



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 000790

Introduced December 14, 2000

Councilmember Nutter

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

To authorize the Water Commissioner on behalf of the City to enter into an agreement with Saint Joseph's University of the City of Philadelphia, the owner of the property at 5400 City Line avenue for the grant of right-of-way to the City for drainage and sewer purposes extending in a southeasterly, southerly and southwesterly direction from an existing right-of-way approximately fifty-nine feet southeasterly of City Line avenue and approximately 283 feet southwesterly of Fifty-fourth street.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Water Commissioner is hereby authorized to enter into an agreement with Saint Joseph's University of the City of Philadelphia, the owner of the property at 5400 City Line avenue for the grant of right-of-way to the City for drainage and sewer purposes extending in a southeasterly, southerly and southwesterly direction from an existing right-of-way approximately fifty-nine feet southeasterly of City Line avenue and approximately 283 feet southwesterly of Fifty-fourth street.

SECTION 2. The agreement shall be prepared by the City Solicitor in a form substantially as follows:

"AGREEMENT

THIS AGREEMENT, made this _____ day of _____ 200 ,
by and between, **SAINT JOSEPH'S UNIVERSITY OF THE CITY OF
PHILADELPHIA**, the record owner of a certain Property at **5400 CITY LINE**

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AVENUE in the 52nd Ward, Philadelphia, Pennsylvania, hereinafter called “Owner”, and **THE CITY OF PHILADELPHIA**, hereinafter called “City”;

WITNESSETH:

WHEREAS, the City is in possession of a certain forty feet wide right-of-way for construction and maintenance of sewers, that was placed on City Plan by an Ordinance of City Council, Approved by the Mayor, on February 13, 1924, that transverses the Owner’s said property; and

WHEREAS, Owner has requested the abandonment of a section of said right-of-way to accommodate the development of its property and to relocate the existing City owned facilities within the existing right-of-way to a new location in accordance with The Philadelphia Code; and

WHEREAS, in order to for the owner to construct and have the City accept ownership and maintenance of the said proposed public utilities, the property owners must grant unto the City a certain right-of-way for drainage and sewer purposes, forty feet wide extending in a southeasterly, southerly and southwesterly direction from the existing right-of-way approximately fifty-nine feet southeasterly of City Line avenue and approximately 283 feet southwesterly of Fifty-fourth street, under certain terms and conditions; and

WHEREAS, the parties desire to enter into an agreement for the grant of and abandonment of said rights-of-way, under certain terms and conditions; 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, Owner has granted, bargained and sold and by these presents does grant, bargain and sell unto the City, its successors and assigns, the full, free and uninterrupted use, liberty and privilege of right-of-way for drainage and sewer purposes over, under, along and in such portion of the described following premises, to wit :

PARCEL "A"

ALL THAT CERTAIN LOT OR PIECE of ground situate in the Fifty-second Ward in the City of Philadelphia, Commonwealth of Pennsylvania designated as 40 feet wide right-of-way for drainage and sewer purposes and being described as follows to wit:

BEGINNING at a point on the easterly side of a 40 feet wide right-of-way for the construction and the maintenance of sewer, said point being the following two courses and distances from the intersection of the southerly most line of City Line avenue (80 feet wide) and the westerly most line of Fifty-fourth street (100 feet wide); 1) S 60° 29' 14.9" W, a distance of 283.59 feet to a point on southerly most line of City Line avenue and also on the easterly most line of the aforesaid existing 40 feet right-of-way; and 2) Thence S 29° 30' 45.1" E, a distance of 105.814 feet to the point of beginning; Thence from said point of beginning S 87° 56' 54" E, a distance of 86.116 feet to a point; Thence S 29° 30' 45" E, a distance of 63.64 feet to a point; Thence S 44° 51' 02" W, a distance of 207.969 feet to a point on the easterly most side of the aforesaid existing 40 feet wide right-of-way; Thence along the said right-of-way, S 21° 59' 13.9" W, a distance of 102.973 feet to a point; Thence N 44° 51' 02" E, a distance of 333.19 feet to a point; Thence N 29° 30' 45" W, a distance of 116.36 feet to a point; Thence N 87° 56' 54" W, a distance of 133.06 feet to a point on the aforesaid easterly most line of the existing 40 feet wide right-of-way; Thence along the aforesaid existing 40 feet wide right-of-way S 29° 30' 45.1" E , a distance of 46.944 feet to the point of beginning. Bounded and described according to Plan No. S-166, prepared by the Philadelphia Water

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Department Survey Unit, 3585 Fox street, Philadelphia, PA. 19129, dated July 7, 1998.
Attached hereto and marked as "RED" on "Exhibit A"

2. The City hereby abandons a section of a existing right-of-way for drainage and sewer purposes over, under, along and in the following premises, to wit :

PARCEL "B"

ALL THAT CERTAIN LOT OR PIECE of ground situate in the Fifty-fourth Ward in the City of Philadelphia, Commonwealth of Pennsylvania designated as 40 feet wide drainage and sewer right-of-way and being described as follows to wit:

BEGINNING at a point on the easterly side of an existing 40 feet wide right-of-way for the construction and maintenance of sewers, said point being the following two courses and distances from the intersection of the southerly most line of City avenue (80 feet wide) and the westerly most line of Fifty-fourth street (100 feet wide); 1) S 60° 29' 14.9" W, a distance of 283.59 feet to a point on the southerly most line of City avenue and also on the easterly most line of the aforesaid existing 40 feet wide right-of-way; and 2) Thence S 29° 30' 45.1" E, a distance of 105.814 feet to a point of beginning; Thence from said point of beginning N 87° 56' 54" W, a distance of 46.944 feet to a point on the westerly most line of the aforesaid existing 40 feet wide right-of-way; Thence along aforesaid existing 40 feet wide right-of-way the following three courses and distances; 1) S 29° 30' 45.1", a distance of 30.526 feet to a point of curve; 2) Thence along an arc curving to the right having a radius of 80 feet and a central angle of 51° 29' 59" and an arc distance of 71.907 feet to a point of tangent; and 3) Thence S 21° 59' 13.9" W, a distance of 199.13 feet to a point; Thence N 44° 51' 02" E, a distance of 102.951 feet to a point on the easterly most line of the aforesaid existing 40 feet wide right-of-way; Thence along the existing 40 feet wide right-of-way, the following three courses and distances, 1) N 21° 59' 13.9" E, a distance of 104.267 feet to a point of tangent; 2) Thence along an arc curving to the left having a radius of 120 feet and a central angle of 51° 29' 59" and an arc distance of 107.861 feet to a point of curve;

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and 3) Thence N 29° 30' 45.1" W, a distance of 5.952 feet to the point of beginning. Bounded and described according to Plan No. S-166, prepared by the Philadelphia Water Department Survey Unit, 3585 Fox street, Philadelphia, PA. 19129, dated July 7, 1998. Attached hereto and marked as "Green" on "Exhibit A".

3. Owner for itself, its successors and assigns, hereby grants the right-of-access, ingress, egress and occupancy of the said premise to and for the City, the Philadelphia Water Department, its officers, agents, employees and contractors, with the necessary equipment and materials, for the construction, reconstruction, maintenance, alteration, repair and inspection of any and all present and future sewers and water mains now situated in the said right-of-way stated in Clause 2 or which the said 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 shall surrender the same by writing, duly executed by its proper officers. Owner hereby grants the City the right to place said right-of-way on the City Plan. Owner for itself, its successors and assigns, 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. Owner does for itself, its successors and assigns, covenant and agree that no change in grades or other alterations within the lines of the right-of-way shall be made and that no building and/or other structures either overhead, underground or upon the surface, shall be constructed within the lines of the right-of-way or abutting thereon unless the plans for such changes of grades, other alterations or structures shall first be submitted to and approved by the Water Department.

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6. Owner 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 described herein.

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

RICHARD E. ROY
WATER COMMISSIONER

ATTEST

SAINT JOSEPH’S UNIVERSITY OF
THE CITY OF PHILADELPHIA

WITNESS

_____”

SECTION 3. The City Solicitor shall include in said agreement such terms and conditions, as he may deem necessary or proper to protect the interest of the City.

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