

City of Philadelphia



(Bill No. 050469)

AN ORDINANCE

Authorizing the Water Commissioner on behalf of the City to enter into an agreement with the owners of the properties and their successors at 923 Rear Units 1, 2 and 3 South Second Street for the grant of a right-of-way to the City through the property from a private street, known as Salter Street, to approximately 65 feet north of Salter Street for drainage, sewer and water main purposes, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. The Water Commissioner, on behalf of the City, is hereby authorized to enter into agreement, substantially in the form set forth in Exhibit A, with the owners of the properties and their successors at 923 Rear Units 1, 2 and 3 South Second Street for the grant of a right-of-way to the City through the property from a private street, known as Salter Street, to approximately 65 feet north of Salter Street for drainage, sewer and water main purposes, under certain terms and conditions.

Section 2. The City Solicitor shall include in said agreement such terms and conditions as he may deem necessary to protect the interest of the City.

Section 3. The Chief Clerk shall keep on file Exhibit A and shall make it available for inspection by the public during regular office hours.

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

Exhibit A

“RIGHT OF WAY AND EASEMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____ 200____, by and between, _____, the record owner of a certain Property at South Second Street in the 2nd Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF PHILADELPHIA, hereinafter called “City”;

WITNESSETH:

WHEREAS, 923 Rear South Second Street, Units 1, 2 and 3, on the north side of a private street, known as Salter Street, are being developed as a housing development; and

WHEREAS, the sewer and water main for the development are to be constructed to City standards in the bed of a proposed driveway through the properties from the said Salter Street to approximately 65 feet north of Salter Street and dedicated to the City in accordance with Chapter 13-300 and Chapter 13-400 of the Philadelphia Code;

WHEREAS, in order to accept and maintain the said sewer and water main from the developer, the property owners having frontage on the said driveway must grant unto the City a certain 25 feet wide right-of-way for drainage and sewer purposes, under certain terms and conditions; and

WHEREAS, the parties desire to enter into an agreement for the for the grant of said right-of-way; and

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor the owners of the property at _____ South Second Street, Philadelphia, Pennsylvania 19147 (herein after referred to as the “Affected Property”) hereby give, grant, convey unto the City its successors and assigns, all their

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

rights, title and interest which they presently have or will acquire in the full, free and uninterrupted use, liberty and privilege of a drainage, sewer and water main right-of-way and easement over, under, along and in the Easement described in Section 2 of this Agreement as lies within the land owned by the Grantor.

2. Grantor has granted unto the City, its successors and assigns, the full, free and uninterrupted use, liberty and privilege of a right-of-way and easement for drainage and sewer purposes (hereinafter referred to as the "Easement") over, under, along and in the following premises as lies within the land owned by the Grantor, such portion of the following described Affected Property, to wit :

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE 2ND WARD OF THE CITY OF PHILADELPHIA, BEING A 25 FEET WIDE RIGHT-OF-WAY FOR DRAINAGE, SEWER AND WATER MAIN PURPOSES FROM A PRIVATE STREET, KNOWN AS SALTER STREET, TO APPROXIMATELY 65 FEET NORTH OF SALTER STREET AND DESCRIBED AS FOLLOWS:

BEGINNING at a point, said point being the following two (2) courses and distances from the intersection of the southerly side of Christian Street (60 feet wide) and the easterly side of Second Street (50 feet wide); Thence 1) South $11^{\circ}29'50''$ West, a distance of 175.583 feet to a point on the northerly side of a private street, known as Salter Street (15 feet wide); Thence, 2) South $68^{\circ}57'30''$ East, a distance of 97.185 feet to a point; Thence, from the said point of beginning, North $11^{\circ}29'50''$ East, a distance of 62.986 feet to a point; Thence, South $68^{\circ}57'30''$ East, a distance of 12.814 feet to a point; Thence South $78^{\circ}30'10''$ East, a distance of 12.640 feet to a point; Thence, South $11^{\circ}29'50''$ West, a distance of 65.111 feet to a point on the northerly side of said Salter Street; Thence, along the northerly side of Salter Street, North $68^{\circ}57'30''$ West, a distance of 12.816 feet; Thence, along the northerly side of Salter Street, North $68^{\circ}57'30''$ West, a distance of 12.816 feet to the point and place of Beginning. Containing 1,605 square feet of land, more or less.

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

The right-of-way and easement for drainage, sewer and water main purposes, described herein, is according to a plan for a RIGHT-OF-WAY PLAN FOR 923 REAR SOUTH SECOND STREET, prepared by the City of, Philadelphia Water Department's Survey Unit, 3585 Fox Street, Philadelphia, PA 19129, Plan Number Y-507, dated April 11, 2005.

3. Grantor hereby grants the City, its officers, agents, employees and contractors the right of access, ingress, egress to and from the Premises along with the necessary equipment and materials, for the construction, reconstruction, maintenance, alteration, repair and inspection of any and all present and future drainage and sewer structures now situated in the said Easement or which the City may hereafter at any time desire to locate therein.

4. It is expressly understood and agreed that the rights and privileges herein granted to the City shall not terminate, cease or diminish unless and until the City may surrender the same in writing, duly executed by its proper officers. Grantor hereby grants the City the right to place said Easement on the City Plan. Grantor covenants and agrees to release the City, all its officers, employees, agents, departments and commissions, from all damages or claims for damages which can, may or might arise by reason of such City Plan changes.

5. Grantor covenants and agrees that no change in grades or other alterations within the lines of the Easement shall be made and that no buildings and/or other structures either overhead, underground or upon the surface, shall be constructed within the lines of the Easement or abutting thereon unless the plans for such changes of grades, alterations or structures shall be first be submitted to and approved by the Water Department.

6. Grantor warrants that Grantor is the owner in fee of the Easement free and clear of liens, encumbrances, restrictions and other matters of record, has the power and is duly authorized to execute this Right of Way and Easement Agreement, and the City may peacefully and quietly exercise the rights granted hereunder free and clear of rights or consent of third parties.

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

7. Grantor agrees that this Agreement may be filed of record in the office of the Department of Records of the City of Philadelphia, the same to be public notice of waiver and release of any and all damages which may be sustained by reason of future City Plan changes and the grant of the right-of-way and easement described herein.

8. All notices given under this Easement shall be in writing and shall be deemed to have been duly given if sent by United States certified registered mail, postage prepaid, enclosed in an envelope addressed to the party to be notified, at the following addresses:

If to Grantor at: _____ South Second Street
Philadelphia, PA 19147

If to Grantee at: City of Philadelphia
Water Department
Projects Control Unit
ARA Tower, Second Floor
1101 Market Street
Philadelphia, PA 19107

or to such other address as either party may give by notice to the other party.

9. The terms and conditions hereof shall be binding upon and shall endure to the benefit of the parties hereto, their successors and assign and be covenants running with the land affected by the Easement.

10. This is not a conveyance of the real estate included within the Easement nor of any interest in the oil, gas and other minerals in, on or under the real estate covered hereby, but is a grant solely of rights-of-way and easement as described above.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused these presents to be duly executed the day and year first above written.

APPROVED AS TO FORM

**CITY OF PHILADELPHIA
WATER DEPARTMENT**

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

By: _____

BERNARD BRUNWASSER
WATER COMMISSIONER

GRANTOR

By: _____”

WITNESS

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

City of Philadelphia

BILL NO. 050469 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 16, 2005. The Bill was Signed by the Mayor on July 8, 2005.



Patricia Rafferty
Chief Clerk of the City Council