

City of Philadelphia



(Bill No. 030100)

AN ORDINANCE

To Authorize the Water Commissioner on behalf of the City to enter into agreements with the owners of the properties and their successors of a private street known as Blakiston lane from Frankford avenue to a dead-end approximately 358 feet northeasterly of Frankford avenue for the grant of a right-of-way to the City for drainage, sewer and water main purposes.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Water Commissioner is hereby authorized to enter into agreement with the owners and their successors of a private street known as Blakiston lane from Frankford avenue to a dead-end approximately 358 feet northwesterly of Frankford avenue for the grant of a right-of-way to the City for drainage, sewer and water main purposes.

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

“RIGHT OF WAY AND EASEMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____ 200__, by and between, _____, the record owners of a certain Property at _____ **BLAKISTON LANE** in the 57th Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and **THE CITY OF PHILADELPHIA**, hereinafter called “City”;

WITNESSETH:

WHEREAS, Blakiston Lane from Frankford Avenue to a dead-end approximately 358 feet northwesterly of Frankford Avenue is a private street. Blakiston Lane has an existing public water main servicing the properties; and

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WHEREAS, in order to reconstruct and maintain the said public water main, the property owners of Blakiston Lane must grant unto the City a certain right-of-way for drainage, sewer and water main purposes, twenty feet wide extending in a northeasterly direction from Frankford Avenue to a dead-end approximately 358 feet northwesterly of Frankford Avenue, under certain terms and conditions; and

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 _____ Blakiston Lane, Philadelphia, Pennsylvania 19136 (hereinafter referred to as the "Affected Property") hereby give, grant, convey 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, sewer and water main right-of-way and easement over, under, along and in the Premises 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, sewer and water main 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 57th WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

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BEGINNING at a point on the intersection of the Northwesterly Side of Frankford Avenue (70 feet wide) and the Southwesterly Side of Blakiston Lane (20.573 feet wide, No Record of Legal Opening); Thence extending North 42°28'19" West along the Southwesterly Side of said Blakiston Lane, the distance of 356.899 feet to a point; Thence extending North 41°21'51" East, a distance of 20.693 feet to a point on the Northeasterly Side of Blakiston Lane; Thence extending South 42°28'19" East along the same, a distance of 358 feet to a point on the Northwesterly Side of said Frankford Avenue; Thence extending South 47°11'26" West along the same, a distance of 20.573 feet to the first mentioned point and place of beginning.

BEING a right-of-way for drainage, sewer and water main purposes (20 feet wide) extending in a northeasterly direction from the northwesterly side of Frankford Avenue.

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, sewer and water main 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.

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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 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:

If to Grantor at: _____ Blakiston Lane
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

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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.

**CITY OF PHILADELPHIA
WATER DEPARTMENT**

APPROVED AS TO FORM

By: _____
KUMAR KISHINCHAND
WATER COMMISSIONER

GRANTOR

By: _____

WITNESS

By: _____”

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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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 10, 2003. The Bill was Signed by the Mayor on April 24, 2003.



Patricia Rafferty
Chief Clerk of the City Council