

City of Philadelphia



(Bill No. 030694)

AN ORDINANCE

Authorizing the Water Commissioner, on behalf of the City, to enter into an agreement with the owner of a property at 201 through 299 Shawmont Avenue for the grant of a right-of-way to the City for drainage and sewer purposes through the property from Umbria Street to Hillside Avenue, 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 owner of 201 through 299 Shawmont Avenue and his successors for the grant of a right-of-way to the City for drainage and sewer purposes through the property from Umbria Street to Hillside Avenue.

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. 030694 continued

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Exhibit A

“RIGHT OF WAY AND EASEMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____ 200____, by and between, **HUNTERS POINTE ASSOCIATES, LP**, the record owner of a certain Property at 201 through 299 Shawmont Avenue in the 21st Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and **THE CITY OF PHILADELPHIA**, hereinafter called “City”;

WITNESSETH:

WHEREAS, the properties in the Dearnley Park area, which is bounded by Hillside Avenue, Dearnley Street, Silverwood Street and Wigard Street are currently being serviced by on-site sewerage treatment systems; and

WHEREAS, a number of these systems have outlived their usefulness and can not be replaced under current Commonwealth regulations; and

WHEREAS, in order to provide public sewers for the area, it shall be required to construct a sanitary sewer from Umbria Street to Hillside Avenue through the proposed Hunters Pointe development (also known as “The Glen at Manayunk”), as an outlet for the Dearnley Park area sewer project; and

WHEREAS, Grantor is the owner of Hunters Pointe development (also known as “The Glen at Manayunk”) and proposes to construct a sanitary sewer through this property from Umbria Street to Hillside Avenue in order to provide service for this proposed development; and

WHEREAS, Grantor proposes to dedicate the proposed sanitary sewer to the City and provide the outlet sewer required by the Dearnley Park area sewer project; and

WHEREAS, in order to accept the proposed sanitary sewer as a public sewer from the Grantor, the Grantor must grant unto the City a certain right-of-way for drainage and sewer purposes, with a variable width, extending through a portion of the property from Umbria Street to Hillside Street, under certain terms and conditions; and

City of Philadelphia

BILL NO. 030694 continued

Certified Copy

WHEREAS, the parties desire to enter into an agreement 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 owner of the property at 201 through 299 Shawmont Avenue, Philadelphia, Pennsylvania 19128, hereby gives, grants and conveys unto the City its successors and assigns, all their rights, title and interest which they presently have or will acquire in the full, free and uninterrupted use, liberty and privilege of a drainage and sewer right-of-way and easement over, under, along and in the Premises described in Section 2 of this Agreement.

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 21ST WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT on the northeasterly side of Umbria Street (80.00 feet wide) at its intersection with the southeasterly side of Minerva Street (48.00 feet wide); thence leaving said Umbria Street and through the lands of Hunters Pointe the following nine (9) courses and distances; 1) North 58 degrees 07 minutes 20 seconds East, a distance of 49.13 feet to a point; 2) South 56 degrees 45 minutes 51 seconds East, a distance of 185.68 feet to a point; 3) north 72 degrees 52 minutes 02 seconds East, a distance of 23.63 feet to a point; 4) North 27 degrees 04 minutes 20 seconds East, a distance of 62.99 feet to a point; 5) North 40 degrees 32 minutes 12 seconds East, a distance of 70.74 feet to a point; 6) North 38 degrees 04 minutes 02 seconds East, a distance of 171.65 feet to a point; 7) South 83 degrees 07 minutes 44 seconds East, a distance of 147.14 feet to a point; 8) South 06 degrees 52 minutes 16 seconds West, a distance of 15 feet to a point; 9) South 83 degrees 07 minutes 44 seconds East, a distance

City of Philadelphia

BILL NO. 030694 continued

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of 86.05 feet to a point on the northwesterly side of Hillside Avenue (50 feet wide); thence along said Hillside Avenue on a line curving to the left with a radius of 312.105 feet and the arc distance of 30.01 feet to a point; thence leaving said Hillside Avenue and through the said lands of Hunters Pointe the following nine (9) courses and distances; 1) North 83 degrees 07 minutes 44 seconds West, a distance of 86.45 feet to a point; 2) South 06 degrees 52 minutes 16 seconds West, a distance of 15.00 feet to a point; 3) North 83 degrees 07 minutes 44 seconds West, a distance of 112.53 feet to a point; 4) South 38 degrees 04 minutes 02 seconds West, a distance of 139.13 feet to a point; 5) South 40 degrees 32 minutes 12 seconds West, a distance of 64.95 feet to a point; 6) South 27 degrees 04 minutes 20 seconds West, a distance of 81.25 feet to a point; 7) South 72 degrees 52 minutes 02 seconds West, a distance of 77.18 feet to a point; 8) North 56 degrees 45 minutes 51 seconds West, a distance of 189.73 feet to a point; 9) South 58 degrees 07 minutes 20 seconds West, a distance of 4.87 feet to a point on the aforesaid side of Umbria Street; thence along said Umbria Street North 31 degrees 52 minutes 40 seconds West, a distance of 47.17 feet to a point and place of beginning.

Containing 43,653.22 square feet of land more or less.

The right-of-way for drainage and sewer purposes, described herein, is according to a "Layout and Paving Plan of Hunters Pointe development", dated April 12, 2000 and last revised on March 28, 2003, prepared by D. S. Winokur Associates, Inc., 2080 Cabot Boulevard, West, suite 100, Langhorne, PA 19047.

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 future drainage and sewer structures in the said Easement, 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

City of Philadelphia

BILL NO. 030694 continued

Certified Copy

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 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.

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: Hunters Pointe Associates, LP
2201 Barren Hill Road
Conshohocken, PA 19428

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.

City of Philadelphia

BILL NO. 030694 continued

Certified Copy

9. The terms and conditions hereof shall be binding upon and shall endure to the benefit of the parties hereto, their successors and assigns 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.

**CITY OF PHILADELPHIA
WATER DEPARTMENT**

APPROVED AS TO FORM

By: _____
KUMAR KISHINCHAND
WATER COMMISSIONER

**HUNTERS POINTE ASSOCIATES, LP
BY ITS GENERAL PARTNER,
SHAWMONT DEVELOPMENT, INC,**

WITNESS

By: _____
JAMES KRAVITZ, PRESIDENT”

City of Philadelphia

BILL NO. 030694 continued

Certified Copy

City of Philadelphia

BILL NO. 030694 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 4, 2003. The Bill was Signed by the Mayor on December 18, 2003.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive, flowing style.

Patricia Rafferty
Chief Clerk of the City Council