Grantor, and neither the Contractor nor its Insurer shall have any claim against Grantor, to the extent the claim is or should have been covered by insurance.

Grantee's Contractor shall not enter the Property under the Agreement until it has forwarded to Grantor, for review and approval, current certificate(s) of insurance evidencing that such insurance is in full force and effect. Grantee will also provide Grantor with copies of "additional insured endorsements" for such insurance policies required under this Section. Additionally, Grantee shall give Grantor a minimum of thirty (30) days' notice in the event of change, cancellation or non-renewal (or ten days' notice in the event of non-payment) of any of the insurance required under this Section.

**Grantee Self Insurance** Pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, the Grantee may be sued for the negligent acts of omissions of its employees acting within the scope of their duties that result in damages for personal injury, including death, to any person, and for damage to real or personal property of any person, including loss or destruction, arising out of or resulting from Grantee's exercise of the rights granted in this Agreement or which may arise after the termination of this Agreement in relation thereto.

**Maintenance** Grantee agrees to maintain the Improvements in good working order.

**Section 7.** The foregoing rights and privileges are granted subject to the following conditions, to wit: Their Resolution shall become null and void unless within 120 days after its approval the said the United States General Services Administration, Mid-Atlantic Region, 20 North 8th Street, Philadelphia, PA 19107, their successors and assigns, shall file with the Department of Public Works their certificate of acceptance of the provisions thereof, said certificate to be executed by the United States General Services Administration, Mid-Atlantic Region, 20 North 8th Street, Philadelphia, PA 19107.