



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2023-120, **Version:** 1

A resolution authorizing Urban Music City Owner, LLC to construct and install an aerial encroachment at 127 Rosa L Parks Boulevard. (Proposal No. 2023M-016EN-001).

WHEREAS, Wardens & Vestry of Christ Episcopal Church (Cathedral) Held Subject to the Charter, Constitution, and Canons of the Convention of the Protestant Episcopal Church of the Diocese of Tennessee, a corporation ("Christ Episcopal Church"), is the owner of the parcel of the property (the "Property") located at 127 Rosa L. Parks Boulevard; and,

WHEREAS, Urban Music City Owner, LLC is the ground lessee of the Property; and

WHEREAS, BL2020-392 authorized, among other things, the grant of an air rights easement and a temporary construction easement from the Metropolitan Government to Urban Music City Owner, LLC to permit construction, use, and maintenance of improvements above and in the margin of Alley No. 63; and

WHEREAS, Urban Music City Owner, LLC, plans to construct, install, and maintain a flagpole over a portion of a sidewalk, encroaching into the public right-of-way at the Property; and

WHEREAS, as set forth in the License Agreement for Private Encroachments Into the Public Right of Way, attached hereto as Exhibit A, and incorporated by reference, Christ Episcopal Church has agreed to indemnify and hold the Metropolitan Government of Nashville and Davidson County harmless of any and all claims for damages of every nature and kind resulting from or arising from the installation of said aerial encroachment; and

WHEREAS, Metropolitan Code of Laws §13.16.030(A) allows the Council of the Metropolitan Government of Nashville and Davidson County to grant encroachments, permits, or privileges to construct, maintain and/or operate aerial cables, canopies, etc., over and/or across sidewalks and public rights-of-way by resolution adopted by twenty-one (21) affirmative votes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That subject to the requirements, limitations and conditions contained herein, Urban Music City Owner, LLC is hereby granted the privilege to construct and maintain an aerial encroachment as described in Proposal No. 2023M-016EN-001, in accordance with the plans on file in the office of the Director of the Nashville Department of Transportation and Multimodal Infrastructure ("NDOT") and attached hereto as Exhibit B.

Section 2. That the authority granted hereby for the construction, installation, operation, and maintenance of said aerial encroachment under Proposal No. 2023M-016EN-001 shall not be construed as a surrender by the Metropolitan Government of its rights or power to pass resolutions or ordinances regulating the use of its streets, or the right of the Metropolitan Government through its legislative body, in the interest of public necessity and convenience to order the relocation of said facilities at the expense of Urban Music City Owner, LLC.

Section 3. That construction and maintenance of said aerial encroachment under Proposal No 2023M-016EN-001 shall be under the direction, supervision, and control of the Director of NDOT, and its installation,

when completed, must be approved by said Director.

Section 4. That this Resolution confers upon Urban Music City Owner, LLC a privilege and not a franchise, and the Mayor and the Metropolitan Council herein expressly reserve the right to repeal this Resolution, whenever, in their judgment, a repeal may be demanded by public welfare, and such repeal shall confer no liability on the Metropolitan Government of Nashville and Davidson County, its successors and assigns, by reason of said repeal. In the event of such repeal by said Metropolitan Government, Urban Music City Owner, LLC, its successors and assigns, shall remove said aerial encroachment at their own expense.

Section 5. Urban Music City Owner, LLC shall pay all costs incident to the construction, installation, operation and maintenance of said aerial encroachment under Proposal No. 2023M-016EN-001, and shall save and hold the Metropolitan Government of Nashville and Davidson County harmless from all suits, costs, claims, damages or judgments in any way connected with said construction, installation, operation and maintenance of said aerial encroachment and shall not claim, set up or plead, as a defense, in the event of joint liability, with or without suit, that it and the Metropolitan Government were joint wrongdoers. Urban Music City Owner, LLC shall be responsible for the expense, if any, of repairing and returning the right-of-way to the condition which it was in prior to the installation of said aerial encroachment, and for any street closure.

Section 6. That the authority granted to Urban Music City Owner, LLC, as herein described, shall not in any way interfere with the rights of the Metropolitan Government, its agents, servants, and/or contractors and utility companies, operating under franchise from the Metropolitan Government to enter, construct, operate, maintain, repair, rebuild, enlarge, and patrol its now existing or future utilities, including drainage facilities, together with their appurtenances, and to do any and all things necessary and incidental thereto.

Section 7. Urban Music City Owner, LLC shall and is hereby required to furnish the Metropolitan Government of Nashville and Davidson County a certificate of public liability insurance, naming the Metropolitan Government as an insured party, of at least two million (\$2,000,000) dollars aggregate, for the payment of any judgment had on any claim, of whatever nature, made for actions or causes of action arising out of, or connected with, the construction or installation of said aerial encroachment. Said certificate of insurance shall be filed with the Metropolitan Clerk and NDOT prior to the granting of a permit, and the insurance required herein shall not be canceled without the insurance company or companies first giving thirty (30) days written notice to the Metropolitan Government of Nashville and Davidson County.

Section 8. That said construction shall be carefully guarded and protected, and shall be completed promptly, so as to cause the least inconvenience to the public. The acceptance by Urban Music City Owner, LLC of all provisions of this Resolution shall be determined by the beginning of work.

Section 9. The authority granted pursuant to this Resolution shall not become effective until the certificate of insurance, as required in Section 8, has been posted with the Metropolitan Clerk and NDOT.

Section 10. This Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution authorizes Urban Music City Owner, LLC to construct, install, and maintain an aerial encroachment at 127 Rosa L Parks Boulevard. Ordinance No. BL2020-392 authorized, among other things, the grant of an air rights easement and a temporary construction easement from the Metropolitan Government to Urban Music City Owner, LLC to permit construction, use, and maintenance of improvements above and in the margin of Alley No. 63.

The encroachment is for a flagpole over a portion of a sidewalk, which encroaches the public right-of-way at 127 Rosa L Parks Boulevard. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the encroachment. Prior to receiving a permit, the applicant must file a certificate of public liability insurance in the amount of \$2,000,000 with the Metropolitan Clerk and the Nashville Department of Transportation and Multimodal Infrastructure naming the Metropolitan Government as an insured party. This resolution must be approved by 21 affirmative votes.