

City of Philadelphia



(Bill No. 050376)

AN ORDINANCE

Authorizing the Water Commissioner, on behalf of the City, to enter into an agreement with the owners of 6601, 6609 and 6701 Springbank Street and 6609Rear Springbank Street (part of 1021 West Hortter Street) for the grant of a right-of-way to the City for drainage and sewer purposes through the properties from Springbank Street to an existing drainage right-of-way (former Park Line Drive), 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 an agreement or agreements, substantially in the form set forth in Exhibit A, with the owners of 6601, 6609 and 6701 Springbank Street and 6609Rear Springbank Street (part of 1021 West Hortter Street) and their successors for the grant of a right-of-way to the City for drainage and sewer purposes through the properties from Springbank Street to an existing drainage right-of-way (former Park Line Drive).

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.

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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 _____ **SPRINGBANK STREET** in the 21st Ward, Philadelphia, Pennsylvania, hereinafter called "Grantor", and THE CITY OF PHILADELPHIA, hereinafter called "City";

WITNESSETH:

WHEREAS, the properties located on Westview Street from Wissahickon Avenue to Springbank Street and on Springbank Street from Westview Street to Westview 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 Springbank Street to an existing drainage right-of-way (former Park Line Drive) and through a portion of the properties at 6601, 6609, 6609 Rear (part of 1021 West Hortter Street) and 6701 Springbank Street; and

WHEREAS, in order to construct and maintain the said public sanitary sewer, the property owners of 6601, 6609, 6609 Rear (part of 1021 West Hortter Street) and 6701 Springbank Street must grant unto the City a certain right-of-way for drainage and sewer purposes, fifty feet wide, extending across a portion of the properties in a southeasterly direction from Springbank Street to an existing drainage right-of-way (former Park Line Drive), 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:

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1. For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor, the owner of the property at _____ Springbank Street, Philadelphia, Pennsylvania 19119, 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:

PROPOSED SANITARY SEWER RIGHT OF WAY AT SPRINGBANK STREET

BEGINNING at a point at the Southeast corner created by the intersection of Springbank Street (50' wide) and Westview Street (50' wide), North 28 degrees 52 minutes 24 seconds East, a tangent distance of 21.273 feet to a point; Thence North 28 degrees 52 minutes 24 seconds East, a distance of 154.010 feet to a point; Thence along the arc of a circle curving to the left having a radius of 475.000 feet the chord bearing of North 24 degrees 00 minutes 58 seconds East, an arc distance of 51.530 feet to a point and true place of beginning; thence the following courses:

- 1.) South 79 degrees 50 minutes 51 seconds East, a distance of 150.001 feet to a point;
- 2.) Thence, North 70 degrees 10 minutes 51 seconds East, a distance of 100.086 feet to a point;
- 3.) Thence, South 79 degrees 50 minutes 51 seconds East, a distance of 62.747 feet to a point;
- 4.) Thence, along the Northwesterly side of Former Park Line Drive (60' wide, proposed to be stricken from City Plan reserved as Right of Way for drainage purposes), along the arc of a circle curving to the left having a radius of 891.236 feet the chord bearing of South 12 degrees 44 minutes 50 seconds West, the arc distance of 50.059 feet to a point;
- 5.) Thence, North 79 degrees 50 minutes 51 seconds West, a distance of 47.078 feet to a point;

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- 6.) Thence, South 70 degrees 10 minutes 51 seconds West, a distance of 100.086 feet to a point;
- 7.) Thence, North 79 degrees 50 minutes 51 seconds West, a distance of 175.745 feet to a point;
- 8.) Thence, along the arc of a circle curving to the left having a radius of 475.000 feet the chord bearing of North 24 degrees 00 minutes 58 seconds East, an arc distance of 51.530 feet to a point and place of beginning.

The right-of-way for drainage and sewer purposes, described herein, is according to a "Plan of Proposed Sewer Right-of-way For Springbank Street", dated March 11, 2005, (File Y-504) prepared by the Philadelphia Water Department Survey Unit, 3585 Fox Street, Philadelphia, PA, 19129.

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 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

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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: ____ Springbank Street
Philadelphia, PA 19136

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.

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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: _____
BERNARD BRUNWASSER
WATER COMMISSIONER

GRANTOR

By: _____

WITNESS

By: _____

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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