

# City of Philadelphia



(Bill No. 050458)

## AN ORDINANCE

Authorizing the Water Commissioner on behalf of the City to enter into an agreement with the owner of a property and his successors at 2401 Walnut Street for the grant of a forty feet wide right-of-way to the City for drainage, sewer and water main purposes, partially within and partially five feet north of the existing Sansom Street right-of-way from Twenty-fourth Street to the CSX Transportation Railroad, 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, substantially in the form set forth in Exhibit A, with the owner and his successors at 2401 Walnut Street for the grant of a forty feet wide right-of-way to the City for drainage, sewer and water main purposes, partially within and partially five feet north of the existing Sansom Street right-of-way from Twenty-fourth Street to the CSX Transportation Railroad, 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 **2401 WALNUT STREET** in the 58th Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF PHILADELPHIA, hereinafter called “City”;

#### WITNESSETH:

WHEREAS, Grantor plans to develop the property at 2401 Walnut Street as the “Mandeville Place” Luxury Condominiums; and

WHEREAS, the water mains and sewers for the development are to be relocated from an existing right-of-way in former Samson Street from 24<sup>th</sup> Street to the CXS Transportation Railroad Right-of-way to a proposed right-of-way partially within and partially five feet north of the existing Sansom Street Right-of-way; and

WHEREAS, the sewers and water mains are to be constructed to City standards and dedicated to the City in accordance with Chapter 13-300 and Chapter 13-400 of the Philadelphia Code; and

WHEREAS, in order to accept and maintain the said water mains and sewers, the Grantor must grant unto the City a certain right-of-way for drainage, sewer and water main purposes, in the purposed right-of-way partially within and partially five feet north of the former Sansom Street right-of-way, 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 owner of the property at **2401 Walnut Street**, Philadelphia, Pennsylvania 19103, (herein after referred to as the “Affected Property”) hereby give,

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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 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, 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 58<sup>TH</sup> WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

BEGINNING at a point on the on the Westerly line of 24<sup>th</sup> Street (50 feet wide), said point being a distant 270.00 feet as measured in a Northerly direction from the intersection of the said Westerly line of 24<sup>th</sup> Street with the Northerly line of Walnut Street (60 feet wide); Thence from said point of Beginning : (1) Leaving the Westerly line of 24<sup>th</sup> Street, along a line North 78 degrees 59 minutes 00 seconds West, the distance of 9.312 feet to a point, Thence; (2) Along a line parallel with and offset 20 feet Southwesterly from the centerline of a proposed Drainage Line, North 26 degrees 18 minutes 43 seconds West, the distance of 6.286 feet to a point, Thence; (3) Along a line parallel with and offset 40 feet Southerly from the Northerly property line of lands now or formerly 2401 Walnut Street L.P., North 78 degrees 59 minutes 00 seconds West, the distance of 172.950 feet to a point, Thence; (4) Along a line South 19 degrees 03 minutes 00 seconds West, the distance of 5.047 feet to a point in the formerly Northerly line of Samson Street (40 feet wide), reserved as a right of way for drainage purposes, Thence; (5)

Along said former line, North 78 degrees 58 minutes 00 seconds West, the distance of 40.396 feet to a point in the Westerly property line of said lands now or formerly of 2401 Walnut L.P., Thence; (6) Along said Westerly line, North 19 degrees 03 minutes 00

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seconds East, the distance of 45.444 feet to a point in the said Northerly property line of lands now or formerly 2401 Walnut L.P., Thence; (7) Along said Northerly property line, South 78 degrees 59 minutes 00 seconds East, the distance of 221.087 feet to a point in the said Westerly line of 24<sup>th</sup> Street, Thence; (8) Along said Westerly line, South 11 degrees 21 minutes 00 seconds West, the distance of 44.999 feet to the point and place of beginning. Containing an area of 9,210 square feet, more or less.

The right-of-way and easement for drainage, sewer and water main purposes, described herein, is according to a plan for a “RIGHT-OF-WAY DEDICATION AND VACATION EXHIBIT FOR 2401 WALNUT STREET”, prepared by Pennoni Associates, One Drexel Plaza, 3001 Market Street, Philadelphia, PA 19104, dated May 6, 2005.

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.

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.

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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: 2401 Walnut Street  
Philadelphia, PA 19103

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.

APPROVED AS TO FORM

\_\_\_\_\_

**CITY OF PHILADELPHIA  
WATER DEPARTMENT**

By:\_\_\_\_\_

**BERNARD BRUNWASSER  
WATER COMMISSIONER**

**GRANTOR**

By:\_\_\_\_\_

By:\_\_\_\_\_”

\_\_\_\_\_

WITNESS

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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