

City of Philadelphia



(Bill No. 060380)

AN ORDINANCE

Authorizing the Water Commissioner, on behalf of the City, to enter into an agreement with the owners of 627 Saint Georges Road for the grant of a right-of-way to the City for drainage and sewer purposes through the property from Saint Georges Road to approximately 385 feet north of Saint Georges Road to Fairmount Park property, 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 and their successors of 627 Saint Georges Road for the grant of a right-of-way to the City for drainage and sewer purposes through the property from Saint Georges Road to approximately 385 feet north of Saint Georges Road to Fairmount Park property, 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.

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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 **627 SAINT GEORGES ROAD** in the 49th Ward, Philadelphia, Pennsylvania, hereinafter called "Grantor", and THE CITY OF PHILADELPHIA, hereinafter called "City";

WITNESSETH:

WHEREAS, the street drainage in the area of Saint Georges Road and McCallum Street naturally drains through a private stormwater drain, located through the property of 627 Saint Georges Road, from Saint Georges Road to a creek, north of Saint Georges Road, in Fairmount Park property; and

WHEREAS, the private stormwater sewer is in a deteriorated condition and requires replacement; and

WHEREAS, street drainage is the responsibility of the City and the proposed stormwater sewer will be replaced at its cost; and

WHEREAS, in order to construct the stormwater sewer, the grantor must grant a certain right-of-way for drainage and sewer purposes to the City, 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 627 Saint Georges Road, Philadelphia, Pennsylvania, hereby give, grant, convey unto the City its successors and

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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 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 property, to wit :

All that certain lot or piece of ground situate in the ward of the City of Philadelphia, a right-of-way for drainage and sewer purposes through the property, in the bed of former Greene Street from Saint Georges Road to Fairmount park property, approximately 385 feet north of Saint Georges Road and described as follows:

BEGINNING at a point on the Northwesterly side of Saint Georges Road (50 feet wide) where the same intersects the Southwesterly line of former Greene Street (50 feet wide, stricken from City Plan by an Ordinance of City Council, dated December 23, 1983), the following courses and distances: 1) North 48°51'06" West, a distance of 384.198 feet to a point; Thence 2) on a line curving to the Northeast, with a radius of 470.000 feet and an arc distance of 20.001 feet to a point: Thence 3) South 48°51'06" East, a distance of 166.200 feet to a point: Thence 4) South 74°33'07" East, a distance of 69.202 feet to a point; Thence 5) South 48°51'06" East, a distance of 155.000 feet to a point; Thence South 41°08'54" West, a distance of 50.000 feet to the point and place of Beginning.

The right-of-way and easement for drainage and sewer purposes, described herein, is according to a plan for a "PROPOSED RIGHT-OF-WAY PLAN FOR DRAINAGE AND SEWER PURPOSES AT 627 SAINT GEORGES ROAD", prepared by the City of, Philadelphia Water Department's Survey Unit, 3585 Fox Street, Philadelphia, PA 19129, PWD Work No. S-40521-R, dated March 27, 2006.

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

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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.

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:

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If to Grantor at:
627 Saint Georges Road
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**

KEITH J. JONES
ACTING DIVISIONAL
DEPUTY CITY SOLICITOR

By: _____
BERNARD BRUNWASSER
WATER COMMISSIONER

GRANTOR

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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 1, 2006. The Bill was Signed by the Mayor on June 15, 2006.



Patricia Rafferty
Chief Clerk of the City Council